



## GENERAL TERMS AND CONDITIONS

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1. **DEFINITIONS.** MiraCosta Community College District shall be hereinafter referred to as "District", and the entity identified on the Order, as defined below, shall hereinafter be referred to as "Supplier". District and Supplier are individually referred to as "Party" and collectively referred to as "Parties".



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10. TAXES. Supplier will fully complete, and provide to the District as required, the Internal Revenue Service W



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16. **WARRANTY.** The Supplier agrees that all supplies, equipment, or services furnished under the Order shall be covered by the most favorable commercial warranties the Supplier provides any customer for such goods or services, and that the rights and remedies provided therein are in addition to and do not limit any rights afforded to the District by any other provisions of the Order. If upon inspection any item is found defective or of inferior quality, the District may return such item to the Supplier at the Supplier's expense. The District's payment for any item prior to inspection shall not be construed to be an acceptance by the District of an unsatisfactory or defective item. The Supplier shall promptly reimburse the District for any amount paid to the Supplier, and any shipping charges incurred by the District, for such returned items.
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damages or injuries/illnesses, including COVID-19, wrongful death, contractual liability, infringement of a third party's intellectual property rights, or damage to property ("Claim") arising from or related to any act or omission of the Supplier or its officers, agents, employees, volunteers, consultants, or subcontractors, except to the extent that a Claim is caused by the District's gross negligence or willful misconduct. Supplier assumes complete liability for any goods, materials, or other equipment furnished by the District to the Supplier in connection with the Order, if any. Supplier agrees to promptly pay the District the repair or replacements costs for such goods, materials, or other equipment not returned to the District in a satisfactory condition, as solely determined by the District. The District's furnishing to Supplier of any goods or materials in connection with the Order shall not be construed to vest title thereto in Supplier. The provisions of this section will survive the termination or expiration of the Order.

21. **INSURANCE REQUIREMENTS.** The Supplier and its officers, employees, agents and subcontractors shall, at their expense, maintain and comply with the following Insurance Requirements during the term set forth in the Order.
  - a. **Commercial General Liability.** Minimum limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate for personal injury, bodily injury, death, and property and other damage including coverage for contractual liability, personal injury, broad form property damage, independent contractors, and products and completed operations.
  - b. **Automobile Liability.** Minimum limits of \$1,000,000 per accident or occurrence for bodily injury and property damage, including coverages for owned, non-owned, and hired vehicles for all activities of the Supplier or its employees, agents, consultants, or subcontractors.
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26. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR OTHER INELIGIBILITY. (applicable to all Orders funded in part or in whole with federal funds) - The Supplier agrees to comply with applicable federal suspension and debarment regulations, including, but not limited to, regulations implementing Executive Order 12549 (29 C.F.R. Part 98). The Supplier certifies to the best of its knowledge and belief that it and its principals:
- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not, within a three-year period preceding the receipt of the Order, been convicted of, or had a civil judgment rendered against them, for: (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) or private transaction or contract; (2) Violation of Federal or State antitrust statutes; (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements,



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30. **ADVERTISING.** Supplier shall not use the name of the District, its officers, trustees, 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.
31. **FORCE MAJEURE.** The Supplier 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, epidemics or pandemics, such as COVID-19, or other events that are outside of a Party's reasonable control, when satisfactory evidence thereof is presented to the other Party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Party not performing. For avoidance of doubt, the District's obligation to pay Supplier's invoices or other fees is excused to the extent the Supplier is not performing its obligations or providing the goods or services during a force majeure event.
32. **DISPUTES.** Except in the event of the District's failure to make earned and undisputed payments to Supplier, if the District and Supplier have a dispute, each will continue to perform its respective obligations, including Supplier's duty to provide and perform the services, during all attempts to resolve the dispute. For avoidance of doubt, the Supplier agrees to continue providing services in the event that the District disputes any portion of Supplier's invoices or other requests for payment.
33. **MEDIATION; ARBITRATION.** The Parties agree that if any dispute or controversy arises between them in any way arising out of, related to, or connected with the Order or these General Terms and Conditions, they will participate in good faith in mediation and agree to equally share all mediator fees. Mediation shall be conducted under the Commercial Mediation Rules of the American Arbitration Association in effect at the time of the filing of a demand for mediation. If the Parties are unable to resolve the dispute or controversy through mediation, the Parties agree to submit the pending dispute or controversy to final and binding arbitration conducted under the Commercial Arbitration Rules of the American Arbitration Association in effect at the time of the filing of a demand for arbitration. Arbitration proceedings shall be conducted at a location in the County of San Diego, California. By agreeing to this binding arbitration provision, the Parties understand that they are waiving certain rights and protections which may otherwise be available if a claim were determined by litigation in court, including, without limitation, the right to seek or obtain certain types of damages precluded by this arbitration provision, the right to a jury trial, certain rights of appeal, 4.2y,u(n)-6J-0.00y-16 T185(m)2.1 (o)1.9T

