

Carleton University Standard Terms and Conditions

Unless otherwise stated in a superior document (see item 11), all invoices must be addressed and forwarded to Carleton University Accounts Payable at: 301 Pigiavik, 1125 Colonel By Drive, Ottawa, Ontario, K1S 5B6 or Accounts.Payable@carleton.ca.

A PURCHASE ORDER IS STRICTLY LIMITED TO ITS TERMS AND CONDITIONS AND ANY COUNTER-OFFERS OR CHANGES OF TERMS PROPOSED BY THE VENDOR ARE HEREBY REJECTED, UNLESS SPECIFICALLY AGREED TO IN WRITING BY CARLETON UNIVERSITY.

General Terms

1. **Purchase Order.** The Vendor shall display the complete Purchase Order number prominently on all packages, invoices, correspondence, customs documentation, bills of lading and packaging slips and ensure packing slips accompany all shipments.
2. **Payment.** Payment will be made in Canadian funds, net 60 days (unless otherwise stated in a superior document (see item 11)) from invoice receipt or satisfactory delivery of goods or services whichever is later. Cash discounts are calculated from the date of receipt of invoice.
3. **Price.** The price on the Purchase Order is the total cost and includes all fees and charges of any kind including patent, permit, inspection, royalty and license fees, charges for crating, boxing, cartage and re-stocking and government tax levies, unless otherwise stated on the Purchase Order.
4. **Term and termination:**
 - a. The University may terminate an order of goods at any time prior to delivery of the goods, immediately upon written notice to the Vendor.
 - b. The University may terminate this Agreement without cause upon thirty (30) days' advance written notice to the Vendor.
 - c. All terms that by their nature survive termination shall survive the termination of this Agreement, including, without limitation, the terms of limitation of liability, indemnity, confidentiality, and privacy.
5. **Taxes.** All applicable taxes are specified on the Purchase Order.
6. **Trademarks.** The use and reproduction of the Carleton University names, logos, official marks, and trademarks are governed by Carleton University Board of Governors who shall approve all products using the names, logos or trademarks of Carleton University prior to commencement of any work. All ideas, art and software paid for by the University shall become the sole and exclusive property of the University and are to be delivered or returned upon request.
7. **Foreign vendors.** Vendors outside of Canada shall provide Canada Customs invoices with fully completed, acceptable shipment documentation for Carleton University's customs broker.

8. **No assignment without consent.** The Vendor may not assign or subcontract this Purchase Order or any subsequent contract arising therefrom without the prior written permission of Carleton University.
9. **Vendor indemnity.** The Vendor shall indemnify and save harmless Carleton University, its officers, Board of Governors, employees, contractors, students and agents from and against all actions, suits, claims, damages, causes of action, demands, penalties, fines cost and expenses including legal fees or other proceedings of any kind or nature directly or indirectly arising out the Vendor's negligence or wilful misconduct, or arising out of any breach or inaccuracy of any representation, warranty or covenant, performance of the service or supply of the goods, including but not limited to personal injuries to anyone, breach or alleged breach or intellectual property laws, environmental non-compliance, product liability and property damage.
10. **Insurance.** The Vendor will carry insurance of such types and amounts that are consistent with industry standard, including a commercial general and professional liability insurance policy of at least five million dollars (\$5,000,000) per claim. It is the sole responsibility of the Vendor to determine what additional insurance coverage is necessary or advisable for its own protection and/or to fulfill its obligations under this Agreement, and to obtain such insurance at its expense. The Vendor shall provide a copy of its Certificate of Insurance as well as its WSIB certificate of clearance or equivalent, or proof of WSIB exempt status, to the University upon request.
11. **Standard terms subordinate to contract.** These Standard Terms and Conditions are meant to supplement but not supersede the terms and conditions of any competitive bid document, contract or agreement. In the event of a conflict or inconsistency, the terms and conditions of the competitive bid document contract or agreement, will govern.
12. **Governing law and venue.** This Agreement, unless otherwise noted on the Purchase Order or any superseding agreement, is to be construed and governed by the laws of the Province of Ontario and federal laws of Canada applicable therein. The United Nations Conventions on Contracts for the International Sale of Goods and any legislation enacted for same do not apply. Any dispute in relation to this Agreement shall be heard exclusively by the courts of Ottawa, Ontario, Canada.
13. **Relationship.** The relationship between the parties under this Agreement is one of independent contractors and the parties shall in no circumstances be considered to be employees or agents of each other and will have no power to bind or obligate each other except as set forth in this Agreement.
14. **Confidentiality.** Vendor agrees to keep any and all information provided to the Vendor by the University marked as confidential, or that is by its nature confidential, in strict confidence and not to disclose it to any third party. This does not apply to information i) that is already in the public domain without breach of the Vendor, ii) information independently developed or disclosed to Vendor, or iii) information that is required to be disclosed by law. At the expiry or termination of this Agreement for any reason, Vendor will, at the University's option, return or destroy the University's confidential information and certify that it no longer possesses any such information.

15. **Privacy:**

- a. Vendor acknowledges that the University is required to handle the confidential business information, Personal Information, and the Records resulting from this agreement, including the agreement itself, in accordance with the provisions of Ontario's *Freedom of Information and Protection of Privacy Act* R.S.O. 1990, c. F.31 ("**FIPPA**"). Vendor agrees to comply with any requirement established by the agreement that is reasonably required to ensure that the University meets its obligations under FIPPA and any other legislation in effect from time to time, including formal requests for records pertaining to this agreement.
- b. Vendor acknowledges that its obligations under the agreement are in addition to any obligations it has under the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, and/or similar legislation in effect from time to time in any province or territory of Canada. If Vendor believes that any obligations in the agreement prevent it from meeting its obligations under any of these laws, Vendor must immediately notify the University of the specific provision of the agreement and the specific obligation under the law with which Vendor believes it conflicts.

16. **Non-exclusivity.** Nothing in this Agreement shall limit the right of either party to provide or purchase goods or services to any third party.

GOODS

The terms and conditions in this section apply to the supply of tangible goods, materials, and/or equipment (collectively, the "goods") to the University (for clarity, this does not include software as a service).

17. **Time of the essence.** Time is of the essence in this contract and all goods shall be delivered in strict accordance with the delivery dates specified, the quantities specified and the requirements of this Purchase Order and attached specifications (if any).
18. **Approval of goods.** The goods are subject to inspection and approval, following delivery for a period of not less than sixty (60) days notwithstanding prior payment. At the sole discretion of Carleton University, rejected goods shall be returned at the Vendor's expense and the Vendor shall credit Carleton accordingly within fifteen (15) days of return of the goods.
19. **Title to remain with Vendor pending inspection.** Notwithstanding delivery of ordered goods, title to such goods shall remain with the Vendor until Carleton has inspected and approved of the goods or sixty (60) days has passed after delivery without Carleton rejecting the ordered goods.
20. **New materials.** The Vendor covenants that any goods supplied pursuant to this Purchase Order are new, unused, free of defects or deficiencies in design, materials or workmanship, conforming to all Manufacturer and Carleton specifications and are fit for their ordinary purpose, unless Carleton has made a particular purpose known to the Vendor, in which event the goods shall be fit for that particular purpose as well.
21. **Warranty (goods).** The Vendor covenants that all goods supplied pursuant to this Purchase Order are warranted as described in Condition 4 for a period of not less than one (1) full year from date of delivery to Carleton, notwithstanding any Carleton inspections, testing, approval, acceptance or payment for the goods, materials or equipment, unless otherwise stated on the Purchase Order itself.

22. **Breach of warranty (goods).** In the event of any breach of warranty at law or pursuant to this Purchase Order by the Vendor, at any time during the one-year warranty period, the vendor shall, at Carleton's option, repair the goods, materials or equipment or replace with an equivalent or better product at no additional cost to Carleton University within fifteen days of Carleton's notification to do so.
23. **WHMIS.** Material Safety Data sheets (MSDS) and appropriate labels must accompany all hazardous products as defined under the Federal Hazardous Products legislation and provincial WHMIS legislation.
24. **Electrical standards.** All electrical or electronic components and equipment supplied must have the Ontario Electrical Safety Code approval and be certified for the intended use in Canada by a Certified Organization accredited with the Standards Council of Canada Act.
25. **Shipping.** Unless otherwise specified, all shipments shall be delivered DPU (Delivered at Place Unloaded) Carleton University (Incoterms 2020) to the address and room specified in the PO. Title and risks remain with the supplier until delivery or acceptance, as applicable.
26. **Foreign shipments:**
- a. For customs purposes, purchase order number, invoiced value and description of goods must appear on the outside of the package.
 - b. A customs/commercial invoice must be included with this shipment. It must indicate that the end-use of these goods are for teaching/research purposes and Tariff Code 9988 applies.
 - c. A CUSMA certificate of origin, if applicable, must accompany items listed on this purchase order. Importers #11883 8937 RM0001. The supplier accepts all responsibility for the information provided on the CUSMA certificate of origin, letter or affidavits. By signing these documents, you are accepting responsibility that the information you provide is complete and accurate. You also accept any liabilities resulting from inaccurate data or failure to comply with CUSMA requirements.
 - d. The Customs Broker for Carleton University is Thompson Ahern International (TACO).
27. **Sustainable packaging.** All supply packaging should be minimized wherever possible and be recyclable or compostable where feasible. The Vendor should work with their supply chain to ensure the phasing out of single use plastic.

SERVICES

The terms and conditions in this section apply to the supply of services to the University (excepting software as a service).

28. **Schedule.** The Vendor will adhere to the schedule for services set out in the Purchase Order, or other documentation accompanying these terms where applicable.
29. **Change Orders.** The University may request changes at any time in the course of this Agreement. The Vendor will expeditiously provide a cost update to the University for any requested changes, and once agreed to by Vendor, will form part of the Purchase Order.

30. **Ownership of Deliverables.** All documents, reports, designs, schematics, plans, advice, feedback, recommendations, or other information delivered or deliverable to the University under this Agreement ("**Deliverables**") are the sole property of the University, and are also deemed the University's confidential information.
31. **Intellectual Property in Deliverables.** The University shall solely own all intellectual property rights (including, without limitation, any copyright, trademark, patent, know-how, invention, and to any Deliverables. To the extent any Deliverables incorporate third party materials, the Vendor will secure the University an irrevocable, sublicensable, worldwide, perpetual, royalty-free licence to the use of such materials.
32. **Warranty.** The Vendor warrants and represents to The University that it has the necessary expertise to provide the services and that the services will be provided in a professional and workmanlike manner, and that the Deliverables will materially conform with all specifications in the competitive procurement response, Purchase Order, and other related documents.
33. **Breach of warranty (services).** In the event of any material breach of warranty at law or pursuant to this Purchase Order by the Vendor, the vendor shall, at Carleton's option, i) correct the breach in the services at the Vendor's sole expense, ii) fully refund the University for the cost of the services, or iii) pay the University for the reasonable estimated costs to remedy the breach.
34. **Costs.** Unless otherwise specified and priced in the Purchase Order, Vendor is solely responsible for any costs and expenses of performing the services, including, without limitation, costs of materials, tools, equipment, personnel, permits, and indirect/overhead costs.