

BANFF CENTRE TERMS AND CONDITIONS

1. **Definitions.** "Order" means the Vendor's agreement to sell products and/or provide services to the Purchaser; (b) Purchaser" means Board of Governors of The Banff Centre; (c) "Vendor" means the company, partnership, person or entity selling the products and/or providing the services to the Purchaser.
2. **Application.** These Terms and Conditions apply to every purchase of products and/or services by the Purchaser from the Vendor. The Vendor specifically agrees and acknowledges that unless the Purchaser agrees in writing to a modification of these Terms and Conditions, these Terms and Conditions apply and take precedence over any of the Vendor's terms and conditions whether set out in the Order or otherwise. The Purchaser may at any time insist upon strict compliance with these Terms and Conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.
3. **Delivery.** The Purchaser shall not be obligated to accept any products delivered without an Order and may, in the Purchaser's sole and absolute discretion, reject products delivered without an Order. The Purchaser shall not be responsible in any way for products rejected without an Order. Products shipped in excess of specified quantities in an Order may be returned by the Purchaser to the Vendor at the Vendor's expense. If the Vendor has reason to believe that a shipment of products will not be made as specified in an Order, written notice setting forth the cause and extent of the delay shall be given immediately to the Purchaser. In the event of the Vendor's failure to acknowledge and/or deliver the products as and when specified in an Order, the Purchaser reserves the right to cancel the Order, or any part thereof, without prejudice to its other rights, and the Vendor agrees that the Purchaser may return part or all of any shipments of products and the Vendor shall be solely responsible for any loss or expense sustained as a result of such failure to deliver pursuant to an Order. The Purchaser reserves the right to purchase other products of the same or similar description from other persons to remedy such deficiency.
4. **Risk in Transit.** All risk of loss or damage to the products while in transit shall be borne by the Vendor.
5. **Inspection.** All products shall be delivered subject to inspection by the Purchaser. Payment by the Purchaser shall not constitute acceptance as to quality or quantity. The Vendor will bear the cost of delivery and inspection of defective products rejected by the Purchaser. Such defective products may be returned by the Purchaser to the Vendor at the Vendor's expense.
6. **Representation & Warranty.** The Vendor expressly represents and warrants that all products delivered or services provided pursuant to the Order will conform to the requirements set out therein, including any representations made to the Purchaser and including any specifications, drawings, samples or other descriptions furnished to the Purchaser and such products will be fit and sufficient for their intended purpose, of merchantable quality, of good material and workmanship, free from defects.
7. **Indemnity / Liability.** The Vendor agrees to protect, defend and indemnify the Purchaser, and its respective Governors, officers, employees, consultants and agents (the "Purchaser Indemnitees"), from and against any and all claims, demands, losses, liability and costs arising out of or connected with damage to property, personal injury or death of the Purchaser's Indemnitees or third parties alleged to have been caused by the negligent or intentional acts or omissions of the Vendor, its employees or agents, connected with the products and /or services provided by the Vendor under an Order. Neither the Vendor nor the Purchaser shall be responsible for any consequential, incidental or punitive damages arising out of or connected in any way to an Order.
8. **Orders & Prices.** Prices for products or services will be as set out in the Order or, if not specified, as set out in the Vendor's quotation for such products or services, as accepted by the Purchaser. If price is omitted on an Order, except orders given in acceptance of coded prices, it is agreed that the Vendor's price will be the lowest prevailing market price and in no event is an Order to be filled at higher prices than last previously quoted or charged without the Purchaser's prior written consent. The Purchaser reserves the right to make changes to an Order at any time, and a reasonable adjustment in price will be made to cover any resulting change in the cost.
9. **Export/Import.** All customs and import compliance matters shall be the responsibility of the Vendor, including but not limited to, all applicable duties, fees, tariffs, and charges.
10. **Supplier Code of Conduct.** The Vendor shall comply with Banff Centre's Supplier Code of Conduct, as amended from time to time.
11. **Patents / IP.** In the event articles sold and delivered hereunder are covered by any patent, copyright, or other intellectual property protection, the Vendor will indemnify and save harmless the Purchaser from any and all loss, cost, or expenses on account of any and all claims, suits, or judgments on account of the use or sale of such products in violation of rights under such patent, copyright, or intellectual property protection.
12. **Excuse of Performance.** If the Vendor or the Purchaser is prevented from carrying out the provisions of these Terms and Conditions by reason of any act of force majeure, including but not limited to, acts of God, strikes, natural disasters, shortage or delay by carrier or the operation of law beyond the reasonable control of the parties, interfering with the production or receipt of products or delivery of services as herein contemplated, the party so interfered with, upon prompt written notice to the other party in advance of actual shipment or delivery of services, shall be excused from making or taking delivery or providing services to the extent of such interference.
13. **Insurance.** The Vendor shall secure, at its expense, appropriate insurance for the type and kind of its business and / or as reasonably requested by the Purchaser.
14. **General Provisions.** (a) the Vendor shall not assign its rights or obligations under the Order or these Terms and Conditions without the Purchaser's prior written consent. (b) In the event of a conflict between the Order and these Terms and Conditions, the Terms and Conditions shall govern. (c) These Terms and Conditions are formed and shall be construed, performed and enforced under the laws of the Province of Alberta. (d) Any suit, action or proceeding arising out of or connected in any way with these Terms and Conditions shall be brought in a Court of the Province of Alberta which the parties agree shall have exclusive jurisdiction to hear and resolve such disputes, subject only to the parties agreeing to resolve such disputes through arbitration.