



CENTRAL UNIFIED SCHOOL DISTRICT

4605 N. Polk Avenue • Fresno, CA 93722

Phone: (559) 274-4700 Ext. 63112

Fax: (559) 275-0394

CENTRAL UNIFIED SCHOOL DISTRICT PURCHASE ORDER TERMS AND CONDITIONS

DEFINITIONS:

DISTRICT: “DISTRICT” means Central Unified School District.

PURCHASE ORDER: The term “Purchase Order”, as used in these terms conditions, means the document entitled “Purchase Order” that is DISTRICT issued.

VENDOR: The term “VENDOR,” “SUPPLIER,” or “CONTRACTOR”, whenever appearing in the Purchase Order or any attachments, shall mean the Seller or Supplier of goods or services named on the face of the Purchase Order and all individuals, officers, directors, employees, agents, contractors or subcontractors of the Seller or Supplier. While engaged in carrying out the terms and conditions of the purchase, the VENDOR is an independent contractor, and not an officer, employee or agent of the DISTRICT.

AGREEMENT. VENDOR accepts this Purchase Order solely on the basis of the terms and conditions on the face, attached and back hereof. Additional or conflicting terms on VENDOR’s form or any confirmation notice are rejected and shall be deemed a material alteration hereof, unless such terms are incorporated by direct reference on the face of this Purchase Order, attached hereto as applicable and approved by the appropriate District personnel in writing. VENDOR and District agree that if any terms on any VENDOR provided form or notice conflict with the terms herein, the terms of the Purchase Order will prevail.

ADVERTISING. VENDOR shall not use the name of the DISTRICT, its officers, directors, employees, or agents, in advertising, social marketing campaigns, publicity releases or otherwise without securing the prior written consent of the DISTRICT in each instance.

ASSEMBLY BILL NO. 1584 (AB 1584). Should VENDOR provide services, including cloud-based services, for the digital storage, management, and retrieval of pupil records or; provide digital educational software that authorizes a third-party provider of digital educational software to access, store, and use pupil records, CONSULTANT shall comply with all requirements provided under Assembly Bill No. 1584.

ASSIGNMENT OF PURCHASE. The VENDOR shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the DISTRICT.



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AUDIT. VENDOR agrees that the DISTRICT has the right to review, audit, and to copy any of VENDOR's or VENDOR's sub-consultants' records and supporting documentation pertaining to the performance of this Purchase Order. VENDOR agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. VENDOR agrees to allow the DISTRICT access to these records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. VENDOR agrees to include a similar right of the DISTRICT to audit records and interview staff in any subcontract related to performance of this Purchase Order.

CHANGES. This Purchase Order shall not be altered, amended, supplemented or cancelled without approval by the appropriate DISTRICT personnel in writing. The DISTRICT shall have the right to make changes hereunder any time and VENDOR agrees to accept such changes. In the event such changes result in additional costs, the DISTRICT shall make an equitable adjustment in the purchase price provided such additional costs are itemized and justified in writing, and submitted to the DISTRICT within 10 days of receipt of the change notification.

DISPUTES. VENDOR shall continue with the responsibilities under this Purchase Order during any dispute.

FORCE MAJEURE. The VENDOR or the DISTRICT shall be excused from performance hereunder during the time and to the extent that it is prevented from performing by act of God, fire, strike, lockout or commandeering of materials or facilities by the government. VENDOR will be excused from performance when satisfactory evidence thereof is presented to the DISTRICT, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

GOVERNING LAW. This Purchase Order shall be governed and interpreted in accordance with the laws of the State of California in accordance with its fair meaning and not strictly for or against the DISTRICT or VENDOR. Any legal proceedings brought to interpret or enforce the terms of this Purchase Order, shall be brought in Fresno County, California.

HANDICAP ACCESSIBILITY AND ELECTRONIC AND INFORMATION

TECHNOLOGIES. VENDOR hereby warrants that any goods or services, including any hardware or software products or services, to be provided under a Purchase Order comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. VENDOR agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention. VENDOR



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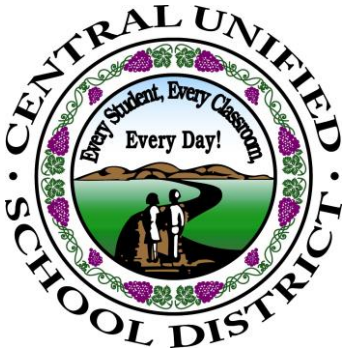
further agrees to indemnify, defend, and hold harmless the DISTRICT, when using the VENDOR's products or services from any claim arising out of its failure to comply with these requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of a Purchase Order.

HEALTH & SAFETY. All materials, equipment, supplies and the like must meet all Federal, State, and local requirements regarding Health and Safety. All shipments of hazardous and toxic material must include Material Safety Data Sheets (MSDS) pursuant to OSHA's Hazard Communication Rule 29 CFR 1919.1200, with copies sent to the Purchasing Department referencing the Purchase Order number. In addition, all vendors must comply with fingerprint and tuberculosis clearance requirements as mandated by the State of California.

INDEMNITY. To the fullest extent permitted by law, and as a material part of this Purchase Order, the VENDOR shall indemnify, defend, and hold the DISTRICT, its Board of Trustees, officers, agents, employees, and volunteers harmless against any and all liability, claims, suits, demands, causes of action, damages, losses, injuries, and expenses, including reasonable attorneys' fees, whether actual or alleged, arising from all acts or omissions to act of the VENDOR or its officers, agents, employees, volunteers, and subcontractors, unless the liability or claims arise from the DISTRICT's sole and active negligence or willful misconduct.

VENDOR assumes complete liability for any goods or materials furnished by the DISTRICT to the VENDOR in connection with this Purchase Order. VENDOR agrees to pay for such tools or materials spoiled by it or not otherwise accounted for to the DISTRICT's satisfaction. The furnishing to VENDOR of any goods or materials in connection with this Purchase Order shall not be construed to vest title thereto in VENDOR.

INDEPENDENT CONTRACTOR. In the performance of this Purchase Order, VENDOR shall act as an independent contractor. VENDOR shall perform the Services and obligations under the Purchase Order according to the VENDOR's own means and methods of work which shall be in the exclusive charge and under the control of VENDOR, and which shall not be subject to control or supervision by the District except as to the results of the work. VENDOR understands and agrees that he/she/it and all of his/her/its employees shall not be considered officers, employees or agents of the District, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT or to which DISTRICT's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. VENDOR assumes the full responsibility for the acts or omissions of his/her/its employees or agents as they relate to the Services to be provided under the Purchase Order. VENDOR is not authorized to make any representation, contract or commitment on behalf of the DISTRICT.



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INSPECTION AND ACCEPTANCE. Inspection and acceptance will be at the receiving destination, unless otherwise provided by the DISTRICT. Regardless of the F.O.B. designation, the VENDOR agrees to bear all risks of loss, injury, delay or destruction of goods and materials ordered herein which occur prior to delivery, and such loss, injury, delay or destruction shall not release the VENDOR from an obligation hereunder.

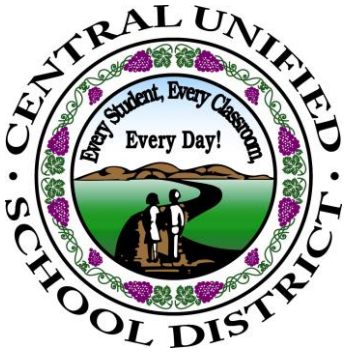
INSURANCE REQUIREMENTS. Unless otherwise stated in writing, The VENDOR shall provide evidence of authorized insurance, with limits of coverage acceptable to the District, for the term of the agreement protecting legal liability of CUSD, their officers, members of the Governing Board, agents, and employees from occurrences as to commercial general liability insurance and other liability coverage as required.

INVOICES AND PAYMENT. Unless otherwise specified in writing, the VENDOR shall render invoices for goods or services provided to the DISTRICT's Accounts Payable Office at the address listed on the Purchase Order or e-mail: invoices@centralusd.k12.ca.us. All invoices must reference a current and valid Purchase Order number. Statements are not accepted. Invoices must also conform to the line items and unit prices in the Purchase Order and must be itemized and include a description not just a stock or item number. Payments are made after satisfactory delivery and acceptance of materials or services. Unless otherwise noted, the DISTRICT shall make payments of undisputed invoices on a net-30 day basis or within a reasonable time after VENDOR has completed its obligations hereunder and payment approval is granted by the authorized DISTRICT Representative. Any monies due the DISTRICT from VENDOR can be set off from any monies due VENDOR from the DISTRICT whether or not under the Purchase Order.

LICENSES AND PERMITS. The VENDOR and all of its employees or agents shall secure and maintain in force such licenses and permits as are required by law, in connection with furnishing of materials, articles or services herein listed. All operations and materials shall be in accordance with the law.

LIMITATION OF PAYMENTS. Prices and amounts shown in the Purchase Order are the maximum amounts authorized on this order.

NON-DISCRIMINATION ENDORSEMENT. VENDOR and DISTRICT mutually agree that they will comply with all applicable Federal and California state anti-discrimination laws and regulations and agree not to unlawfully discriminate against any prospective or active employee engaged in the work, or against any other person, on the basis of race, color, age, ancestry, national origin, sex, religious creed, marital status, or physical or mental disability, or sexual orientation or any other category protected by law, including but not limited to, the California



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Fair Employment Practice Act, beginning with Labor Code Section 1410, and Labor Code Section 1735. In addition, the **VENDOR** agrees to require like compliance by all hired subcontractors.

OWNERSHIP OF INTELLECTUAL PROPERTY. The Services performed under the Purchase Order are work made for hire and **DISTRICT** shall exclusively own, in perpetuity and worldwide, all rights to and flowing from the work, including any work product, performed under the Purchase Order. **VENDOR** assigns to **DISTRICT** any rights **VENDOR** could have, may have, or does have, in the work or the work product performed under the Purchase Order, and **DISTRICT** shall have all right, title, and interest in said matters, including the right to secure and maintain the copyright, trademark, or patent of said matters in the name of the **DISTRICT**. **VENDOR** consents to the use of **VENDOR**'s name in conjunction with the sale, use, performance, and distribution of said matters, for any purpose and in any medium.

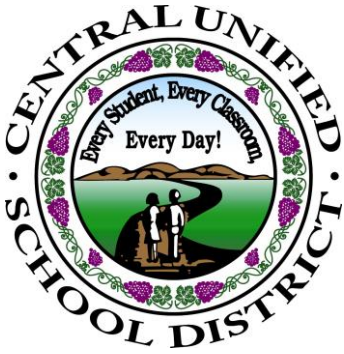
PAYMENT DISCOUNTS. In connection with any discount offered, the payment discount period shall begin on the date of delivery and acceptance at destination. The **DISTRICT** shall be entitled to the maximum educational or any other discount offered.

PROVISIONS REQUIRED BY LAW DEEMED INSERTED. Each and every provision of law and clause applicable to this Purchase Order, or required by law to be inserted in this Purchase Order, is deemed inserted herein and the Purchase Order shall be read and enforced as though the provisions are included herein.

REGISTRATION FOR PUBLIC WORKS. If the Purchase Order is for a public work, as defined by Labor Code section 1720, the **VENDOR** and all tiers of **VENDOR**'s subcontractors or sub-consultants bidding for the Purchase Order must register with the Department of Industrial Relations, and maintain this registration pursuant to Labor Code section 1725.5. Information on how to register can be found at <http://www.dir.ca.gov/PublicWorks/PublicWorks.html>.

SEVERABILITY. If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way.

SHIPPING. Unless otherwise specified in the Purchase Order, **VENDOR** shall be responsible for delivery and shall pay all related shipping charges, including prepaid freight charges. All goods are to be shipped prepaid, F.O.B. to the destination indicated on the Purchase Order. Time and manner of delivery are material factors in proper performance under the purchase. The



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DISTRICT's Purchase Order number shall be clearly referenced on each parcel and packing slip. Failure to include this information will cause a delay in inspection and acceptance of the order, resulting in a delay of payment. All items shall be prepared and packed for shipment in a manner that will prevent damage in transit. The DISTRICT reserves the right to reject any shipment which appears to have suffered damage in transit. Failure to meet the specified reflects adversely on your firm's overall performance. If a product is shipped to an incorrect site, it may be refused and sent back to you at your expense. The District will not be responsible for costs associated with re-shipment.

TAXES. The DISTRICT will pay only the California State Sales and Use Tax as applicable to the County of Fresno, California. The Federal Excise Tax is not applicable to the DISTRICT. The DISTRICT will furnish the VENDOR applicable Federal Tax exemption certificates upon request. VENDOR will not include taxes in unit prices or labor rates used for billing purposes.

TERMINATION. The DISTRICT reserves the right to terminate a Purchase Order for its own convenience with liability limited to the services or products delivered prior to the VENDOR's receipt of the DISTRICT's termination notice. All Purchase Orders will automatically terminate at the end of the DISTRICT's fiscal year (June 30th) without prior notice to VENDOR.

VARIATION IN QUANTITY OR QUALITY. No variation in the quantity or quality of any item or service called for by this Purchase Order shall be accepted, unless agreed to in writing by DISTRICT and VENDOR. All goods and services must be as specified in the order.

WARRANTY. All products, materials or services furnished under a Purchase Order shall be in accordance with DISTRICT specifications and guaranteed to be new and free from faulty design or workmanship. If upon inspection any item is found defective or of inferior quality, the DISTRICT may return such item to VENDOR at VENDOR's expense. Payment for any item prior to inspection shall not be construed to be an acceptance of an unsatisfactory or defective item. VENDOR shall reimburse the DISTRICT for any amount paid to VENDOR, and any shipping charges incurred by the DISTRICT, for such returned items.