

JONES COUNTY SCHOOL SYSTEM
GRAY, GEORGIA

JCSS STANDARD TERMS AND CONDITIONS

The following Standard Terms and Conditions are common to all JCSS Solicitation documents. Taking exception to these terms and conditions or submitting conflicting language may be cause for rejection of supplier's response.

1.0 PREPARATION OF PROPOSALS

- 1.1** Suppliers are instructed to read all terms, conditions and specifications as set forth in the Solicitation carefully. Responses must be either typed or written in ink. Any correction made within the SOLICITATION submission (white out or strike through) must be initialed by an authorized representative of the company submitting the proposal or the proposal may be rejected by JCSS.
- 1.2** Due to the large number of suppliers listed in certain categories of the JCSS Supplier's List, not all suppliers will necessarily be sent a notice each time an Solicitation is issued. All Solicitations that require competitive purchasing will be posted within the Georgia Procurement Registry and Vendor Registry. A link to those sites can be found on JCSS website www.jones.k12.ga.us under the Maintenance Department.
- 1.3** Each supplier is responsible for having knowledge and understanding of any Federal laws, Georgia laws, Department of Education regulations or policies, and JCSS policies and/or regulations pertaining to JCSS procurement.
- 1.4** JCSS assumes no responsibility or obligation to the suppliers. JCSS will make no payment for any costs associated with the preparation or submission of a response. This provision applies whether or not a dispute arises.
- 1.5** The terms Bidder, Vendor, Supplier, Contractor and/or Offeror are synonymous in this document and refer to the person, entity or firm that submits a response to any Solicitation.
- 1.6** All responses submitted become the property of the JCSS and are subject to applicable open records policies and laws.

2.0 COMMUNICATIONS WITH JCSS STAFF

- 2.1** All communications concerning Solicitations must be submitted in writing to the JCSS. Email to raymond.brazil@jones.k12.ga.us is the preferred method of communication. **Only written questions submitted via email or Vendor Registry will be accepted.** No response other than written, distributed by the Issuing Officer, will

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be binding upon JCSS. The Issuing Officer, in its discretion, may call upon user departments for clarification in their area of expertise.

- 2.2** From the issue date of this Solicitation until completion of the entire Solicitation process and announcement of award notification, all supplier communication must be authorized by the Issuing Officer including but not limited to communications with school system employees and/or contracted agents related to this Solicitation. Violation of this provision may result in rejection of the supplier's response.
- 2.3** It is the supplier's responsibility to check the JCSS Purchasing website for any addenda, responses to supplier questions, or other communications that may be issued or released during the Solicitation period. Following receipt of supplier responses to a Solicitation, it is the supplier's responsibility to be available via email, phone and/or fax during the review process in the event that clarification or additional information is required. If clarification or additional information is requested, the responsibility rests on the supplier to ensure that JCSS receives said information prior to the deadline(s) indicated. In the event clarification or additional information is provided via email or fax, a signed, original hard copy of this information should be submitted to the Issuing Officer no later than the next business day after the information's due date. The hard copy will serve as the legal document and must match the fax/email copy.

3.0 **AUTHORITY**

Each party warrants that such party has full power and authority to enter into and perform this contract. The person signing on behalf of each party represents that such person is duly authorized to enter into this Contract on behalf of such party.

4.0 **SPECIFICATIONS**

- 4.1** For Goods: Manufacturers listed as "Model Equivalence" or "JCSS Approved Equivalent" in the Solicitation are to establish the general quality required. Items of other manufacturers of equal or better specifications may be considered. The JCSS will be the sole determiner as to whether the substituted item is of equal or better specification.
- 4.2** Any deviation from the specifications must be clearly identified by the supplier on the appropriate proposal form(s). If the supplier wishes to provide additional detail regarding the deviations in an accompanying letter, it should be noted on the appropriate proposal form(s). The furnishing of cuts, catalogs or printed descriptions will not relieve the supplier of this requirement. JCSS shall

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determine in its sole discretion whether substitutions or modifications of the requested specifications are comparable to those contained within the Solicitation. If JCSS determines that the modifications or deviations from the specifications are not in compliance, the proposal may be rejected.

- 4.3** A supplier's failure to deliver any items/services according to specifications set forth in their proposal may result in cancellation of the purchase and permanent removal from the supplier's list. If any items do not meet these specifications, the items will be picked up at supplier's expense and removed from the premises of the JCSS at the sole cost of the supplier.
- 4.4** If there is an error in the description or specifications contained in the solicitation, JCSS reserves the right to notify each supplier separately from the solicitation of such specification or description change and may require all proposals to be in compliance with such modification. In the case of an error in the specifications or the descriptions, JCSS further reserves the right to cancel the solicitation and re-issue.
- 4.5** If an awarded brand/model is discontinued during the award period, the awarded supplier may offer a replacement item. The replacement brand/model must meet or exceed minimum specifications listed in the awarded supplier's proposal as well as current industry standards. Replacement item must be offered at the same or better discount/fee structure level as the originally awarded item, or at a lower price than the original item. Replacement units must be made available to JCSS for review and approval prior to the end of life of the awarded model. JCSS reserves the right to accept or reject the proposed replacement item and to negotiate with awarded supplier the purchase of different brands/models when in the best interest of the District.

5.0 PRICES QUOTED

- 5.1** Unless specifically consented to in writing by JCSS, prices must remain firm for a period of one year from the award date, or for any renewal period, under the same terms and conditions as the solicitation. The JCSS reserves the option to renew any contract award at its sole discretion.
- 5.2** Quantities/amounts shown in the solicitation are estimates. Suppliers are advised that the actual number purchased/required may vary from those in the solicitation, depending upon the needs of the JCSS and the availability of funds.
- 5.3** Proposals that contain minimum order amounts will not be accepted unless called for in the Special Terms and Conditions.

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- 5.4 Pricing must be submitted on the Cost Proposal Form(s) as requested without conditions unless called for in Specifications document.
- 5.5 For Goods: Proposals must include any and all delivery and/or installation charges. Delivery and/or installation requirements will be as specified in the Specifications document.
- 5.6 Prompt payment discounts will be considered for the purposes of evaluation and award.
- 5.7 The JCSS does not pay late payment fees.

6.0 SAMPLES

- 6.1 When required, samples must be furnished at the supplier's expense and at no cost to JCSS.
- 6.2 Samples are to be tagged or labeled as directed in the Special Terms and Conditions.
- 6.3 Samples not used or destroyed in testing will be available for return to the supplier at supplier's request and at supplier's expense. If supplier does not arrange for pick-up of samples as defined in Specifications; samples will become the property of JCSS.
- 6.4 JCSS will assume no responsibility for items lost or destroyed when being inspected or tested.

7.0 SUPPLIER'S EVIDENCE OF RESPONSIBILITY

- 7.1 The JCSS reserves the right to require a financial statement and/or Dun and Bradstreet rating from any supplier who submits a proposal. The supplier must submit a current financial statement and/or Dun and Bradstreet rating within 48 hours after notification of such requirement.
- 7.2 The enclosed Supplier Reference Sheet and Supplier Questionnaire are to be completed and returned as indicated in the solicitations document.

8.0 DEBARRED, SUSPENDED, AND INELIGIBLE STATUS

Supplier certifies that the supplier and/or any of its subcontractors (if applicable) have not been debarred, suspended, or declared ineligible by an agency of the State of

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Georgia or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch. 1 Subpart 9.4. Supplier will immediately notify JCSS in writing if supplier is debarred by the State of Georgia or placed on a Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.

C.F.R. Section 180.300 requires that when the School District enters into a covered transaction with an entity at a lower tier, the School District must verify that the entity is not suspended, debarred or otherwise excluded. "Covered transactions" include those procurement contracts for goods and services awarded under a grant or cooperative agreement that are expected to equal or exceeded \$25,000. Furthermore, grantees and sub-grantees must not make any award or permit any award at any tier to any party which is debarred or suspended or is otherwise excluded. By signing this contract, you are affirming that neither you, the Supplier, nor any principal of the Supplier are at the date of your signature suspended, debarred or otherwise excluded.

9.0 NON COLLUSION

The supplier, by affixing its signature to this Solicitation, certifies that that this proposal is made without prior understanding, agreement or connection with any corporation, firm or person submitting a proposal for the same materials, supplies, or equipment, and is in all respect fair and without collusion or fraud. The supplier understands that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.

10.0 OBLIGATION TO MAINTAIN CONFIDENTIALITY

10.1 Supplier acknowledges that some material and information which may come into its possession or knowledge in connection with the solicitation, or the performance hereof, may consist of confidential and private information of JCSS, its students, or employees, the disclosure of which to or use by third parties may be damaging or in violation of applicable law. Supplier therefore agrees to hold such material and information in strictest confidence, not to make use thereof other than as is necessary for performance of this contract, and not to release or disclose any information to any other party except as may be required by law. Supplier hereby expressly agrees to immediately remove any subcontractor or any of Supplier's employees from performing any work in connection with this contract upon JCSS giving notice to Supplier that JCSS reasonably believes such person has failed to meet the confidentiality obligations or standards of this contract. Any employee or subcontractor so removed shall be replaced as provided under the staffing requirements of this contract.

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10.2 Confidential information is educational records, proprietary information, a trade secret, copyrighted material, or documents otherwise not subject to disclosure or use, as defined under O.C.G.A. § 50-18-72, O.C.G.A. § 10-1-760, 34 CFR §99.31, 20 U.S.C. §1232 (g), 45 CFR § 741.6(c)(3), 45 CFR §84.14(d) and 20 U.S.C. §§ 1400-1491. Supplier acknowledges that confidential information includes, but is not limited to, employee data, educational records, and information relating to health records, physician and provider notes, medical bills, claims and other written information of a personal nature, which is to be safeguarded to ensure that it is not improperly disclosed. Notwithstanding the foregoing, this agreement is subject to the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq.

11.0 **ORIGINALITY AND TITLE TO CONCEPTS, MATERIALS AND GOODS PRODUCED**

Supplier represents and warrants that all the concepts, materials, goods and services produced, or provided to JCSS shall be wholly original with the Supplier or that the Supplier has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and works. The Supplier represents and warrants that the concepts, materials, goods and services provided by Supplier to JCSS and JCSS's use of same shall not infringe upon any other work or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and works will not infringe upon the copyright, trademark, trade name, trade dress patent, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity.

12.0 **RECORDS**

12.1 Retention - The supplier must retain all books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to JCSS throughout the term of the Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records.

12.2 Access –The supplier shall permit JCSS or any duly authorized representative from the Department of Education, United States Department of Agriculture (USDA) and/or where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the supplier relating to orders, invoices or payments

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or any other documentation or materials pertaining to the Contract where such records may be located during normal business hours. Supplier shall not impose a charge for audit or examination of the Supplier's books and records. If an audit discloses incorrect billings or improprieties, JCSS reserves the right to charge Supplier for the cost of the audit and appropriate reimbursement.

13.0 CIVIL RIGHTS

JCSS does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in any of its employment practices, education programs, services or activities.

To file a complaint of discrimination for a Solicitation involving food items, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.

To file a complaint for any other Solicitations, contact the Civil Rights Center Director, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-4123, Washington, DC 20210. Phone number: Voice: (202) 693-6502 / TTY: (202) 693-6516 or Fax: (202) 693-6505. Email: CRCExternalComplaints@dol.gov.

14.0 AWARDS

14.1 The JCSS reserves the right to accept or reject any part of a submitted proposal, to accept the entire proposal from one supplier, to accept portions of the proposal from several suppliers, or to reject all proposals submitted or waive any minor irregularity. The JCSS reserves the right to award the proposal under the most beneficial economic terms for the JCSS.

14.2 The JCSS reserves the right to award by line item to more than one supplier and/or to award by group or any combination thereof. Award will be made in the best interest of JCSS.

14.3 In case of tie and subject to compliance with state and federal regulations and guidelines, the award will be made as follows:

14.3.1 The award will be to the in-county supplier.

14.3.2 The award will be to the in-state supplier.

14.3.3 If applicable, award will be to the supplier with goods made in Georgia.

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14.3.4 The award will be to the supplier with the lesser total dollar volume.

If these preferences are insufficient for resolution, drawing lots in a public forum will resolve the tie.

- 14.4** Award will be made to the responsive and responsible supplier based on price, availability, lead time past supplier experience, references, and compliance with the solicitation specifications and requirements as outlined in the evaluation criteria included in this Solicitation.
- 14.5** A determination of competitive range may be made during the evaluation process. Suppliers not in the competitive range of being selected for award shall be eliminated from further discussion.
- 14.6** During the evaluation phase, discussions may be conducted with suppliers who submit proposals determined to be reasonably likely to be selected for award. These discussions are for the purpose of negotiations, clarification, and to assure full understanding of and responsiveness to the Solicitation requirements. Suppliers will be accorded fair and equal treatment with respect to an opportunity for discussion and revision of proposals. Procurement Services may permit revisions, after submission and prior to award, for the purpose of obtaining best and final offers. In all events, JCSS reserves the right to re-solicit the item(s)/services(s) involved.
- 14.7** The JCSS reserves the right to negotiate a lower price than the award price on any line item with the successful supplier. If the JCSS is unable to negotiate an acceptable price, it reserves the right to re-solicit the item(s)/service(s) involved.
- 14.8** The JCSS reserves the right to review and accept or deny requests for price changes due to extenuating circumstances in the economy, market place or acts of God. This option will only be exercised if it is deemed in the best interest of the District.
- 14.9** The JCSS reserves the right to purchase related items/services from the awarded supplier(s) when necessary, provided the pricing granted is in accordance with the cost structure awarded for similar items/services.
- 14.10** Purchases by the JCSS are not subject to Federal Excise Tax or State and Local Sales Tax. Tax Exemption Certificates will be furnished upon request.
- 14.11** Awards will be posted on the internet at Awarded solicitations on the Purchasing page. Go to www.jones.schooldesk.net. At the top is a list of "DEPARTMENTS", click on "FACILITIES AND OPERATIONS" "PURCHASING AND BID NOTICES".

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14.12 If after the award there is a decrease in the price of a product from the manufacturer, or a rebate, the successful supplier will pass that price decrease and/or rebate onto the JCSS.

15.0 **CONTRACT**

15.1 The Acknowledgement and Agreement form must be completed and returned with the proposal.

15.2 Supplier must be in full compliance with all applicable federal and state security and immigration laws including without limitation the Georgia Security and Immigration Compliance Act. Supplier is required to affirm Supplier's compliance by completing and returning the Georgia Security and Immigration Compliance Documents with the proposal.

15.3 **Entirety of Contract** – All JCSS documents issued in conjunction with this Solicitation including but not limited to the original Solicitation, subsequent addenda, clarification and supplier questions/answers as well as all JCSS accepted documents submitted in response to the solicitations, including any attachments and appendices are incorporated into the contract between JCSS and the Supplier and contain the entire agreement between the parties and supersedes all prior oral and written agreements and understandings between the parties with respect to the subject matter hereof. JCSS's award letter is expressly incorporated into the contract between the supplier and JCSS. If any language of the response submitted by the Supplier conflicts with language of the solicitations, the language of the solicitations shall govern and control for all purposes, unless consented to and agreed to by JCSS in writing.

15.4 If the Supplier has additional terms and conditions, including but not limited to a Supplier drafted contract or purchase order, that it is proposing, then the Supplier must disclose and submit those terms and conditions in writing for evaluation by the JCSS with its initial solicitations response. If the supplier objects to any term or condition in this Solicitation, then any such objection shall be clearly indicated in writing. If any of the supplier's proposed contract terms conflicts with any of JCSS's terms and conditions, then each and every term proposed by the supplier that is conflicting must be clearly identified separate from the contract in writing. JCSS is not under any obligation to consider any terms or conditions proposed by the supplier that are not included with the supplier's initial response and not disclosed in the manner as set forth in this paragraph. Further, unless expressly agreed to in writing by the JCSS, then JCSS will not be bound by any terms and conditions in any supplier contract, packaging, service catalogue, brochure, technical data sheet or other document

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which attempts to impose any conditions at variance with or in addition to the terms and conditions contained in the JCSS Solicitation, the JCSS purchase order related to this Solicitation or contract. Submitting terms and conditions that are considered by JCSS to be in conflict with JCSS terms and conditions may deem a supplier non-responsive.

15.5 Time is of the essence in this Contract.

15.6 Choice of Law and Venue – The Laws of the State of Georgia shall govern this contract in all respects. Under no circumstances shall any term or provision of this contract be governed by the Uniform Computer Information Transactions Act (UCITA), as that statute may be enacted in any state. Any lawsuit or other action based on claims arising from this contract shall be brought in a court or other forum of competent jurisdiction in Jones County, Georgia, with respect to any state action, and the Northern District of Georgia in Atlanta, Georgia, with respect to any federal action. Supplier agrees to pay for JCSS's costs, including any attorney's fees and expenses of litigation, incurred in any litigation should JCSS be a prevailing party. JCSS shall be considered to be a prevailing party if the supplier's lawsuit against JCSS is dismissed at any time for any reason, including a dismissal without prejudice, or if JCSS receives a jury verdict in its favor or an appellate decision in its favor.

16.0 SHIPPING

16.1 All prices are to include delivery to the location(s) specified in the solicitations or the Purchase Order. All delivery for goods must be FOB Destination, and no delivery dock unless specified otherwise in the Special Terms and Conditions, with delivery to the location specified by the JCSS.

16.2 Inside delivery is required for all goods. At no time should goods be left outside of any building. Suppliers are asked to be mindful of school arrival and dismissal times and avoid attempting delivery during those times. For large, heavy items, suppliers are encouraged to call ahead to the delivery location to give prior notice and ascertain any deliver details particular to that location (i.e. loading dock availability, which entrance provides access to loading dock, etc.).

16.3 If the goods/services have not been delivered/completed by the specified delivery date and no written extension of such delivery date has been granted by JCSS, JCSS reserves the right to cancel the purchase of the items/services and/or any other pending purchase orders to the same supplier and/or permanently remove the supplier from JCSS's Supplier List. If delivery of goods or services is not complete within the time specified, JCSS may, without liability and in

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addition to any other rights or remedies, terminate the agreement, by notice effective when received, as to goods or services not yet delivered or rendered. JCSS may purchase substitute goods or services elsewhere and charge supplier for any additional expense incurred.

17.0 INVOICING

- 17.1** Payment will be made by the JCSS after final delivery and acceptance of all items/services. However, final acceptance will not be made until after inspection and approval by the JCSS authorized representative. Acceptance of any part of the Order shall not bind JCSS to accept any future shipments nor deprive it of any right to return goods already accepted.
- 17.2** The successful supplier will be required to supply an original and one copy of each invoice. All invoices must reference the purchase order to which they pertain.
- 17.3** Prompt payment discounts offered for payment up to thirty (30) days will be taken.
- 17.4** No invoice will be processed for payment until such time as all contractual obligations have been met and/or items ordered have been received and approved by the JCSS authorized representative.
- 17.5** All invoices and/or financial correspondence should be directed to:

Wendy Collins
Jones County School System
125 Stewart Ave
Gray, GA 31032

18.0 COMPLIANCE

Final inspection of all products/services for acceptance or rejection will be made by JCSS. Final inspection resulting in acceptance or rejection of the products/services will be made as soon as practicable, but failure to inspect shall not be construed as a waiver by JCSS of its rights to reject such products/services or to claim reimbursement or damages for such products/services which are later found to be defective, not in conformance with the required specifications, or not to perform as claimed by the supplier.

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19.0 RIGHTS AND REMEDIES

- 19.1** As permitted by law, in lieu of canceling the purchase order, the JCSS may levy a charge if the successful supplier fails to deliver the item(s). Such charge is not a penalty, rather it is the agreed upon liquidated damages representing the estimated damages that will be incurred by the JCSS as a result of the supplier's failure to deliver the item(s) as required.

JCSS does not waive any of its rights under contract law. Supplier acknowledges and agrees that if the supplier breaches this agreement, then JCSS may cover such goods by contracting to purchase goods in substitution for those due from the seller. JCSS may recover from the supplier as damages the difference between the cost of cover and the contract price together with any incidental or consequential damages. Failure of the JCSS to effect cover does not bar it from any other remedy. In such circumstances that JCSS is not able to cover or chooses not to cover the goods purchased under this Solicitation, then the supplier acknowledges and agrees that JCSS can recover the difference between the market price of the goods at the time JCSS learned of the breach and the contract price of the goods, including any incidental and consequential damages. If JCSS has accepted non-conforming goods purchased under this Solicitation, then supplier acknowledges and agrees that JCSS can recover the value of the goods promised by the supplier and the value of the non-confirming goods provided. The foregoing remedies are not exclusive of any other remedies permitted to JCSS under Georgia law. Supplier acknowledges and agrees that JCSS is owed its reasonable attorney's fees and costs incurred with the exercise of its rights in connection with the foregoing remedies.

Partial completion on a purchase order will not exempt a supplier from this charge. JCSS further has the right after assessing such charge, after the continuing failure of the supplier to complete, to terminate the purchase order.

- 19.2 Warranty and Support Requirements** – The JCSS is not waiving, amending, or abridging any warranty rights/contractual rights provided to the JCSS under state or federal law. The JCSS is not bound by any terms or conditions in any supplier's contract, packaging, invoices, service catalogue, brochure, technical data sheet or other document which attempts to impose any conditions that waive, amend, abridge, abrogate, are in conflict with or are in addition to JCSS's contractual rights as provided under state or federal law. In addition to the foregoing warranty and contractual rights of the JCSS, the Supplier further warrants and agrees as follows:

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- 19.2.1** Any good(s) purchased under this contract will be defect free in materials and workmanship and be of the quality, size and dimensions ordered. The packaging, packing, marking, and shipping of such goods will conform to the requirements of this solicitations and as set forth in supplier's response. This express warranty shall not be waived by reason of acceptance of the goods or payment thereof by JCSS.
- 19.2.2** For Goods: Upon request by JCSS, the Supplier further agrees to immediately correct, without charge to JCSS, any defects in the goods, which develop during the life of the warranty after acceptance and payment by JCSS. Supplier further agrees to indemnify JCSS against damages of any sort resulting from faulty workmanship or materials by Supplier while performing any warranty or guaranty work hereunder (or by any third party performing such work for and on behalf of Supplier). Any goods or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as goods initially delivered.
- 19.2.3** For Goods: Supplier is fully aware of JCSS's business requirements and intended uses of the product(s) and warrants that the product(s) shall be fit for such intended uses.
- 19.2.4** JCSS shall give written notice to the Supplier of any breach of warranties in this section and such notice shall contain information concerning the deficiencies found, the location of the nonconforming good(s), and the quantity involved, including JCSS's notification of the remedy for the non-conforming or defective good(s).

20.0 **TERMINATION**

- 20.1** If the JCSS or the successful supplier(s) wish to cancel this contract following award, written notice thirty (30) days in advance will be required of either party. JCSS reserves the right to terminate the contractual relationship with Supplier at any time without cause and without penalty on 30 days' written notice to Supplier. JCSS shall pay supplier for the work performed prior to the date of notice of termination. Supplier shall not be paid for any work performed or incurred after the receipt of the notice of termination, nor for costs incurred by its suppliers. In addition, JCSS may terminate the contract with Supplier in the event Supplier breaches any of its duties and obligations under this contract and Supplier fails to cure such breach within thirty (30) days after receiving notice from JCSS specifying the breach.

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20.2 The rights and remedies of JCSS as stated above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

20.3 To terminate the agreement pursuant to O.C.G.A. § 20-2-506, JCSS must give notice to the supplier at least thirty (30) days prior to the end of each calendar year during the term of this Agreement.

Further and pursuant to O.C.G.A. § 20-2-506, in the event appropriated funds are determined no longer to exist or to be insufficient for purposes of fulfilling JCSS's obligations hereunder, JCSS may terminate this Agreement by providing thirty (30) days written notice of termination to the supplier. Notice of termination shall include a certification by JCSS of the unavailability or insufficiency of funding, and such certification shall constitute an agreement by JCSS not to replace the services covered hereunder in whole or in part with any service obtained from a provider other than the supplier before the earlier of the end of the calendar year following the year in which the notification of such certification is received by the supplier or the date this Agreement expires on its own terms, whichever first occurs. JCSS shall be obligated for payments to the supplier through the date of termination.

20.4 Termination for Cause – The occurrence of any one or more of the following events shall constitute cause for JCSS to declare the Supplier in default of its obligations under the contract:

20.4.1 The Supplier fails to deliver or has delivered nonconforming goods or services or fails to perform, to JCSS's satisfaction, any material requirement of the contract or is in violation of a material provision of the contract, including, but without limitation, the express warranties made by the Supplier;

20.4.2 JCSS determines that satisfactory performance of the contract is substantially endangered or that a default is likely to occur;

20.4.3 The Supplier fails to make substantial and timely progress toward performance of the contract;

20.4.4 The Supplier becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Supplier terminates or suspends its business; or JCSS reasonably believes that the Supplier has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

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- 20.4.5** The Supplier has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the contract;
- 20.4.6** The Supplier has engaged in conduct that has or may expose the JCSS to liability, as determined in the JCSS's sole discretion; or
- 20.4.7** The Supplier has infringed on a patent, trademark, copyright, trade dress or any other intellectual property rights of a third party.
- 20.4.8 Notice of Default** – If there is a default event caused by the Supplier, JCSS shall provide written notice to the Supplier requesting that the breach or noncompliance be remedied within the period of time specified in JCSS's written notice to the Supplier. If the breach or noncompliance is not remedied within the period of time specified in the written notice, then JCSS may:
- 20.4.8.1** Immediately terminate the contract without additional written notice; and/or
 - 20.4.8.2** Procure substitute goods or services from another source and charge the difference between the contract and the substitute contract to the defaulting Supplier including without limitation offsetting amounts owed by JCSS to the Supplier by such charges; and/or,
 - 20.4.8.3** Enforce the terms and conditions of the contract and seek any legal or equitable remedies.

21.0 NO ASSIGNMENT, DELEGATION, OR SUBCONTRACT WITHOUT DISTRICT CONSENT

Except as may be specifically permitted by the solicitations, Supplier shall not delegate, subcontract, assign or otherwise permit anyone other than Supplier personnel to perform any of the work and/or provide any of the services required of Supplier under this Contract, or assign any of its rights or obligations hereunder, without the prior written consent of JCSS, which consent may be withheld by JCSS in its sole discretion.

No subcontract, which Supplier enters into with respect to the performance of work and/or provision of services under this Contract, shall in any way relieve Supplier of any responsibility for any performance or obligation required of it by this Contract. Supplier hereby accepts responsibility for ensuring that **all** subcontractors who perform any of the services under this Contract also comply with the terms and conditions of this Contract; and Supplier expressly agrees to indemnify and hold harmless JCSS from any and all claims, demands, liabilities, losses, damages, costs and expenses which result

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from any failure by any such subcontractor to comply with any of the terms and conditions of this Contract. Supplier shall give JCSS immediate notice in writing by registered or certified mail of any claim, action or suit filed against Supplier by any subcontractor, and prompt notice of any claim made against Supplier or any subcontractor, which may result in litigation, related in any way to this Contract.

Supplier must notify JCSS of all subcontractors used to fulfill this contract, including those contracted by their agents (such as delivery services). JCSS reserves the right to require that a subcontractor be removed from the contract.

22.0 TAXES

Supplier will timely pay all taxes lawfully imposed upon Supplier with respect to this Contract. Supplier makes no representation whatsoever regarding any tax liability of Supplier, nor regarding any exemption from tax liability related to this Contract.

23.0 SURVIVAL OF REPRESENTATIONS

The provisions, representations and warranties contained in this contract shall survive the delivery of all components procured hereunder and the payment of fees therefore and any termination of this contract in accordance with their respective terms and conditions.

24.0 RELATIONSHIP OF PARTIES

This contract is not intended by the parties to constitute or create a joint venture, pooling arrangement, partnership or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth herein. The Supplier shall be deemed an independent contractor, and the employees and agents of the Supplier shall not be deemed to be the employees or agents of JCSS. JCSS is not responsible for the payment of any taxes, insurance or benefits on behalf of the firm's employees.

25.0 SEVERABILITY

Any section, subsection, paragraph, term, condition, provision or other part of this contract which is held, found or declared to be voidable, void, invalid, illegal or otherwise not fully enforceable shall not void any other section, subsection, paragraph, term, condition, provision or part of this contract, and the remainder of this contract shall continue to be of full force and effect. Any agreement of the parties to amend, modify, eliminate or otherwise change any section, subsection, paragraph, term,

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condition, provision or other term of this Contract shall not affect any other section, subsection, paragraph, term, condition, provision or part of the contract, and the remainder of this contract shall continue to be of full force and effect.

26.0 WAIVERS

The failure of either party to assert any claim or right against the other party regarding its obligations hereunder, in any one or more instances, shall not constitute a waiver of such claim or right with respect to future performance of such obligations and other obligations under this contract.

27.0 PUBLICITY

Supplier shall not prepare or disseminate any publicity relating to this contract, products sold or licensed, or the services performed under this contract without express written prior consent of JCSS. As used in this section, the term “publicity” includes but is not limited to advertisements, flyers, public announcements, pamphlets, press releases, reports, books, broadcasts, signs and similar public information.

28.0 SUPPLIER EMPLOYEES ON JCSS PROPERTY

28.1 All Supplier employees, agents and subcontractors working on JCSS property must wear ID, preferably a photo ID, and be neat and clean in appearance, and must comply with all of the policies and procedures related to on-campus work that are in effect at the school or administrative site, as the case may be. All Supplier employees should conduct themselves in a professional manner and should not give the appearance of fraternizing with staff or students. Supplier shall provide and institute necessary security measures to prevent **unauthorized** access to any and all computer networks and proprietary information, trade secrets or student information of JCSS by any of its employees or agents, and Supplier shall be liable and responsible to JCSS for any and all security breaches by its employees or agents. All Supplier employees should conduct themselves in a professional manner and should not give the appearance of fraternizing with the students and teachers.

28.2 JCSS is a Drug Free Workplace – By submission of a response to the solicitations, the supplier certifies that employees, agents, and subcontractors will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of controlled substance or drugs on the JCSS property during the performance of the contract.

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- 28.3** JCSS is a Smoke Free Workplace – By submission of a response to the solicitations, supplier certifies that employees, agents, and subcontractors will not use tobacco products on school property at any time during the performance of the contract.
- 28.4** JCSS reserves the right to request the removal of any supplier employees, agents, or subcontractors from JCSS property.

29.0 **AMENDMENTS IN WRITING**

No amendment of any term or condition contained in this contract, including the solicitations and Supplier's Response shall be effective unless it is in writing and signed by duly authorized representatives of the parties. No representation, request, instruction, directive or order, made or given by any official, employee or agent of JCSS, whether verbal or written, shall be effective to amend this agreement or excuse or modify performance hereunder unless reduced to a formal amendment and executed as set forth above. Supplier shall not be entitled to rely on any such representation, request, instruction, directive or order and shall not, under any circumstances whatsoever, be entitled to additional compensation, delay in performance or other benefit claimed for relying upon or responding to any such representation, request, instruction, directive or order.

30.0 **PARTIES BOUND**

This contract shall be binding on and inure to the benefit of the parties to this contract and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

31.0 **INDEMNIFICATION**

Supplier hereby waives, releases, relinquishes, discharges and agrees to indemnify, protect and save harmless members of the Board of Education (BOE), the JCSS and its officers, agents and employees (hereinafter collectively referred to as "Indemnities"), of and from any and all claims, demands, liabilities, loss, costs or expenses for any loss or damage (including but not limited to reasonable attorneys' fees) growing out of, or otherwise occurring in connection with this contract, due to any act or omission on the part of Supplier, its agents, employees, subcontractors, or others working at the direction of Supplier or on its behalf; or due to any breach of this contract by Supplier; or due to the application or violation of any pertinent Federal, State or local law, rule or regulation by Supplier, its agents, employees, subcontractors, or others working at the direction of Supplier or on its behalf.

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As permitted by Georgia law, this indemnification shall apply notwithstanding the fact that the Indemnities may be partially responsible for the situation giving rise to the claim. This indemnification shall apply notwithstanding the fact that a claim results in a monetary obligation that exceeds any contractual commitment. This indemnification shall not apply if the situation giving rise to the claim results solely from the negligence or willful acts of Indemnities.

This indemnification extends to the successors and assigns of the Supplier, and this indemnification and release survives the duration of this contract, the termination of this contract and the dissolution or, to the extent allowed by law, the bankruptcy of the Supplier.

Supplier shall, at its expense, be entitled to and shall have the duty to participate in the defense of any suit against the Indemnities. No settlement or compromise of any claim, loss or damage asserted against Indemnities shall be binding upon Indemnities unless expressly approved by the Indemnities.

32.0 COMPLIANCE WITH LAWS

32.1 Supplier shall, at its own expense, obtain all necessary permits, give all notices, pay all license fees and taxes, and comply with all applicable local, State and Federal Laws, ordinances, rules and regulations in connection with its performance under this contract.

32.2 Supplier further agrees that in the performance of the contract, it will comply with all laws, regulations, rules and policies that may apply to public education in general and the operation of the JCSS in particular.

33.0 INSURANCE REQUIREMENTS

Please see JCSS edocument for Insurance Requirements specific to this Solicitation.

34.0 BACKGROUND CHECKS

JCSS requires supplier, at supplier's cost, to perform background checks on any employee or subcontractor who will be working on JCSS property (delivery personnel excluded). A Comprehensive criminal history background check to include both Georgia Crime Information Center (GCIC) and National Crime Information Center (NCIC) is required on each applicant assigned to JCSS. Minimum findings that warrant exclusion include:

- Any felony conviction
- Any drug conviction

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- Any crime against children
- Any sex-related conviction

Background checks must be provided to the JCSS Human Resources Department upon request by the JCSS. Supplier agrees to comply with any request from the JCSS to remove any supplier employee from JCSS property. Supplier agrees to cooperate with the JCSS to the fullest extent practicable in any investigation of any actual or alleged misconduct of any supplier employee in connection with any activity arising out of this Agreement.

Please note: It is preferred that all necessary checks be completed prior to employee beginning work. If business demands warrant assignment before the check is completed, then it is acceptable for employee to begin assignment as long as the background check is in progress and the application for employment does not list offenses of any type. JCSS must be informed of any employee assigned without completed background check and the results must be on file with supplier within 30 days.

35.0 POTENTIAL SMALL BUSINESSES, MINORITY AND WOMEN’S BUSINESS ENTERPRISES

It is the intent of the JCSS to provide maximum practicable opportunities in its Solicitations to small businesses, minority firms, women’s enterprises and labor surplus area firms.

36.0 BUY AMERICAN POLICY

The Federal “Buy American” Policy mandates that school districts participating in the National School Lunch Program purchase only food products that are produced in the United States, whenever possible. Additionally, suppliers must be able to provide documentation verifying domestic origin of products, if requested.

37.0 COMPLIANCE WITH FEDERAL LAWS

All suppliers must comply with all applicable federal laws including without limitation:

- 37.1** Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000.)

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37.2 Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000.)

38.0 **SPECIAL TERMS AND CONDITIONS**

Should these JCSS Standard Terms and Conditions be in conflict with the attached Special Terms and Conditions, the Special Terms and Conditions will control.

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Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of Jones County School System has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Jones County Schools

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, ____, 201__ in _____(city), _____(state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME

ON THIS THE _____ DAY OF _____, 201__.

NOTARY PUBLIC

My Commission Expires:_____