

CANYONS SCHOOL DISTRICT STANDARD TERMS AND CONDITIONS

1. **DEFINITIONS:** The following definitions apply: (a) “CSD” – Canyons School District; (b) “PO” – Purchase Order/Contract; (c) “Seller” – Supplier, Vendor or Contractor – the legal person authorized to bind the company contracting with the Buyer and universally used throughout this document; (d) “Buyer” – CSD authorized Purchasing Agent.
2. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63G-6a-101, et seq, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33) or CSD Purchasing Policy DBJ in accordance with the laws of the State of Utah, and related statutes which permit CSD to purchase certain specified services, and other approved purchases for CSD.
3. **CONTRACT JURISDICTION, CHOICE OF LAW AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
4. **LAWS AND REGULATIONS:** The Seller and any and all supplies, services, equipment, and construction furnished under this contract will comply fully with all applicable Federal and State laws and regulations.
5. **BACKGROUND CHECK:** All persons who will be placed in direct contact with students may be subject to the requirements set forth in Utah Code 53A-3-410. Where applicable, access to CSD property may be granted to Seller’s employees only after appropriately cleared by the Board of Education. All costs associated for clearance of Seller’s personnel shall be included in the Seller’s pricing.
6. **ACCEPTANCE:** PO acceptance constitutes the entire agreement. This order constitutes Buyer’s offer and may be accepted by Seller (or Contractor where applicable) only in accordance with the terms hereof. No agreement or understanding varying or extending the terms or conditions of the PO, including but not limited to Seller provided terms and conditions included within a quote or proposal, will be binding unless in writing and agreed to and signed by an authorized CSD Buyer. This PO may be accepted by Seller by written acknowledgment, commencement of work, shipment of goods or furnishing of services. No addition, oral agreement or any instructions, terms and conditions that may be contained in any acknowledgement of this PO shall be binding upon CSD, if in conflict with CSD terms and conditions, unless authorized in writing by the CSD Buyer.
7. **RENEGOTIATION OR MODIFICATIONS:** Buyer shall have the right at any time, by written notice to Seller, to make changes or suspend performance, in whole or in part to this PO. Seller shall proceed to perform as changed. If change causes an increase or decrease in the cost or time of performance of this PO, Seller shall notify Buyer immediately and negotiate an adjustment. Any claim by the Contractor for adjustment must be asserted in writing within thirty (30) days from the date of receipt by the Seller of the notification of change.
8. **SHIPPING:** Buyer reserves the right to route all shipments. Delays in shipment shall be reported immediately by Seller to Buyer. Every package, bill of lading, shipping memorandum and invoice must be marked with CSD’s PO number. All shipments will include an itemized packing slip of each package’s content.
9. **DELIVERY/TITLE:** Unless otherwise agreed, delivery shall be F.O.B. Destination and title shall pass to CSD upon acceptance at the final delivery point. Risk of damages or loss following shipment and prior to acceptance by CSD shall be the responsibility of Seller. Deliveries will be made even in the event of a strike at Seller’s location, unless otherwise authorized by CSD Buyer. If the Seller fails to deliver in accordance with the schedule, Buyer will be entitled to either a price reduction for late deliveries or the right to terminate the PO for default in performance of this PO, Seller will immediately notify the Buyer in writing of the reasons for the delay and what action is being taken to minimize the delay.
10. **INSPECTION:** All work and/or supplies on this PO are subject to inspection and testing by an authorized CSD employee at times and places determined by CSD. If CSD finds the goods to be incomplete, non-conforming or damaged, CSD may reject the supplies and require Seller to correct them with no additional charges. If Seller refuses to correct such goods, within a reasonable time, the Buyer may cancel the order in whole or in part.
11. **HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA:** Seller will provide one set of the appropriate Material Safety Data Sheet and container label upon delivery of hazardous material to CSD.

12. **INDEMNITY CLAUSE:** The Seller agrees to release, protect, indemnify and hold CSD's officers directors, representatives and its employees harmless from and against any damage, cost or liability, including reasonable attorney's fees for any and all injuries to persons, damage to property or claims for money for damages arising from any and all supplies, services, equipment, and construction furnished under this contract, as well as acts or omissions of the Seller, Seller's employees, subcontractors, representatives or volunteers.
13. **INSURANCE FOR WORK PERFORMED ON CSD PROPERTIES:** If Seller, its agents, and/or employees are required to perform this PO or any part of this PO on CSD premises, Seller shall provide insurance coverage as follows:
- Worker's Compensation Insurance or qualification as a self-insurer to satisfy the laws of the State of Utah.
 - Employee's liability insurance for Bodily Injury per accident limits not less than \$1,000,000 per occurrence.
 - Comprehensive General Liability \$2,000,000 combined single limit any one occurrence and shall include coverage for bodily injury and property damage.
 - Comprehensive Automobile Liability Insurance \$1,000,000 (owned and hired vehicles) combined single limit per occurrence for personal injury and property damage.
 - Umbrella or Excess Liability Coverage \$5,000,000.
- The above policies shall include CSD as additional insured for claims caused in whole or in part by the Seller's negligent acts or omissions during the Seller's operations or performance on this contract. Seller shall provide thirty (30) days advance written notice of changes in or cancellation of any such insurance. Seller will be required to furnish a Certificate of Insurance prior to the commencement of work. Failure to maintain insurance during the performance of this PO shall cause the Seller to be in default under this PO.
14. **CONFLICT OF INTEREST:** Seller represents that none of its officers or employees are officers or employees of CSD, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended. Further, Seller certifies that it has not offered or given any gift or compensation prohibited by 67-16-5, U.C.A., 1953, as amended, or any other state or federal law, to any officer or employee of CSD to secure favorable treatment with respect to being awarded this PO.
15. **SELLER, AN INDEPENDENT SELLER:** The Seller shall be an independent Seller, and as such, shall have no authorization, express or implied, to bind CSD to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for CSD, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Seller by CSD. The Seller shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from CSD for these contract services. Persons employed by CSD and acting under the direction of CSD shall not be deemed to be employees or agents of the Seller.
16. **SELLERS COMPLIANCE WITH APPLICABLE EMPLOYMENT PRACTICES AND LAWS:** CSD will not have any responsibility to ensure or enforce any employment practices or laws with respect to Seller's employees, agents or contractors. Seller warrants and certifies that it abides by the provisions of the Utah Anti-Discrimination Act, Title 34 Chapter 35, U.C.A., 1953 as amended, and Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e), which prohibit discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90, which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disabilities. Also, the Seller agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Seller must include this provision in every subcontract or PO relating to purchases made by CSD to ensure that the subcontractors and suppliers are bound by this provision.
17. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
18. **DEBARMENT:** The Seller certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Seller cannot certify this statement, attach a written explanation for review by CSD. The Seller must notify CSD Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
19. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being

given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon sixty (60) days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.

20. **DEFAULT AND REMEDIES:** Any of the following will constitute cause for CSD to declare the Seller in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term of condition of the PO. CSD will issue a written notice of default providing a specified period of time for Seller to cure. If the default remains, CSD may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate the PO and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Seller from receiving future bid/proposal solicitations.
21. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. CSD may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
22. **NONAPPROPRIATION OF FUNDS:** The Seller acknowledges that CSD cannot contract for the payment of funds not yet appropriated by the Board of Education. If funding to CSD is reduced due to an order by the Board of Education, or is required by State law, or if federal funding (when applicable) is not provided or reduced, CSD may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from CSD upon 30 days written notice. In the case that funds are not appropriated or are reduced, CSD will reimburse Seller for products delivered or services performed through the date of cancellation or reduction, and CSD will not be liable for any future commitments, penalties, or liquidated damages.
23. **SALES TAX EXEMPTION:** Prices will be exclusive of state sales, use and federal excise taxes. CSD's sales and use tax exemption number is 12389689002STC. The tangible personal property or services being purchased are being paid from CSD funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
24. **WARRANTY:** The Seller agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to CSD under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The Seller (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Seller warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that CSD has relied on the Seller's skill or judgment to consider when it advised CSD about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which CSD has not been warned. Remedies available to CSD include the following: The Seller will repair or replace (at no charge to CSD) the product whose nonconformance is discovered and made known to the Seller in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Seller will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies CSD may otherwise have under this contract.
25. **PUBLIC INFORMATION:** Seller agrees that the contract, related sales orders, and invoices will be public documents, and may be available for distribution. Seller gives CSD express permission to make copies of the contract, related sales orders, and invoices in accordance with the State of Utah Government Records Access and Management Act (GRAMA). Except for sections identified pursuant to Subsection 63G-2-309(1) in writing under the business confidentiality exception under Subsection 63G-2-305 (1) and/or (2) or another exception and expressly approved by CSD Department of Purchasing, Seller also agrees that the Seller's response to the solicitation will be a public document, and copies may be given to the public under GRAMA laws. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
26. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Seller will promptly submit invoices to CSD within thirty (30) days of shipment or delivery of goods/services. CSD contract number and/or the agency PO number shall be listed on all invoices, freight

tickets, and correspondence relating to the contract order. The prices paid by CSD will be those prices listed in the contract. CSD has the right to adjust or return any invoice reflecting incorrect pricing.

27. **PAYMENT:** Payments are normally made within thirty (30) days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Seller will be remitted by mail unless paid by CSD Purchasing Card (major credit card).
28. **PATENTS, COPYRIGHTS, ETC.:** The Seller will release, indemnify and hold CSD, its officers, agents and employees harmless from liability of any kind or nature, including the Seller's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
29. **ASSIGNMENT/SUBCONTRACT:** Seller will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of CSD.
30. **PROCUREMENT ETHICS:** The Seller understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to CSD is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of CSD, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (§63G-6a-2404, Utah Code Annotated, 1953, as amended).
31. **CONFLICT OF TERMS:** Seller Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Seller's website, terms listed in a Seller quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. CSD Standard Terms and Conditions; 2. CSD Contract Signature Page(s); 3. CSD Additional Terms and Conditions; 4. Seller Terms and Conditions.
32. **PRICE GUARANTEE, ADJUSTMENTS:** The contract pricing resulting from this PO/bid/proposal will be guaranteed for the period specified. Following the guarantee period, any request for price adjustment must be for an equal guarantee period, and must be made at least thirty (30) days prior to the effective date. Requests for price adjustment must include documentation supporting the request and demonstrating a logical mathematical link between the current price and the proposed price. Any adjustment or amendment to the contract will not be effective unless approved by the CSD Director of Purchasing. The District will be given the immediate benefit of any decrease in the market, or allowable discount.
33. **STATUS VERIFICATION SYSTEM:** The Seller verifies that they are in compliance with Utah Code Annotated, §63G-12-302 to verify the work eligibility of contractor's employees. The law makes it unlawful for a Utah employer to terminate a U.S. citizen and replace that individual with an undocumented worker hired after July 1, 2009. Utah Code Annotated, §63G-12-302 requires Sellers who perform physical services within the State to register and participate in a Status Verification System before entering into contracts with public employers. Contracts awarded through a request for proposal process require a clause mandating the prime and subcontractor to use an approved Status Verification System.
34. **DISPUTES:** In the event of any dispute relating to the PO, the Seller agrees to make diligent and reasonable attempts to resolve disputes through negotiations.

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