

## **SUPPLEMENTAL TERMS – Consulting/Design Services**

*Contractor understands that they must comply with all of the College's health and safety policies and protocols, including but not limited to all those that are COVID-related. Any violation will be considered a breach of this Agreement. Contractor will be required to leave the College's campus immediately, and Contractor will not be paid.*

**INDEPENDENT CONSULTING/DESIGN PROFESSIONAL:** Consulting/Design Professional is an independent Consulting/Design Professional; it shall have no right to incur any indebtedness or to make any commitment or contract on behalf of the College. Subject to terms hereof, the College shall have no right to direct or control the times when, nor the manner, means or methods by which the Consulting/Design Professional shall perform its services hereunder.

### **I. PAYMENT**

- a. All invoices issued by the Consulting/Design Professional shall be paid by the College within thirty (30) days of the date a correct invoice is received by the College unless otherwise agreed in writing by the College.
- b. If any amount of an invoice is disputed, then the College shall inform the Consulting/Design Professional of the grounds for such dispute within ten (10) days of delivery of the services and/or goods and shall pay to the Consulting/Design Professional the value of the invoice less the disputed amount in accordance with these payment terms. Once settlement of the dispute has been agreed, any sum then outstanding shall also be payable in accordance with these payment terms.
- c. Unless otherwise stipulated, payments shall be made for work in place and completed, and approved by the College.

- II. NON-DISCRIMINATION:** Bryn Mawr College is firmly committed to a policy of equal opportunity for all members of its faculty, staff and student body. Bryn Mawr College does not discriminate on the basis of race, color, religion, national or ethnic origin, sexual orientation, age or disability in the administration of its educational policies, scholarship and loan programs, and athletic and other College administered programs, or in its employment practices.

In conformity with the Civil Rights Act of 1964, as amended, and Title IX of the Education Amendments of 1972, it is also the policy of Bryn Mawr College not to discriminate on the basis of sex in its employment practices, education programs or activities. The admission of only women in the Undergraduate College is in conformity with a provision of the Civil Rights Act. The provisions of Title IX protect students and employees from all forms of illegal sex discrimination, which includes sexual harassment and sexual violence, in College programs and activities.

In further accordance with Title IX, Bryn Mawr College requires any person, organization, group or other entity to which it subgrants or with which it contracts, subcontracts, or otherwise arranges to provide services or benefits or to assist it in the conduct of any program covered by this assurance, or with which it contracts or otherwise arranges for the use of any facility covered by this assurance to comply fully with Title IX and part 86 and to submit an assurance satisfactory to the Director, Office for Civil Rights, Department of Health, Education and Welfare, Washington, D.C.

All Consulting/Design Professionals must warrant that they are in compliance with all applicable federal, state and local non-discrimination laws.

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### III. COMPLIANCE WITH LAWS AND REGULATIONS:

The Consulting/Design Professional agrees to comply with all applicable Federal, State, and local laws and regulations including, but not limited to, those pertaining to “BUY AMERICAN ACT,” “OFFICIALS NOT TO BENEFIT,” “COVENANT AGAINST CONTINGENT FEES,” “CONVICT LABOR,” “EIGHT-HOUR LAW OF 1912” (to the extent applicable).

1. Affirmative Action for Disabled Veteran and Veterans of the Vietnam Era – Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (Public Law 93-508) and its implementing regulations (41 CFR 60-250) require government Consulting/Design Professionals and sub-Consulting/Design Professionals to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. The regulations in this Part apply to all government contracts and subcontracts for the furnishing of supplies or services or for the use of real or personal property (including construction) for \$10,000 or more.
2. Affirmative Action for Disabled Workers - The Rehabilitation Act of 1973 (Public Law 93-112) and its implementing regulations (41 CFR 60-741) require that government Consulting/Design Professionals obtain certification from suppliers of materials and/or services in excess of \$2,500 for use in performing government contracts and agree to comply with an affirmative action clause regarding employment of the disabled.
3. Procurement Assistance – Assistance to Small Business in Federal Contracting Programs; final rules implementing the Small Business Act as amended by Public Law 95-507 with respect to Programs rendering assistance to Small Business in Federal Prime and Subcontracting.
4. The Contract: Acceptance Modification, Waiver - The contract between Consulting/Design Professional and the College is embodied in the terms and conditions of this Purchase Order, together with any supplemental documents, specifications, drawings, notes, instructions, engineers’ notices, or technical data referred to herein, all of which are hereby incorporated by reference, all of such documents being hereinafter individually and collectively referred to as “Purchase Order.” Consulting/Design Professional accepts the terms of this Purchase Order by commencing performance hereunder or returning a written acknowledgement to the College. In the event that Consulting/Design Professional submits its own form of acknowledgement such submission shall constitute an agreement to the terms and conditions of this Purchase Order and any terms thereof at variance with the terms of this Purchase Order shall be ineffective unless specifically accepted in writing by the College. This Purchase Order sets forth the entire understanding of the parties with respect to the subject matter hereof. No waiver or modification of any provision of the Purchase Order shall arise or be valid unless made in writing by amendment hereto duly executed by the College’s properly designated representatives on the College’s Purchase Order form and waiver of any one default shall not waive subsequent defaults.

The failure of the College to insist upon strict performance of any of the terms of this Purchase Order, or to exercise any rights herein conferred, shall not constitute a waiver of the College’s right to assert or rely on any such terms or rights on any future occasion.

5. Assignment – This Purchase Order and the monies due hereunder shall not be assigned by Consulting/Design Professional.
6. Deliveries – College operations are based upon the agreement that materials will be delivered to the College or services performed for the College by the date specified on the face of this Order. Time is therefore the essence of this Order. If Consulting/Design Professional fails to make deliveries or perform the services within the time agreed upon, or performs the work hereunder in such a fashion as endangers its ability to make timely deliveries or to render timely performance of services, the College reserves the right to cancel, purchase elsewhere, and hold Consulting/Design Professional accountable for any additional costs or damages incurred by the College.

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7. Quantities – Shipments must equal exact amounts ordered unless otherwise agreed by the College.
8. Inspection – Irrespective of prior payment, all articles and services procured hereunder will be subject to final inspection and approval at the facility of the College, either upon delivery or when operating testes are possible.
  - (a) return such articles to Consulting/Design Professional at Consulting/Design Professional's risk and expense, including freight in the return freight for rework or replacement, in which case Consulting/Design Professional agrees to ship acceptable articles with 10 days of Consulting/Design Professional's receipt of rejected articles, or
  - (b) in the event the College in its sole discretion believes Consulting/Design Professional is then unable to rework or replace within the time required by the College, the College may upon notification to Consulting/Design Professional
    - i. rework or have another supplier rework to conform to specifications or samples, the cost of which rework shall be borne by Consulting/Design Professional, or
    - ii. return at Consulting/Design Professional's expenses such articles to Consulting/Design Professional for credit and procure replacement articles from alternate source of supply.
9. **Cancellation. The College reserves the right to cancel this purchase order in whole or in part at any time or from time in its sole discretion and without cause effective upon oral or written notice by telephone or otherwise. The College shall confirm oral notice by email or by other writing 24 hours of the giving of such oral notice. Upon such cancellation, the College's liability arising out of this purchase order shall be limited to the payment of a pro rata portion of the purchase order price for completed items finished prior to cancellation and delivered to and accepted by the College.**
10. Indemnification – To the extent that Consulting/Design Professional's agents, employees, or sub-Consulting/Design Professionals enter upon premises occupied by or under the control of the College, or any of its customers or suppliers, in the course of the performance of this Order, Consulting/Design Professional shall take all necessary precautions to prevent the occurrence of any injury (including death) to any person or any damage to any property, arising out of any acts or omissions of such agents, employees, or sub-Consulting/Design Professionals, and except to the extent that any such injury or damage is due solely and directly to the College's negligence, shall indemnify the College against any loss, claim, damages, liability, expense (including reasonable attorney fees) and case of action , whatsoever, arising out of any act or omission of the Consulting/Design Professional, its agents, employees, or sub-Consulting/Design Professionals, and Consulting/Design Professional shall maintain such Public Liability, Property Damage, and Employee's Liability and Compensation Insurance as will protect the College from any of said risks and from any claims under any applicable Workmen's Compensation and Occupational Disease Acts.

The Consulting/Design Professional agrees to indemnify the College and hold it harmless from and against liability, loss and expense (including reasonable legal fees) resulting from damages or injuries incurred by the College by reason of any defect in material, workmanship, and/or design of any goods furnished hereunder.

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BRYN MAWR COLLEGE  
FACILITIES SERVICES DEPARTMENT  
**SUPPLEMENTAL TERMS – Consulting/Design Services**

IV. **INSURANCE:** The coverage required below will not be limited by any other provisions in the contract documents or elsewhere. Consulting/Design Professional must comply, and cause all sub-Consulting/Design Professionals of any level to comply, with the following insurance requirements:

**Minimum limits required:**

**General Liability:**

Each Occurrence	\$1,000,000
Personal & Advertising Injury	\$1,000,000
General Aggregate Limit	\$2,000,000
Products/Completed Operations Aggregate Limit	\$2,000,000
Medical Expense Limit	\$5,000

ISO form CG 00 01 or equivalent  
Aggregate limit to apply per project  
Coverage must be on Occurrence form. "Claims Made" is not acceptable.

Additional Insured Entities: Owner and related entities and their respective officers, directors and employees must be named as Additional Insured

Additional Insured Endorsement Form Required: CG 20 10 Additional Insured-Owners, Lessees or Consulting/Design Professionals (Premises/Operations)

**AND**

CG 20 37 Additional Insured-Owners, Lessees or Consulting/Design Professionals (Products / Completed Operations)

**No other forms are acceptable. Both endorsements are required.**

Other: The Employer's Liability exclusion may not exclude coverage for an employee of "any" insured, only employees of a "Named" Insured.

**Auto Liability:**

Combined Single Limit	ISO form CA 00 01 or equivalent \$1,000,000
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Includes Owned, Non-Owned & Hired Autos

**Workers Compensation:**

Employers Liability Limits	Statutory Benefits for All Employees
Each Accident	\$1,000,000
By Disease - Policy Limit	\$1,000,000
By Disease - Each Employee	\$1,000,000

Waiver of Subrogation endorsement in favor of Owner and related entities and their respective officers, directors and employees.

**Umbrella:**

Additional Insured's as required hereunder	Coverage to be as broad as primary including
Each Occurrence and in the Aggregate	\$1,000,000

Providing Coverage in Excess of:  
General Liability

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Auto Liability

Employers Liability

**Consulting/Design Professional's Property Insurance**

Under no circumstances will Owner be liable for any loss or damage to any property.

Property including employee tools, used for the work

All owned and rented equipment and tools,

Perils:

Special Form perils including Theft

Replacement Cost

Deductible no higher than

\$1,000

Valuation:

Replacement Cost

**Consulting/Design Professional's Design Liability:**

Required only when Consulting/Design

Professional will perform design services

Limit Per Claim

\$2,000,000

Aggregate Limit

\$2,000,000

Limit to apply per project or have a limit dedicated solely to this project.

### ADDITIONAL REQUIREMENTS

1. All policies must be written with insurers maintaining an A.M. Best Rating of A-IX or better and admitted to do business in the State where the contract is to be performed.
2. General Liability coverage for Premises & Operations and Products & Completed Operations is to be maintained for 3 years after the initial work is completed and the College and related entities and their respective officers, directors and employees must be named as Additional Insured using BOTH forms CG 20 10 and CG 20 37 during that entire period of time. Evidence of such insurance must be provided at inception of the contract and annually thereafter for the number of years specified.
3. All coverage required in this contract must be primary and non-contributory to any insurance maintained by the College. "Primary and non-contributory" in this clause means that Consulting/Design Professional's policies must provide coverage before any other applicable policy of insurance, deductible or self-insured retention program maintained by Owner without seeking contribution from other insurance carried by Owner and related entities and their respective officers, directors and employees.
4. No deductible or self-insured retention shall apply to any insurance required hereunder without the express written consent of the College. Should the College agree to a deductible or self-insured retention, Consulting/Design Professional agrees to be responsible for defense, including all claims and investigation expenses and any loss payments to the extent coverage would have been provided by the insurer had no deductible or self-insured retention applied to such insurance.
5. Each policy must be endorsed to require at least 30 days' notice of cancellation (10 days for non-payment of premium) to the College. If, after reasonable effort, Consulting/Design Professional is unable to secure such endorsement, Consulting/Design Professional must provide the College written notice of any cancellation within 3 working days of any written or oral notice of such cancellation.
6. Consulting/Design Professional waives all rights against the College to the extent of any insurance carried or required to be carried under this agreement. Policies of insurance must be endorsed, as needed, to provide such waivers. Such waivers will be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged. Such waiver shall also apply to the

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extent that any deductible or self-insured retention applies to any such policy and to the extent that the insured party is underinsured.

7. These requirements apply to all work done at any time in connection with or related to this project including any warranty, rework or additional work performed following the completion of this contract.
  8. Neither failure to monitor compliance with these requirements nor failure to identify a deficiency from evidence provided will be considered a waiver of such requirements.
  9. Failure to obtain and to keep in force any of the required insurance coverage shall be deemed to be sufficient cause for termination of this contract for default.
  10. Consulting/Design Professional's liability shall not be limited to the limits of any required insurance.
  11. The College shall not be liable for payment of any premiums under any required policies of insurance.
  12. The College reserves the right to require complete copies of all required insurance policies at any time. If requested, copies must be furnished within 10 working days from the date of the request.
  13. All sub-Consulting/Design Professionals will be required to comply with the above requirements as well. However, limits required may be lower at the discretion of the Consulting/Design Professional.
  14. Consulting/Design Professional shall give prompt notice to the College in the event of any accident or occurrence on the premises or related in any way to this contract
  15. Limits required may be purchased in any combination of primary and excess to achieve the required total limits.
  16. DOCUMENTATION TO BE SUBMITTED PRIOR TO THE START OF THE WORK AND AT EACH INSURANCE RENEWAL OR REPLACEMENT UNTIL INSURANCE IS NO LONGER REQUIRED
    - a. Certificates of Insurance evidencing requirements above
    - b. Copy of Additional Insured endorsement
    - c. Copy of Waiver of Subrogation endorsement on Workers Compensation policy
- V. OWNER OCCUPANCY: The College will occupy the site and existing building during the entire construction operations to minimize conflicts and facilitate the College usage. The Consulting/Design Professional will perform the work so as not to interfere with the College's operations.
- VI. CONSULTING/DESIGN PROFESSIONAL USE OF PREMISES
- a. General: During the construction period the Consulting/Design Professional shall have limited use of the premises for construction operations. The Consulting/Design Professional's use of the premises is limited by the College's continued use and occupancy.
  - b. General:
    - i. Confine operations to areas within Contract limits indicated. Portions of the site beyond areas in which construction operations are indicated are not to be disturbed.
    - ii. All Consulting/Design Professional personnel must wear a College ID badge. These are available at the Facilities Services Office in the Ward Building and may be checked out in a block by the project superintendent. Except with the specific approval of the College's project representative, construction personnel may not enter College buildings other than the one(s) listed on this order.
    - iii. Fire Department access to building site shall be kept open and clear at all times.
    - iv. Access to the construction site shall be as directed by the College.
    - v. No lewd or offensive comments or gestures will be permitted on site.
    - vi. Smoking is prohibited in all College buildings and outdoors within 25 feet of the perimeter of any College building, including arches and covered entrances.
    - vii. Workers must be dressed appropriately. No shirtless workers will be permitted on site.

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- viii. No radios or musical devices with external speakers are permitted on site.
  - ix. Start time for work will be coordinated with and approved by the College.
  - x. Keep driveways and entrances serving the premises clear and available to the College and the College's employees at all times. Do not use these areas for parking or storage of materials. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on site.
  - xi. The College will assign Consulting/Design Professional laydown and parking areas. Temporary parking permits will be required for all Consulting/Design Professional vehicles. These permits are available at the Facilities Services Office in the Ward Building and may be checked out in a block by the project superintendent.
- c. Use of the Existing Building:  
Consulting/Design Professional shall:
- Maintain the existing building in a weathertight condition throughout the investigative/surveying period.
  - Repair damage caused by surveying operations.
  - Take all precautions necessary to protect the building and its occupants during the investigative/surveying period.
- VII. APPROVALS: Consulting/Design Professional shall obtain approvals of all work, as required, including electrical, mechanical and plumbing, as required by the municipal authorities.
- VIII. SAFETY DURING INVESTIGATIVE/SURVEYING SERVICES AND CONSTRUCTION: The Consulting/Design Professional shall be responsible for the safety of its workers for the duration of the project. The Consulting/Design Professional must comply with all applicable OSHA standards.
- IX. GENERAL CLEAN-UP: The Consulting/Design Professional shall be responsible for cleaning up and restoring all work areas to a finished condition. The College's Representative shall be the sole judge of what constitutes a "finished condition."
- X. CODES: All references to codes, specifications and publications of public and private entities shall be understood to refer to the latest revision or editions thereof at the date of the order, and such codes and specifications shall be considered an integral part of the Purchase Order insofar as they apply.
- XI. TEMPORARY STAGING, FORMWORK, SCAFFOLDING, CHUTES AND RAMPS
- a. The Consulting/Design Professional shall arrange, or have its sub-Consulting/Design Professionals arrange, to furnish, install, erect, maintain, protect, dismantle, and remove any temporary works used during the project.
  - b. The Consulting/Design Professional shall assume complete responsibility for stability, safety, wind and fire resistance, warning lights, signs and operating signals and procedures, and shall conform to all applicable safety standards.
- XII. OWNERSHIP OF DRAWINGS AND SPECIFICATION: Consulting/Design Professional hereby assigns to the College, without reservation, copyrights to all of Consulting/Design Professional's original work created for the College hereunder which includes, without limitation, all Project-related documents, models, photographs, and other expressions, created by Consulting/Design Professional. Among those documents are certain "Instruments of Service," including the design drawings and the drawings and specifications that are included in the contract documents. Consulting/Design Professional agrees that all such documents, data, compilations, including, without limitation, the Instruments of Services and contract documents, other documents, deliverables, creations and works of authorship of any nature, including, without limitation,

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videotapes, displays, graphic art, literary works, photographs and other images, architectural works, and devices of any nature developed, created or derived pursuant to this Order or to be furnished to the College in whatever format or medium, whether by Consulting/Design Professional or any of their sub-Consulting/Design Professionals (collectively, the “Design Materials”), are works made for hire within the meaning of the Copyright Act, 17 U.S.C. Section 101 et seq., and any other Federal copyright laws (the “Copyright Act”) shall therefore be the exclusive property of the College, and the College shall therefore be the sole owner of copyrights and all other property rights with respect thereto. In the event that any of the Design Materials are at any time in the future deemed not to be a “work made for hire,” Consulting/Design Professional hereby transfers to the College all of any interest it may be deemed to have in the copyrights applicable to such Design Materials, and all of any interest in all renewals and extensions of such copyrights that may be obtained under the laws of the United States of America or any other countries.

The College in its sole discretion may grant the Consulting/Design Professional the reasonable use of the Design Materials for promotional uses. Permission must be sought and granted in writing before such use. Use of the Design Materials for promotional purposes at any time prior to receipt of the College’s written permission shall be considered a breach of this agreement and Consulting/Design Professional shall be subject to termination for cause.

Unless aforesaid written authorization is issued by the College, Consulting/Design Professional may not use the College’s name, trademarks, seal, emblem, insignia, or facilities in any print, photo, image, video, or electronic announcement, advertising or promotional material, publication, correspondence or commercial which could in any fashion be construed as implying the College endorsement of any product, project or services.

### XIII. TAX STATUS

- a. Generally. BRYN MAWR COLLEGE, as an institution of purely public charity, is exempt from certain taxes, including both Federal Excise Taxes imposed under Chapter 12 of the Internal Revenue Code of 1953 and Pennsylvania Sales and Use Taxes imposed under Chapter 2 of the Tax Reform Code of 1971, 72 P.S. 7201, et seq. It is therefore required that the Consulting/Design Professional and all Sub-Consulting/Design Professionals purchasing taxable goods covered by the governing tax codes make known to suppliers that tax-exempt status of the institution in order that such taxes be excluded from the Contract Sum, as provided herein. BRYN MAWR COLLEGE will provide the necessary evidence and certificates of its tax exemption upon request of those concerned.
- b. Pennsylvania Sales Tax Exemption. BRYN MAWR COLLEGE is entitled to a limited exemption from sales and use tax in Pennsylvania. This exemption does not apply to all purchases. Attached hereto and made a part hereof is a list of items for which BRYN MAWR COLLEGE is entitled to exemption from tax. See Exhibit 1. All other materials, equipment and supplies purchased by Consulting/Design Professional and not listed herein are presumed to be subject to Pennsylvania sales and use tax. Where Consulting/Design Professional is purchasing items for which BRYN MAWR COLLEGE is entitled to exemption from tax, Consulting/Design Professional shall obtain from BRYN MAWR COLLEGE a properly executed Exempt Purchaser’s Certification, a copy of which is attached hereto and made a part hereof, See Exhibit 2. The Consulting/Design Professional shall provide this Certification to its supplier(s).
- c. Assignment of Rights. Where Consulting/Design Professional is entitled to a refund of taxes paid in error upon purchases made in conjunction with this Agreement, or any subsequent changes or additions hereto, Consulting/Design Professional agrees to assign and transfer to BRYN MAWR COLLEGE all its rights to said refund. Consulting/Design Professional further agrees that it will not file any claim for refund of taxes paid in error upon purchases made in conjunction with this Agreement, or any subsequent changes or additions hereto, absent approval, in writing, by BRYN MAWR COLLEGE.



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- d. Access to Records. Consulting/Design Professional agrees to inspect all materials, equipment and labor purchased in conjunction with this agreement and to keep full and detailed records of accounts as required for proper financial management. Such records shall be subject to the approval of BRYN MAWR COLLEGE. BRYN MAWR COLLEGE, its agents, and assignees shall be entitled access to all Consulting/Design Professional's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. Consulting/Design Professional shall preserve all such records for a period of five years, or for such longer period as may be required by law, commencing with the final payment pursuant to this Purchase Order.