

LOS ANGELES COUNTY OFFICE OF EDUCATION

PURCHASE ORDER STANDARD TERMS AND CONDITIONS (PO 2.1)

This order is subject to the following terms and conditions, and accepting the order, or any part thereof, the Seller agrees to and accepts all said terms.

1. DEFINITIONS

The term Purchaser or Buyer shall mean, Los Angeles County Office of Education, hereinafter referred to as LACOE, and the term Seller, Supplier, Vendor, Contracting Entity, or Contractor shall mean, the person, firm, or corporation from whom the item or service has been ordered.

2. TERMS OF AGREEMENT

The purchase order, together with these terms and conditions, and any attachments and exhibits, specifications, drawings, notes, instructions, and other documents, whether physically attached or incorporated by reference, constitute the entire and complete agreement between LACOE and the Seller identified in the purchase order.

If a master agreement covering procurement of the work described in the purchase order exists between the supplier and LACOE, the terms of such master agreement shall prevail over any inconsistent terms herein.

Any term different from or in addition to the terms of the purchase order by the Seller shall not be binding on LACOE unless accepted in writing by the Buyer.

The Buyer shall not be responsible for any goods delivered or services rendered without a purchase order properly signed by the County Superintendent or designee.

Seller may not assign this order without Purchaser's prior written consent.

The electronic acceptance, acknowledgement of this purchase order, constitutes Seller's acceptance of these terms and conditions posted on LACOE's website and referenced on the purchase order.

3. SHIPPING AND DELIVERY

Time of delivery of goods or services is of the essence in this Purchase Order.

All goods shall be F.O.B. Destination, unless specified. The Seller shall be responsible for safe and adequate packing of the items, which shall conform to the carriers' requirements in the absence of any specifications LACOE may provide. LACOE is not liable for extra charges for packing or cartage.

Seller shall observe the requirements of any local laws and regulations relating to hazardous work, including, without limitation, with respect to its accompanying information, packing, labeling, reporting, carriage, and disposal.

Seller shall mark the purchase order number on each container and enclose a packing slip/list of shipment contents.

Seller agrees to bear all risk of loss, injury, or destruction of goods and material ordered herein which occur prior to delivery; and such loss, injury, or destruction shall not release the Seller from an obligation hereunder.

In the event of Seller's failure to deliver as and when specified, Buyer reserves the right to cancel this order or any part thereof without prejudice to its other rights, and Seller agrees that Buyer may return part or all of any shipment so made and may charge Seller with any loss or expense sustained as a result of such failure to deliver.

The Buyer reserves the right to refuse deliveries made in advance of the delivery schedule. Over shipment allowances, if authorized, will be applied to the entire order. If the Buyer agrees to accept deliveries after the date of delivery has passed, the Buyer shall have the right to direct the Seller to make shipment to the delivery point set forth in this PO by the most expeditious means, and the total cost of such expedited shipment and handling shall be borne by the Seller. Acceptance of late deliveries shall not be deemed a waiver of the Buyer's right to hold the Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of the Seller's obligation to make future deliveries in accordance with the delivery schedule.

4. INVOICE AND PAYMENT

Invoices must reference purchase order number and be itemized, showing quantity, unit price, labor, material, State taxes and shipping charges.

Seller shall send a separate invoice for each corresponding purchase order number. Invoice can be sent to the address set forth in the purchase order or e-mail to: accounts_payable@lacoedu.edu.

Payment shall be made in accordance with the payment terms set forth in the purchase order upon receipt of all goods and/or acceptance of services rendered.

5. INSPECTION AND ACCEPTANCE

All items are subject to final inspection and approval after delivery to the Buyer. If any items are defective in material or workmanship or otherwise not in conformity with the requirements of this purchase order, the Buyer shall (i) return the nonconforming goods to the Seller for refund or credit, (ii) require Seller to replace the nonconforming goods.

Final acceptance or rejection shall be made by the Buyer as promptly as practicable after delivery. Final acceptance shall be conclusive except with respect to latent defects, fraud or such gross mistakes as amount to fraud, or with respect to the Buyer's rights under the "Warranty" clause.

6. WARRANTIES

Seller warrants that the item will conform to its description and is free from defects in design, material and workmanship, and fit for the known purpose for which it is sold. This warranty is in addition to any expressed warranty or service guarantee given by Seller to Buyer.

Seller warrants that the item is free and clear of all liens and encumbrances and that Seller has a good and marketable title to same at the time title passes to Buyer.

Unless otherwise specified in the PO, this warranty shall remain in effect for a one (1) year period after delivery or for such period of time as the item is normally warranted. At the Buyer's option, the Seller shall promptly either repair or replace defective items after receipt of the Buyer's written notice of a defect.

Seller shall comply with all State, Federal, and local laws, regulations, or orders applicable to the purchase, manufacturing, processing, construction, installation, servicing and delivery of the item. In the event of failure to comply with applicable laws, regulations, or orders, the Seller shall reimburse LACOE for any loss incurred by Seller's failure to comply.

In the event any article sold and delivered hereunder shall be covered by any patent, copyright, or application therefore, Seller shall indemnify and hold harmless LACOE from any and all loss, cost, or expense on account of any and all claims, suits, or judgments on account of the use of such article in violation of rights under such patent, copyright, or application.

7. INSURANCE

Seller shall maintain such general liability, property damage, workers' compensation, and auto insurance as is required to protect Seller and LACOE as their interests may appear.

8. INDEMNIFICATION

Seller agrees to defend, indemnify, save, and hold harmless LACOE, its governing body, the individuals thereof, and all officers, agents, employees, representatives, and volunteers from all loss, cost, and expense (including, but not by way of limitation, attorneys' fees and other related legal costs) arising out of any liability or claim of liability for injury, damage, or loss sustained or claimed to have been sustained arising out of, or occurring as a result of the Seller's performance or failure to perform services under this Purchase Order, or resulting from or in any way directly or indirectly connected with the performance or nonperformance of Seller pertaining to this Contract. Seller further agrees to waive all rights of subrogation against LACOE and shall pay for any and all injury, damage, or loss to LACOE. LACOE assumes no responsibility whatsoever for any property placed on the premises. The provisions of this indemnification clause shall not be limited to the availability or collectability of insurance coverage nor do these provisions apply to any injury, damage or loss caused solely by the negligence of LACOE.

9. INDEPENDENT CONTRACTOR

While performing its obligations under this Purchase Order, Seller is an Independent Contractor and not an officer, employee or agent of LACOE. Seller shall not at any time or in any manner represent that it or any of its officers, employees, or agents are employees of LACOE. Seller warrants its compliance with the criteria established by the U.S. Internal Revenue Service (I.R.S.) and the California Employment Development Department (EDD) for qualification as an Independent Contractor including, but not limited to, being hired on a temporary basis, having some discretion in scheduling time to complete contract work, working for more than one employer at a time, and acquiring and maintaining its own office space and equipment; being free from the control and direction of LACOE in connection with the performance of the work, both under the contract for the performance of the work and in fact; performing work that is outside the usual course of LACOE's business; and being customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

10. ASSIGNMENT

Seller shall not in any manner, directly or indirectly, by operation of law or otherwise, assign, transfer or encumber this Purchase Order or any portion hereof of any interest herein, in whole or in part, without the prior written consent of LACOE. If prior written consent is not given by LACOE to assign, transfer, or encumber this Purchase Order, such action shall be deemed automatically void. In addition, Seller shall not subcontract the work to be performed pursuant to this Purchase Order without prior written approval of LACOE. The names and qualifications of subcontractors or others whom Seller intends to employ, other than those identified, shall be submitted to LACOE for prior written approval.

11. TERMINATION

The Purchase Order may be terminated by LACOE upon written notification.

12. COMPLIANCE WITH LAW

Seller shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, policies, and procedures in performing under this Purchase Order. Seller warrants that it has all licenses, permits, certificates and credentials required by law to perform the work specified under this Purchase Order and shall, upon request by LACOE, provide evidence of same.

13. FORCE MAJEURE

In the event that performance on the part of any party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault or negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder shall include, but not be limited to, acts of God or of the public enemy, insurrection, acts of the federal government or any unit of state or local government in sovereign capacity, fires, floods, epidemics, pandemics, quarantine restrictions, strikes, freight embargoes or delays in transportation, to the extent that such circumstances are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

14. GOVERNING LAW/FORUM SELECTION

This Purchase Order is made, entered into and executed in Los Angeles County, California, and the parties agree that any legal action, claim or proceeding arising out of or connected with this Purchase Order shall be filed in the applicable court in Los Angeles County, California. The parties further agree this Purchase Order shall be construed, and all disputes hereunder shall be settled, in accordance with the laws of the State of California.

15. INCORPORATION BY REFERENCE

Any exhibits referenced herein shall be incorporated and made a part of this Purchase Order.

16. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this Purchase Order shall be deemed to be inserted herein and the Purchase Order shall be read and enforced as though it were so inserted and included.

17. RECORD RETENTION AND INSPECTION

Seller agrees that LACOE shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent records pertaining to this Purchase Order. All records shall be kept and maintained by the Seller and made available to LACOE during the entire term of this Purchase Order and for a period not less than five (5) years after final payment hereunder by LACOE.

18. NON-DISCRIMINATION AND NON-SEGREGATION

During the performance of this Purchase Order, both parties hereby agree to comply with all Federal, state and local laws respecting non-discrimination in employment and non-segregation of facilities, including, but not limited to requirements set out in 41 CFR 60-1.4, 60-250.4 and 60-741.4, which equal opportunity clauses are hereby incorporated by reference.

19. TOBACCO AND MARIJUANA-FREE SCHOOLS AND FACILITIES

When at LACOE-owned or LACOE-leased buildings, both parties hereby agree to comply with the Los Angeles County Board of Education's Policy 3513.3 which states: The County Board recognizes the health hazards associated with smoking and the use of tobacco and/or marijuana products including the breathing

of second-hand smoke, and desires to provide a healthy environment for students and staff. The County Board prohibits the use of tobacco and/or marijuana products at any time in LACOE-owned or leased buildings, on LACOE property and in LACOE vehicles. This includes the use of an electronic smoking device that creates aerosol or vapor or of any oral smoking device for the purpose of circumventing the prohibition of smoking.

20. ALCOHOL AND DRUG-FREE WORKPLACE

Both parties hereby certify under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et. seq.), and the Los Angeles County Board of Education's Alcohol and Drug- Free Workplace Policy 4020.

21. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR OTHER INELIGIBILITY (Federal Executive Order 12549)

By acknowledging this Purchase Order, Seller certifies to the best of its knowledge and belief that it and its principals:

- 21.1 Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or Agency;
- 21.2 Have not, within a three-year period preceding the execution of this contractual instrument, been convicted of, or had a civil judgment rendered against them, for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction (Federal, State or Local) or contract under a public transaction; or violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 21.3 Are not presently indicted for, or otherwise criminally or civilly charged by any government entity (Federal, State or Local), with commission of any of the offenses enumerated in Section 21.2 above, of this certification; and,
- 21.4 Have not, within a three-year period preceding the execution of this contractual instrument, had one or more public transactions (Federal, State or Local) terminated for cause of default.

22. COVID 19 VACCINATION

When at LACOE schools and/or work locations, Contractor, its officers, agents, employees, subcontractors, representatives and volunteers (collectively hereinafter referred in this Section as Contractor) and as a material condition of this Contract, shall comply with the Los Angeles County Superintendent's Policy 4060 (a) which states: "LACOE shall require proof of being fully vaccinated against COVID-19 by October 31, 2021 from all LACOE employees, including substitute employees, temporary office workers, contractors, interns, and volunteers as a condition of employment.

An individual is considered "fully vaccinated" when at least 2 weeks have passed since that individual's receipt of the second dose in a 2-dose series, such as the Pfizer or Moderna vaccines, or 2 weeks after a single-dose vaccine, such as Johnson & Johnson's Janssen vaccine.

Effective immediately, the County Superintendent or designee shall establish any necessary procedures in order to implement this policy, and shall consider limited exceptions on a case-by- case basis, which may include providing reasonable accommodations in accordance with Superintendent Regulation 4032, Reasonable Accommodation."

By acknowledging this Purchase Order, Contractor declares and certifies under penalty of perjury under the laws of the State of California that:

- 22.1 all of its officers, agents, employees, subcontractors, representatives and volunteers who report to LACOE school and/or work locations are or will be fully vaccinated;
- 22.2 all of its officers, agents, employees, subcontractors, representatives and volunteers who are exempt from receiving the vaccine due to a disability or serious medical condition, or a sincerely held religious belief, will submit to weekly COVID-19 testing, will be responsible for the cost and for ensuring that this testing is carried out and pertinent records retained, maintained and made available to LACOE upon request;
- 22.3 all of its officers, agents, employees, subcontractors, representatives and volunteers will comply and remain compliant with this Section and LACOE's Superintendent's Policy 4060 throughout the duration of this Contract.

*** PLEASE NOTE: IF ANY PORTION OF THE PROCUREMENT IS FEDERALLY FUNDED, THE FOLLOWING ADDITIONAL PROVISIONS SHALL APPLY:**

23. FEDERAL REQUIREMENTS

23.1 COPYRIGHTS

The rights to any report, evaluation, book, or any other material developed by Contractor under the performance of this sub-award shall belong to LACOE.

23.2 PUBLIC AND MEDIA RELATIONS

In all communications with the press, television, radio, or any other means of communicating with the general public, Contracting Entity shall make specific reference to LACOE as the sponsoring agency. All planned contacts with the media or public officials relative to funding received from LACOE must be reported within twenty-four (24) hours prior to activity by Contracting Entity to the LACOE community outreach program manager. Unplanned media activity must be reported immediately.

23.3 CA STATE "HEALTHY SCHOOLS ACT OF 2007"

Child development Contractor must a) provide annual written notification with specified information on pesticides to all staff and parents, (b) provide the opportunity for interested staff and parents to register with the facility if they want to be notified about individual pesticide applications at the school site before they occur, (c) post warning signs at each of the facilities where pesticides will be applied, (d) maintain records of all pesticide use at the facility for four years and make the records available to the public upon request, and (e) inform contractors hired to apply pesticides at the center that the facility must comply with the Healthy Schools Act.

23.4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Where applicable, all contracts/purchase orders awarded by Contractor in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

23.5 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR PURCHASE ORDER

Contracts or purchase orders for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

23.6 CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 USC 1251-1387), AS AMENDED

Contracts, purchase orders and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

23.7 ENERGY POLICY AND CONSERVATION ACT

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

23.8 BYRD ANTI-LOBBYING AMENDMENT (31 USC 1352)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

24.9 NON-DISCRIMINATION:

- a. Employment. Contracting Entity shall take affirmative action to ensure fairness in the manner that applications are accepted and employees are hired and treated during employment without regard to their race, color, religion, creed, age, sex, gender, sexual orientation, gender identity, gender expression, ancestry, disability, medical condition, genetic information, marital status, military or veteran status, or national origin. Such action shall include, but may not be limited to the following: hiring, employment, promotion, demotion or transfer; recruitment or recruitment advertising; applications, screening, interviews, layoff or termination; working conditions including rates of pay or other forms of compensation; and selection and participation in training, including apprenticeship. Contracting Entity shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by and/or which are required by the State setting forth the provisions of the Fair Employment and Housing Act.
- b. Civil Rights Act. Contracting Entity hereby assures that it will comply with Title VII of the Civil Rights Act, to the end that no person shall, on the grounds of race, color, religion, sex and national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Purchase Order or under any project, program, or activity supported by this Purchase Order.
- c. Section 504. Contracting Entity hereby assures that it will comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990; and other

applicable nondiscrimination laws.

- d. Small Businesses, Firms Owned by Minority/Women/ Disabled. It is LACOE's desire that small businesses and businesses owned and controlled by women, minorities, and persons with disabilities shall have the maximum practicable opportunity to participate in this Contract. Contractor will take all steps to ensure the participation of small businesses, businesses owned and controlled by women, minorities, and persons with disabilities in this Contract where possible.
- e. Non-Discrimination and Non-Segregation. During the performance of this Purchase Order, Contracting Entity agrees to comply with all federal, state and local laws respecting non-discrimination in employment and non-segregation of facilities including, but not limited to requirements set out in 41 CFR 60-1.4, and 60-741.4, which equal opportunity clauses are hereby incorporated by reference.