

**Esri Canada Purchase Order
Terms and Conditions**

This Purchase Order is subject to the following terms and conditions:

1. Acceptance of Conditions

- (1) By accepting the order or any part of it, the Vendor agrees to and accepts all of the following terms and conditions, and any other terms and conditions incorporated by reference or appended to this Purchase Order, and this order is open for acceptance only upon those terms and conditions.
- (2) Esri Canada Limited (“Esri Canada”) may insist upon strict compliance with these terms and conditions despite any previous custom, practice or course of dealing to the contrary.

2. Specifications

Esri Canada may make changes at any time and from time to time to any specifications or drawings relating to the goods or services, but a reasonable adjustment may be made in the price by the Vendor to cover any additional costs thereby incurred.

3. Invoices and Delivery Slips

- (1) Delivery slips shall accompany all shipments of goods and in each case shall identify those goods shipped, previously shipped or back ordered, as the case may be and shall show the purchase order number, the place from which the goods were shipped and where available the name of the carrier and bill of lading number.
- (2) All invoices shall be sent to the billing address stated on the Purchase Order and shall show the purchase order number stated on the Purchase Order, as well as the date of shipment.
- (3) Foreign Vendors shall include an applicable Canada Customs invoice with each shipment, together with all certificates required by law, and such invoice shall show the purchase order number, case or container number and contents of each package separately.

4. Commencement of Cash Discount Period

Any cash discount period available to Esri Canada shall commence on the receipt by Esri Canada of a correct invoice.

5. Delivery Required

- (1) Where there is a firm date for the delivery of the goods or services (“Delivery Required Date”) and the Vendor fails to deliver the goods or services on or before the Delivery Required Date, Esri Canada may cancel this order or any part of it without prejudice to its other rights, and may return at the Vendor’s expense part or all of any shipment of goods received after the Delivery Required Date, unless such late delivery has been expressly approved by Esri Canada, and, irrespective of whether this order is cancelled, Esri Canada may charge the Vendor with any loss or expense sustained as a result of the late delivery or failure to deliver.
- (2) Despite anything in this Purchase Order, where a Delivery Required Date is stated on the Purchase Order, timely delivery is of the essence and the Vendor shall be responsible to ensure that such delivery is made, and shall advise Esri Canada immediately of any anticipated delays and the reasons therefore.

6. Delivery and Shipment

- (1) Goods or services shall not be deemed or construed to be delivered until actually received by Esri Canada at the place designated on the Purchase Order for such delivery.
- (2) The Vendor shall notify Esri Canada forthwith where goods or services cannot be delivered as agreed and at the times specified in the delivery schedule.
- (3) All goods shall be properly classified, described, packaged, marked and labelled by the Vendor for shipment, and shall be in proper condition for transportation in accordance with any applicable provincial or federal laws or regulations, and the Vendor shall indemnify and save Esri Canada harmless from any claims, penalties or damages incurred by Esri Canada as a result of the improper shipment of the goods.
- (4) Where by reason of a delay in shipment, it is necessary to make express or air express shipments of the goods in order to deliver the goods on the Delivery Required Date, Esri Canada may direct that the goods be so shipped, and the difference between freight and express rates shall be for the account of the Vendor.
- (5) Except with the prior written consent of Esri Canada, all goods are to be shipped in the manner specified in the Purchase Order (or, if no method of shipment is specified, by the cheapest method of shipment), and where the goods are shipped by another method, Esri Canada may:
 - (a) refuse to accept delivery of the goods; or
 - (b) accept delivery of the goods, and deduct any extra cost incurred by Esri Canada by reason of their shipment by an improper method from the price payable to the Vendor.

7. Right of Inspection

- (1) All goods and services received shall be subject to Esri Canada's inspection and rejection (and to the inspection and rejection of any Federal, Provincial or Municipal Government or agency, the permission of which is required to use the goods), and the Vendor shall:
 - (a) permit any accredited representative of Esri Canada or applicable Government or agency to attend at the plant, warehouse or other place of shipment;
 - (b) supply such samples of goods as Esri Canada or any representative of a Government or agency may reasonably request;
 - (c) provide all reasonable assistance to any representative of Esri Canada or any Government or agency, for the purpose of testing or otherwise inspecting the goods.
- (2) The Vendor shall bear the cost of delivery and inspection of defective, non-conforming, unordered or otherwise rejected goods or services.
- (3) Where additional work is required to meet specification requirements, that work shall be arranged forthwith by the Vendor, and shall be carried out at no extra cost to Esri Canada.
- (4) Unauthorized late deliveries, unordered goods, defective goods, and goods not in accordance with Esri Canada's specifications shall be held for 3 days for the Vendor's instructions and at the Vendor's risk, and where the Vendor so directs, shall be returned at the Vendor's expense.
- (5) Payment for goods or services prior to inspection shall not constitute an acceptance of those goods or services.
- (6) Where goods or services are rejected, any allowance for the price of those goods or services shall be deducted from total payments to be made to the Vendor.

8. Exact Order

- (1) This Purchase Order is for the exact quantity stated or for the specific services as described, and no overrun will be chargeable to Esri Canada unless approved by Esri Canada in writing prior to delivery.

- (2) No costs additional to those stated on the Purchase Order shall be chargeable to Esri Canada unless approved by Esri Canada in writing prior to delivery.
- (3) There shall be no back-order except with the written approval of Esri Canada.

9. Force Majeure

Neither Esri Canada nor the Vendor shall be responsible for delays in respect of this Purchase Order that result from labour dispute relating to a person at arm's length to the party claiming relief, war (whether or not declared), riot, terrorism, fire, flood or other acts of God, or acts of the Queen or Her enemies, but the party claiming relief under this provision shall notify the other party claiming relief under this provision shall notify the other party forthwith as soon as such a delay or default is anticipated.

10. Warranties By Vendor

- (1) The Vendor warrants to Esri Canada that all goods supplied under this Purchase Order:
 - (a) are free from defects in material, workmanship and design;
 - (b) suitable for the purposes intended or implied;
 - (c) in compliance with all applicable specifications; and
 - (d) free from liens or encumbrance on title.
- (2) The Vendor warrants to Esri Canada that all services shall be performed in accordance with current, sound and generally accepted industry practices by qualified personnel trained and experienced in the appropriate fields.
- (3) The Vendor warrants that it has good and marketable title to the goods and that neither the supply of any goods to Esri Canada nor the use of those goods by Esri Canada shall constitute an infringement of any patent, invention, trade mark, copyright or similar proprietary interest belonging to any third party. The Vendor shall indemnify Esri Canada and shall save Esri Canada harmless from and against any and all claims, liabilities or costs (including legal costs on a solicitor and client basis) to which Esri Canada is exposed by reason of any such infringement.

11. Amendment

No modifications of, or additions to, the provisions or conditions of this Purchase Order will become part of it unless accepted in writing by Esri Canada.

12. Assignment

This Purchase Order may not be assigned, sub-contracted or otherwise transferred in whole or in part to any other Vendor, except with the prior written consent of Esri Canada.

13. Limitation of Liability

NO LIABILITY FOR CONSEQUENTIAL DAMAGES: Esri Canada or its authorized agents shall not be liable for any special, incidental, indirect or consequential damages whatsoever arising out of the supply of goods or in connection with this Purchase Order.

LIMITS ON LIABILITY: If for any reason, Esri Canada becomes liable to Vendor or any other person for direct or any other damages in connection with the supply of goods or in connection with this Purchase Order, then the aggregate liability of Esri Canada shall be limited to an amount equal to the value of this Purchase Order.

14. Conflict

The Vendor and Esri Canada agree that in the event of any conflict between this Purchase Order Terms and Conditions and the terms of any separate agreement entered between the Vendor and Esri Canada for the delivery of the goods or services covered under this Purchase Agreement, the terms of the separate agreement shall prevail or govern.