



**GENERAL TERMS AND CONDITIONS
For Purchase Orders**

1. CONTRACT AGREEMENTS.

1.1 Acceptance of Contract.

1.1.1. This Purchase Agreement (hereinafter "Contract") is Humble Independent School District's (hereinafter "District") offer to Contractor, Vendor or Supplier (hereinafter "Vendor"). Acceptance is strictly limited to its terms. District shall not be bound by and specifically objects to any term or condition whatsoever that is different from or in addition to the terms and conditions of this Contract, whether or not such term or condition will materially alter this Contract. Vendor's commencement of performance or acceptance of this Contract in any manner shall conclusively evidence agreement to this Contract as written. Acceptance of District's goods and/or services does not constitute acceptance of any terms and conditions stated in District's documentation or agreements. Vendor's commencement of work on the goods subject to this Contract or shipment of such goods, whichever occurs first, shall be deemed an effective mode of acceptance.

1.1.2. **Applicable Law & Venue.** The Contract shall be governed by the laws of the State of Texas and the Uniform Commercial Code as adopted by the State of Texas and in force on the date of this Contract. Both parties agree that venue in any litigation arising from this Contract shall lie in Harris County, Texas. Vendor represents that the merchandise covered by the Contract was not manufactured and is not being sold in violation of any federal, state, or local law.

1.2 Purchase Order.

1.2.1. The District requires a Purchase Order before order fulfillment takes place. Purchase Order Number must be clearly identified upon each invoice. Invoices that do not indicate our PO number will be returned to the vendor. The purchase order number must appear on all **invoices, delivery memoranda, bills of lading, packages, and correspondence.**

1.3. Modifications.

1.3.1. The Contract Documents and their terms, covenants and conditions can be modified or amended only in writing, when executed by both parties.

1.3.2. No pre-printed or similar terms on any Contractor invoice, forms, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

1.4. Termination for Default.

1.4.1. In the event of a default by the Contractor, the District shall have the right to terminate the Contract in whole or in part for cause, by written Notice of Termination effective in ten (10) days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the Humble ISD Buyer's reasonable satisfaction that such default does not, in fact, exist.

1.4.2. In addition to any other remedy available under law or in equity, the District will be entitled to recover all actual damages, costs, losses and expenses, incurred by the District as a result of the Contractor's default, including, without limitation, cost of recovery, reasonable attorneys' fees, court costs, and prejudgment and post judgment interest at the maximum lawful rate.

1.4.3. Additionally, in the event of a default by the Contractor, the District may debar the Contractor from the District's Vendor list.

1.4.4. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

1.5. Termination for Convenience.

1.5.1. The District shall have the right to terminate the Contract, in whole or in part, for its own convenience and without cause any time upon thirty (30) days prior written Notice of Termination. Upon receipt of a Notice of Termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the Notice of Termination.



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1.5.2. The District will pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations reasonably incurred by Contractor prior to the date of termination in accordance with the terms hereof.

1.6. Availability of Funds.

1.6.1. Any Purchase Order resulting from a Proposal is contingent upon the continued availability of appropriations and is subject to cancellation by the District, without penalty, either in whole or in part, if funds are not appropriated by Humble ISD's Board of Trustees or otherwise not made available to the District.

1.6.2. The District's payment obligations are payable only and solely from funds appropriated and available for the purpose of the purchase.

1.6.3. The absence of appropriated or other lawfully available funds may render the Contract Award null and void to the extent funds are not appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor.

1.6.4. The District shall provide the Contractor written notice of the failure of the District to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract Award, or the reduction of any appropriation to an amount insufficient to permit the District to pay its obligations.

1.7. Assignment - Delegation.

1.7.1. The Contract shall be binding upon and to the mutual benefit of the District and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned, transferred, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Contractor, and no obligation shall be delegated by the Contractor without the prior written consent of the District.

1.7.2. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph.

1.7.3. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

1.7.4. If the Contractor has sold its business and the Contract is conveyed to another business entity (buyer) in the purchase, the Contractor shall, within three (3) business days of such change, provide the District with documentation that can be legally recognized in a State of Texas court of law, or a public announcement stating the terms of the purchase.

1.8. Warranties and Remedies.

1.8.1. **Status.** The Contractor warrants that any services performed under the terms of the Contract by the Contractor or persons under its employment on Humble ISD property shall be done as an independent contractor and the persons doing such work shall not be considered employees, agents, joint venturers, or partners of the District. Humble ISD and Contractor have no power or authority to assume or create any obligation or responsibility on behalf of the other. Contractor agrees that Humble ISD has no responsibility for any conduct of any of Contractor's employees, agents, representatives, contractors, or Subcontractors.

1.8.2. Price.

1.8.2.1. The Contractor warrants the prices offered to the District are no higher than the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.

1.8.2.2. The Contractor certifies that the prices in the Proposal Response have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

1.8.2.3. In addition to any other remedy available, the District may deduct from any amounts due to the Contractor, and/or otherwise recover from Contractor, any amounts paid by the District for items or services in excess of the Contractor's



current prices on orders by others for like Deliverables under similar terms of purchase.

1.8.3. Title.

1.8.3.1. The Contractor warrants that it has valid title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests and encumbrances.

1.8.3.2. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE DISTRICT HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.**

1.8.4. Deliverables.

1.15.4.1. The Contractor warrants and represents that all Deliverables shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Proposal, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. In addition, Contractor warrants that the Deliverables are suitable for and will perform in accordance with the purposes for which they are intended.

1.15.4.2. Unless otherwise stated in the Proposal, the Deliverables shall be new or recycled merchandise, and not used or reconditioned. Recycled Deliverables shall be clearly identified as such.

1.15.4.3. Contractor shall assume all liabilities incurred within the scope or consequential damages and incidental expenses, as set forth in the Contractor or manufacturer's warranties, which result from either delivery or use by the District of the Deliverables with does not meet the specifications of the Contract or the Proposal.

1.8.5. Warranty Period.

1.8.5.1. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the District's acceptance of the Deliverable.

1.8.5.2. If the manufacturer's warranty is less than the required warranty period, the Contractor shall warrant the Deliverable to the full extent as provided by the manufacturer.

1.8.5.3. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly, upon receipt of demand, resupply the goods or re-perform the services in accordance with the above standard at no additional cost to the District.

1.8.5.4. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor.

1.8.5.5. The District will endeavor to give the Contractor written notice of the breach of warranty within thirty (30) days of discovery of the breach of warranty, but failure to give timely notice shall not impair the District's rights under this section.

1.8.6. Failure to Repair or Replace. If the Contractor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the District, then in addition to any other available remedy, the District may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the District, upon demand, the increased cost, if any, incurred by the District to procure such Deliverables from another source.

1.8.7. Damage Assessment.

1.8.7.1. If a Contractor is in default on an order, the District reserves the right to purchase the goods or services in default and charge the increase in price, if any, and cost of handling to the Contractor (the "Damage Assessment").



1.8.7.2. Failure by Contractor to pay a Damage Assessment is cause for Contract termination, at District's sole discretion, and/or debarment of the Contractor from the District's Proposal list for a minimum of one year.

1.8.8. Transfer of Manufacturer's Warranty.

1.15.8.1. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the District.

1.15.8.2. If for any reason the manufacturer's warranty cannot be fully transferred to the District, the Contractor shall assist and cooperate with the District to the fullest extent to enforce such manufacturer's warranty for the benefit of the District.

1.8.9. Services. The Contractor warrants and represents that all services to be provided the District under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

1.8.10. Limitation of Warranty. The Contractor shall not limit, exclude or disclaim the foregoing warranty(ies) or any warranty(ies) implied by law, and any attempt to do so shall be without force or effect.

1.8.11. Delivery of Goods or Performance of Services. If the Contractor is unable or unwilling to deliver goods or perform services in accordance with the terms of the Contract, then in addition to any other available remedy, the District may reduce the amount of the Contract Award due to the Contractor, and purchase conforming goods or services from other sources. In such event, the Contractor shall pay to the District upon demand the increased cost, if any, incurred by the District to procure such goods or services from another source.

1.9. Indemnification.

1.9.1. The District shall not be required to indemnify and/or hold harmless the Contractor and/or its agents and employees.

1.9.2. **TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE DISTRICT AND ITS AGENTS, EMPLOYEES, AND TRUSTEES FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, SUITS IN LAW OR IN EQUITY, FINES, PENALTIES, AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE WORK, AND/OR THE ACTS OR OMISSIONS OF CONTRACTOR OR ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, AND/OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT IT IS CAUSED IN PART BY A PARTY INDEMNIFIED HEREUNDER, INCLUDING WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENT, TRADEMARKS, COPYRIGHT, OR OTHER CORRESPONDING RIGHT(S) RELATED TO ANY ITEM OR SERVICE CONTRACTOR IS REQUIRED TO PERFORM HEREUNDER.** Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

1.9.3. In any and all claims against the District or any of its agents or employees by any employee of the Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor under workers' compensation acts, disability benefits acts or other employee benefit acts.

1.10. Invoices and Payment. The Contractor shall submit separate invoices in duplicate on each Contract Award after each delivery of goods or completion of service. If the District



authorizes partial shipments or deliveries it will be shown on the Purchase Order and a separate invoice must be sent for each shipment or delivery made.

1.10.1. Invoices shall indicate the Purchase Order or Contract number and shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. Itemized invoices shall be directed to **Humble ISD Accounts Payable, E-mail accounts.payable@humbleisd.net or mailed to P.O. Box 2000, Humble, TX 77347-2000.**

1.10.2. Federal excise taxes, State taxes, or District sales taxes shall not be included in the invoiced amount. The District is not liable for these taxes. The District will furnish a tax exemption certificate upon request.

1.10.3. In accordance with Texas Government Code § 2251.021, payments are due to Contractor within forty-five (45) days after the later of the following: (1) the date the District receives the goods; (2) the date the performance of the service is completed; or (3) the date the District receives an invoice for the goods or services..

1.10.4. All inquiries concerning payment should be directed to Accounts Payable, 281.641.8040. All inquiries concerning purchase orders should be directed to the Purchasing Department, 281.641.8990.

1.11. Title and Risk of Loss.

1.11.1. The title to the goods and the risk of loss for the goods shall not pass from Vendor to the District until the District actually receives and takes possession of the goods at the point of delivery.

1.12. Severability.

1.12.1. In the event that any one or more of the provisions contained in the Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

2. CONFLICT OF INTEREST.

2.1. Disclosure of Certain Relationships with Local Government Officials.

2.1.1. Any individual or business entity that contracts or seeks to contract for the sale or purchase of property, goods, or services with Humble ISD must file a Vendor Conflict of Interest Questionnaire with the Humble ISD Purchasing Office in accordance with Texas Local Government Code Chapter 176, whether or not a conflict exists, and in the event that a conflict arises, no later than the 7th business day after the recipient becomes aware of facts that require filing.

2.1.2. This requirement applies to a person who is an agent of a vendor in the Vendor's business with the District.

2.1.3. Forms and additional information are available at:

The Texas Ethics Commission's website at:

www.ethics.state.tx.us/whatsnew/conflict_forms.htm.

2.2. Employee.

2.2.1. Pursuant to Humble ISD Policy BBFA (Local) Purchasing and Acquisition, and DBD (Local) Employment Requirements and Restrictions, all Vendors must disclose the name of any Humble ISD employee who owns, directly or indirectly, an interest in the Vendor's firm or any of its branches.

2.2.2. Failure to provide such conflict of interest information may be grounds for disqualification of the Proposal Response or cancellation of a contract resulting from this Proposal.

2.2.3. Purchase of services or equipment from a business owned in whole or in part by a District employee shall be permitted only when approved by the Superintendent and executed through a documented competitive process.