

TERMS AND CONDITIONS

THE FOLLOWING TERMS AND CONDITIONS APPLY TO ALL PURCHASE ORDERS FOR HILLSBOROUGH COUNTY PUBLIC SCHOOLS ("HCPS") INCLUDING THE ORDERS ENCLOSED. WHEN BID, PROPOSAL, CONTRACT TERMS, OR CONDITIONS AND SPECIFICATIONS DIFFER FROM THOSE SHOWN ON THE PURCHASE ORDER; THE BID, PROPOSAL, OR CONTRACT SHALL TAKE PRECEDENCE OVER THE PURCHASE ORDER.

I. GENERAL INSTRUCTIONS TO SUPPLIER

1. When signed, this is a formal Purchase Order to buy the goods/services specified at the prices stated. Immediately report errors to the General Manager of Procurement or designee listed on the purchase order to request a revision to the purchase order.
2. Changed or altered cost of goods/services may result in a return or cancellation at the Supplier's expense if delivered without prior approval of the General Manager of Procurement or designee.
3. HCPS' State Sales Tax Exemption Number is 85-8012621971C-8 and the Federal Excise Tax Exemption Number is 59 72-0088 K.
4. All invoices shall contain the purchase order number, Supplier's name, Supplier's phone number, quantities, item descriptions, units of measure, and addressed to:
Hillsborough County Public Schools
Accounts Payable Department
P.O. Box 3408
Tampa, Florida, 33601-3408
Or
Invoices@hcps.net
5. The purchase order number shall be on all invoices, packages, bills of lading, correspondence, and any other documents pertaining to the order.
6. The discount period will start upon the receipt of goods/services or a correctly completed invoice, whichever occurs last.
7. All shipment receipts must be within 30 days from receipt of this purchase order unless otherwise specified. If unable to deliver by the date specified, contact the General Manager of Procurement or designee immediately. If the goods are not as specified, HCPS will not be responsible for payment or return except at the Supplier's expense.
8. Upon initial purchase, the Supplier must provide HCPS Material Safety Data Sheets ("MSDS"), in compliance with OSHA's Hazard Communication Standard. An additional MSDS must be sent to:
Hillsborough School District Safety Office
4224 W. Crest Avenue
Tampa, Florida 33614
Telephone: (813) 872-5263
Facsimile: (813) 356-1471
9. Effective September 1, 2005, changes in legislation under the Jessica Lunsford Act now require all HCPS Supplier and subcontractor representatives to undergo a Level II background screening, which consists of an FDLE/FBI search if Supplier representatives will be at a school when students are present, have direct contact with students, or have access to or control of school funds. If no personnel meet any of the three criteria, the law does not apply and no action needed. Additional information is available by visiting: [Personnel Services / Fingerprinting \(hillsboroughschools.org\)](http://Personnel_Services_/Fingerprinting(hillsboroughschools.org))
10. Electronic transmittal of this purchase order, by facsimile machine or other means, shall have the legal significance of a duly executed original delivered to the Supplier.
11. Payment(s) will be made to the Supplier at the address specified for remittance by mail or by electronic transmission.

II. SHIPPING AND RECEIVING INSTRUCTIONS

1. Delivery: All shipments are to be made F.O.B. destination, freight prepaid, to receiving point as specified on the purchase order, unless otherwise indicated on the order. HCPS reserves the right to cancel this order, or any unfilled portion for shipments not received as specified.
2. Marking: Include packing list in each shipment. Packing list must clearly show the HCPS purchase order number, contents, and shipper's name and address; mark packing list and invoice covering final shipment "Order Completed." Failure to provide a packing list with shipment will allow for acceptance of HCPS buyer's count. Mark (upper left corner of) each package (box, crate, barrel, bundle piece) clearly with (a) shipper's name and address, (b) contents, (c) HCPS purchase order number, and (d) bill of lading number of express receipt number. Supplier's failure to show, on bill of lading, express receipt, or package, the marking as specified above will obligate the Supplier for any extra costs incurred including drayage or demurrage.
3. Receiving Hours: Shipments to HCPS facilities receiving hours are from 8:00 a.m. to 3:00 p.m., Mondays through Fridays, excluding HCPS holidays.
4. Invoices: Render itemized invoices as indicated in Section I, paragraph 4, "General Instructions to Supplier." HCPS will return invoices without the correct HCPS purchase order number. Separate invoices are required for each purchase order. The "Ship To:" address shall be on each invoice. Returnable containers require separate billing, subject to prompt return, and transportation charges collect.
5. Payment: HCPS complies with the Florida Prompt Payment Act (ss. 218.70-218.80). Invoice payment is Net 45 days from

the date of delivery or the receipt of satisfactory invoice, whichever occurs last, unless invoices specify early payment discounts. All payments, other than payments for construction services, due and not made within the time

specified by this section bear interest from 30 days after the due date at the rate of 1 percent per month on the unpaid balance

III. CONDITIONS

1. Authorization: HCPS shall assume no liability or obligation to pay for delivered goods/services without a valid purchase order assigned by the General Manager of Procurement or designee.
2. Change and Alteration: No changes in conditions, prices, quantities, or deliveries will be made without specific written authorization (change order-Purchase Order Revision) issued by HCPS' General Manager of Procurement or designee. Supplier must immediately report mistakes in prices, discrepancies in quantities, or sizes to the General Manager of Procurement or designee.
3. Specifications: Any product/service specifications in the associated bid response and all items attached hereto are hereby made a part hereof as if fully set forth herein. All materials furnished must conform to HCPS specifications, where indicated. There will be no substitutions to requested goods/services without prior approval of the General Manager of Procurement or designee.
4. Warranty: The vendor expressly warrants all articles and materials covered by this order to be of quality, quantity, size, description, and dimension specified and free from defects including latent defects. Such warranty shall survive delivery and not be deemed waived by reason, acceptance of receipt, or payment of goods/services.
5. Inspection Acceptance of Goods: Goods/services are subject to HCPS inspection and approval at a reasonable time post delivery. HCPS may return materials not meeting specifications (including over-shipments) at the Supplier's expense and risk. HCPS will notify Supplier of failure. Return authorizations for goods/services not received within 30 days will deem such goods/services as donations to HCPS.
6. Cost of Inspecting or Testing: Supplier will pay for cost of inspection or testing of property that does not meet specifications. There shall be no replacement of returned or rejected goods/services without prior approval by the General Manager of Procurement or designee. HCPS may return any goods that differ from provided samples, inferior quality, inferior workmanship, or decreased function.
7. Price: Except as indicated in Section I, paragraph 2, "General Instructions to Supplier", no order shall be filled where the cost of goods/services has increased
8. Default: Supplier default may allow HCPS to procure goods/services from other sources and deduct any monies due, or may become due, to the Supplier, the difference between the price named in the bid/proposal/contract or purchase order and the actual cost to HCPS. HCPS paid prices are the prevailing market price.
9. Contract: Supplier received bid/proposal/contract, or purchase order, attached hereto, or by reference, shall constitute, (a) a binding contract on the terms set forth herein, and (b) the entire contract, and is interpreted, construed, and given effect in all respects according to the laws of the State of Florida.
10. Federal Debarment Certification: Supplier and its principals agree that acceptance and/or performance of this purchase order constitutes compliance with the Federal Debarment Certification, as required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR, Part 85, as defined at the 34 CFR Part 85, Sections 85.105 and 85.110- (ED80-0013).
11. Public Entity Crimes: Supplier certifies, by acceptance of this purchase order, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction per the provisions of Florida Statute 287.133 (2) (a).
12. Fair Labor Standards Act – "Hot Goods": Supplier certifies, by acceptance of a bid/proposal/contract, or purchase order, that goods/services are, or will be, produced in compliance with all applicable requirements of sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under section 14 thereof.
13. NIMAS: SEAs and LEAs play an important role in obligating publishers to submit NIMAS-conformant files of textbooks and related core instructional materials to the NIMAC. This is accomplished by contract or by including appropriate language in purchase orders. When a publisher has already submitted the NIMAS-conformant file for a specific title and version that is to be purchased, an assurance should be given to the SEA/LEA. In addition to NIMAS-specific language, MathML should be referenced. A June 2012 letter from the Office of Special Education and Rehabilitative Services (OSERS) specifically encourages SEAs and LEAs to "ask publishers to use the MathML3 Structure Guidelines recommended by the [NIMAS] Center when requesting NIMAS files." These guidelines reflect the most effective method of providing accessible instructional materials involving mathematical and scientific content and do not conflict with the minimum requirements in the NIMAS specification.

IV. SHARED DATA SERVICES

This section applies to contractors whose commodities or contractual services enable or require the provision the Contractor's online software services or use of HCPS computer data.

1. **Data Re-Use.** The Contractor agrees that all data exchanged shall be used expressly and solely for the purposes enumerated in this agreement. The Contractor must not distribute, repurpose, or share across any other application, environment, or business unit. As required by Federal law, the Contractor further agrees that no HCPS data shall be revealed, transmitted, exchanged, or otherwise passed to other contractors or interested parties except as agreed, in writing, by HCPS' Procurement Services or its General Manager of Information Technology.
2. **Data Breach.** The Contractor agrees to comply with § 501.171 the State of Florida Database Breach Notification process and all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law ("Notification Event"), the Contractor agrees to notify HCPS immediately and assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless, and defend HCPS and its trustees, officers, and employees from and against any claims, damages, or other harm related to such Notification Event.
3. **Data Storage and Backup.** The Contractor agrees that any and all HCPS data will be stored, processed, and maintained solely on designated servers and that no HCPS data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that storage medium is in use as part of the Contractor's designated backup and recovery processes. All servers, storage, backups, and network paths utilized in the delivery of the service shall be contained within the states, districts, and territories of the United States unless specifically agreed to in writing by an HCPS officer with designated data, security, or signature authority. An appropriate officer with the necessary authority can be identified by HCPS' General Manager of Information technology for any general or specific case. The Contractor agrees to store all HCPS backup data stored as part of its backup and recovery processes in encrypted form, using no less than 128-bit key.
4. **End of Agreement Data Handling.** The Contractor agrees that upon termination of this Agreement it shall return all data to HCPS in a useable electronic form, and erase, destroy, and render unreadable all HCPS data in its entirety in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities, and certify in writing that these actions have been completed within thirty (30) days of the termination of this Agreement or within seven (7) days of the request of an agent of HCPS, whichever shall come first.
5. **(Intended) Use of Data.** HCPS designates The Contractor as a "school official" with a "Legitimate educational interest" under the definitions of those terms set forth in the § 1002.22, Florida Statutes, "Student Records and Reports" and the Family Educational Rights and Privacy Act ("FERPA") notification(s) to students and parents during the Term of this Agreement. The Contractor agrees to develop, implement, maintain and use appropriate administrative, technical or physical security measures to the full extent required by § 1002.22 and FERPA in order to maintain the confidentiality of "education records" as that term is defined by § 1002.22 and FERPA. The Contractor shall protect student records pursuant to § 1002.22 and FERPA, whichever has the more stringent requirements. HCPS recognizes and agrees that for purposes of all applicable laws, the Contractor has a legitimate educational interest for purposes of HCPS disclosing to Licensor students' education records.
6. **Constraints on Use of Data.** Data supplied by HCPS to the Contractor or collected by the Contractor on behalf of HCPS' students, vendors, management, agents, or employees is the property of HCPS and shall not be shared with third parties without the written permission of HCPS. HCPS data shall not be sold or used, internally or externally, for any purpose not related to the scope of work defined in this agreement without the written permission of HCPS.
7. **Data Security.** The Contractor shall employ industry best practices, both technically and procedurally, to protect HCPS data from unauthorized physical and electronic

access in accordance with § 501.171, Florida Statutes. Methods employed are subject to annual review and approval by HCPS. The Contractor agrees to:

- a. hold the student records and information in strict confidence and not use or disclose except as required by this Agreement or required by law and that except when the parent of a student provides prior written consent for its release, all shared student records will be disclosed only to employees of the agency who have a need to access the information in order to perform their official duties as authorized by law. Absent consent from the parent or eligible student, student records and information will not be disclosed except as allowed by the laws; and
 - b. safeguard the student records through administrative, physical, and technological safety standards to ensure adequate controls are in place to protect these records in accordance with FERPA's privacy requirements and that all shared student records it discloses will carry a warning regarding the confidential nature of such information and protocols concerning further dissemination consistent with this Agreement; and
 - c. continually monitor its operations and take all actions necessary to assure that the student information and records are safeguarded in accordance with the terms of this Agreement
8. Confidential Information. "Confidential Information" shall include any personally identifiable student information, as that term is defined in 34 C.F.R. § 99.3. "Disclose" or "disclosure" means to permit access to or the release, transfer, or other communication of Confidential Information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record. HCPS may disclose Confidential Information to the Contractor for the purpose of carrying out services of HCPS-supported projects, or to enforce or comply with Federal legal requirements that relate to those projects. Further disclosure by the Contractor of any Confidential Information released to the Contractor is prohibited. The Contractor shall not: (i) disclose any Confidential Information to any unauthorized third party; (ii) make any use of Confidential Information except to perform its obligations under this Agreement; or (iii) make Confidential Information available to any of its employees, officers, or agents except those internal The Contractor's employees who have been authorized by

The Contractor to use the information as a component of their project assignment(s). The term "unauthorized third party" for purposes of this Agreement does not include employees, officers, or agents of HCPS who are authorized to have access to the Confidential Information. The types of Confidential Information which may be necessary to disclose to The Contractor under this Agreement include, but are not limited to, the following: Personnel Records (social security numbers, credit card numbers, expiration dates, PINs, card security codes, financial profiles, bank routing numbers, and medical data), Student Records (student name, student identifier, gender, race/ethnicity, grade, IDEA Indicator, limited English proficiency status, section 504 status, Title I Targeted Assistance Participation, and law enforcement records), and HCPS. No other personally identifiable student information will be disclosed to The Contractor. The Contractor understands that the Confidential Information is protected under state and federal law and agrees to immediately notify HCPS if any of the Confidential Information is disclosed, either intentionally or inadvertently. The Contractor agrees to protect Confidential Information in such a manner that it will be disclosed only to The Contractor's staff whose duties under this Agreement specifically require them to have access to the Confidential Information. The Contractor and HCPS shall identify at least one authorized representative or data custodian from their respective agencies who shall be responsible for processing and responding to data requests from the other party. Upon request of HCPS, The Contractor shall agree to permit HCPS to review or shall provide written assurances to HCPS regarding the use of Confidential Data under this Agreement. The purpose of this provision is to ensure that appropriate policies and procedures are in place to protect the Confidential Information and that there has been no further Disclosure of the Confidential Information. All the Contractor employees, officers, and agents with access to the Confidential Information must acknowledge that they are aware of and will abide by the provisions of this Agreement. The Contractor agrees to remove any person from performing work who has, or is suspected to have, violated the terms of this Agreement. By disclosing Confidential Information to the Contractor, HCPS is not assigning ownership of the Confidential Information to The Contractor. Upon the termination of this Agreement for any reason, The

Contractor shall immediately return all Confidential Information, including all copies, to HCPS or destroy all Confidential Information in its possession, custody, or control unless otherwise agreed to in writing by both parties. The Contractor will provide HCPS with affidavits to this effect. A breach of the confidentiality requirements shall constitute grounds for immediate termination of the Agreement with any party without advance notice.

9. Network Security.

- a. Internet Access. Connections to The Contractor's computers utilizing the Internet, whether for client access or remote administration must use cryptographic technology.
- b. Data Storage. Regardless of the media employed (i.e., disk, tape, etc.), data must be stored in an encrypted format.
- c. Security Training. The Contractor shall provide periodic training for its staff on its internal security policies and procedures, and on applicable state and federal legal requirements for protecting sensitive and confidential data.
- d. Criminal Background Checks. The Contractor shall certify that all staff members with access to Confidential information have been subjected to a bona fide criminal background check in accordance with § 435.04, Florida Statutes, and have no record of any felony convictions. Any exceptions to this requirement must be approved in writing by HCPS.
- e. Prohibition on Mobile Devices and Removable Media. The Contractor shall have a written policy prohibiting the transfer or storage of unencrypted customer information on employee mobile devices or removable storage media for any reason. This policy shall be made available to each employee individually and shall be enforced.

10. Compliance with Applicable Laws and Regulations. Where applicable, The Contractor shall comply with all applicable federal laws and regulations protecting the privacy of citizens including FERPA and the Health Insurance Portability and Accountability Act (HIPAA), and all provisions of the Financial Services Modernization Act (the "Gramm-Leach-Bliley Act").

11. Indemnification; Student Records. Notwithstanding any provision to the contrary within this Agreement, any

party contracting with HCPS under this Agreement shall fully comply with the requirements of §§ 1002.22 and 1002.221, Florida Statutes, FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. Each party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless to the extent provided by law, HCPS and its officers and employees for any violation of the Student Records section, including, without limitation, defending HCPS and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon HCPS, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon HCPS arising out of a breach of this Agreement by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party has either intentionally or negligently violated the provisions of this Agreement or of §§ 1002.22 and/or 1002.221 Florida Statutes. This section shall survive the termination of all performance obligations under this Agreement and shall be fully binding until such time as the student records are destroyed in accordance with the Florida Retention Schedules or are returned to HCPS, whichever is earlier.

12. Web Content Accessibility. The online services will be used by:
- a. If to the Public, Including but Not Limited to Students, Students' Parents, and the Community. The Contractor supplying online services on behalf of HCPS must adhere to the Americans with Disabilities Act (ADA) and with Section 508 of the Rehabilitation Act of 1973. The Contractor will indemnify and defend HCPS from and against any and all losses, liabilities, and claims (including reasonable attorneys' fees) arising out of any claims by a third party alleging that the online services provide by the Contractor do not adhere to the ADA or with Section 508 of the Rehabilitation Act of 1973.
 - b. HCPS Employees Only. The Contractor supplying online services on behalf of HCPS must adhere to the Americans with Disabilities Act (ADA) and with Section 508 of the Rehabilitation Act of 1973.