

AZUSA UNIFIED SCHOOL DISTRICT - TERMS AND CONDITIONS
PURCHASE AGREEMENT IS CONTINGENT UPON VENDOR'S COMPLIANCE WITH TERMS AND CONDITIONS.

1. **DEFINITIONS:** AZUSA Unified School District shall be hereinafter referred to as the District and the Vendor shall be hereinafter referred to as Supplier.

2. **LIMITATIONS OF PAYMENTS:** Prices and amounts shown herein are the maximum amounts authorized for payment under this order. Deviations from the pricing stated herein require approval from the Director of **Centralized Support Services**, Director of Fiscal Services, or their designee.

3. **INVOICES:** Separate invoices are required for each purchase order. Invoices shall not be submitted in duplicate, unless otherwise specified, and shall contain the following information: Purchase order number, item number, item description, quantity, unit price, and extended totals for items delivered. Sales tax, where applicable, shall be shown separately. Handling/delivery charges shall be identified in accordance with paragraph number six (shipping). Failure to enter the above information on the invoice shall cause a delay in payment. Unless otherwise specified, payment shall be made on partial deliveries, whenever possible, as applicable and as accepted by the District.

4. **VARIATION IN QUANTITY AND/OR ITEM:** No variation in the quantity of any item called for by this order shall be accepted unless agreed to and specified in writing. **Do not substitute items without written District approval.**

5. **DISCOUNTS:** In connection with any discount offered, the discount period shall begin on the date of delivery and acceptance at destination or the date that a corrected or revised invoice is received in the Accounts Payable department, whichever is later. Payment date shall be considered the date of mailing of the pay warrant.

6. **SHIPPING:** Unless otherwise specified, all goods are to be shipped prepaid, F.O.B. destination. Where specific authorization is granted to ship goods, F.O.B. shipping point, the Supplier shall prepay all shipping charges, route goods by the cheapest way (unless authorized to ship by other means), and bill the District for the actual handling/delivery charges paid. Invoices containing handling/delivery charges shall include either the original or a copy of the prepaid bill of lading. Claims for handling/delivery charges which are not properly supported will not be paid.

7. **INSPECTION AND ACCEPTANCE:** Inspection and acceptance will be at destination unless otherwise provided. Regardless of the F.O.B. point, the Supplier agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein which occur prior to delivery, and such loss, injury, or destruction, shall not release the Supplier from an obligation to provide goods and/or services in a timely manner to best suit the District's needs. **Deliveries must be received between 6:30 a.m. and 1:30 p.m. Pacific Standard Time.**

8. **PACKAGING:** All items shall be prepared and packed for shipment in a manner that will prevent damage in transit. The District is not liable for extra charges for packing or cartage unless specified elsewhere in this order. Supplier shall mark the purchase order number on each container. **Supplier shall enclose packing list with each shipment; the purchase order number must be listed on all packing lists.** Supplier must provide one **MSDS** for each chemical and/or hazardous product included in shipment. Supplier should contact requestor to schedule delivery of perishable items; do NOT deliver to the warehouse.

9. **CAL-OSHA:** The Supplier certifies upon shipment that all items furnished under this order meet or exceed applicable CAL-OSHA standards.

10. **WARRANTY:** The Supplier agrees that all supplies, equipment, or services furnished under this order shall be covered by the highest applicable commercial warranties that the Supplier provides and that the rights and remedies provided therein are in addition to and do not limit any rights afforded to the District by any other provision of law.

11. **EXCUSABLE DELAYS:** The Supplier shall be excused from performance hereunder during the time and to the extent that he/she is prevented from obtaining, delivering, or performing due to acts of God, fire, strike, lockout, or commandeering of materials, products, plants, or facilities by the government, when satisfactory evidence thereof is presented and accepted by the District. **If material is not received within 90 days, order is subject to cancellation by the District. The District reserves the right to cancel the order if the goods and/or services needed are required before the Supplier is able to provide them, even if the cancellation is within the 90 day window granted above.**

12. **INDEPENDENT CONTRACTOR:** While providing the supplies or services ordered herein, the Supplier certifies that he/she is an independent contractor and not an officer, employee, or agent of the District.

13. **HOLD HARMLESS:** The Supplier shall defend, indemnify and hold harmless the District and its officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of work or performance of service under this Agreement. As part of this indemnity, Supplier shall protect and defend, at its own expense, the District and its officers, employees, agents and independent contractors from any legal action including attorneys' fees or other proceeding based upon such act, omission, breach or as otherwise required by this paragraph 12. Furthermore, Supplier agrees to and does hereby defend, indemnify and hold harmless the District and its officers, employees, agents and independent contractors from every claim or demand made, and every liability, loss, damage, expense or attorneys' fees of any nature whatsoever, which may be incurred by reason of:

14. Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or this Agreement; or (4) any other loss, damage or expense, sustained by any person, firm or corporation or in connection with the work called for in this Agreement, except for liability resulting from the sole or active negligence, or the willful misconduct of the District; and

15. Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of Supplier or any person, firm or corporation employed by Supplier, either directly or by independent contract, including all damages or injury to or death of persons, loss (including theft) or loss of use of any property, sustained by any person, firm or corporation, including the District, arising out of or in any way connected with Work covered by this Agreement, whether said injury or damage occurs either on or off District property, but not for any loss, injury, death or damages caused by the sole or active negligence or willful misconduct of the District; and

16. Any dispute between Supplier and Supplier's subcontractors/ suppliers/ sureties (if applicable), including, but not limited to, any failure or alleged failure of the Supplier (or

any person hired or employed directly or indirectly by the Supplier) to pay any subcontractor or materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.

Supplier, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceeding, proceedings that may be brought or instituted against the District on any such claim, demand its officers, or liability agents or employees, and on account of or founded upon any cause, damage, or injury identified herein and shall pay or satisfy any judgement 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.

14. **CERTIFICATES OF INSURANCE:** All Suppliers are required to provide certificates of general liability, automotive and workers' compensation insurance Certificates must list the District as an additional insured and Suppliers must provide a copy of the additional insured endorsement. Suppliers must provide insurance coverage and limits as required or approved by the District in writing. Suppliers must provide insurance coverage and limits as required or approved by the District in writing. Suppliers who are owners or sole proprietors, and do not employ workers, should contact the Purchasing Department for additional information.

15. **PROOF OF FINGERPRINTING/BACKGROUND CHECK VERIFICATION:** Each and every person coming onto campus is required to have a fingerprinting/background check clearance in accordance with Education Code section 45125.1, specific for AZUSA USD, prior to commencing work, regardless if they will have direct contact with students. Supplier should contact the Purchasing Department to determine specific fingerprinting/background check requirements. Any costs associated are the responsibility of the Supplier. A fingerprint waiver may be used in accordance with the statutes of Education Code 45125.2 and upon approval from the Director of Centralized Support Services.

16. **FINANCIAL TRACKING:** Suppliers are required to maintain a financial tracking of each purchase order that the District issues to their business/person. **DO NOT** exceed the current purchase order balance unless prior written authorization is received from the Purchasing Department. If the District elects to increase an open purchase order, a signed updated copy of the purchase order reflecting the increase will be provided. The only authorized method of procurement and payment is via signed purchase order. Purchase requisitions and/or verbal authorizations do not qualify as an approved method of payment authorization.

17. **PREVAILING WAGE:** The Supplier and all subcontractors shall comply with the requirements set forth in Division 2, Part 7, Chapter 1 of the Labor Code. The District has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this work is to be performed for each craft, classification or type of worker needed to execute this Agreement. These per diem rates, including holiday and overtime work, as well as employer payments for health and welfare, pension, vacation, and similar purposes, are on file at the District, and are also available from the Director of the Department of Industrial Relations. Pursuant to California Labor Code section 1720 et seq., it shall be mandatory upon the Supplier and upon any subcontractor, to pay not less than the said specified rates to all workers employed by them in the execution of this Agreement. Supplier shall maintain for audit by the District, certified payroll records applicable to this Agreement, stating wage rates, trades, payments made, and employee signatures. Copies of these records shall be furnished to the District upon request.

18. **DIR REGISTRATION** (for Public Works Projects): The project covered by this agreement/ purchase order is a public work as defined in Labor Code section 1720. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in the Labor Code, unless currently registered and qualified to perform public work pursuant to Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. The Supplier and all subcontractors shall furnish certified payroll records as required pursuant Labor Code section 1776 directly to the Labor Commissioner in accordance with Labor Code section 1771.4 on at least on a monthly basis (or more frequently if required by the District or the Labor Commissioner) and in a format prescribed by the Labor Commissioner. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE). The District reserves the right to withhold contract payments if the District is notified, or determines as the result of its own investigation, that Supplier is in violation of any of the requirements set forth in Labor Code section 1720 et seq. at no penalty or cost to the District.

19. **TERMINATION FOR CAUSE.** District may direct Supplier to terminate, suspend, delay or interrupt services, in whole or in part, for such periods of time as District may determine in its sole discretion. The District may terminate this Agreement for cause based upon the failure of the Supplier to comply with this Agreement; provided that the District gives the Supplier written notice specifying the Supplier's failure. If within five (5) calendar days after receipt such notice, the Supplier shall not have corrected such failure and thereafter proceeded diligently to complete such correction, then the District may, at its option, place the Supplier in default and this Agreement shall terminate on the date specified on such notice.

20. **TERMINATION FOR CONVENIENCE:** District may, in its sole discretion, terminate this Agreement for convenience within ten (10) calendar days of written notice to the Supplier if it is found that reasons beyond the control of either the District or Supplier make it impossible or against the District's interest to complete the project or use the Supplier. In such a case, the Supplier shall have no claims against the District except for: (1) the actual cost for approved labor, materials, and services performed in accordance with this Agreement which have not otherwise been previously paid for and which are supported and documented through timesheets, invoices, receipts, or otherwise; and (2) profit and overhead of ten percent (10%) of the approved costs in item (1); and (3) termination for convenience costs of three percent (3%) of the approved costs in item (1).

A copy of these terms can be found on our website: <http://www.azusa.org>

END OF TERMS AND CONDITIONS