

# Supplier Approval Packet

## Summary Page

### Procurement Policies & Procedures:

- I. Sybase's Purchasing policy requires that all suppliers complete a Supplier Approval Packet. To become an established supplier, prospective vendors must complete the following attached documents: Supplier Information Data Sheet, Business Classification Checklist (U.S. companies only), Sybase's Terms and Conditions of Purchase, and W-9 (U.S. companies only) as soon as possible, and return them to Sybase Worldwide Purchasing Department One Sybase Drive, Dublin, CA, 94568, Attn: Purchasing. Additional documentation is required for Contract Firms, Consulting Companies, Independent Consultants, Contractors, Temporary Employment Agencies, and Personnel Services (*\*see the box below for explanation*). **If these forms are not returned, your company cannot be set up for approved Sybase supplier status. This will delay order placement and payment of orders. NO Sybase purchase order will be placed, or a check issued to a supplier that has not completed a Supplier Approval Packet.**
- II. Supplier invoices must track Sybase Purchase Orders on a line item level as specified in the Terms and Conditions of Purchase. Specifically, invoices must specify line item number, price, quantity, and description as they appear on the Purchase Order. Invoices, that do not match the Purchase Order will be processed as exceptions which can delay payment. Also, tax will no longer be included on Purchase Orders. Suppliers should include relevant tax information on all invoices.
- III. **Sybase will no longer accept Supplier invoices, that do not reference a valid Purchase Order number. Therefore, a valid Purchase Order number will be required for all Sybase purchases over \$1,500. Purchases under \$1,500 should be made using a Sybase Procard. Supplier invoices received in our Accounts Payable Department not including a valid Sybase Purchase Order number will be returned unpaid.**
- IV. Standard invoicing terms are as follows unless pre-negotiated with an authorized Sybase Purchasing Department representative:

|                       |             |                       |         |
|-----------------------|-------------|-----------------------|---------|
| <b>Payment Terms:</b> | Net 45      | <b>Ship Via:</b>      | Bestway |
| <b>FOB:</b>           | Destination | <b>Freight Terms:</b> | Prepaid |

### **\*Contract Firms, Consulting companies, Independent Consultants, Contractors, Temporary Employment Agencies, and Personnel Services**

- Contract Firms (Consulting Companies) - In addition to the Supplier Approval Packet the following documents are also required which include but are not limited to:
  - An executed Sybase Consulting Firm and Independent Contractor Agreement with a Scope of Work attached.
  - If services will be performed on-site or require systems access, stop here and please contact Purchasing at (925) 236-8484.
- Temporary Employment Agencies & Third Party Consulting Firm Agreement (providing on-site personnel) - In addition to the Supplier Approval Packet the following documents are also required which include but are not limited to:
  - An Agency Agreement
  - An executed Sybase NondisclosureNOTE: This requires approval by authorized personnel from Sybase Human Resources Department.
- Independent Contractors (Independent Consultants) (ICs) – Are defined as an individual or small business that has been contracted to perform a specific task on a project by project basis. An IC is usually identified by a Social Security number instead of a Tax Identification Number (TIN) on the Form W-9. In addition to the Supplier Approval Packet, ICs are expected to comply with Sybase's Human Resources (HR) guidelines. ICs are required to provide the following documents, which include but are not limited to:
  - An executed Sybase Independent Contractor Agreement with a completed Scope of Work attached.
  - Business License\*
  - Evidence of tax filings
  - Evidence of Workers' Compensation Coverage and Commercial Liability Insurance\*
  - Sybase Non-Employee Application
  - Background Check\*
  - Completed Independent Contractor questionnaire\*Not required if Independent Contractor is providing services off-site.

If you fit under any of these descriptions, or a combination of, please call (925) 236-8484 and request the additional documentation to complete your Supplier Approval Packet. When you have completed the Supplier Approval Packet and/or Consulting Firm Agreement, please forward all forms to Sybase, Inc. Purchasing Department. A Human Resources Representative will contact you for any pertinent supporting documentation or additional information if required.

Please fax or mail the Supplier Approval Packet to: **Sybase, Inc., Worldwide Purchasing Department, One Sybase Drive, Dublin, CA 94568**  
**Attn: Purchasing, FAX: (925) 236-4469.**

**SUPPLIER INFORMATION  
DATA SHEET**

**Operating or dba Name:** \_\_\_\_\_

**Legal or Parent Name:** \_\_\_\_\_

Names of any other Subsidiaries or Divisions (if applicable):  
\_\_\_\_\_  
\_\_\_\_\_

Dun & Bradstreet Number (if applicable): \_\_\_\_\_ Number of years in business \_\_\_\_\_

Number of full-time employees you W-2 in your company: \_\_\_\_\_ Total number of Employees: \_\_\_\_\_

SBA Certified?  Y  N Date of Certification Letter \_\_\_\_\_ HUBZone Eligible? \_\_\_\_\_  
(circle one) (Reference page 3 for more information)

**Your Sybase Employee Contact Name:** \_\_\_\_\_ **Ext.** \_\_\_\_\_

**ADDRESS INFORMATION**

*If your Remit to address is different from Part A (Order From), please complete Part B (Remit To).*

**PART A (Order From)**

**PART B (Remit To)**

|                            |                         |
|----------------------------|-------------------------|
| Address:                   | Address:                |
| City:                      | City:                   |
| State/Country/Province:    | State/Country/Province: |
| Zip/Postal Code:           | Zip/Postal Code:        |
| Phone Number:              |                         |
| Fax Number:                |                         |
| Contact & phone extension: |                         |
| Title:                     |                         |
| Email address:             |                         |

**CUSTOMER REFERENCES:**

| 1.            | 2.            | 3.            |
|---------------|---------------|---------------|
| Company Name: | Company Name: | Company Name: |
| Street:       | Street:       | Street:       |
| City:         | City:         | City:         |
| State & Zip:  | State & Zip:  | State & Zip:  |
| Phone Number: | Phone Number: | Phone Number: |
| Contact:      | Contact:      | Contact:      |

**FOR SYBASE, INC. USE ONLY**

|                   |                  |             |                     |   |              |             |                        |
|-------------------|------------------|-------------|---------------------|---|--------------|-------------|------------------------|
| <b>Commodity:</b> | <b>Ship Via:</b> | <b>FOB:</b> | <b>Frght Terms:</b> | <b>Certification Level:</b><br><b>Purchasing Rep:</b> | <b>VID#:</b> | <b>Loc#</b> | <b>Entry Date: By:</b> |
|-------------------|------------------|-------------|---------------------|---|--------------|-------------|------------------------|

## BUSINESS CLASSIFICATION STANDING

The U.S. Federal Government requires that this document be completed as accurately as possible by U.S. companies only. Please check all that apply and sign where appropriate.

### SMALL BUSINESS CONCERN

Pursuant to the Small Business Act Section 3, "A small business concern for the purpose of this certification is a concern, including its affiliates, which is independently owned and operated, it is not dominant in the field of operation in which it is competing on Government contracts, and can further qualify under the criteria, as prescribed by the Small Business Administration." (See code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.)

### SMALL DISADVANTAGED BUSINESS CONCERN

A Small Business Concern:

- 1) Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals, and...
- 2) Whose management and daily business operations are controlled by one or more of such individuals; or
- 3) A business concern that is owned at least 51 percent by an economically disadvantaged Indian Tribe or Native Hawaiian organization.

The contractor may presume that socially and economically disadvantaged individuals include Black Americans, Native Americans, Hispanic Americans, Asian-Pacific Americans, Subcontinent-Asian American, or any other individual found to be disadvantaged by the Small Business Administration pursuant to section 8 (a) of the Small Business Act.

### SMALL WOMAN-OWNED BUSINESS CONCERN

A Small Business Concern that is at least 51 percent owned by a woman or women who also control and operate it.

Controlled in this context means exercising the power to make policy decisions. Operate in the context means being actively involved in the day-to-day management.

### GOVERNMENT OR NON-PROFIT (None of the above categories apply)

### HUBZONE SMALL BUSINESS (STATE & COUNTY)

- 1) Included in the Small Business Reauthorization Act of 1997.
- 2) To provide federal contracting opportunities for certain qualified small business concerns located in distressed communities in an effort to promote private sector investment and employment opportunities in these communities.
- 3) A HUBZone is an area that is located in one or more of the following:
  - A qualified census tract (as defined in section 42 (d)(5)(C)(I)(1) of the IRS code of 1986)
  - A qualified "non-metropolitan county" that is: not located in metropolitan statistical area (as defined in section 143(k)(2)(B) of the IRS code of 1986), and
    - in which the median household income is less than 80% of the non-metropolitan State median household income, or
    - that based on the most recent data available from the Secretary of Labor, has an unemployment rate that is not less than 140% that statewide average unemployment rate for the State in which the county is located;
  - Lands within the external boundaries of an Indian reservation.
- 4) To qualify as a HUBZone small business:
  - Business must be located in an "historically underutilized business zone" (HUBZone)
  - Owned and controlled by one or more U.S. Citizens
  - At least 35% of its employees reside in a HUBZone
  - Be a small business

### VETERAN-OWNED SMALL BUSINESS CONCERNS

### SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS

### LARGE BUSINESS CONCERNS (None of the above categories apply)

#### PENALTY FOR FALSE MISREPRESENTATION

The Federal Acquisition Regulation 52.219-1© sets the penalties for false certification.

Under 15 USC 645(d), any person who misrepresents a firm's status as a small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9 or 15, of the Small Business Act or any other provisions of Federal Law that specifically references section 8(d) for a definition of program eligibility, shall –

1. Be punished by imposition of fine, imprisonment, or both;
2. Be subject to administrative remedies, including suspension and debarment; and
3. Be ineligible for participation in programs conducted under the authority of the Act.

Date

Signature of Authorized Rep.

Company Name

Print Name and Title

GOVERNMENT REQUIRED TERMS

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES.

A Certification of Nonsegregated Facilities must be submitted before the award of subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The Certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

EQUAL OPPORTUNITY (Apr. 1984)

- A) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000 the contractor shall comply with subparagraph B(1) through B(11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.
- B) During performance of this contract, the Contractor agrees as follows:
1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
  2. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (I) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.
  3. The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
  4. The Contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
  5. The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers: representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
  6. The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
  7. The contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EED-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.
  8. The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.
  9. If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulations, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
  10. The Contractor shall include the terms and conditions of subparagraph (B)(1) through B(11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor, issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.
  11. The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor, or vendor, as a result of any direction, the Contractor may request the United States to enter the litigation to protect the interests of the United States.
- C) Notwithstanding any other clause in the contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

## SYBASE'S TERMS AND CONDITIONS OF PURCHASE

1. **PRICES:** Acceptance of these terms and conditions constitutes Supplier's warranty that the prices to be charged for goods and services ordered will not exceed the lowest price charged by Supplier to any other customer for similar quantities and delivery requirements.
2. **INVOICES:** Supplier's invoices shall specify the following information with respect to each Sybase purchase order: (a) purchase order number, (b) purchase order line item number, (c) all applicable taxes, (d) extended totals, and (e) any other relevant information which has been specifically requested by Sybase, or is required herein. A bill of lading or express receipt must accompany each invoice. Payment of invoices will not constitute acceptance of goods and invoices shall remain subject to adjustment for errors, shortages, defects in goods or other failure of Supplier to meet the requirements of any purchase order or these terms and conditions. Sybase shall reserve the right to offset any amount owed by Sybase to Supplier against any amount owed by Supplier to Sybase.
3. **DISCOUNTS; PAYMENT TERMS:** Any time period specified for discounts offered by Supplier will be computed from the latest of (a) the scheduled delivery date, (b) the date of actual delivery, or (c) the date an acceptable invoice is received. Payment terms will be net 45 days, unless otherwise agreed by the parties.
4. **OVERSHIPMENTS:** Sybase will pay only for maximum quantities ordered. Overshipments will be held by Sybase at Supplier's risk and expense for a reasonable time pending return. Return shipping charges for excess quantities will be at Supplier's expense. If no arrangements are made by Supplier for the return of any overshipped goods within a reasonable time, Sybase shall have the right to dispose of such goods in a commercially reasonable manner.
5. **PACKING AND SHIPMENT:** Unless otherwise specified, when Supplier's price is based on the weight of goods ordered, such price shall cover only the net weight of the goods and shall not include charges for packing, handling, transportation, storage or other items. Unless otherwise specified, Supplier will package and pack all goods in a manner which is (a) in accordance with good commercial practice, (b) acceptable to common carriers for shipment at the lowest rate for the particular goods, (c) in accordance with I.C.C. and all other applicable laws and regulations, and (d) adequate to insure safe arrival of the goods at the named destination. Supplier will mark all containers with necessary lifting, handling, and shipping information and with Sybase purchase order numbers, date of shipment, and the names of the consignee and consignor. An itemized packing list shall accompany each shipment. No partial or complete delivery will be made prior to the due date shown without Sybase's prior consent.
6. **F.O.B. DESTINATION:** Unless otherwise specifically agreed, products ordered hereunder shall be delivered F.O.B., Destination. Freight to be prepaid by Supplier and added to the invoice unless otherwise specified.
7. **WARRANTY:** Supplier warrants that all goods delivered will (a) be free from defects in design, workmanship, material, and manufacture, and (b) will meet the requirements of each purchase order, and conform to any samples, drawings or specifications furnished by Supplier. Supplier further warrants that all goods purchased hereunder will be of merchantable quality and will be fit for the particular purposes specified by Sybase. The foregoing warranties constitute conditions to each purchase order, and are in addition to all other warranties, whether express or implied, and will survive any delivery, inspection, acceptance or payment by Sybase. If any goods delivered do not meet the warranties specified herein or otherwise provided by applicable law, Sybase may, at its option (i) require Supplier to correct any defective or nonconforming goods by repair or replacement at no cost to Sybase, or (ii) return such defective or nonconforming goods to Supplier at Supplier's expense and recover from Supplier the purchase price paid.
8. **YEAR 2000 WARRANTY:** Supplier certifies that any product supplied by Supplier to Sybase when used in accordance with its associated documentation shall: a) accurately receive, respond to, operate upon, interpret, manage, manipulate and process (including calculating, comparing, and sequencing) date/time data before, during and after the calendar year January 1, 2000, including leap year calculations; b) function accurately and without interruption before, during and after January 1, 2000 without any change in operations associated with the advent of a new century; and c) respond to two (2) digit year date input in a way that resolves the ambiguity as to century in a disclosed, defined and predetermined manner. The ability of a product to comply with the above Year 2000 certification is dependent upon the receipt of correctly processed and transmitted data from and by all non-Supplier supplied products that Sybase uses in connection with Supplier's product. Definition: "product" shall mean any software, hardware, circuit, chip, controller and/or other component that is capable of processing information.
9. **INSPECTION AND ACCEPTANCE:** Notwithstanding any prior inspection or payments, all goods will be subject to final inspection and acceptance by Sybase within a reasonable time after delivery. Sybase will have the right, at its option, to reject nonconforming goods, require that they be repaired or corrected at Supplier's expense, or accept them subject to an adjustment in price. If Supplier fails promptly to replace or correct any nonconforming goods following Sybase's request, Sybase may without further notice, cancel the relevant purchase order in accordance with Section 10 below.
10. **CHANGE ORDERS:** At any time prior to shipment or performance by Supplier, Sybase may postpone or cancel performance, increase or decrease quantities ordered, extend or shorten delivery dates, specify changes in applicable drawings, designs or specifications, or specify changes in method of shipment or packing and/or place of delivery. If any changes specified by Sybase result in an increase in cost or time required by Supplier for performance, and Supplier so notifies Sybase in writing, then appropriate adjustments will be made to the relevant purchase orders. Unless otherwise agreed in writing by Sybase, no claim by Supplier for any such adjustment will be honored unless asserted within twenty (20) days from the date of receipt by Sybase of the notification of change.
11. **CANCELLATION FOR DEFAULT:** Time is of the essence in the fulfillment of all purchase orders placed and of each and every term and condition set forth herein. Sybase may, by written notice, cancel any purchase order in whole or in part if Supplier has failed to make timely delivery of goods, or to timely perform services or any other provision of a purchase order within five (5) days of written notice from Sybase. If any purchase order is canceled due to Supplier's default, Sybase may procure substitute goods or services and Supplier shall be liable to Sybase for any excess cost incurred by Sybase as a result. If all or a portion of any purchase order is canceled due to Supplier's default, Sybase may require Supplier to transfer title and to deliver to Sybase, in a manner and to the extent directed by Sybase, (a) all completed items not yet delivered, and (b) any partially completed goods or materials that Supplier has produced or acquired for the performance of the terminated portion. Payment for completed items delivered to and accepted by Sybase under this Section will be in an amount (not to exceed the contract price) agreed upon by Supplier and Sybase.
12. **TERMINATION FOR CONVENIENCE:** Sybase may wholly or partially terminate for convenience any purchase order upon reasonable written notice to Supplier as follows: (a) in the event the goods or services specified in such terminated purchase order have not been customized for Sybase, then Supplier shall immediately cancel the unfulfilled portion of such purchase order and Sybase shall not be liable for any costs associated with such termination, except for amounts then due and owing for the completed portion of the purchase order; and (b) in the event the goods or services have been customized for Sybase use, then upon such termination, Supplier will, to the extent and at the times specified by Sybase, cease all work pursuant to the relevant purchase order, place no further orders for materials to complete the work, assign to Sybase all of Supplier's interests under terminated subcontracts and orders, settle all claims thereunder after obtaining Sybase's approval, protect all property in which Sybase has or may acquire an interest, and transfer title and make delivery to Sybase of all articles, materials, work in process, and other things held or acquired by Supplier in connection with the terminated portion of the purchase order. Supplier will proceed promptly to comply with Sybase's instructions respecting each of the foregoing without awaiting settlement or payment of its termination claim. Within six (6) months after such termination pursuant to subsection (b), Supplier may submit to Sybase its written claim for termination charges, in the form and with the certifications prescribed by Sybase. Failure to submit the claim within such time will constitute a waiver of all claims and a release of all Sybase's liability arising out of the termination. The parties may agree upon the amount to be paid to Supplier for such termination. If they fail to agree, Sybase will pay Supplier the following amounts: (i) the unpaid contract price for all items completed or services rendered in

accordance with the relevant purchase order; (ii) the actual costs incurred by Supplier which are properly allocable under recognized commercial accounting practices to the terminated portion of such purchase order; (iii) a fair and reasonable profit on such costs (unless it can be shown that Supplier would have sustained a loss on the order, in which case an adjustment will be made reducing the amount of the settlement to reflect such loss); and (iv) the reasonable costs incurred by Supplier in making settlement hereunder and in protecting property in which Sybase has or may acquire an interest. Payments made under subsections (i) and (ii) above may not exceed the aggregate price specified in the relevant purchase order less payment otherwise made or to be made. Any amounts payable for property lost, damaged, stolen or destroyed prior to delivery to Sybase will be excluded from amounts otherwise payable to Supplier under this Section 11.

13. RISK OF LOSS OR DAMAGE: Supplier will bear all risk of loss, damage or destruction to any goods which are rejected by Sybase and are held or designated by Sybase for return to Supplier. Sybase, however, will be responsible for any loss to such goods which is caused by the gross negligence of its employees acting within the scope of their employment.

14. WAIVER: Any failure by Sybase to enforce any of these terms and conditions with respect to any purchase order, or to exercise any election or option provided herein, or to require at any time the performance by Supplier of any of the provisions herein, shall not be construed to constitute a waiver of any such provisions.

15. REMEDIES AND LIMITATION OF LIABILITY: Any remedies stated herein are in addition to all other remedies which Sybase may have at law or in equity. In the event of a breach by Sybase of its obligations hereunder, Supplier's remedies shall be limited to money damages in an amount not to exceed the price of the goods or services set forth in the relevant purchase order (and schedules thereto). IN NO EVENT SHALL SYBASE BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. THIS LIMITATION SHALL APPLY WHETHER OR NOT THE ALLEGED BREACH BY SYBASE IS A BREACH OF A CONDITION OR FUNDAMENTAL TERM OR A FUNDAMENTAL BREACH.

16. INDEMNIFICATION: Supplier agrees to indemnify and hold harmless Sybase, its agents, customers, successors, and assigns against any and all loss, damage, liability, judgment, cost (including attorneys' fees and costs), and any other expense of any kind or nature arising from the actual or alleged infringement of any patent, copyright or trademark arising out of the use or sale of the goods by Sybase, its agents or customers. Supplier further agrees to indemnify Sybase against any and all loss, damage, liability, judgment, cost (including attorneys' fees and costs), and any other expense of any kind or nature (including damages for personal injury, death and property casualty) arising from any alleged defect in the goods, whether latent or patent, including allegedly improper construction and design, or from the failure of the goods to comply with specifications. Supplier represents and warrants that there will be no liability for royalties, mechanics' liens or other encumbrances on the goods or services supplied, and agrees to indemnify and will hold Sybase harmless against any such liabilities. The above indemnifications are not exclusive and are in addition to any other indemnification which Sybase may seek in law or equity.

17. NONDISCLOSURE OF CONFIDENTIAL MATTER: Supplier will not disclose to any third party, without Sybase's written authorization, any Confidential Information (as defined below), or any information regarding any purchase order (including information regarding goods or services purchased, price, discounts or any other terms), or these terms and conditions. "Confidential Information" shall include, without limitation, all specifications, drawings, samples, and other data furnished by Sybase and designated by Sybase as confidential or reasonably known to Supplier to be confidential. Confidential Information will remain the property of Sybase at all times, and will be returned to Sybase promptly on request.

18. ASSIGNMENTS: Supplier acknowledges that Sybase is relying on Supplier's particular skills, expertise and reputation in its business. Accordingly, no right or obligation under any relevant purchase order (including the right to receive moneys due) may be assigned by Supplier, by operation of law or otherwise, without the prior written consent of Sybase, and purported assignment without such consent will be void. Sybase may assign this purchase order at any time if such assignment is considered necessary by Sybase in connection with a sale of Sybase's business or assets or a transfer of its obligations.

19. NOTICE OF DELAYS: Whenever any event delays or threatens to delay the timely performance of this purchase order, Supplier will immediately notify Sybase of such event and furnish all relevant details. Receipt by Sybase of such notice will not constitute a waiver of the due dates hereunder. No delay, failure or default in performance of any obligation by either party shall constitute a breach of this Agreement to the extent caused by force majeure.

20. GOVERNMENT CONTRACTS: If this purchase order is issued for any purpose that is either directly or indirectly connected with the performance of a prime contract with the government or a subcontract thereunder, the terms that the Armed Service Procurement Regulation or other appropriate regulations required to be inserted in contracts or subcontracts will be deemed to apply to all relevant purchase orders.

21. LAW: Supplier agrees to comply with all applicable laws including, if appropriate, Executive Order 11246, as amended, 38 U.S.C. 2012 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 and Section 503 of the Rehabilitation Act of 1973, as amended, and the regulations at 41 CFR Parts 60-1 through 60-60, 60-250 and 60-741. These terms and conditions and all purchase orders will be governed by and construed in accordance with the laws of the State of California.

22. SEVERABILITY; WAIVER: If any provision of these terms and conditions is held to be unenforceable, the parties shall substitute for the affected provision an enforceable provision which approximates the intent and economic effect of the affected provision. The failure or delay by Sybase to enforce any of these terms and conditions, or the terms of any purchase order, shall not be construed as a waiver of the same.

23. ENTIRE AGREEMENT: These terms and conditions constitute the entire agreement of the parties and supersede all prior and contemporaneous communications, representations, or agreements with respect to the subject matter hereof. Unless otherwise specifically agreed in writing, other terms, including pre-printed terms on or attached to any Supplier invoice or other documentation, shall be of no force or effect.

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**Date**

---

**Signature of Authorized Representative**

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**Company Name**

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**Print Name and Title of Authorized Representative**

V6T&C00

## VENDOR/SUPPLIER ETHICS POLICY

Sybase is committed to ensuring its dedication to maintaining the highest standards of fairness, product quality, and strong business ethics in its relationships with employees, colleagues, customers, partners and competitors, as well as all vendors, contractors, subcontractors, and suppliers (collectively "Vendors"). Actions that fall short of, or even appear to fall short of, these standards undermine our business integrity, the pursuit of excellence and ultimately our success as a company. Strong business ethics form the basis for all of our relationships as a successful company.

One way to meet the company's commitment to strong business ethics is to ensure that all Vendor relationships support this policy. All Vendors are required to acknowledge their receipt, understanding, and acceptance of this policy and to ensure that its principles are upheld in their dealings with Sybase. Failure to sign the Sybase Vendor/Supplier Ethics Policy and to comply with it during the course of business with Sybase may lead to your disqualification as an approved Vendor and eliminate you from consideration of new business with Sybase.

- Vendors to Sybase must comply with all legal requirements under the national laws of the countries in which the Vendors are doing business, and any applicable U.S. federal and state laws, regulations and policies applicable to them and their relationship with Sybase, including all applicable government contractual conditions, and includes their employees, agents, representatives, families and significant relationships. It includes, but is not limited to, Small Business rules and regulations, Affirmative Action and Equal Employment Opportunity rules and regulations, and the rules regarding suspensions and debarment of companies from doing business with the U.S. government.
- No Vendor, its representatives or employees, family members or other significant relationships may offer to any Sybase employee a kickback, equipment, money, goods, services, gratuities, benefits, lodging, air fare, vacation, entertainment, discounts, favored personal treatment, or similar favors of any kind to gain favorable treatment from Sybase. Sybase employees may never solicit such items. This prohibition also extends to the family members of Sybase employees. (Examples of significant relationships that extend beyond family include domestic partners, dating relationships, and business partnerships outside of Sybase.)
- No Vendor may enter into a financial or other type of relationship with a Sybase employee that creates a conflict of interest or gives the appearance of such conflict. A conflict of interest exists when the material personal interests of a Sybase employee are inconsistent with the responsibilities of his/her position with the company. The appearance of a conflict of interest can be just as damaging to Sybase and the Vendor.
- Vendors to Sybase may not engage in collusive bidding, price fixing, price discrimination, or other unfair trade practices in violation of federal, state or national laws of the countries pertaining to antitrust or anti-competition laws.
- Sybase Vendors must promptly notify the Vice President, Worldwide Human Resources or the Chairman, CEO and President of any known or suspected improper behavior by Vendors' representatives or employees, family members or other significant relationships relating to their dealings with Sybase, or any known or suspected improper behavior on the part of Sybase employees.

I acknowledge that I have read, understand, and accept the Sybase Vendor/Supplier Ethics Policy, and agree to apply its principles and rules to all of my dealings with Sybase, including all dealings by my representatives or employees, family members or other significant relationships.

I also commit to my obligation of reporting to the Sybase Vice President, Worldwide Human Resources or the Chairman, CEO and President any violation of this policy as I become aware of it.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

## Request for Taxpayer Identification Number and Certification

**Give form to the  
 requester. Do not  
 send to the IRS.**

|  |   |   |
|--|---|---|
| <b>Print or type<br/>See Specific Instructions on page 2</b> | Name (as shown on your income tax return)   |   |
|  | Business name, if different from above  |   |
|  | Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶ ..... |   |
|  | <input type="checkbox"/> Exempt from backup withholding   |   |
|  | Address (number, street, and apt. or suite no.)   | Requester's name and address (optional) |
| City, state, and ZIP code                                    |   |   |
| List account number(s) here (optional)                       |   |   |

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

|                               |  |  |  |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|--|--|--|
| <b>Social security number</b> |  |  |  |  |  |  |  |  |  |
|                               |  |  |  |  |  |  |  |  |  |

**or**

|                                       |  |  |  |  |  |  |  |  |  |
|---------------------------------------|--|--|--|--|--|--|--|--|--|
| <b>Employer identification number</b> |  |  |  |  |  |  |  |  |  |
|                                       |  |  |  |  |  |  |  |  |  |

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

|                  |                            |        |
|------------------|----------------------------|--------|
| <b>Sign Here</b> | Signature of U.S. person ▶ | Date ▶ |
|------------------|----------------------------|--------|

### Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or

- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.**

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.



4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Name

If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

**Limited liability company (LLC).** If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

**Other entities.** Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

**Note.** You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

### Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

**Exempt payees.** Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
2. The United States or any of its agencies or instrumentalities,
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,

- 7. A foreign central bank of issue,
- 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
- 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
- 10. A real estate investment trust,
- 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
- 12. A common trust fund operated by a bank under section 584(a),
- 13. A financial institution,
- 14. A middleman known in the investment community as a nominee or custodian, or
- 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

| IF the payment is for . . .  | THEN the payment is exempt for . . .   |
|--|--|
| Interest and dividend payments   | All exempt recipients except for 9   |
| Broker transactions  | Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker |
| Barter exchange transactions and patronage dividends                                   | Exempt recipients 1 through 5  |
| Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup> | Generally, exempt recipients 1 through 7 <sup>2</sup>  |

<sup>1</sup>See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a Federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.socialsecurity.gov/online/ss-5.pdf](http://www.socialsecurity.gov/online/ss-5.pdf). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses/](http://www.irs.gov/businesses/) and clicking on Employer ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

**Signature requirements.** Complete the certification as indicated in 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

| For this type of account:   | Give name and SSN of:   |
|---|---|
| 1. Individual   | The individual  |
| 2. Two or more individuals (joint account)  | The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup> |
| 3. Custodian account of a minor (Uniform Gift to Minors Act)  | The minor <sup>2</sup>  |
| 4. a. The usual revocable savings trust (grantor is also trustee)   | The grantor-trustee <sup>1</sup>  |
| b. So-called trust account that is not a legal or valid trust under state law   | The actual owner <sup>1</sup>   |
| 5. Sole proprietorship or single-owner LLC  | The owner <sup>3</sup>  |
| For this type of account:   | Give name and EIN of:   |
| 6. Sole proprietorship or single-owner LLC  | The owner <sup>3</sup>  |
| 7. A valid trust, estate, or pension trust  | Legal entity <sup>4</sup>   |
| 8. Corporate or LLC electing corporate status on Form 8832  | The corporation   |
| 9. Association, club, religious, charitable, educational, or other tax-exempt organization  | The organization  |
| 10. Partnership or multi-member LLC   | The partnership   |
| 11. A broker or registered nominee  | The broker or nominee   |
| 12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity   |

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.