

Purchase Order Terms and Conditions

The following terms and conditions (these "Terms") shall form part of any Purchase Order.

1. DEFINITIONS

The following words and terms, unless the context otherwise requires, shall have the meanings set out below:

"**Agreement**" means the Purchase Order and these Terms.

"**Board**" means The Board of Education of School District No. 43 (Coquitlam).

"**Parties**" means the Board and the Supplier.

"**Purchase Order**" means a purchase order issued by the Board.

"**Supplier**" means the person named as the supplier of Goods and Services in a Purchase Order.

"**Supplies**" means all goods and/or services specified in a Purchase Order to be supplied to the Board by a Supplier.

2. ASSIGNMENT

2.1 The Supplier shall not assign this Agreement or any of its rights or obligations under this Agreement without the express written consent of the Board, which may be withheld. No assignment of the Agreement shall relieve the Supplier from any obligation under this Agreement.

2.2 Nothing in the Agreement shall be construed to give any rights or benefits to anyone other than the Parties.

3. GOVERNING LAW

The Agreement shall be construed under and according to the laws of the Province of British Columbia. The Parties agree to refer any dispute to arbitration under the rules of the *Vancouver International Arbitration Centre*.

4. ENTIRE AGREEMENT AND AMENDMENTS

The terms and conditions of the Agreement supersede any terms and conditions of any proposal, quotation or correspondence between the Board and the Supplier, there are no other agreements, terms or conditions relating to the Supplies except as expressly stated in the Agreement, and the Agreement may only be amended by further written agreement signed by the Parties. A waiver of any right, duty or breach is only effective if written and shall only apply to the extent expressly stated, and shall not constitute an ongoing or general waiver nor apply to any other right, duty or breach.

5. SUPPLIER STATUS AND CONFLICT OF INTEREST

5.1 The Agreement is for the provision of Supplies, and the Supplier is engaged under the Agreement as an independent contractor for the sole purpose of providing the Supplies to the Board. Neither the Supplier nor any of the Supplier's personnel is engaged under the Agreement as an employee, servant or agent of the Board. The Supplier is entitled to no other benefits or payments other than those specified by the Purchase Order.

5.2 The Supplier declares that it has no pecuniary interest that would cause the Supplier to be or appear to be in a conflict of interest in carrying out the delivery of the Supplies. Should such an interest be acquired during the term of the Agreement, the Supplier shall declare it immediately in writing to the Board. If the Supplier does declare a conflict of interest the Board may direct the Supplier to resolve the conflict of interest to the Board's satisfaction.

6. STANDARD OF CARE AND QUALIFICATIONS

6.1 The Supplier shall exercise the same degree of care, skill and diligence as is ordinarily possessed and exercised by suppliers experienced in the provision of supplies such as the Supplies.

6.2 Without limiting any other remedy which the Board may have, the Supplier at its sole cost upon written request of the Board shall rectify any provision of Supplies which does not meet the care, skill and diligence set out in clause 6.1 or which have otherwise not been provided in accordance with the terms of this Agreement.

6.3 The use of a subcontractor to provide any Supplies is subject to prior written approval of the Board. Notwithstanding such approval, the Supplier shall be responsible for selecting subcontractors having the appropriate qualifications and experience to provide any Supplies, and for the degree of care, skill and diligence exercised by those subcontractors.

7. INDEMNITY

7.1 For any Supplies provided in connection with this Agreement, the Supplier shall indemnify and save harmless the Board, its trustees, officers, agents, employees and invitees from and against all claims, losses, damages and actions that any of them may suffer at any time before or after the expiry of the Agreement, that arise out of any negligent or wrongful act or omission of the Supplier, any of its subcontractors, or any of their respective employees or agents.

7.2 The terms and conditions of Clause 7.1 shall survive the expiry or termination for any reason whatsoever of this Agreement notwithstanding the complete delivery of the Supplies.

7.3 The indemnity provided in clause 7.1 by the Supplier shall not in any way be limited or restricted by the insurance set out in Clause 8 or by limitations on the amount or type of damages, compensation or benefits payable under the *Workers' Compensation Act* or any other statute.

8. INSURANCE

8.1 The Supplier shall, without limiting its obligations or liabilities herein and at its own expense, provide, maintain and pay for the following insurance with insurers licensed in British Columbia, in forms acceptable to the Board.

8.2 Comprehensive General Liability in an amount not less than two million dollars (\$2,000,000.00) inclusive per occurrence against bodily injury and property damage and including liability assumed under the Agreement. The Board is to be added as an additional named insured and the policy must contain a cross-liability clause. Such insurance shall include, but not be limited to:

- I. Automobile Liability on all owned or leased vehicles used directly or indirectly in the performance of the Services covering liability for bodily injury, death and damage to property in an amount not less than two million dollars (\$2,000,000.00) inclusive for each and every loss.
- II. Contractor's Equipment Insurance - "All Risks" equipment insurance covering owned and non-owned machinery and equipment used by the Supplier for the provision of the Supplies.

8.3 All the foregoing insurance shall be primary and not require the sharing of any loss by any insurer of the Board. The Supplier shall provide the Board with evidence of all required insurance upon request. Such evidence shall be in a form acceptable to the Board. The Supplier hereby

waives all rights of recourse against the Board with regard to damage to the Supplier's property. Unless specified otherwise, the duration of each insurance policy shall be from the date of the Agreement until the date that all of the Supplies have been provided to the Board.

9. FORCE MAJEURE

Neither the Board nor the Supplier shall be deemed to be in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party including, but not limited to, abnormal weather, flood, earthquake, fire, epidemic, war, riot or other civil disturbance, strike, lockout, work slowdown or other labour disturbance, sabotage, judicial restraint or inability to procure permits, licenses or authorizations from any local, provincial or federal agency for any of the supplies, materials, accesses or services required to be provided by either the Board, or the Supplier under this Agreement. If any such circumstances occur, the non-performing party shall, as soon as possible after being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

10. NOTICES

Where in the Agreement any notice, request, direction, or other communication is required to be given or made by either party, it shall be in writing and is effective if delivered in person, sent by registered mail, or electronically sent addressed to the party for whom it is intended, at the address last specified by that party.

11. WARRANTY AND WORKMANSHIP

11.1 The Supplier warrants that all Supplies provided under the Agreement shall strictly conform to all the specifications of the Agreement and shall be fit for the purpose intended, services shall be properly performed and goods shall be new and of good quality and workmanship, free from defects in materials and workmanship, and free of all liens and encumbrances.

11.2 The Supplier's warranty shall be for a period of one (1) year commencing from complete delivery of the Supplies.

12. TERMINATION

12.1 The Board may cancel this Agreement, in whole or in part, at any time and without cause, upon giving at least thirty (30) days written notice of termination to the Supplier. The Board upon giving notice for any reason other than items 12.2 and 12.3 below will pay the Supplier for Supplies delivered to the Board's satisfaction before termination, and that payment discharges the Board from all further liability to the Supplier under this Agreement.

12.2 If the Supplier fails to remedy any default in its obligations under this Agreement within ten (10) days after written notice from the Board or such longer period as may be agreed by the Parties in writing, then the Board may terminate this Agreement immediately without prejudice to any other remedies or claims the Board may have in respect of such default.

12.3 If the Supplier is adjudged bankrupt or makes a general assignment in bankruptcy or a receiver is appointed to take charge of the Supplier's affairs, then the Board may terminate the Agreement, effective upon the Board giving written notice thereof.

12.4 If the Board terminates the Agreement, then upon receipt of written notice of termination, the Supplier shall discontinue providing the Supplies and within the period of time set out in the notice deliver to the Board all drafts, reports, drawings, plans, specifications, computer discs, software and all other information and materials relating to the Supplies.

13. CONFIDENTIALITY

The Supplier shall safeguard and keep confidential any and all information which is disclosed by the Board to the Supplier on a confidential basis, including without limitation any information relating to the personnel and operations of the Board, or students, staff or parents, and shall use such information only for the purposes of carrying out its obligations under this Agreement.

14. INVOICING AND PAYMENT TERMS

14.1 In order to obtain payment the Supplier shall submit monthly invoices to the Board for Supplies that have been delivered to the Board. Invoices submitted shall be in a form satisfactory to the Board containing:

Purchase Order Number;
Billing Date of the invoice and Billing Period;
Invoice number for identification;
Details of rates of Goods and/or Services;
Appropriate taxes to be shown separately and GST Registration #;

and any other billing information reasonably requested by the Board which supports the invoices received.

14.2 Except for any amounts the Board disputes in good faith, and except for any set off the Board may claim and except for invoices (or portions of invoices) in respect of which the Board has reasonably requested and not received supporting information evidence under Clause 13.1, the Board will pay invoices submitted for Supplies within 30 days after receipt thereof.

14.3 The Supplier shall maintain its own, and shall keep and cause any subcontractors to keep, books, records, documents and other evidence relevant to the provision of the Supplies in accordance with generally accepted accounting principles and practices consistently applied. The Board or any of its duly authorized representatives shall for the purpose of audit and examination have access to and be permitted to inspect such books, records, documents and any other evidence for inspection, copying and audit for a period of two (2) years after the expiry or termination, for any reason, of this Agreement.

15. COMPLIANCE WITH APPLICABLE LAWS, STANDARDS AND BOARD POLICIES

The Supplier shall comply with, and shall ensure its employees, agents and subcontractors comply with, all applicable federal, provincial, and municipal laws, regulations, by-laws and all other applicable orders, rules, and regulations of any authority having jurisdiction with respect to the provision of the Supplies, including without limitation all applicable Board policies and all applicable safety and employment standards, codes and workers' compensation legislation.

16. Time is of the essence of the Agreement.