



## PORTLAND PUBLIC SCHOOLS, SCHOOL DISTRICT NO. 1J, MULTNOMAH COUNTY, OREGON PURCHASE ORDER STANDARD TERMS & CONDITIONS

This Purchase Order, when signed by a representative of the District and accepted by Contractor, constitutes a Contract representing the entire agreement between the parties. All agreements between the parties and representations by either party about the subject of the Contract are contained in this Contract. No waiver of, modification of, or change in the terms of this Contract shall bind either party unless in writing and signed by both parties.

1. **Assignment.** Contractor shall not assign, delegate, or transfer any of its duties, rights, or interests under this Purchase Order without the prior written consent of District. District may withhold such consent for any or no reason.
2. **No Third Party Beneficiaries.** District and Contractor are the only parties to this Purchase Order and are the only parties entitled to enforce its terms. Nothing in this Purchase Order provides any benefit or right, directly or indirectly, to third parties unless they are individually identified by name in this Purchase Order and expressly described as intended beneficiaries of this Purchase Order.
3. **Successors in Interest.** This Purchase Order shall bind and inure to the benefit of the parties, their successors, and approved assigns, if any.
4. **Escalation.** Any price or cost adjustments by the Contractor are prohibited. Pricing must be held firm for the duration of the Purchase Order. Prices shall not include excise tax or any State or Federal tax.
5. **General Product Requirements.** All items delivered shall conform to the Specifications and shall be in first class condition. Acceptance by the District shall be subject to inspection and approval. In case of conflict between the Specifications and these Standard Terms and Conditions, the Specifications shall prevail. The apparent silence of the Standard Terms and Conditions and Specifications as to any detail or the apparent omission of a detailed description concerning any point shall be regarded as meaning that only best commercial practice is to prevail and that only items manufactured with material and workmanship of first quality are to be supplied. All items delivered shall be of identical style, quality and appointments as those offered to the trade in general during the course of the model year. All items delivered shall be new current models, free and clear of all liens and encumbrances. Unless otherwise provided in the Specifications items shall, where appropriate, be prepared for delivery to and use by the District by a factory-franchised agent. Each item delivered shall be accompanied by all pre-delivery inspection sheets, coupons, certificates, descriptive literature, warranty cards and information provided by the manufacturer and furnished to the trade in general. All such documents shall be properly completed and signed in accordance with industry standards. All items required by the Specifications to be UL listed shall indicate the current UL listing on the item. All items that are required by the Specifications to have any other certification shall indicate that certification on the item or in the accompanying documentation.
6. **Warranty and Service.** Contractor warrants all Goods delivered to be free from defects in labor, material and manufacture and to be in compliance with the specifications set out in this Purchase Order. All implied and express warranty provisions of the UCC are hereby incorporated by reference. Further, Contractor represents and warrants to that Contractor has the power and authority to enter into and perform this Purchase Order and that this Purchase Order, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms. All items delivered shall carry either the standard manufacturer's warranty and service policy providing that warranty work will be performed by any authorized manufacturer's dealer, or if specified in the Specifications, the warranty and service policy called for in the Specifications. In addition, unless otherwise noted in the Specifications, the warranty and service policy indicated above shall include the following terms and conditions:
  - a. There shall be no distance or time limitations, not applicable to the trade in general, on either standard or extended warranty and labor. All franchised or authorized dealers of the item shall honor warranty. Warranty maintenance requirements, when performed by District, shall be acceptable to dealer when said work performance meets or exceeds the dealer certification requirements. District shall provide evidence of such work performance upon request, as required by the manufacturer. Any extended warranty period customarily granted shall be made available to District at no additional cost, and
  - b. District shall be advised of all product recalls on all or any part of the item at no additional cost. All product recall information, replacement parts and labor, shall be provided to the District as soon as available to dealer.
7. **Delivery.** Shipment of the Goods shall be made in the quantities and at the time or times specified on the purchase order or in supplementary documents furnished by District. Time is of the essence for this Agreement and failure to deliver the Goods within the time specified on the PO shall constitute a default. If at any time Contractor has reason to believe that deliveries will not be made as scheduled, Contractor shall immediately provide District with written notice setting forth the cause or causes of the anticipated delay. Late deliveries, deliveries of Goods which are defective or which do not conform to the PO, and failure to provide District, upon request, with reasonable assurances of future performance shall be causes allowing District to terminate the Agreement for cause, and Contractor shall be liable for all damages to District by reason of such events that caused termination. Should the actual delivery date be later than the delivery date specified in the PO through no fault of District, Contractor shall pay the difference between the cost of standard shipping and the cost of premium transportation.
8. **Inspection and Acceptance.** Goods furnished under this Purchase Order shall be subject to inspection and test by the District at times and places determined by the District. If the District finds Goods furnished to be incomplete or not in compliance with the Purchase Order, the District, at its sole discretion, may either reject the Goods, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the Goods to the District at a reduced price, whichever the District deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a  
time deemed reasonable by the District, the District may reject the Goods and cancel the Purchase Order in whole or in part. Nothing in this paragraph shall in any way affect or limit the District's rights as buyer under the Uniform Commercial Code, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.
9. **Errors.** The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Purchase Order without undue delays and without additional cost.
10. **Hazardous Materials.** Contractor shall notify District before using any products containing hazardous materials to which District employees, students, or the general public may be exposed. Products containing hazardous materials are those products defined by Oregon Administrative Rules, Chapter 437. Upon District request, Contractor must immediately provide Material Safety Data Sheets to District for all materials subject to this provision.
11. **Compliance with Applicable Law.** For the services provided under this Purchase Order, Contractor shall comply with all federal, state, and local laws applicable to public contracts and the work done under this Purchase Order, and with all regulations and administrative rules established pursuant to those laws.
12. **Indemnification.** Contractor shall defend, indemnify, and hold harmless ("Indemnification") District, its officers, directors, employees, and agents from and against all liabilities, losses, expenses, claims, actions, or judgments (including attorney fees) recovered or made against District for any damage, injury, or death to persons or damage to property caused by the negligent or intentional acts or omissions of Contractor, its officers, employees, agents, or subcontractors related to Contractor's performance under this Purchase Order. Contractor's Indemnification extends to conditions created by this Purchase Order or based upon violation of any statute, ordinance, or regulation. This provision is in addition to any common law or statutory liability and indemnification rights available to District. Contractor's Indemnification of District shall not apply to damage, injury, or death caused by the negligent actions of District, its officers, directors, employees, or agents. District must promptly notify Contractor in writing of any such claim or demand to indemnify and shall cooperate with Contractor in a reasonable manner to defend such claim.

13. **Waiver; Severability.** Waiver of any default or breach under this Purchase Order by District does not constitute a waiver of any subsequent default or a modification of any other provisions of this Purchase Order. If any term or provision of this Purchase Order is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Purchase Order did not contain the particular term or provision held invalid.
14. **Controlling Law; Venue.** The parties agree that Oregon law will govern any dispute related to this Purchase Order, and any litigation arising out of the Purchase Order shall be conducted in courts located in Multnomah County, Oregon.
15. **Non-discrimination Clause.** Both parties agree that no person shall be subject to unlawful discrimination based on race; color; gender; age; religion; national origin; U.S. military veteran status; marital status; sexual orientation; disability; source of income; or political affiliation in programs, activities, services, benefits, or employment in connection with this Purchase Order. The parties further agree not to discriminate in their employment or personnel policies.
16. **Permits and Licenses.** Contractor shall obtain and hold all necessary permits and licenses, which may be required to provide the goods and services under this Purchase Order.
17. **Rights under UCC.** These terms and conditions are not to be construed as exclusive remedies or as a limitation upon rights or remedies that may be available under Oregon Law, including ORS Chapter 71-83, Uniform Commercial Code.



**PORTLAND PUBLIC SCHOOLS, SCHOOL DISTRICT NO. 1J, MULTNOMAH COUNTY, OREGON PURCHASE ORDER (PO) TERMS AND CONDITIONS FOR FEDERAL EXPENDITURES**

The following terms apply to this purchase order because federal funds will be used to pay for at least part of the purchase order. If any term conflicts with any term in the body of the purchase order, this document will control.

1. **Remedies.** In addition to the remedies explicitly set forth in the body of the purchase order, District may exercise all rights or remedies available at law, in equity, or otherwise in the event of any breach by Contractor.
2. **Termination.** District may terminate the purchase order for cause or for convenience.
3. **Nondiscrimination; Equal Employment Opportunity.** If the purchase order involves "construction work" as defined in 41 CFR Part 60-1.3, then Contractor must:
  - a. Not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor must take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. This action includes but is not limited to the following:
    - 1) Employment, upgrading, demotion, or transfer;
    - 2) Recruitment or recruitment advertising;
    - 3) Layoff or termination;
    - 4) Rates of pay or other forms of compensation; and 5) Selection for training, including apprenticeship.
 Contractor must post in conspicuous places that are accessible by employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause;
  - b. State in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin;
  - c. Not discharge or in any other manner discriminate against any employee or applicant for employment because the employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision, however, does not apply to instances in which an employee who has access to the compensation information of other employees or applicants as part of the employee's essential job functions discloses the compensation of other employees or applicants to individuals who do not otherwise have access to the information, unless the disclosure is in response to a formal complaint or charge and in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish this information;
  - d. Send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representatives of Contractor's commitments under this Section 3.d. Contractor must post copies of the notice in conspicuous places that are accessible by employees and applicants for employment;
  - e. Comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, or relevant orders of the Secretary of Labor, and furnish all information or reports required by or pursuant to them. Contractor must also permit access to its books, records, or accounts by the administering agency and the Secretary of Labor for purposes of ascertaining compliance with these rules, regulations, or orders; and
  - f. Include the requirements of this Section 3 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that these requirements will be binding on each subcontractor or vendor. Contractor must take any action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing these requirements, including sanctions for noncompliance. If Contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of direction by the administering agency, then Contractor may request that the United States enter into the litigation to protect the interests of the United States.

In the event that Contractor does not comply with any nondiscrimination clause under these terms and conditions or the purchase order, District may cancel, terminate, or suspend the purchase order in whole or in part and Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965. Additional sanctions may be imposed and remedies invoked as provided in that executive order; by rule, regulation, or order of the Secretary of Labor; or as otherwise provided by law.

- 4. Prevailing Wages.** If the purchase order is for a prime construction for more than \$2,000, then Contractor must comply with the Davis-Bacon Act (40 USC §§ 3141 to 3148), as supplemented by 29 CFR Part 5. These requirements include but are not limited to:
  - a.** Paying prevailing wages to laborers and mechanics in accordance with wage determinations made by the Secretary of Labor;
  - b.** Paying wages at least once every week; and
  - c.** Complying with the Copeland "Anti-Kickback" Act (40 USC § 3145), as supplemented by the regulations set forth in 29 CFR Part 3, which prohibits Contractor from inducing any person employed on the construction work to give up any compensation to which that employee is entitled.
  - d.** If indicated on the purchase order, payment of State of Oregon prevailing wages under ORS 279C.800 to .870 is also required. Contractor shall pay the higher of the applicable state or federal prevailing rate of wage.
- 5. Overtime Pay; Safety.** If the purchase order involves employment of mechanics or laborers and is for more than \$100,000, then Contractor must comply with 40 USC §§ 3702 and 3704, as supplemented by 29 CFR Part 5. These requirements include but are not limited to:
  - a.** Paying each laborer or mechanic one and a half times the basic rate of pay for all hours that the laborer or mechanic works in excess of 40 hours in any one week; and
  - b.** Not requiring any mechanic or laborer to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health or safety.
- 6. Rights to Inventions.** If the purchase order is a "funding agreement" as defined under 37 CFR § 401.2 and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance of experimental, developmental, or research work under the funding agreement, then the funding recipient or subrecipient must comply with the requirements of 37 CFR Part 401 and any additional implementing regulations.
- 7. Environmental Compliance.** If the purchase order is for more than \$150,000, then the parties must comply with the Clean Air Act (42 USC §§ 7401 to 7671q) and the Federal Water Pollution Control Act (33 USC §§ 1251 to 1387), including all applicable standards, orders, or regulations issued under these Acts.
- 8. Prohibited Contract Awards.** In accordance with 2 CFR Part 180, no contract relating to the purchase order may be made with any party included on the list of government-wide exclusions in the System for Award Management.
- 9. Anti-Lobbying.** If the purchase order is for more than \$100,000, any contractor that applies or bids for an award relating to the Contract must file the certification required by 31 USC § 1352, certifying that the contractor has not and will not appropriate federal funds to pay any person or organization influencing or attempting to influence an officer or employees of the federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining a contract, grant, or other award covered by 31 USC § 1352 involving federal funds. The contractor must also disclose any lobbying with nonfederal funds that takes place in connection with obtaining an award of federal funds.
- 10. Procurement of Recovered Materials.** The parties must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include but are not limited to:
  - a.** If the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, procuring only items designated in 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition;
  - b.** Procuring solid waste management services in a manner that maximizes energy and resource recovery; and
  - c.** Establishing an affirmative procurement program for procurement of recovered materials identified in Environmental Protection Agency guidelines.