POUDRE SCHOOL DISTRICT R-1
PURCHASE ORDER TERMS AND CONDITIONS

Offer/Acceptance. This Purchase Order ("PO") is an offer to buy any products or services listed on the PO, as provided by the named organization, party or individual ("Supplier") subject to the Supplier's acceptance, which may be demonstrated by the Supplier's performance of the PO or as specified in a written agreement, contract or other formalized written instrument between the Supplier and Poudre School District R-1 (the "District"). Any counteroffer by the Supplier with respect to the PO, including but not limited to these terms and conditions, shall be construed as a cancellation of the PO unless the "District" issues a written change order accepting the counteroffer. If the PO refers to an awarded solicitation, then the PO is an acceptance of Supplier's offer to sell.

Changes. Any change in the goods, services, quantity, price, time of delivery, or any other specification in the PO must be reflected in a written District change order, prior to being effective.

Tax Exemption. The District is exempt from federal and state taxes under Colorado Tax Exempt Number 98-03335.

Prices. The Supplier agrees to furnish the goods, products or services covered by the PO in strict accordance with the District's specifications as identified in the PO or specified through a written agreement, contract or other formalized written instrument and at the price noted for each item. In the case of error in extension of price, the unit price shall prevail. If the price is omitted on the PO, the Supplier's price shall be the lowest prevailing market price.

Delivery. The District's acceptance of any offer is made in reliance on the Supplier's promised delivery date, installation or service performance time, as material and basic to the acceptance. Unless otherwise agreed in writing by the District, delivery shall be F.O.B. destination with all transportation and handling charges paid by the Supplier. Time is of the essence in the Supplier's performance under the PO. If the Supplier fails to deliver any goods, products or provide services as warranted, the District may cancel the PO with notice to the Supplier, without liability, and in addition to the District's other rights and remedies of law or in equity. If a Supplier's PO is cancelled, the District reserves the right to purchase substitute goods, products or services from a different supplier, and charge the current Supplier with any loss incurred. For the purposes of the PO, notice is deemed received by the Supplier within three (3) days from mailing or upon receipt of email.

Inspection. Payment for Services furnished under the PO shall not constitute acceptance thereof. The District shall have the right to inspect all goods, products or services provided or the product of such services, and to reject any or all of which are in the District's judgment to be defective or nonconforming. The District may charge the Supplier all expenses of examining, repairing and correcting such goods, products or services.

In addition to the District's other rights, goods, products or services which have been rejected or supplied in excess of quantities specified in the Contract may be returned to Supplier at Supplier's expense.

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In the event the District receives any goods, products or services where defects or nonconformity are not apparent upon examination, the District may require replacement and/or payment of damages upon discovery of the defects or nonconformity. Nothing contained herein shall relieve, in any way, Supplier from the obligation of testing, inspection, and quality control.

Cash Discount. The cash discount period will start from the date of the District's receipt of an acceptable invoice or from the date of receipt of acceptable goods, products or services at destination, whichever occurs later.

Warranties. Notwithstanding prior acceptance of any goods, products, or services by the District, the Supplier shall expressly warrant all goods, products or services provided under the PO, will be of good quality, new and properly functioning at the start of operations and conform to any sample and any specifications, drawings or other description furnished or adopted by the District and will be fit and sufficient for their intended purpose, of merchantable quality, of good material and workmanship and free from defect. The Supplier warrants that all goods, products or services furnished under the PO shall be new unless otherwise specified by the District, and that the title conveyed regarding such goods, products or services shall be complete and its transfer rightful. The warranty period will begin at the time the goods, products or services have been formally accepted in writing by the District.

The Supplier shall assign to the District all manufacturers' warranties and guarantees upon acceptance of goods, products or services. Nothing contained in this section shall affect the warranties provided by the Supplier through any proposal submissions, product literature, exhibits or other warranties provided as part of the scope of the terms of the PO.

Supplier further warrants that the construction processes and methods employed to perform the work shall be suitable for the results required and expected. If the Supplier proposes to use an unproved and untried method, process or product, the District must be advised of the proposal in writing and provide written approval.

During the warranty period, the Supplier will correct all defects and/or deficiencies associated with the PO and replace incorrect or defective goods, products or services within five (5) business days, or an alternate time otherwise approved by the District in writing, of written notification from the District to the Supplier. If, within five (5) business days after written notice by the District to the Supplier, the Supplier has not corrected all defects and/or deficiencies, the District may correct all defects and/or deficiencies at the Supplier's expense. The Supplier shall be responsible and bear all costs to correct any problems, defects and/or deficiencies which do not meet the specifications set forth in the PO.

The Supplier shall be responsible for filing, processing and collecting all damage claims. Defects and/or deficiencies properly noted in writing to the Supplier before expiration of the warranty period will be fully covered regardless of such subsequent expiration. In the case of emergency, repairs and/or replacement may be made without notice being given to the Supplier, if determined by the District that delay would cause certain loss or damage. The Supplier shall pay the cost of these emergency repairs and/or replacements.

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Termination. The District may terminate the PO or any part thereof in the event of any default by the Supplier, including but not limited to the Supplier's failure to comply with any of these terms and conditions. The District reserves the right to terminate the PO, including but not limited to the Supplier's failure to deliver goods, products or services on time, any deliveries of defective goods, products or services, any goods, products or services that do not conform to the PO, or the Supplier's failure to provide the District, upon request, reasonable assurances of future performance. In the event the PO is terminated, the District shall not be obligated for any outstanding, defective or non-conforming goods, products or services.

No Assignment. The Supplier shall not assign the PO or any of its rights, interests or obligations under the PO without the prior written consent of the District, which consent may be withheld for any reason or no reason as determined by the District in its sole discretion.

Safety. All chemicals, equipment and materials proposed or used by the Supplier in satisfaction of the terms of the PO shall conform to the standards required by the U.S. Department of Labor Occupational Safety and Health Administration (OSHA), and any other applicable state, federal or local laws. Globally harmonized system safety data sheets (SDS) shall accompany each shipment, where applicable.

Independent Contractor. The Supplier shall provide the goods, products or services under the PO as an independent contractor of the District. As such, the Supplier shall have the right to determine how and by whom the goods, products or services will be provided and the right to provide the goods, products or services free from the direction and control of the District, subject to and consistent with the terms and conditions of the PO.

The Supplier shall be exclusively responsible for: (a) all compensation, employment tax withholdings and payments, and all fringe benefits for its employees (if any) in full compliance with all applicable federal, state and local laws; (b) all insurance coverages and benefits for its employees (if any) in full compliance with all applicable federal, state and local laws, including but not limited to pension or retirement benefits, workers' compensation, unemployment compensation, and Social Security benefits; and (c) all payments to its contractors and subcontractors for goods, products or services directly or indirectly related to the PO.

Nothing in the PO shall be construed as creating a single enterprise, partnership, joint venture or employer-employee relationship between the Supplier and the District. Except as authorized in the PO, the Supplier is not a partner, agent or representative of the District and shall not represent itself to be a partner, agent or representative of the District. The District is not a partner, agent or representative of the Supplier and shall not represent itself to be a partner, agent or representative of the Supplier.

Except as authorized in the PO, the Supplier shall not attempt or purport to extend the faith and credit of the District to any third party, person or entity. The Supplier acknowledges and agrees that it has no authority to enter into any contract with a third party that would bind or in any way obligate the District. The District shall not attempt or purport to extend the faith and credit of the Supplier to any third party, person or entity. The District

acknowledges and agrees that it has no authority to enter into any contract with a third party that would bind or in any way obligate the Supplier.

Primary Contractor and Subcontractors. The Supplier shall assume all responsibility for performance of all Services in this PO, whether or not the Supplier uses subcontractors. Any consequences resulting from non-performance under the terms of this PO are the sole responsibility and liability of the Supplier. The Supplier shall be responsible to the District for the acts and omissions of all its agents and employees and shall further be responsible for the acts and omissions of all subcontractors, their agents and employees, and all other persons acting on behalf of the Supplier or subcontractors. The Supplier shall be the sole point of contact with the District with regard to all matters covered by this PO. The District shall not initiate or maintain contact with any subcontractor unless such contact becomes necessary to mitigate the District's damage in the event the Supplier is in default or breach of any term or obligation of this PO.

Certification Regarding a Worker Without Authorization. The Supplier certifies, represents, warrants and agrees that it will not knowingly employ or contract with a worker without authorization to provide goods, products or services under the PO, and will not enter into a contract with a subcontractor that fails to certify to the Supplier that the subcontractor will not knowingly employ or contract with a worker without authorization to provide goods, products or services under the PO. The Supplier also certifies, represents, warrants and agrees that it will confirm the employment eligibility of all its employees who are newly hired for employment to provide goods, products or services under the PO through the Supplier's participation in either: (a) the E-Verify Program created under federal law and jointly administered by the Department of Homeland Security and the Social Security Administration; or (b) the Colorado Department of Labor and Employment Program ("Department Program") established pursuant to C.R.S. § 8-17.5-102(5)(c).

The Supplier shall not use either the E-Verify Program or the Department Program procedures to undertake preemployment screening of job applicants while the PO is being performed. If the Supplier obtains actual knowledge that a subcontractor providing goods, products or services under the PO knowingly employs or contracts with a worker without authorization, the Supplier shall notify the subcontractor and the District within three (3) days that the Supplier has such actual knowledge, and terminate the subcontract within three (3) days of providing the notice if the subcontractor has not stopped employing or contracting with the a worker without authorization. The Supplier shall comply with any reasonable request made by the Department of Labor and Employment in the course of an investigation undertaken pursuant to the authority of C.R.S. § 8-17.5-102(5). If the Supplier participates in the Department Program, it shall: (a) notify the District and the Department of Labor and Employment of such participation as required by law; and (b) within twenty (20) days after hiring an employee to provide goods, products or services under the PO, provide to the District a written notarized copy of an affirmation that it has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. § 1324a, and not altered or falsified the identification documents for such employee.

Insurance. Unless other coverage or limits are specified in a written agreement, contract or

other formalized written instrument, the Supplier shall maintain, as a minimum, Commercial General Liability Insurance written on an occurrence bases for limits of not less than $2,000,000 per occurrence and $3,000,000 aggregate.

Conflict of Interest. The Supplier avers to their knowledge of no employee of the District having any personal or beneficial interest whatsoever in the service or property described in the PO. The Supplier has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the Supplier's goods, products or services and Supplier shall not employ any person having such known interest.

Conflict of Terms. In the event of any conflict of terms and provisions found between the PO or as specified in a written agreement, contract or other formalized written instrument, any conflicts between any other terms and conditions, proposal, quotes, end user license agreements or Supplier policies, the terms and provisions of the PO or otherwise written agreement, contract or other formalized written instrument shall prevail.

Binding Arbitration Prohibited. The District does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary is null and void.

Attorney Fees and Costs. In the event it becomes necessary for either party to institute litigation to enforce any provision of the PO, the substantially prevailing party in such litigation shall receive, as part of any judgment or award entered, its reasonable attorney fees and costs, including expert witness fees.

Indemnification. The Supplier shall indemnify and hold harmless the District and the District's Board members, employees, representatives and agents from and against any and all liability arising from any suit, action, grievance, charge or proceeding brought in connection with or related to: (a) the Supplier's operations; (b) the Supplier's provision of any goods, products or services; (c) the Supplier's actual or alleged infringement of any third party's patent or copyright; and/or (d) the conduct of any of the Supplier's employees, volunteers, agents or representatives. The indemnification and hold harmless obligation hereunder shall include all attorney fees, costs and expenses incurred by the District and/or the District's Board members, employees, representatives and/or agents in defense of said suits, actions, grievances, charges and/or proceedings.

Governmental Immunity. It is specifically understood and agreed that nothing contained in the PO shall be construed as an express or implied waiver by the District of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq, as now or hereafter amended.

Governing Law and Venue. All issues regarding the formation, performance and/or legal enforcement of the PO shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for the resolution of any disputes arising out of or relating to the PO shall be in Larimer County, Colorado.

No Waiver. The parties agree that no assent or waiver, express or implied, to any breach of

any one or more of the covenants of the PO shall be construed as or deemed to be an assent to or a waiver of any subsequent breach.