Terms and Conditions

1. **Purchase Order Number** - The Purchase Order Number must appear on packages, packing slips, invoices and all other correspondence relating to this Order. The School District of Palm Beach County, Florida will not be responsible for goods or service delivered without a valid Purchase Order.

2. **Entire Agreement** – The Contract Documents consist of this Purchase Order including all attachments and any Bid/Request for Proposals/Invitations to Negotiate competitive packages referenced thereon and constitute the entire agreement between The School District of Palm Beach County, Florida and the Vendor. The Contract Documents supersede all prior negotiations, correspondence, conversations, agreements, and understandings applicable to these matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Contract that are not contained in this document. Any changes, additions or modifications, including freight charges, to the original Purchase Order must be brought to the attention of the Purchasing Agent and corrected through the issuance of a written Purchase Order Change Order prior to shipment(s). Additional costs that were not brought to the district's attention and did not result in a Change Order approved by the Purchasing Agent will not be honored.

3. **Prices** - All prices are FOB Destination, transportation charges prepaid, include inside delivery, with no additional charges for boxing, crating, packing, insurance or transportation unless otherwise indicated.

4. **Invoices** - Invoices must be sent to the address indicated on the face of the Purchase Order.

5. **Discounts** - Discounts are encouraged and should be included on any invoice when available to reduce the price from the one indicated on the purchase order itself.

6. **Payment/Payment Terms** - Payment will be made after the goods/services from the vendor have been received/completed; inspected and found to comply with award specifications, free of damage or defect; and a properly billed invoice is received and processed in the Accounting Services Department.

   The District’s payment terms are Net 30 days; however, the District will accept terms for early payment.

   Payment will not be processed until the following occurs:
   a. The complete and satisfactory receipt of all items ordered. All pricing must be in accordance with the bid.
   b. The receipt of a properly billed invoice in the Accounting Services Department.

   Invoices to the School Board MUST include the following to permit verification of prices and expedite payment to vendors:

   1. Name and Address of Vendor
   2. A Unique Invoice Number
   3. Date of Shipment
   4. Line Item Total or Extended Price
   5. Purchase Order Number
Invoice copy and/or packing slip must be presented at time of delivery. Original invoice must be sent to Accounting Services, 3300 Forest Hill Blvd., Suite A-323, West Palm Beach, FL 33406, or submitted electronically.

To submit an invoice as an email attachment, ensure that the electronic document meets the guidelines below and email the invoice to apinvoice@palmbeachschools.org.

Electronic Invoice Submission Guidelines:

a. Submit industry standard PDF’s, created at a 300-dpi bi-tonal equivalent (either image or text only content) or bi-tonal or grey-scale TIF’s.

b. Each invoice must be its own file attachment. Multiple invoices in a single email is supported, but each invoice must be a separate file attachment.

If you are interested in learning more about submitting invoices via email, please contact Bob Rucinski at bob.rucinski@palmbeachschools.org, or call him at (561) 434-8701.

Failure to timely submit invoices(s) to Accounting Services as set forth above may significantly delay processing and payment of the invoice.

The School Board may not process invoices submitted more than 120 Days after the date the goods or services were delivered without prior approval from the Accounting Services Department.

Vendor waives claims for payment of goods and/or services on invoice(s) not received by the Accounting Services Department within 120 Days of the delivery. Prior approval by Accounting Services is required if invoicing will extend past 120 days.

The above terms and conditions are agreed to by submitting an offer on this bid.

7. **Delivery** - Delivery shall be made within 10 days after receipt of Purchase Order or as otherwise specified on the Purchase Order and within the normal working hours of the School District. Normal working hours are Monday through Friday, excluding holidays when School is in regular session and Monday through Thursday, excluding holidays during the summer unless otherwise specified on the Purchase Order.

8. **New** - All goods shall be new, currently manufactured products unless otherwise stipulated on the purchase order.

9. **Inspection and Rejection** - All goods or services received are subject to inspection and to rejection by The School District of Palm Beach County, Florida if the goods or services are defective or do not meet the specifications. The School District of Palm Beach County, Florida reserves the right to have rejected goods replaced by the Vendor at the purchase price stipulated in this order or in the contract; or to return the rejected goods for full credit at the price charged; to have rejected service re-done by Vendor or to purchase these goods or services on the open market. Transportation costs and any additional costs will be borne by the Vendor in each instance. The School District of Palm Beach County, Florida's rights with
respect to rejection of material or services are not waived by failure to notify the Vendor promptly upon receipt of delivery.

10. **Warranty** - By accepting this Purchase Order the Vendor warrants, in addition to implied warranties, that the material furnished hereunder shall be shall be free from latent and patent defects and in full conformity with the specifications, drawing, and/or samples.

11. **Indemnification/Hold Harmless** – Vendor shall, in addition to any other obligation to indemnify The School Board of Palm Beach County, Florida and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School Board, its agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged;

   a. bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged negligent act or omission of the vendor, Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable in the performance of the work; or

   b. violation of law, statute, ordinance, governmental administration order, rule or regulation by Contractor in the performance of the work; or

   c. liens, claims or actions made by the vendor or any subcontractor or other party performing the work; or

   d. claims by third parties (including, but not limited to, Contractor’s employees or subcontractors) based upon an alleged breach by Contractor of any agreement with such third party (e.g., an employment agreement or licensing agreement), or allegation that Contractor’s provision of services to the School Board pursuant to the Contract infringes upon or misappropriates a patent, copyright, trademark, trade secret, or other proprietary right of the third party.

The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the vendor of any subcontractor under workers’ compensation acts; disability benefit acts, other employee benefit acts or any statutory bar.

Vendor recognizes the broad nature of this indemnification and hold harmless article, and voluntarily makes this covenant for good and valuable consideration provided by the School Board in support of this indemnification in accordance with the laws of the State of Florida. This article will survive the termination of this Contract.

12. **Insurance Requirements** – Vendor shall maintain insurance acceptable to The School District of Palm Beach County, Florida in full force and effect throughout the term of this Purchase Order.

13. **Small Business Encouraged** - The School District of Palm Beach County, Florida strongly encourages the use of Small Business owned business enterprises for participation in opportunities related to this Purchase Order.

(Revised 04/15/2019)
14. **Material Safety Data Sheets** - In accordance with Florida Statutes, Chapter 422, it is the Vendor’s duty to advise if a product is a toxic substance and to provide a Material Safety Data Sheet at the time of delivery.

15. **Legal Requirements** - Federal, State, County and local laws, ordinances, rules and regulations as well as School Board policies that in any manner affect the items covered by this Purchase Order herein apply and must be adhered to by the vendor. Specifically, bidder(s) is to adhere to School Board Policies 3.12 and 3.13, pursuant to the following, with respect to any criminal arrests and convictions, and is on notice thereto that any employees involved in any Chapter 435, Florida Statutes offenses are precluded from continuing to work on the project and must be replaced. Failure to comply may result in the immediate termination of the awarded bidder’s contract at the sole discretion of the District. Lack of knowledge by the bidder will in no way be a cause for relief from responsibility.


16. **Government Funding** – Funding for this Agreement and the individual POs may be provided in whole or in part by one or more U.S. Government funding agencies. As a result, Vendor shall comply with the applicable laws and regulations listed below, the entire terms and conditions of which are fully incorporated herein:

   Rights to Inventions Made Under a Contract or Agreement
   Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)
   Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)
   Energy Policy and Conservation Act (42 U.S.C. 6201)

17. **Code of Ethics** - Per District Policy 3.02, District Employees shall not accept gifts or gratuities in violation of the State Code of Ethics or which give the appearance that the gift improperly influenced a decision.

18. **Accessibility to and Cooperation with Inspector General and Staff** - Pursuant to School Board Policy 1.092, the Vendor(s) agrees and understands that the School District’s Office of Inspector General shall have immediate, complete, and unrestricted access to all financial and performance-related records, papers, books, documents, information, writings, drawings, graphs, photographs, processes, data or data compilations, computer hard drives, emails, instant messages, services, and property or equipment purchased in whole or in part with School Board funds ("Information and Records"). Vendor(s) shall furnish the Inspector
General with all Information and Records requested for the purpose of conducting an investigation or audit, as well as provide the Inspector General with reasonable assistance in locating assets and obtaining Information and Records that are in the possession, custody, or control of the Vendor(s) or its employees, agents, or subcontractor. Vendor(s) understands, acknowledges, and agrees to abide by applicable portions of School Board Policy 1.092. Such policy is located at: http://www.palmbeachschools.org/policies/. The IG may need a meeting with Vendor(s) when the investigation or audit relating to the Agreement is near completion. Vendor(s) must agree to maintain the confidentiality of the preliminary/draft report and the information contained therein pursuant to section 119.0713(2), Florida Statutes, and shall enter into a written confidentiality agreement for the period until the investigation or audit is completed. Vendor(s)'s failure to enter such written confidentiality agreement shall be deemed to constitute Vendor(s)'s waiver of the opportunity to respond to the investigation or audit preliminary report, and the investigation or audit shall be completed without Vendor(s)'s response.

19. **Public Records Law** - The recipient of this Purchase Order shall:

a. Keep and maintain public records that ordinarily and necessarily would be required by the School Board of Palm Beach County in order to perform the service to the Board under this agreement.

b. Upon request from the Board’s custodian of public records, provide the Board with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Responder does not transfer the records to the Board.

d. Upon completion of the Contract, transfer, at no cost, to the Board all public records in possession of the Vendor or keep and maintain public records required by the Board to perform the service. If the Vendor transfers all public records to the Board upon completion of the Contract, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Vendor keeps and maintains public records upon completion of the Contract, the Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Board, upon request from the Board’s custodian of public records, in a format that is compatible with the information technology systems of the Board.

e. Failure of Vendor to abide by the terms of this provision shall be deemed a material breach of this Contract. This provision shall survive any termination or expiration of this Contract. In the event of a dispute regarding the enforcement of this provision where the Vendor has unlawfully refused to comply with the public records request within a reasonable time, the School Board shall be entitled to recover its reasonable costs of enforcement.

(Revised 04/15/2019)
including reasonable attorney's fees from the Vendor as authorized by 119.07(1), Fla. Stat.

If the Vendor has questions regarding the application of Ch. 119, Florida Statutes to the Vendor’s duty to provide public records relating to this Contract, they must contact the Public Records Management Coordinator for the School District at publicrecords@palmbeachschools.org.

20. **Assignment** - The Vendor shall not assign, sub-contract, transfer, convey, or otherwise dispose of this contract, or of any or all of its rights, title, or interest therein, or its power to execute such contract to any person, firm or corporation without prior written consent of The School Board of Palm Beach County, Florida.

21. **Termination** - This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved party identifying the breach. This Agreement may be terminated for cause for reasons including, but not limited to, Vendor's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. The Agreement may also be terminated for cause if the Vendor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, or if the Vendor provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

The agreement may also be terminated for convenience by The School Board of Palm Beach County, Florida.

In the event this Agreement is terminated for convenience, Vendor shall be paid for any goods or services properly performed under the Agreement through the termination date specified in the written notice of termination. Vendor acknowledges and agrees that it has received good, valuable and sufficient consideration from The School Board of Palm Beach County, Florida, the receipt and adequacy of which are, hereby acknowledged by Vendor, for The School Board of Palm Beach County, Florida's right to terminate this Agreement for convenience.

22. **Anti-Discrimination** - The Vendor certifies that they are in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375 relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin. The provisions of the ADA Act of 1990 pertaining to employment shall also be applicable.

The Vendor shall not discriminate on the basis of race, gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring, or treatment of sub-contractors, vendors, suppliers, or commercial customers. The Vendor shall provide equal opportunity for sub-contractors to participate in all of its public sector and private sector sub-contracting opportunities, provided that nothing
contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace, such as those specified in the Palm Beach County School Board Policy 6.143. The Vendor understands and agrees that violation of this clause is a material breach of the contract and may result in contract determination, debarment, or other sanctions.

23. **Disqualifying Crimes** - The vendor 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 by the State of Florida or Federal Government. Further, vendor certifies that it will divulge information regarding any of these actions or proposed actions with other governmental agencies. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not provide any goods or services or transact business with The School District of Palm Beach County, Florida for a period of 36 months from the date of being placed on the convicted vendor list.

24. **Jessica Lunsford Act** - All Vendors who are permitted access on school grounds when students are present, who may have direct contact with any student of the District, or who may have access to or control of school funds must be fingerprinted and background checked. Vendor agrees to undergo a background check and fingerprinting if he/she is an individual who meets any of the above conditions and to require that all individuals in the organization who meet any of the conditions to submit to a Level 2 FDLE background check and FBI screening, including fingerprinting by the School District’s Police Department, at the sole cost of the Vendor. The report of the results will be immediately transmitted to the School District’s Police Department, which shall be the sole determiner of clearance. Vendor shall not begin providing services until Vendor receives notice of clearance by the School District and is issued School District badges. Compliance requiring all Vendors to register as a visitor before entering school property and proper display of School District badges will be strictly enforced. Neither the Board, nor its members, officers, employees, or agents, shall be liable under any legal theory for any kind of claim whatsoever for the rejection of Vendor (or discontinuation of Vendors’ services) on the basis of these compliance obligations. The Vendor agrees that neither the Vendor, nor any employee, agent or representative of the Vendor who has been convicted or who is currently under investigation for a crime delineated in section 435.04, Florida Statutes, will be employed in the performance of the contract.

25. **Advertising** - The Vendor agrees not to use the results of this Purchase Order as a part of any commercial advertising without prior approval of The School District of Palm Beach County, Florida.

26. **Severability** - If any section, subsection, sentence, clause, phrase, or portion of this contract is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

27. **Tax Exemption** - The School District of Palm Beach County, Florida is exempt from any taxes imposed by the State and/or Federal Government. State Sales Tax Exemption Certificate No. is 85-8013897253C-1 (expires-11/30/2022) and Federal Excise Tax No. is 59-6000783.
28. **Governing Law and Venue** – The Contract Documents shall be construed in accordance with the laws of the State of Florida, without regard to conflict of laws provisions. If any litigation shall result from the Contract Documents, the parties shall submit to the jurisdiction of the State Courts of the 15th Judicial Court and exclusive venue shall lie in Palm Beach County, Florida. BY ENTERING INTO THIS AGREEMENT, VENDOR AND SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

29. **Independent Contractor** - Vendor is an independent contractor under this Agreement. Services provided by Vendor pursuant to this Agreement shall be subject to the supervision of Vendor. In providing such services, neither Vendor nor its agents shall act as officers, employees, or agents of the School Board of Palm Beach County, Florida. No partnership, joint venture, or other joint relationship is created hereby. School Board of Palm Beach County, Florida does not extend to Vendor or Vendor's agents any authority of any kind to bind School Board of Palm Beach County, Florida in any respect whatsoever.

30. **Third Party Beneficiaries** - Neither Vendor nor School Board of Palm Beach County, Florida intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

31. **Confidential Student Information** - In the event that Vendor receives any confidential student information, Vendor is subject to all School Board obligations relating to compliance with student records confidentiality laws. Vendor acknowledges and agrees to comply with the Family Educational Rights and Privacy Act (FERPA) and all State and Federal Laws relating to the confidentiality of student records. Vendor has legitimate educational interests in the information, and Vendor shall hereby be deemed a “school official” in accordance with School Board Policy 5.50 and shall enter into the Addendum concerning student information (PBSD 2220) which is attached hereto and incorporated herein.

32. **Disputes** - In case of any doubt or difference of opinion as to the items to be furnished hereunder, the decision of the School Board shall be final and binding on both parties.

33. **Complaint Notifications** - As part of its proposal, Proposer shall provide to the School District a list of all instances within the past ten (10) years where a complaint was filed against Proposer in a legal or administrative proceeding, regardless of whether the complaint has been resolved or is currently pending, alleging that Proposer discriminated against an employee, independent contractor, subcontractor, vendor, supplier or commercial customer on the basis of race,
gender, gender identity or expression, religion, national origin, ethnicity, sexual orientation, age, or disability in violation of applicable Federal and/or Florida law.

The Proposer must provide a description of each of the complaint(s) and: (i) the terms of resolution of all adjudicated/settled complaints, including any remedial action taken by Proposer; and (ii) the status of, and Proposer's response to, all pending complaints.

The School District will consider a Proposer's complaint history information in its review and determination of responsibility. The failure of a Proposer to comply with the requirements in this Section will result in Proposer being deemed non-responsive by the Director of Purchasing. If no complaints have been filed within the last ten (10) years, please so state on Company Letterhead and upload with your response.

34. **Trade Secrets - Upon receipt, all submittals become Public Records and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes.**

By submitting its proposal, Proposer understands and waives any claim of confidentiality, including trade secrets, to its pricing and/or cost of service related submittals.

Any firm that intends to assert that certain materials are exempt from public disclosure under Chapter 119, Florida Statutes must submit the documents in a separate bound document or file labeled, “Name of Firm, Attachment to Proposal Package. RFP# - Confidential Matter.” In addition, the firm must identify the specific statute that authorizes the exemption from Chapter 119, Florida Statutes. CD or DVDs included in a submittal must also comply with this requirement and the firm must separate any CD or DVDs claimed to be confidential.

**Any claim of confidentiality on materials that the Proposer asserts to be exempt and placed elsewhere in the submittal will be considered waived by the Proposer upon submission, upon opening.**

The School District will provide Proposer with prompt notice by phone and/or email of any request for public records in which that Proposer has claimed an exemption information being a Trade Secret so that the Proposer may seek, at its sole expense, an appropriate protective order from a court of competent jurisdiction. In the event the Proposer elects not to seek an appropriate protective order or is unable to obtain such an order within no later than ten (10) business days following receipt of notice, the Proposer agrees and consents that the School District shall be permitted to respond to the public records request with the response not being deemed a breach by the School Board of its obligations under the Agreement or the Florida Statutes governing Trade Secret exemptions. The Proposer would then be waiving any rights relating to Trade Secrets under Florida law. Proposer agrees to defend, indemnify, and hold harmless the School District and School Board and the School District’s officers, employees, School Board members, and agents, against any loss, damages, judgments, attorneys’ fees or costs incurred by School Board as a result of the School District’s providing the records in response to the public records request or withholding them based on Proposer’s assertion of the Trade Secret exemption.

The indemnification provisions survive the School Board’s award of the contract and remain as long as the trade secret data is in the possession of the School Board.

(Revised 04/15/2019)