



MESQUITE ISD PURCHASE ORDER STANDARD TERMS AND CONDITIONS

- 1. AGREEMENT ACCEPTANCE:** This Purchase Order constitutes a binding contract between the **MESQUITE ISD** and **VENDOR** (the “Parties”) to furnish the goods and/or services specified on the face of the Purchase Order. By acceptance of this Purchase Order, Vendor agrees to furnish all goods and/or services in accordance with the terms and conditions specified herein.
- 2. TAX-EXEMPT:** **MESQUITE ISD** is a tax-exempt entity under Texas law. **VENDOR** should not include taxes in its bid, proposal, quote, or invoice to the **MESQUITE ISD**. **MESQUITE ISD** will furnish a tax exemption certificate upon request.
- 3. DELIVERY:** All deliveries shall be to the site(s) specified on the purchase order, be freight prepaid, F.O.B. Destination (Mesquite ISD, TX), and pricing shall include all shipping, handling, freight, and/or delivery charges. No C.O.D. shipments of any character will be accepted. All unshipped items on this PO will automatically be canceled sixty (60) days after the date of order unless prior approval by the **MESQUITE ISD** Director of Purchasing has been obtained. Shipments initiated after such date may not be accepted.
- 4. TITLE AND RISK OF LOSS:** The terms of the agreement are “no arrival, no sale”. The title and risk of loss of the goods shall not pass to **MESQUITE ISD** until **MESQUITE ISD** receives and takes possession of the goods at the point or points of delivery.
- 5. WARRANTIES:** The **VENDOR** warrants that all goods and service(s) furnished shall be free from all defects, conform to all applicable specifications, and be suitable for its intended purpose(s). **VENDOR** shall be responsible for replacing or correcting any defective product or service supplied to **MESQUITE ISD** at no cost to **MESQUITE ISD**. Neither acceptance of, nor payment for said goods and service(s) shall constitute a waiver or modification of any warranties of the **VENDOR**, or the rights of **MESQUITE ISD**.
- 6. PRICING:** **MESQUITE ISD** accepts **VENDOR’S** prices as recorded on this PO but reserves the right to cancel the PO if the prices are to be increased prior to the delivery of goods or the completion of services. The prices specified on the face of the purchase order shall remain firm until **MESQUITE ISD** has processed the **VENDOR’S** invoice, or until the goods or service(s) have been accepted by **MESQUITE ISD**, whichever is later. **VENDOR** is directed not to fill this PO at increased prices without authorization from the Director of Purchasing or designee. No separate charges except those clearly recorded on **VENDOR’S** quote and on this PO can or will be allowed.
- 7. CHANGE ORDERS:** **MESQUITE ISD** reserves the right to make changes to this Purchase Order (e.g., increase/decrease quantities, change delivery address). Any changes to the Purchase Order shall be communicated to the **VENDOR** by the issuance of a revised Purchase Order.
- 8. CANCELLATION:** **MESQUITE ISD** reserves the right to cancel a Purchase Order at any time. If the Purchase Order is canceled pursuant to the **VENDOR’S** default, **MESQUITE ISD** may obtain similar goods or services elsewhere, and charge the **VENDOR** for any damages incurred.
- 9. RIGHT OF INSPECTION:** Prior to acceptance of any goods and/or services and continuing for a period of 30 days after **MESQUITE ISD** first use of the goods and/or services, **MESQUITE ISD** reserves the right to inspect, test, and reject the goods and/or services, in whole or in part, furnished by the vendor, to ensure that they comply with this PO.
- 10. NON-CONFORMANCE:** **Vendor** assumes all liability for shipping goods that do not meet the specification(s) and standard(s) specified on the face of the Purchase Order. **MESQUITE ISD** reserves the right to accept or reject goods that



are non-conforming. If **MESQUITE ISD** rejects the non-conforming goods, said goods shall be returned to the **VENDOR** at the **VENDOR'S** expense. The **VENDOR** shall use "best efforts" to replace any non-conforming good(s) at the **VENDOR'S** risk and expense.

11. NOTICE OF DELAYS: Whenever **VENDOR** encounters any difficulty which delays or threatens to delay timely performance, **VENDOR** shall immediately give notice, in writing, to **MESQUITE ISD**, including all relevant information. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by **MESQUITE ISD** of any right or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delay.

12. INVOICING: All invoices shall include the following: PO Number, Invoice Date, Name of Vendor, brief description of the item, quantity, unit price, and extended price, Vendor's complete mailing address and telephone number, and any other information as required by the PO. Invoices should be emailed to ebusinessservices@mesquiteisd.org or mailed to the following address:

Mesquite ISD Accounts Payable Department
3819 Towne Crossing Blvd.
Mesquite, TX 75150

13. TERMS OF PAYMENT: **MESQUITE ISD** will pay all invoices for accepted merchandise or services within 30 days after the later of the following: (1) the date **MESQUITE ISD** receives the goods; (2) the date the performance of the service is completed; or (3) the date **MESQUITE ISD** receives an invoice for the goods or services. Invoices with incorrect prices or other errors or inconsistencies will not be paid until corrected, whether by credit memo(s) or issuance of a corrected invoice.

14. INSURANCE: **VENDOR** shall maintain such public liability insurance, including products liability, completed operations, contractors' liability and protective liability, automobile liability insurance (including non-owned automobile liability) and Workmen's Compensation, and employer's liability insurance as will adequately protect **MESQUITE ISD** against such damage, liabilities, claims, losses, and expenses (including attorney's fees). **VENDOR** agrees to submit certificates of insurance evidencing its insurance coverage when requested by **MESQUITE ISD**.

15. INDEMNITY: **VENDOR** shall indemnify, hold harmless, and defend **MESQUITE ISD**, its trustees, employees, and agents from all claims, demands, damages, and legal proceedings arising in any way out of or related to **VENDOR'S** goods and services. The **VENDOR** shall indemnify and hold harmless **MESQUITE ISD** (including the Board of Trustees and the employees of **MESQUITE ISD**) from all liabilities, cost, expenses, attorney fees, fines, penalties, or damages for any or claimed infringement of any patents, trademarks, copyrights, or other corresponding right(s) which is related to any part of the goods or service(s) the Vendor is required to provide or perform. The **VENDOR'S** obligation to this clause shall survive acceptance and payment of the goods or service(s) by **MESQUITE ISD**. **MESQUITE ISD**, a Texas governmental entity, shall NOT indemnify, hold harmless, and defend **VENDOR** from any claims, demands, damages, or legal proceedings arising in any way out of or related to **VENDOR'S** goods and services and/or this Purchase Order. Nothing in this Purchase Order waives **MESQUITE ISD'S** immunity.

16. NON-APPROPRIATION OF FUNDS: **MESQUITE ISD** shall make all payments under this Purchase Order from current revenues available. In the event no funds, or insufficient funds due to non-appropriation, are available at any time or during any fiscal period when such payment is due, in accordance with Local Government Code §271.903, **MESQUITE ISD** shall notify **VENDOR** of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which payment was received without penalty or expense to **MESQUITE ISD**. However, **MESQUITE ISD** shall be responsible to remit payment for all services provided by the **VENDOR** to the **MESQUITE ISD** prior to the termination date.



17. TERMINATION FOR CONVENIENCE: MESQUITE ISD reserves the right to terminate this Purchase Order or any part hereof for its sole convenience at any time upon thirty (30) days prior written Notice of Termination. Upon receipt of such Notice of Termination, **VENDOR** shall immediately stop all work, and shall immediately cause any of its suppliers or subcontractors to cease such work. **VENDOR** shall be paid, to the extent of funds appropriated or otherwise legally available for such purpose, a reasonable termination charge consisting of a percentage of the Purchase Order price reflecting the percentage of the work performed prior to the Notice of Termination. **VENDOR** shall not be paid for any work done after receipt of the Notice of Termination, or for any costs incurred by **VENDOR'S** suppliers or subcontractors which the Vendor could reasonably have avoided.

18. TERMINATION FOR CAUSE: MESQUITE ISD may also terminate this Purchase Order or any part hereof at any time, by written Notice of Termination (effective in ten (10) days, unless otherwise specified, after the date of such notice, unless **VENDOR**, within such ten (10) day period, cures such default) for cause in the event of any default by **VENDOR** or if **VENDOR** fails to comply with any of the terms and conditions of this Purchase Order. Late deliveries, deliveries of products which are defective, or which do not conform to this Purchase Order, and failure to provide **MESQUITE ISD**, upon request, of reasonable assurances of future performance shall all be causes allowing **MESQUITE ISD** to terminate this Purchase Order. In the event of termination for cause, or due to **VENDOR'S** default, **MESQUITE ISD** shall not be liable to **VENDOR** for any amount, and **VENDOR** shall be liable to **MESQUITE ISD** for any and all damages sustained by reason of the default (including, without limitation, the difference between **VENDOR'S** price and the actual purchase price of the good or service on the open market), which gave rise to the termination.

19. FORCE MAJEURE: Neither **MESQUITE ISD** nor **VENDOR** shall be responsible or deemed to be in default of its obligations to the other to the extent any failure to perform or delay in performing its obligations under the contract is caused by events or conditions beyond the reasonable control of that party and are not due to the negligence or willful misconduct of such party (hereinafter, "Force Majeure events"). For purposes of the contract, Force Majeure events shall include, but not be limited to, acts of God or public enemy, war, riot or civil commotion, strikes, epidemic, pandemic, fire, earthquake, tornado, hurricane, flood, explosion, weather-related emergencies, or other catastrophes, or events or conditions due to law, regulations, ordinances, order of a court of competent jurisdiction, or executive decree or order. However, in the event of such delayed non-performance, the party so delayed shall furnish prompt written notice to the other party (including the date of inception of the Force Majeure event and the extent to which it will affect performance) and shall undertake all efforts reasonably possible to cure the delay or nonperformance and mitigate its effects, or to otherwise perform. **MESQUITE ISD** shall not be responsible for payment for any product or service delayed or foreclosed by any Force Majeure event unless and until such delayed or foreclosed product or service is provided.

20. GOVERNING LAW, VENUE: The laws of the State of Texas, without regard to its provisions on conflicts of laws, govern this purchase order. The exclusive jurisdiction for any dispute under this PO is the state and federal courts located in Dallas County, Texas.

21. LEGAL CONSTRUCTION: In case of any one or more provisions contained in this Purchase Order 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 provision thereof and this Purchase Order shall be considered as if such invalid, illegal, or unenforceable provisions had never been contained in this Purchase Order. In the event this Purchase Order is inconsistent or conflicts with any other agreement between the Parties, this Purchase Order shall prevail. Unless there is a separate written agreement signed by the Parties, this Purchase Order represents the entire agreement of the Parties. There are no representations, inducements, promises, agreements, arrangements, or undertakings, oral or written, between the Parties other than those set forth in this Purchase Order and duly executed in writing.

22. EXHAUSTION CLAUSE: **VENDOR** agrees to fully exhaust its administrative remedies under MESQUITE ISD's Policy GF (LOCAL) before seeking judicial relief of any type in connection with any matter related to this Purchase Order. The timelines under Policy GF (LOCAL) are amended for purposes of this Purchase Order as follows: **VENDOR's** complaint must be reduced to writing and filed with the appropriate administrator of MESQUITE ISD within ninety (90) days of the event or action that is the subject of the complaint.



23. FIREARM ENTITY/TRADE ASSOCIATION NONDISCRIMINATION: Pursuant to Texas Government Code Chapter 2274, by entering into a contract with **MESQUITE ISD, VENDOR** hereby certifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not during the term of any contract with the **MESQUITE ISD**.

24. ENERGY COMPANY BOYCOTT: Pursuant to Texas Government Code Chapter 2274, by entering into a contract with **MESQUITE ISD, VENDOR** hereby certifies that it does not boycott energy companies and will not during the term of any contract with the **MESQUITE ISD**.

25. ISRAEL BOYCOTT: Pursuant to Texas Government Code Chapter 2271, by entering into a contract with **MESQUITE ISD, VENDOR** hereby certifies that it does not boycott Israel and will not boycott Israel during the term of any contract with **MESQUITE ISD**.

26. TERRORIST ORGANIZATIONS: Pursuant to Texas Government Code Chapter 2252, by entering into a contract with **MESQUITE ISD, VENDOR** hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State under federal law.

27. ABORTION PROVIDERS: Pursuant to Texas Government Code Chapter 2272, by entering into a contract with **MESQUITE ISD, VENDOR** hereby certifies that it is not an abortion provider or an affiliate of abortion providers, whereby the provider or affiliate receives something of value derived from state or local tax revenue.

28. FOREIGN OWN COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE: Pursuant to Texas Government Code 2274, by entering into a contract with **MESQUITE ISD, VENDOR** hereby certifies that it will not be granted direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the gov't entity for product warranty and support purposes. The vendor also certifies that it is not owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or headquartered in China, Iran, North Korea, Russia, or a designated country.

29. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR) AND OFFICE OF MANAGEMENT AND BUDGET GUIDANCE (OMB): If the source of funds for this purchase order is Federal funds, the following Federal provisions apply, as applicable: the Davis-Bacon Act (40 U.S.C. § 276a / 29 CFR Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 / 29 CFR Part 5), the Equal Opportunity Employment requirements (Executive Orders 11246 and 11375 / 41 CFR Chapter 60), the McNamara-O'Hara Service Contract Act (41 U.S.C. 351), Section 306 of the Clean Air Act (42 U.S.C. § 1857h, Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15), the Contract Work Hours and Safety Act (40 U.S.C. § 3701- 3708; 29 C.F.R. Part 5), Byrd Anti-Lobbying Amendment (31 U.S.C. 1352), Debarment and Suspension (Executive Orders 12549 and 12689), the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), the Education Department General Administrative Regulations, 2 C.F.R. Parts 200 and 3474, and 34 C.F.R. Parts 75-77 and 81 ("EDGAR"), and mandatory standards and policies contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).