

ICONIX US TERMS AND CONDITIONS OF PURCHASE

1. **PURCHASE ORDER.** The following Terms and Conditions apply to the purchase from the supplier ("Supplier") of certain goods ("Goods") and services ("Services"), the details of which are set out in the purchase order ("Purchase Order").
2. **TITLE AND TRANSFER OF TITLE.** The Supplier will provide all Goods free and clear of all encumbrances. Title to, ownership of and risk of loss or damage to the Goods shall pass to ICONIX when the Goods have been inspected and accepted by ICONIX at the delivery point. Unless otherwise indicated on the face of the Purchase Order, all Goods from domestic vendors should be shipped and delivered duty paid ("DDP").
3. **INSPECTION AND EXPEDITING.** All Goods are subject to inspection by ICONIX or its authorized agent:
 - a) at the place of manufacture; and/or
 - b) at their destinations within a reasonable time after they arrive; and/or
 - c) at any stage of transportation.

Any inspection by ICONIX shall in no event relieve the Supplier from its responsibilities and liabilities under the Purchase Order, and ICONIX does not either expressly or by implication waive any rights it may have under the Purchase Order or at law, as a consequence of any inspection performed under this Section.

4. **PACKING, MARKING AND SHIPPING DOCUMENTATION.** All Goods shall be packed and shipped so as to prevent damage or deterioration to the Goods, and in compliance with Workplace Hazardous Materials Information System requirements and any applicable environmental laws. All preparation, crating, dunnage or other materials shall be paid for by the Supplier.
5. **SHIPPING.** The Supplier shall not deviate from its method of shipping or the carrier outlined in its quotation without the prior written authorization of ICONIX. The Supplier shall be solely responsible for any loss or damage resulting from an unauthorized deviation in shipping method or carrier.

ICONIX shall not pay for, or accept, any over-shipment of Goods and all over-shipments shall be returned to the Supplier at the Supplier's sole risk and expense.

6. **TRANSPORTATION.** The Supplier is responsible for all aspects of the transportation, handling, and shipping of the Goods. Preparation of any locations required for the transfer of the Goods between modes of transportation, is the responsibility of the Supplier. The Supplier shall use only first class marine, rail and trucking freight companies.

The Supplier shall identify and comply with all local, State and Federal regulations regarding restrictions on the various forms of transportation utilized during the supply of the Goods, including seasonal variations in those restrictions such as road bans or road limits.

7. **SCHEDULE, SPECIFICATIONS AND LAWS.** The Supplier shall deliver the Goods and Services as specified in the Purchase Order and shall ensure that all critical, milestone and delivery dates in relation to the supply of the Goods and / or performance of the Services are met in accordance with the Purchase Order.

Time shall be deemed to be of the essence of the Purchase Order.

The Supplier shall identify and comply in all respects with all local, State and Federal laws and regulations applicable to the supply of Goods and Services pursuant to the Purchase Order.

8. **FAILURE TO MEET DELIVERY DATE.** The Supplier shall ensure that at all times the Goods are delivered and Services are performed in compliance with the Purchase Order and these terms and conditions.

If, as a result of an act or a failure to act by the Supplier, its agents, employees or subcontractors, a critical date is not met or delivery of the Goods and / or Services is delayed beyond the delivery date, and ICONIX suffers damages or incurs costs as a result, the Supplier shall be solely responsible to ICONIX for all those costs and damages incurred or suffered by ICONIX in addition to any costs incurred by the Supplier in expediting the performance of the Services or delivery of the Goods.

In addition, if, as a result of an act or a failure to act by the Supplier, its agents, employees or subcontractors, a critical date is not met or the delivery of the Goods and / or Services is delayed beyond the delivery date, ICONIX may, in its sole and absolute discretion:

- a) approve a revised critical date or delivery date; or
- b) terminate the Purchase Order without damages or penalty or any further liability to the Supplier.

9. **REPRESENTATIONS AND WARRANTIES.** The Supplier represents, warrants and agrees that:

- a) all Goods covered by the Purchase Order both in design and fabrication conform to the specifications, drawings, samples or other description furnished or specified by ICONIX and will be fit and sufficient for the purpose intended (the purpose of which has been communicated by ICONIX to the Supplier and that the Supplier acknowledges and admits it has been made aware), merchantable, of good material and workmanship and free from defects;
- b) the Goods are free from all defects arising from faulty design of any part of the Goods designed by the Supplier or on its behalf;
- c) only new materials, equipment and components shall be used unless otherwise agreed to by ICONIX;
- d) all the Goods are free and clear of any encumbrances and liens;
- e) neither the Goods nor any Services supplied infringe on any domestic or foreign patent, copyright, trademark, process of manufacture or other intellectual property right of any third party. The Supplier agrees to defend, indemnify and hold harmless ICONIX against all loss, damage, liability, costs, expenses and legal fees incurred by reason of claim, action or litigation arising out of any alleged or actual such infringement; and
- f) the warranty period ("Warranty Period") for the Goods shall be 12 months from the date of delivery thereof to ICONIX. This warranty is in addition to any and all warranties of the Supplier arising by question of law and nothing herein shall be construed as limiting or restricting such warranties.

10. **INDEMNIFICATION.** The Supplier agrees to hold ICONIX harmless from and to indemnify ICONIX, its, directors, officers, servants, consultants, agents and employees from and against any and all claims whatsoever arising out of the supply of Goods and/or Services, including those claims arising on account of injury to or death of persons or damage to property resulting directly or indirectly from the Supplier's operations pursuant to the Purchase Order, whether due to its own performance or the performance by its subcontractors or suppliers of its obligations under the Purchase Order.

11. **INSURANCE.** If the Supplier is providing Services under the Purchase Order, the Supplier, at its own expense, shall, prior to commencing the performance of the Supplier's obligations hereunder, obtain and keep in full force and effect until the Agreement is fully performed and for a period of 18 months thereafter, the following insurance:

- a) General Liability Insurance having a minimum inclusive limit, including personal injury and property damage, of at least Two Million (\$2,000,000.00) Dollars per occurrence;
- b) Workers' Compensation Insurance in accordance with the statutory requirements in the relevant jurisdiction for all its employees engaged in performing the Services herein; and
- c) any other coverages required by laws or by ICONIX.

The Supplier shall provide proof of the coverage required above upon request by ICONIX. The policies shall provide that they cannot be cancelled, reduced or amended adversely without 30 days prior written notice from the applicable insurer directly to ICONIX. All amounts set forth herein for insurance coverages are described in US dollars.

This Section shall in no way limit the obligations of the Supplier herein or excuse the Supplier from performance of the same. Any bankruptcy, insolvency or failure of any insurer of the Supplier or the Supplier's subcontractors to pay claims shall in no way limit the Supplier's obligations herein.

12. **PRICE.** ICONIX agrees to purchase and the Supplier agrees to sell the Goods specified on the Purchase Order for the prices stated in the Purchase Order.

Payment will be made in the currency quoted and accepted.

Unless otherwise indicated on the face of the Purchase Order, payment will be made within net 30 days after the later of: (i) acceptance by ICONIX of the Goods and Services; and (ii) receipt by ICONIX of the applicable invoice..

13. **INVOICING.** Invoices must be submitted in triplicate for each Purchase Order issued, must be submitted to ICONIX's Accounts Payable Department at the address specified on the Purchase Order, and at a minimum must:

- a) indicate Purchase Order Number;
- b) describe the Goods and Services; and
- c) specify quantities shipped.

Any taxes applicable against the Goods and Services covered by the Purchase Order must be listed as separate line items on the invoice.

14. **TERMINATION FOR DEFAULT.** If the Supplier:

- a) commits an act of bankruptcy;
- b) is unable to continually and consistently do the Services or supply the Goods to meet the requirements of the Purchase Order;
- c) fails to maintain the production and delivery required to meet the critical dates; or
- d) breaches or fails to observe or perform any of the obligations or conditions of this Purchase Order,

then the Supplier shall be deemed to have breached the Purchase Order and ICONIX may upon written notice setting forth the nature of the breach, terminate the Purchase Order.

Nothing set forth in this Section 14 shall limit or prejudice any right or remedy ICONIX may have against the Supplier in respect of the breach of the terms of the Purchase Order by the Supplier and the termination thereof. Further, all warranties and indemnities under the Purchase Order shall survive any termination of the Purchase Order.

15. **TERMINATION FOR CONVENIENCE.** ICONIX may, at any time without cause and at its sole discretion, terminate this Purchase Order by giving notice in writing to the Supplier.

If ICONIX terminates the Purchase Order in accordance with this Section 15 then:

- a) ICONIX shall pay for that portion of the Services performed and Goods which, as of the date of termination, have been accepted; and
- b) title to all such Goods will transfer to ICONIX in accordance with Section 2; and

Any payments made by ICONIX prior to the date of termination of the Purchase Order in excess of those required by the foregoing shall be refunded without interest to ICONIX. If ICONIX satisfies its obligations hereunder, the Supplier shall have no further cause of action or right against ICONIX in respect of the termination of the Purchase Order or otherwise.

16. **CONFIDENTIALITY.** The Supplier shall not directly or indirectly disclose the terms and conditions of any Purchase Order or the nature and extent of the agreement with ICONIX under the Purchase Order to any third party without the prior written consent of ICONIX.

17. **WAIVER.** Any failure by ICONIX at any time to enforce or to require the strict performance of any of the provisions of the Purchase Order, or from time to time to enforce or require the Supplier to do, perform or carry out the requirements, covenants, terms, conditions, stipulations or provisos in the Purchase Order, will not:

- a) constitute a waiver of any such requirements, covenants, terms, conditions, stipulations, provisos or provisions; or
- b) affect or impair those requirements, covenants, terms, conditions, stipulations, provisos or provisions or deprive ICONIX of any remedies it may have:
 - i. for any breach of those requirements, covenants, terms, conditions, stipulations, provisos or provisions, or
 - ii. to require Goods to be delivered or Services to be performed in accordance with the Purchase Order.

ICONIX is not bound by a waiver of any provision of the Purchase Order unless the waiver is clearly expressed in writing and signed by ICONIX's representative.

18. **ASSIGNMENT.** The Supplier may not assign its interest in the Purchase Order without the prior written consent of ICONIX, which may be withheld in the sole discretion of ICONIX. ICONIX may assign its interest in the Purchase Order upon written notice to the Supplier.

19. **GOVERNING LAW.** These terms and conditions of the Purchase Order shall be governed by and construed in accordance with the laws of the jurisdiction of the ICONIX location to which the Goods are delivered or at which the Services are provided.