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JEFFERSON COUNTY SCHOOL DISTRICT R-1
PURCHASE ORDER TERMS AND CONDITIONS (PO Terms)

Jefferson County School District R-1 is issuing a purchase order to a selling entity, requesting that the entity supply goods, provide services, grant cloud-based or other digital licenses, or perform all or a combination of these activities. These Purchase Order Terms and Conditions govern this purchasing relationship between the District and the Supplier.

- 1. Definitions.** In the PO Terms: **“Bid/Proposal”** means the Supplier’s response to the Solicitation (if any). **“CUCC”** means the Colorado-adopted version of the Uniform Commercial Code, Article 2, C.R.S. §§4-2-101 *et seq.*, as amended from time to time. **“Contract”** means any written agreement that the District and the Supplier execute and that also govern the purchases and transactions that are the subject of the PO. **“District”** means Jefferson County Public School District – R1. **“District Information”** means all data, records, and information of any kind and in any format that the District provides to the Supplier in connection with the PO and to facilitate the Supplier’s performance, and all data, records, and information that the Supplier generates therefrom in connection with the Supplier’s performance. **“Goods and Services,”** or **“Goods”** or **“Services”** separately, means the goods, services, cloud-based or other digital licenses, and other items of value ordered with the PO. **“PO”** means District purchase order to which these PO Terms are incorporated. **“PO Terms”** means this document with its terms and conditions. **“Solicitation”** means the District’s solicitation for the Goods and Services, if any, which includes without limitation a request for proposal (RFP), invitation for bid (IFB), request for quote (RFQ), or any other form of solicitation. **“Supplier”** means the company or individual listed as the Supplier on the PO and who is providing the Goods and Services. **“Supplier Form”** means any of the Supplier’s order or delivery forms, invoices, billing statements, on-line or other digital subscription or click-through agreements, and any other forms and agreements prepared by the Supplier and used in the transaction or transactions described in this PO, other than the Bid/Proposal.
- 2. Applicability.** These PO Terms apply to all POs that the District issues. They also apply to those other written agreements that incorporate these PO Terms.
- 3. Offer and Acceptance.**

 - 3.1. If the Supplier responded to a Solicitation by Bid/Proposal resulting in this PO, then this PO is the District’s ACCEPTANCE of the Supplier’s OFFER TO SELL. The acceptance is in accordance with the terms and conditions of the Solicitation and the Bid/Proposal.
 - 3.2. If the PO is not the result of a Solicitation, then the PO is an OFFER TO BUY that is subject to the Supplier’s acceptance, either in the form of a written acceptance of the PO or by performing in accordance with the PO.
 - 3.3. A counter offer cancels this PO unless the District accepts the counter offer by issuing a written change to the PO.
- 4. Delivery.** If Goods and Services include goods, then delivery shall be FOB destination, unless the Solicitation, Bid/Proposal, or the PO otherwise specify in a manner that is binding on the District. The District is relying on the promised delivery date, installation, or other performance set forth in the Solicitation or PO as material and basic to the District’s acceptance. Time is of the essence.
- 5. Specifications and Changes.** The Supplier shall deliver Goods and Services strictly in accordance with the specifications and rates and prices set forth for each item. Each shipment, delivery, and provision of the Goods and Services received is subject to the PO Terms, notwithstanding any inconsistent or conflicting terms and conditions that may be contained in any Supplier Form. If this PO is for Goods only and the Supplier has not delivered the Goods on or before the expiration of this PO, but the Supplier delivers the Goods to the District only after expiration of this PO, then the District, in its sole discretion, may accept the Goods under this PO by extending this

PO and delivering the modification to the Supplier. If the District does not extend this PO for any reason, then the Goods delivered after expiration of this PO shall be deemed rejected, the Supplier shall arrange the return of all delivered goods at the Supplier's sole expense, and the District shall have no liability for any such Goods.

6. **Cancellation and District's Rights in Case of Supplier Non-Performance.** The District may cancel the PO or any part thereof at any time before the shipment of Goods or the delivery of the Services that are subject to cancellation. The District's written notice sent to the Supplier will make cancellation effective as of the date and time when the Supplier receives such notice, except that the District may provide oral notice given to the Supplier by telephone or in person to provide advance notice of the District's intent to cancel. Oral notice is effective cancellation so long as the District sends a writing no later than 24 hours after having given oral notice. If the Supplier fails to deliver as and when promised, the District, in its sole discretion, may cancel the PO, or any part thereof, without prejudice to its other rights, return all or part of any shipment if and so made, and charge the Supplier with any loss or expense sustained as a result of such failure to deliver as promised.
7. **Quality.** All Goods and Services delivered pursuant to this PO shall strictly conform to the Bid/Proposal or, if no Bid/Proposal, to the specifications set forth in the PO, and shall be of the quality specified. The District will accept no deviation or substitution unless the District consents in writing before such deviation or substitution is made. In the event no quality is specified, the Goods and Services shall be at least equal to the standards of the industry. The District may conduct such tests and inspections as it deems necessary to assure the Supplier's compliance with the terms of this PO. The District shall be the sole judge in determining "equals" with regard to quality and price. All Goods and Services delivered shall be newly manufactured and the current model, unless otherwise specified in the Bid/Proposal or this PO.
8. **Warranties.** In addition to any warranties required by the Solicitation, contained in the Bid/Proposal (if any), or both, all provisions and remedies of the CUCC relating to implied and express warranties are incorporated herein.
9. **Inspection and Acceptance.** The District's final acceptance is contingent upon completion of all applicable inspection procedures. If the Goods and Services fail to meet any inspection requirements, the District may exercise all of its rights, including those provided in the CUCC. The District may inspect the Goods and Services at all reasonable times and places.
10. **Safety Information and Recovered Materials.** All chemicals, equipment and materials proposed or used in the satisfaction of the terms of this PO shall conform to the standards and requirements of the Occupational Safety and Health Act of 1970, as it may have been and be amended from time to time. The Supplier shall furnish all Material Safety Data Sheets ("MSDS") for any regulated chemicals, equipment or hazardous materials at the time of delivery. Failure to provide this information may result in delay of payment. The Supplier shall comply with §6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, concerning procurement of items for contracts above a certain dollar amount with the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, and other requirements, as set forth Environmental Protection Agency regulations at 40 CFR Part 247.
11. **Payment.** The District will pay the Supplier for amounts due after the District receives and accepts the Goods and Services and receives a correct invoice for the Goods and Services.
12. **Supplier Forms and On-line Click-Through, Click-Wrap, and Browse-Wrap Agreements:** Any provisions contained in a Contract, Supplier Forms, or the BID/Proposal are **VOID ab initio** if and to the extent any such provisions purport to:
 - 12.1. Require the District to indemnify others.
 - 12.2. Subject the District to binding arbitration or other methods of extra-judicial dispute resolution.
 - 12.3. Waive the District's right to jury trial.
 - 12.4. Waive any other legal right of the District.
 - 12.5. Grant any rights to the District's intellectual property.
 - 12.6. Permit the use of the District's name, logos, or reputation.
 - 12.7. Limit liability for (i) infringement of intellectual property rights of the District or any other persons, or (ii) bodily injury, death, or damage to tangible property.
 - 12.8. Limit liability of the Supplier or another person in such a manner that it reduces or removes otherwise available insurance coverage or otherwise applicable indemnification obligations to the District.
 - 12.9. Subject the District to a jurisdiction, venue, or law other than that of and in Colorado.

- 13. Use of District Information.** The District owns and continues to own District Information. When the District so requests, the Supplier shall, as directed, return or securely destroy District Information in the Supplier's possession, and if return occurs, the Supplier shall return District Information in such a format as the District requires. The Supplier shall: (i) use District Information only for the District's benefit and only as extent needed to perform under the PO or the Bid/Proposal or both; (ii) disclose District Information only as permitted by the District under the PO, Bid/Proposal, or other Contract as applicable; and (iii) shall NOT use District Information to conduct external research, as that term is defined by District policy IGB/IBG-R. To the extent applicable to the PO and the Goods and Services, the Service Provider shall comply with the following: (i) the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and 34 CFR Part 99, concerning the confidentiality and release of student records and data, as reflected in District Policy JRA/JRC; and with the provisions of 20 U.S.C. § 1232h, as reflected in District Policy JLDAC, concerning the need to obtain written consent of the parent prior to subjecting a student to a certain manner of survey, analysis, or evaluation, and concerning the provision of psychological services; (ii) the Children's Online Privacy Protections Act (COPPA); and (iii) if the PO is for school services, as that term is defined in C.R.S. §22-16-103(7)(a), or the Supplier is or becomes a school service contract provider, as that term is defined in C.R.S. §22-16-103(8), or both, then the Supplier shall comply with the applicable requirements of the Colorado Student Data Transparency and Security Act, C.R.S. §§ 22-16-101 *et seq.*
- 14. Insurance.** If this PO is issued as the result of a Solicitation, Bid/Proposal, contract, or all or a combination of all, then the Supplier shall maintain insurance as required thereunder. If there are no other insurance requirements, then the Supplier shall maintain insurance coverage in types and amounts that are, at a minimum, customary and reasonable for the business and industry in which the Supplier is operating, and shall include, at a minimum: (i) workers compensation insurance as required by law; and (ii) general liability insurance in coverage amounts sufficient to cover liability exposure resulting from performance under the PO, and naming the District, its officers, directors, agents, and employees additional insured. The Supplier shall provide evidence of any such required insurance coverage upon the District's request.
- 15. Federal Funding.** The Goods and Services, the PO, or the purchases that are the subject of the BID/Proposal are, or in the future may be funded, in whole or in part, with federal grant or other funds. If so and when, then the Federal Provisions located on the District website apply:
https://www.jeffcopublicschools.org/about/finance/purchasing/information_for_vendors.
- 16. Separate Contract.** If the District and the Provider enter into a Contract, then that Contract governs any conflict or inconsistency between the terms of the Contract and the PO Terms, except that Section 11 of these PO Terms prevail.
- 17. District Specific Provisions.**
- 17.1. *Availability of Funds.* Financial obligations of the District payable after the current fiscal year of the District are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
 - 17.2. *Compliance with Law.* The Supplier shall comply with all laws that govern the PO, the purchases that are the subject of the BID/Proposal and the PO, and the Supplier's performance thereunder.
 - 17.3. *Governing Law.* The laws of Colorado govern. Actions to enforce any rights under the PO shall be brought in a court of competent jurisdiction in Jefferson County, Colorado. The CCUC does apply, and the United Nations Convention on Contracts for the International Sale of Goods and Services does NOT apply to this PO.
 - 17.4. *Governmental Immunity.* The PO shall NOT be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, §24-10-101 *et seq.* C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).
 - 17.5. *Indemnification from Supplier (not applicable where the Supplier is a Colorado governmental entity, or a non-Colorado governmental entity prohibited by law from indemnifying others).* The Supplier indemnifies the District against and holds the District harmless from all claims, suits, actions, damages, or liabilities of any kind asserted by third parties against the District and arising from the Supplier's performance under the PO and Bid/Proposal (if any). In the event any Goods and Services are covered by or infringe upon any intellectual property of third parties (including, without limitation, patents, copyrights, trademarks, trade dress, or application therefor), the Supplier indemnifies the District against and holds the District harmless from all claims, suits, actions, damages, or liabilities of any kind asserted by third parties against the District resulting from such

intellectual property based on actual or alleged manufacture, sale or use of Goods and Services in violation, infringement or the like of Intellectual Property rights of others.

- 17.6. ***Independent Contractor Relationship.*** The Supplier is an independent contractor for and not an employee of the District.
- 17.7. ***Nondiscrimination.*** The Supplier shall comply with all applicable state and federal laws, rules and regulations, and District policies, prohibiting discrimination, intimidation, or harassment on the basis of ethnicity or race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, genetic information, age, veteran status, or disability.
- 17.8. ***Open Records Law (CORA).*** The Colorado Open Records Act, CRS § 24-72-10 *et seq.*, as amended from time to time, applies to the PO, the Supplier's performance, and the records and reports generated thereunder, to the extent not prohibited by federal law.
- 17.9. ***PERA Contributions.*** Pursuant to CRS § 24-51-1101(2), if the Contractor is a Colorado Public Employees Retirement Association (PERA) retiree in an individual capacity or is an entity owned or operated by a PERA retiree, the Contractor shall inform the District of this status. The District will make any employer PERA contributions and contribution-related disclosures that are required by law. The Contractor or the Contractor's employee who is a Colorado PERA retiree will be responsible to pay any working retiree contributions to PERA that are required by Law.
- 17.10. ***Public Contracts for Services. Not applicable to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental contracts, or information technology services or products and services. This provision is void when the 2021 amendment to the underlying law, §§8-17.5.101 et seq., goes into effect 7/1/2022.*** Supplier certifies that it shall comply with the provisions of C.R.S. §8-17.5-101 *et seq.* Supplier shall not knowingly (i) employ or contract with an worker without authorization to perform work under the PO, (ii) enter into a contract with a subcontractor PO, or (iii) enter into a contract with a subcontractor that fails to contain a certification to Supplier that the subcontractor shall not knowingly employ or contract with an worker without authorization to perform work under the PO, Supplier also represents and warrants that Supplier has confirmed and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this PO, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to C.R.S. §8-17.5-102(5)(c). Supplier shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this PO is being performed. When the Supplier has actual knowledge that a subcontractor is employing or contracting with an worker without authorization for work under this PO, the Supplier shall (i) notify its subcontractor and the District within 3 days and (ii) terminate the subcontract with the subcontractor if the subcontractor does not stop employing or contracting with the worker without authorization within 3 days of receiving the notice (unless the subcontractor during those 3 days provides information to establish that the subcontractor has not knowingly employed or contracted with an worker without authorization). Supplier shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to C.R.S. §8-17.5-102(5), by the Colorado Department of Labor and Employment. The District may terminate the PO if the Supplier does not comply with this provision or the requirements of C.R.S. §§8-17.5-101 *et seq.* C.R.S. §8-17.5-101 *et seq.*, and the Supplier shall be liable for actual and consequential damages to the District.
- 17.11. ***Public Contracts with Natural Persons. This provision is void when the 2021 amendment to the underlying law, §§24-76.5-101 et seq., goes into effect 7/1/2022.*** This provision is required by C.R.S. §§24-76.5-101 *et seq.* If the Supplier is a natural person 18 years of age or older, the Supplier hereby swears and affirms under penalty of perjury that they (i) are a citizen or otherwise lawfully present in the United States pursuant to federal law; (ii) shall comply with the provisions of C.R.S. §§24-76.5-101 *et seq.*, and (iii) have produced one form of identification required by C.R.S. §24-76.5-103, before the Effective Date.
- 17.12. ***Taxes and Fees.*** The District is exempt from the payment of state and most municipal, sales and use taxes for materials, supplies, and equipment used in the performance under the PO, and may be exempt from federal and other taxes. The Supplier shall not include any of these taxes in any charges or invoices to the District. The District will provide evidence of tax exemption up the Supplier's request.