



Purchase Order Terms & Conditions

APPLICATION OF TERMS AND CONDITIONS: The goods or services specified on the Purchase Order are hereby purchased by Cambrian College of Applied Arts and Technology (the "College") from the company indicated on the Purchase Order ("Vendor") subject to the terms and conditions (the "Terms") contained herein (the "Contract").

General Terms & Conditions (applicable to both Goods and Services):

- 1. ACCEPTANCE-AGREEMENT:** Vendor's commencement of work on the services subject to this Purchase Order or shipment of such goods, whichever occurs first shall be deemed an effective mode of acceptance of this purchase order. Any acceptance of this Purchase Order is limited to acceptance of the express terms contained on the face of any Purchase Order submitted by the College and those terms contained herein. Any proposal for additional or different terms or any attempt by Vendor to vary in any degree any of the terms of any the College's Purchase Order or the terms contained herein is hereby objected to and rejected, but such proposals shall not operate as a rejection of this offer unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, but shall be deemed a material alteration thereof, and this offer shall be deemed accepted by Vendor without said additional or different terms. If this Purchase Order shall be deemed an acceptance of a prior offer by Vendor, such acceptance is limited to the express terms contained on the face of any Purchase Order submitted by the College and those terms contained herein.
- 2. INDEMNITY:** The Vendor shall indemnify and save harmless the College and its affiliates, subsidiaries and associated corporations and each of their respective officers, directors and employees against all losses, claims, actions, demands, liabilities, damages, fines, penalties, judgments and expenses (including without limitation legal expenses on a solicitor and his own client basis), suffered, or incurred by or resulting from an action(s) or proceeding brought against any or all of them due to any error, omission or negligent act of the Vendor or its employees, agents or sub-contractors in connection with the goods and services, or either of them, or performance of the Contract.
- 3. VARIATIONS/SUBSTITUTIONS:** There shall be no variation or substitution from the Purchase Order unless approved in writing by the College, who will issue a Change Order. The College shall not be liable for payment of any quantities in excess of those required in the Purchase Order.
- 4. COMPLIANCE WITH LAWS:** The Vendor shall comply and ensure compliance with all applicable requirements imposed by statutes, regulations, rules, by-laws, policies, permits, guidelines or directives of any government, regulatory or administrative authority including but not limited to regulations under the *Accessibility for Ontarians with Disabilities Act* in providing the goods or services.
- 5. CONFLICT OF INTEREST:** The Vendor shall not engage in any activity or provide any goods or services to the College where such activity or the provision of such goods or services would create an actual or perceived conflict of interest.
- 6. ASSIGNMENT:** The Vendor will not assign this Contract, or any part thereof, without the prior written approval of the College, which approval may be withheld by the College, in its sole discretion, or may be given subject to such terms and conditions as the College may impose.
- 7. TERMINATION FOR CONVENIENCE:** The College shall have the right, in its sole discretion and without any liability for doing so, terminate or cancel all or part of the Purchase Order.

- 8. TERMINATION FOR CAUSE:** If the College determines that the goods or the services fail to comply with the Contract, the College may, without prejudice to any other remedy:
- a) terminate the Contract and return the goods to the Vendor, at the Vendor's expense; and
 - b) recover from the Vendor all monies paid under the Contract for the goods together with an amount equal to the difference between the price stated in the Contract for the goods and the cost of acquiring the goods from another Vendor and any additional costs incurred by the College as a result of the Vendor's failure to comply with the Contract. .
- 9. SETOFF:** All claims for money due or to become due from the College shall be subject to deduction or set-off by the College by reason of any counterclaim arising out of this or any other transaction with Vendor.
- 10. PROPRIETARY INFORMATION-CONFIDENTIALITY:** Vendor shall consider all information furnished by the College to be confidential and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing this contract, unless Vendor obtains written permission from the College to do so. This paragraph shall apply to all information furnished by the College to the Vendor including, but not limited to, drawings, specifications, or other documents prepared by Vendor for the College in connection with this order. Vendor shall not advertise or publish the fact that the College has contracted to purchase goods from Vendor, nor shall any information relating to the order be disclosed without the College's written permission. Unless otherwise agreed in writing, no commercial, financial or technical information disclosed in any manner or at any time by Vendor to the College shall be deemed secret or confidential and Vendor shall have no rights against the College with respect thereto except such rights as may exist under patent laws.
- 11. INVOICING AND PAYMENT:** Unless stated otherwise, all amounts stated herein are in Canadian dollars and the terms of payment for all invoices are net 30 days from receipt of goods/completion of services or date of invoice, whichever is later. Invoices shall be emailed to poinvoice@cambriancollege.ca. Failure to indicate the Purchase Order number and any Contract number, where applicable, on invoices may result in the delay or non-payment of invoices. Unless otherwise stated, all funds are payable in Canadian dollars.
- 12. CONSTRUCTION LIEN ACT:** For the supply of either goods or services, the College may holdback payment in accordance with the Construction Lien Act of Ontario; no such holdback shall be subject to any late payment, financing or interest charges.
- 13. DELIVERABLES:** Unless otherwise stated and to the extent permitted by law any deliverables prepared, compiled and submitted to the College, including but not limited to drawings, specifications, or other documents (the "Deliverables"), shall be the exclusive property of the College. The College shall own all rights of copyright and the Deliverables shall not be used, copied or modified by anyone without the prior written permission of the College. The Deliverables will be the College's confidential information and subject to the use and disclosure restrictions under Section 10.
- 14. REQUIRED DATE:** Time is of the essence, the Contract and the Vendor shall deliver the goods and perform the services by the required date(s) specified in the Contract. The College shall have the right to reject or cancel goods or services not delivered or provided within the required date specified on the Purchase Order.
- 15. FORCE MAJEURE:** The College may delay delivery or acceptance occasioned by causes beyond its control. Vendor shall hold such goods at the direction of the College and shall deliver them when the cause affecting the delay has been removed. The College shall be responsible only for Vendor's direct additional costs in holding the goods or delaying performance of this agreement at the College's request and shall in no event be responsible for indirect, consequential or special damages. Causes beyond the College's control shall include but not be limited to governmental action or failure of the government to act where such action is required,

strike or other labor trouble, accident, fire, unusually severe weather or any other cause or causes, whether or not similar to any of the foregoing, beyond the College's reasonable control.

16. LAWS: This Contract shall be governed by the laws of the Province of Ontario.

17. RECORD KEEPING: The Vendor will maintain proper records and submit to the College, upon request, comprehensive reports or any other documentation related to the goods and services provided.

Provisions Specific to the Procurement of Goods

18. PRICE WARRANTY: Vendor warrants that the prices for the goods sold to the College hereunder are not less favorable than those currently extended to any other customer for the same or similar goods in similar quantities. In the event Vendor reduces its price for such goods during the term of this order, Vendor agrees to reduce the prices hereof correspondingly. Vendor warrants that prices shown on this Purchase Order shall be complete, and no additional charges of any type shall be added without Purchaser's express written consent. Such additional charges include, but are not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, and crating.

19. IMPORTED GOODS: For all Goods directly purchased from foreign countries for shipment into Canada, the Vendor shall forward the Canada Customs Invoice to:

NEAR NORTH CUSTOMS BROKERS
PO BOX 2365, STN A
1855 Lasalle Blvd, Sudbury
SUDBURY, ON P3A 4S8
PHONE: 702-560-2400 FAX: 705-560-6928

If the Vendor manufactures or purchases any goods involved in this contract outside of Canada, he must ensure that he, his agent, or representative is the "importer of record" for customs purposes.

20. SHIPPING TERMS: The goods shall be delivered FOB Destination, Prepaid and Allowed, unless otherwise stated. Title to the goods shall vest in the College upon payment of the purchase price. Risk of loss with respect to the goods shall pass to the College upon delivery and inspection of the goods to the point of delivery designated in the Contract. The College has thirty (30) days to inspect the goods.

21. WARRANTY: Upon delivery, the Vendor warrants that the goods shall:

- (a) conform to the specifications in the Contract;
- (b) be in good, usable and merchantable quality, and fit for the intended purpose;
- (c) be free of defects in material, workmanship, design and manufacture; and
- (d) be free of all mortgages, liens, claims and security interests whatsoever.

All goods must carry a minimum one year warranty from the later of time of receipt or installation by the College.

22. COPYRIGHT: The Vendor shall:

- a) pay all royalties and patent license fees and related charges payable in respect to the goods and shall indemnify the College against all such royalties, fees and related charges; and
- b) defend, at its own expense, all suits and proceedings instituted against the College in connection with any infringement or alleged infringement or unlicensed use of letters patent, registered design, trademark or copyright pertaining to the goods or the use thereof; and
- c) indemnify the College against all losses, costs, damages and expenses (including legal expenses on a solicitor

and his own client basis) which the College may suffer, sustain or incur in connection with or as a result of any claim, action or proceeding for such infringement, alleged infringement or unlicensed use; and
(d) if any of the goods infringe letters patent, registered design, trademark or copyright and the use of any of the goods is enjoined, then, at its own expense, either procure for the College the right to continue using the goods or replace the goods with non-infringing goods or modify the goods so as to become non-infringing, provided the quality of the goods is not diminished in any way.

23. **PACKAGING:** All packing cases, bales, cartons and other shipping materials in which the goods may be shipped shall, upon delivery, become the property of the College unless otherwise stipulated in the Contract.
24. **WHMIS:** Where required by law, the goods shall be marked by the Vendor with a Work Place Hazardous Material Information System (WHMIS) symbol and shall be shipped and handled in compliance with all applicable Federal, Provincial and Municipal laws in force on the date of shipment.
25. **MSDS:** The Vendor must provide material safety Data Sheets (MSDS) for all hazardous materials shipped in accordance with Occupational Health and Safety legislation.
26. **CSA:** All electrical/electronic equipment must be CSA approved.

Provisions Specific to the Procurement of Services

27. **INCLUDED SERVICES:** The services described in the Purchase Order shall include all those services necessarily incidental to those identified in order to complete the scope of services described therein.
28. **COMPETENCE:** The Vendor represents that it has the expertise, experience, facilities, skilled personnel and knowledge necessary or required to deliver the services in a competent and professional manner. The Vendor acknowledges that the College is relying upon this representation in issuing this Purchase Order.
29. **POLICIES AND PROCEDURES:** The Vendor and its employees, sub-contractors shall follow all applicable College policies and procedures during the when performing Services on College property. It shall be the responsibility of the Vendor to ensure that all of its employees and sub-contractors have been trained and have access to the following College policies and procedures:
 - First Aid Procedures (including critical injury reporting requirements)
 - Cambrian College Emergency Information and Procedures
 - Cambrian College Health & Safety Policy
 - Code of Conduct Policy
 - Workplace Violence Prevention Policy
 - Sexual Assault and Sexual Violence Policy
 - Non-Smoking Policy
 - Workplace Attire Policy
 - Fragrance-Free College Practice/Guideline
 - Lost and Found Policy

Most of the above College policies and procedures can be found on our Website at the following link: <http://cambriancollege.ca/about/official-documents-and-policies/>. Please request policies and procedures by emailing: purchasing@cambriancollege.ca.

- 30. HEALTH AND SAFETY:** The Vendor acknowledges that it has read, understood and shall at all times comply and ensure compliance by its workers and any subcontractors with all applicable federal, provincial or municipal legislation relating to occupational health and safety, all applicable regulations thereunder and any and all applicable industry standards and guidelines pertaining to the provision of the services. The Vendor shall be responsible for taking every precaution in the circumstances for the protection of all workers associated with the provision of the services, whether employed by the Vendor or a third party. Unless stated otherwise, where the work hereunder involves Construction the Vendor shall be the constructor for the purposes of the *Occupational Health and Safety Act*.
- 31. INSURANCE:** The Vendor shall maintain insurance coverage stated in the Purchase Order. In the absence of any stated insurance requirements the Vendor shall, at minimum, have commercial general liability and automobile policies containing standard industry wording and coverage of no less than five million and two million dollars, respectively. The College shall be added as an additional insured with respect to the Vendor's obligations pursuant to the Purchase Order. Throughout the duration of the Purchase Order, the Vendor shall ensure that the College is provided with certificates of insurance on the College's standard form showing that the Vendor is maintaining the necessary insurance coverage.
- 32. WORKPLACE SAFETY AND INSURANCE BOARD:** The Vendor shall, at all times during the provision of services hereunder ensure that the College is provided with a current certificate of clearance from the Workplace Safety and Insurance Board.
- 33. ESA:** All electrical work completed under this Contract must be inspected by the Electrical Safety Authority and an inspection certificate must accompany the invoice.
- 34. ENTIRE CONTRACT:** Unless specifically incorporated herein, the Purchase Order, the Terms and any schedules or documentation referenced shall constitute the entire Contract between the College and the Vendor.