

## MPS PURCHASE ORDER TERMS AND CONDITIONS

- **Business Days** means, when the FOB destination is a specific school, the day(s) that there is regularly scheduled school according to the MPS School Calendar for that school, located on the MPS portal at [www.mpsportal.milwaukee.k12.wi.us](http://www.mpsportal.milwaukee.k12.wi.us). When the FOB destination is for a destination other than a school, Business Days means Monday through Friday, holidays excluded.
- **Shipping** - No payments in excess of the total amount of this P.O. will be made.
- **Contract** – Contract means the legally binding instrument containing all of the terms and conditions that govern a purchase. The term “Contract” is used interchangeably with Purchase Order.
- **Choice of Law/Forum** – Milwaukee County, Wisconsin shall be the sole forum for all disputes and Wisconsin law shall be the sole choice of law.
- **Non-Appropriations** – The failure of the Board of School Directors to appropriate funds for contract/purchase order shall void the contract.
- **Indemnification** – The Contractor shall indemnify and hold harmless MPS, its agents, officers and employees against all liabilities, losses, judgments, decrees, costs, and expenses that may be claimed against MPS a result of granting of this contract/purchase order to the successful bidder, or that may result from the carelessness or neglect of the successful bidder, its agents, or employees. If judgment is recovered against MPS in suits of law or equity for any reason, including by reason of the carelessness, negligence, or acts or omissions of the Contractor, against such persons, firms or corporations carrying out the provisions of the contract/purchase order, the Contractor assumes full liability for such judgment, not only as to any monetary award, but also as to the costs, attorneys fees or other expenses resulting therefrom.
- **Waiver** – One or more waivers by any party of any term of the contract shall not be construed as a waiver of a subsequent breach of the same or any other term. The consent or approval given by any party with respect to any act by the other party requiring such consent or approval shall not be deemed to waive the need for further consent or approval of any subsequent, similar act by such party.
- **Packaging** – Materials shall be clearly labeled and packaged in accordance with Federal and Wisconsin requirements.
- **Delivery** – All deliveries must be inside the receiving location building. If there is a freight increase prior to delivery of the goods, any additional cost must be at the contractor’s expense.

- **Delays in Delivery** – Delays in delivery caused by any bona fide strikes, government priority or requisition, riots, fires, sabotage, acts of God, or any other delays deemed by the Procurement Manager to be clearly and unequivocally beyond the contractor's control, will be recognized by MPS. The Contractor may be relieved of the responsibility of meeting the delivery time as stipulated in the contract upon Contractor's filing with the Procurement Manager just and true statements requesting an extension of delivery, signed by the contractor, and giving in detail all the essential circumstances which, upon verification by MPS, justify such action under the provisions of this section by the Procurement Manager. The request must be filed with the Procurement Manager no later than seven calendar days prior to the actual delivery date. Failure to file this request for delivery extension shall render the contractor liable for the difference between the replacement costs and the contract price, and other costs, as applicable, under the Uniform Commercial Code.
- **Rejection** – MPS reserves the right to reject any items that do not conform to the specifications or that do not meet the District's needs even should they conform to the specifications. All return freight charges associated with the rejected materials shall be borne by the vendor.
- **Patents** – Contractor shall protect MPS against all liability, loss or expenses by reasons of any patent or trademark litigation now existing or hereafter instituted, arising out of any alleged infringement of patent or trademark on merchandise hereby ordered, or any part thereof.
- **New Equipment** – Unless otherwise specified in the purchase order, all equipment ordered shall be new, unused and not previously titled. Units classified as factory rebuilt, prototype or discontinued are not acceptable.
- **Warranties** – Any and all warranties must be valid in the United States.
- **Safety Requirements** – All material, equipment and supplies provided to MPS must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code, Rules of the Industrial Commission on Safety, and all applicable OSHA Standards.
- **Assignment** – No contract may be assigned, sublet or transferred without the prior written consent of the MPS Procurement Manager.
- **Compliance with MPS' Code of Ethics.** Contractor during the period of this contract shall not hire, retain or use for compensation any member, officer, or employee of MPS to perform services under this Contract, or any other person who, to the knowledge of Contractor, has a conflict of interest. Contractor hereby attests it is familiar with MPS' Code of Ethics.
- **Livable Wage.** Contractor shall adhere to the MPS' Livable Wage Policy that requires anyone having a contract with MPS must pay all of their employees a livable

wage in accordance with City of Milwaukee Ordinance 310-13. The current livable wage rate can be found at the City of Milwaukee website <http://city.milwaukee.gov/ImageLibrary/Groups/doaPurchasing/forms/LivingWageTable.docx> .

- **Apparel.** If the resulting contract is for apparel for \$5,000.00 or more, the Contractor agrees to provide only items manufactured by responsible manufacturers and to require the same of any subcontractor.
- **Non Discrimination** – Contractors and suppliers are obligated not to discriminate against any employee or applicant for employment because of race, color, religion, handicap, national origin, sex, age, or socio-economic status. This obligation shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- **Health and Dental Benefits** – MPS encourages its contractors to provide health and dental benefits to their employees on a voluntary basis.
- **Conflict of Terms** – In the event of a conflict between any applicable Vendor’s terms and conditions and the terms and conditions of any purchase order issued by MPS, the terms and conditions of MPS’ Purchase Order shall govern.

4/14/14