

ICONIX CANADA TERMS AND CONDITIONS OF PURCHASE

1. **PURCHASE ORDER.** The following terms and conditions (“Terms and Conditions”) apply to each purchase by ICONIX from the supplier (“Supplier”) of certain goods, materials or equipment (collectively and individually, the “Goods”) and all associated services performed by Supplier, if any (“Services”), the details of which are set out in the purchase order (“Purchase Order”). The Terms and Conditions supersede all terms and conditions provided by Supplier and all previous agreements, offers and proposals relating to Goods and Services, whether oral or written. No exception to, amendment, variation or supplementation of the Terms and Conditions will be valid except as expressly agreed by ICONIX in writing.
2. **TITLE.** Supplier will provide all Goods free and clear of all encumbrances. Title to, ownership of and risk of loss or damage to Goods shall pass to ICONIX when Goods have been inspected and accepted by ICONIX at the delivery point. All Goods from domestic Suppliers will be shipped and delivered “delivery 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 destination within a reasonable time after they arrive; and/or
 - c) at any stage of transportation. Any inspection by ICONIX shall in no event relieve 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 3.
4. **PACKING, MARKING AND SHIPPING DOCUMENTATION.** All Goods shall be packed and shipped so as to prevent damage or deterioration to 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 Supplier.
5. **SHIPPING.** Supplier shall not deviate from its method of shipping or the carrier outlined in the Purchase Order without the prior written authorization of ICONIX. 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 Supplier at Supplier's sole risk and expense.
6. **TRANSPORTATION.** Supplier is responsible for all aspects of the transportation, handling, and shipping of Goods. Preparation of any locations required for the transfer of Goods between modes of transportation is the responsibility of Supplier. Supplier shall use only first class marine, rail and trucking freight companies. Supplier shall identify and comply with all Municipal, Provincial, and Federal regulations regarding restrictions on the various forms of transportation utilized during the supply of Goods, including seasonal variations in those restrictions such as road bans or road limits.
7. **SCHEDULE.** Supplier shall ensure that all critical dates in relation to the supply of Goods and performance of Services are met in accordance with the time limits set out in the Purchase Order. Time shall be deemed to be of the essence of the Purchase Order.
8. **FAILURE TO MEET DELIVERY DATE.** Supplier shall supply Goods and Services according to the specifications set out in the Purchase Order. Supplier shall carry Services forward expeditiously in accordance with the critical dates and any other milestones listed in the Purchase Order. Supplier shall ensure that at all times 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 Supplier, its agents, employees or subcontractors, a critical date is not met or delivery of Goods is delayed beyond the delivery date, and ICONIX suffers damages or incurs costs as a result, 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 Supplier in expediting the performance of Services or delivery of Goods. In addition, if, as a result of an act or a failure to act by Supplier, its agents, employees or subcontractors, a critical date is not met or the delivery of Goods 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 Supplier.
9. **REPRESENTATIONS AND WARRANTIES.** 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 Supplier and that Supplier acknowledges and admits it has been made aware), merchantable, of good material and workmanship and free from defects;
 - b) Goods are free from all defects arising from faulty design of any part of Goods designed by Supplier or on its behalf;
 - c) only new materials, equipment and components shall be used unless otherwise agreed to in writing by ICONIX;
 - d) all Goods are free and clear of any encumbrances and liens;
 - e) Goods supplied do not infringe on any domestic or foreign patent, copyright, trademark or process of manufacture. 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 infringement; and
 - f) the warranty period shall be 12 months from the date of delivery of the Goods or performance of the Services, as applicable. This warranty is in addition to any and all warranties of Supplier arising by question of law and nothing herein shall be construed as limiting or restricting such warranties.
10. **INDEMNIFICATION.** 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 performance of the Services, including those claims arising on account of injury to or death of persons or damage to property resulting directly or indirectly from 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.** Supplier, at its own expense, shall, prior to commencing the performance of Supplier's obligations hereunder, obtain and keep in full force and effect until the Purchase Order 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; and
 - b) if providing Services, Workers' Compensation Insurance in accordance with the statutory requirements in the relevant jurisdiction for all its employees engaged in performing Services; and
 - c) any other coverages required by laws or by ICONIX.

Supplier shall provide proof of the coverage required above upon request by ICONIX. The coverage shall provide that such coverages cannot be

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

12. **PRICE.** ICONIX agrees to purchase and Supplier agrees to sell 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:
 - a) acceptance by ICONIX of Goods and Services; and
 - b) receipt by ICONIX of the applicable invoice.
13. **INVOICING.** Invoices must be submitted for each Purchase Order issued to ICONIX's Accounts Payable Department at the address specified on the Purchase Order or as otherwise provided by ICONIX, and at a minimum must:
 - a) indicate Purchase Order Number;
 - b) describe Goods and Services; and
 - c) specify quantities shipped. Any taxes applicable to Goods and Services covered by the Purchase Order must be listed as separate line items on the invoice.
14. **TERMINATION FOR DEFAULT.** If Supplier:
 - a) commits an act of bankruptcy;
 - b) is unable to continually and consistently perform Services or supply 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 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 Supplier in respect of the breach of the terms of the Purchase Order by 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 Supplier. If ICONIX terminates the Purchase Order in accordance with this Section 15 then:
 - a) ICONIX shall pay for that portion of Services and Goods which, as of the date of termination, have been accepted;
 - b) ICONIX shall purchase any portion of Goods that have been produced and meet the specifications, but have not been delivered or are not in transit as at the effective date of termination;
 - c) title to all such Goods will transfer to ICONIX in accordance with Section 2; and
 - d) ICONIX shall be responsible for reimbursing Supplier at cost for all reasonable monies or liability costs incurred by Supplier as of the time that notice of termination is received by Supplier, to its subcontractors for their services and which could not reasonably have been avoided or mitigated through reasonable efforts, but excluding any such costs or liabilities for which Supplier will be or has already been reimbursed as part of the compensation paid to Supplier pursuant to Sections 15(a) and 15(b).

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, Supplier shall have no further cause of action or right against ICONIX in respect of the termination of the Purchase Order or otherwise.

If the Purchase Order is terminated for convenience, Supplier shall use all reasonable efforts to mitigate the costs for which ICONIX is or may be liable pursuant to this Section 15, including without limitation, assisting ICONIX to sell any or all Goods for which ICONIX acquires the title pursuant to Section 15(c).

Supplier shall provide ICONIX with all of the information and details relating to the mitigation of amounts for which ICONIX may be liable to Supplier as a result of termination for convenience, and Supplier shall reimburse ICONIX those amounts actually recovered by Supplier as a result of such mitigation. ICONIX shall have the right to audit, including all rights incidental to an audit, to confirm the amounts to which it is entitled by the mitigation efforts of Supplier.

16. **CONFIDENTIALITY.** 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 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.
18. **ASSIGNMENT.** Supplier may not assign its interest in the Purchase Order without the prior written consent of ICONIX, which may not be unreasonably withheld. ICONIX may assign its interest in the Purchase Order without the prior written consent of Supplier.
19. **GOVERNING LAW.** The Purchase Order, including these Terms and Conditions, and the respective rights and obligations of Supplier and ICONIX hereunder are governed by and will be construed according to the laws of the jurisdiction of the ICONIX location to which the goods are delivered or at which the Services are provided.