

**HARSCO CANADA, DIVISION OF HARSCO CANADA CORPORATION ("Buyer")
TERMS AND CONDITIONS OF PURCHASE**

Rev. 08/13/15

1. Acceptance of Terms and Conditions: The acceptance of the terms and conditions contained herein is an essential prerequisite to any contract of purchase made by Buyer. Any offer or acceptance by Buyer is made subject to the terms and conditions contained herein and no additional or different terms offered by Seller shall become a part of the agreement of sale between Buyer and Seller unless such terms have been expressly approved in writing by an authorized agent of Buyer. If this document is an offer, acceptance of this offer is expressly limited to other terms hereof, and Buyer reserves the right to withdraw this offer at any time before its acceptance by Seller. If this document has been issued by Buyer in response to a written offer made by Seller, Buyer's acceptance of Seller's offer is expressly conditioned on Seller's assent to the additional or different terms and conditions herein. If these terms and conditions are not acceptable, Seller shall notify Buyer in writing at once. Seller's action in (a) acknowledging this Purchase Order, (b) commencing performance, or making shipment of products, (c) performing services called for hereunder, or (d) receiving this purchase order without disaffirmance within three (3) business days of receipt shall constitute an unqualified acceptance by Seller of the terms and conditions contained herein.

2. Changes. Buyer reserves the right to change specifications, requirements or date of delivery. Differences in contract prices resulting from such changes shall be equitably adjusted between Buyer and Seller.

3. Prices and Invoices. Separate invoices for each order are required. All taxes are for the account of Seller unless specifically and separately stated on the front of the invoice and accepted by Buyer. No invoice will be rendered at a price higher than that stated on this purchase order unless authorized in writing by Buyer. No extra charges will be accepted against any purchase order without written approval of Buyer. Unless otherwise indicated on the face of this purchase order, shipping and handling costs are included in the amount set forth thereon. Any due date or discount date will be calculated from the date the invoice is received by Buyer, acceptable in accordance with the terms and instructions contained herein. Buyer accepts no charges on any invoices with respect to liquidated damages or delinquent charges. Cash discounts on invoices are taken if offered. Harsco Canada interprets a percentage discount for payment "within 15 days" to mean that a discount will be allowed if the materials are accepted and paid within 15 days after receipt of both the product and the vendor's invoice. When the terms are not specifically stated, Harsco Canada will assume 0% - 60 days payment. Discounts offered for payment in less than 15 days are not administratively possible.

4. Limitation of Liability. For goods purchased under this purchase order, Buyer's liability for breach of this purchase order will not exceed the difference between the resale price of any materials sold in good faith and in a commercially reasonable manner and the contract price for such materials, less expenses saved in consequent of Buyer's breach. Whether for the purchase by Buyer of goods or services under this purchase order, Buyer will not be liable for any consequential, incidental, special, delay, punitive or liquidated damages of any type.

5. Warranty. In addition to all warranties imposed by law, Seller expressly warrants that all goods delivered pursuant hereto will conform to the specifications, drawings, samples or other description furnished or specified by Buyer and will be fit for the purpose intended, merchantable, of good material and workmanship and free from defects, including, without limitation, defects in manufacture and design. Neither payment nor inspection by Buyer can

constitute a waiver of any breach of warranty. Goods returned to Seller for breach of warranty will be credited to Buyer's account. Services will be warranted by Seller for a one (1) year period following Seller's completion of services. Seller shall extend all warranties of its vendors to Buyer, but by doing so; Seller will not be relieved of Seller's warranty obligations hereunder.

6. Indemnity and Insurance Requirements. Seller agrees to defend, indemnify, and save harmless Buyer from and against any and all judgments, claims and demands for loss of or damage to property, or injury or death to persons, including, without limitation, employees, officers and agents of Buyer except to the extent such loss, damage, injury or death results from Buyer's sole negligence or is due solely to the defects or failure of Buyer's equipment.

Prior to any work commencing or the Seller entering Buyer's operation, evidence of the insurance listed below must be presented in an acceptable form to Buyer. In the event the form is not acceptable, Buyer has the option to request copies of the related insurance policies.

If performing work on Buyer's premises, at all times during this Purchase Order, Seller agrees to maintain Worker's Compensation insurance in compliance with the applicable statutory requirements in the Province of Ontario.

At all times during this Purchase Order, Seller agrees to maintain Automobile Liability insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles in an amount not less than \$1,000,000 combined single limit.

At all times during this Purchase Order, Seller agrees to maintain Comprehensive General Liability insurance for bodily injury and property damage in an amount not less than \$3,000,000 per occurrence and \$3,000,000 aggregate. The insurance must include coverage for the following; Premises/Operations Liability, Products/Completed Operations Liability, Explosion, Collapse and Underground (XCU) exclusion deleted, Blanket Contractual Liability Coverage, Personal Injury Liability, Broad Form Property Damage, Independent Contractors, and Fire Legal Liability.

All such insurance noted above must provide a waiver of subrogation, where allowed by law, in favor of Buyer. In addition, the liability policies must include Buyer, its directors, officers, agents and employees as an additional insured. Coverage must also respond as primary and non-contributory.

At all times during this Purchase Order, Seller agrees to maintain Contractor's Equipment insurance on an "all risk" basis covering equipment owned, leased or used by Seller. Such insurance shall include a waiver of subrogation in favor of Buyer. Seller also agrees to release and hold harmless Buyer for any loss or damage to its equipment. Seller's certificate of insurance must set forth the text of or refer specifically to the above clause. The certificate must also provide that Buyer will be given not less than 30 days prior written notice of any material change in or cancellation of said policies.

Buyer may waive any of the foregoing insurance requirements in writing or by electronic communication to the Seller if in the sole discretion of the Buyer it determines that such insurance is not reasonably required for the purposes of carrying out the transaction contemplated by the Purchase Order. Buyer may also request additional evidence of insurance coverage from Seller depending on the nature of the goods or services provided.

7. Compliance with Laws. Seller will at all times comply with all municipal, provincial and federal laws, regulation rules and statutes applicable to its performance under this Agreement. For greater certainty, the *United Nations Convention on Contracts for the International Sale of Goods* does not apply to this Purchase Order. Seller will indemnify and defend Buyer against all claims, cost, loss or expense resulting from Seller's breach of this paragraph.

8. Patents. Seller shall indemnify and defend Buyer from and against any and all claims, actions, judgments, damages, royalties, costs, including reasonable legal fees, and any other expenses arising in connection with the infringement or alleged infringement of any Canadian or foreign patent by the goods or services furnished hereunder or the unauthorized use or alleged unauthorized use of any trade secrets, proprietary know-how, or other proprietary rights incorporated in the goods and services furnished hereunder. Seller shall reimburse Buyer for any reasonable legal or other expenses reasonably incurred by Buyer in connection with the investigating or defending of any loss, claim, damage, liability or action referred to in this paragraph.

9. Buyer's Property. Any of Buyer's property delivered to Seller for Seller's performance of this contract, including, without limitation, blueprints, patterns and tools, shall remain Buyer's property and Seller is responsible to return them to Buyer in the same condition as received upon request of Buyer.

10. Confidential Information. This purchase order is a matter of confidential information, and Seller will strictly protect the confidentiality hereof. Information on this purchase order is furnished by Buyer on the understanding that it may and will be used only for the purpose of satisfying this order.

11. Liens. Seller shall promptly pay and discharge all claims and demands for work performed and materials and equipment furnished in performance of this Purchase Order. Seller shall furnish Buyer with complete releases and waivers of all liens prior to final payment and shall protect and indemnify Buyer from and against all liens that may be filed in connection herewith. Buyer reserves the right to satisfy and obtain the release of any liens filed as a result of work performed or materials and equipment furnished in performance of this Purchase Order and in such cases as set off such sums against sums otherwise payable by Buyer to Seller hereunder.

12. Force Majeure. Fires, accidents, labour disturbances, war conditions, nuclear incidents, acts of God, governmental acts, laws or regulations, involuntary cessation of operation of any of Buyer's plants for any reason, or other causes beyond the reasonable control of Buyer rendering Buyer unable to receive the items or services covered by this purchase order will permit Buyer at its option to cancel this order by notice to Seller, without liability of Buyer to Seller for such cancellation.

13. Non-Waiver. Any waiver or failure by Buyer to require strict compliance with any of the provisions hereof shall not operate as a waiver of Buyer's right to insist upon strict compliance therewith thereafter.

14. Termination. Buyer may at any time demand that Seller terminate work on this order. In the event such termination is not due to the default or breach of Seller hereunder, any claim arising out of such termination shall be settled exclusively by Buyer's reimbursing Seller for documented costs actually and properly incurred by Seller for the purchase, assembly or manufacture of the goods (with due allowance for their salvage value after Buyer has had full

opportunity to recommend disposition), or for services actually provided. In the event such termination is due to the default of breach of Seller hereunder, Buyer shall have no liability to Seller and Buyer shall have all rights and remedies against Seller as provided under this purchase order and under applicable law.

15. Remedies Cumulative. All remedies provided Buyer herein are cumulative and are in addition to any other remedies of Buyer at law or in equity.

16. Assignment. Buyer may, in its sole discretion, assign its benefits hereunder to any third party, and may delegate its responsibilities hereunder to any successor to all or substantially all of its business. Seller may delegate its responsibilities hereunder only with the prior written consent of Buyer.

17. Modification. This purchase order constitutes the entire agreement between the Buyer and Seller concerning the subject matter hereof and supersedes all written or oral prior agreements or understandings with respect thereto. Any document or record, whether in writing or electronic, issued in connection with this purchase order shall be for administrative purposes only, and any term or condition contained in such document or record that is conflicting, inconsistent or in addition to the terms and conditions contained in this purchase order shall be null and void.

18. Governing Law, Jurisdiction and Venue. The contract between the parties hereto shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and each of the parties irrevocably attorns to the non-exclusive jurisdiction of the courts of Ontario situated in the City of Hamilton.

THE FOLLOWING TERMS ARE APPLICABLE TO BUYER'S PURCHASE OF GOODS:

19. Risk of Loss. Risk of loss shall pass to Buyer upon delivery of goods to Buyer's designated destination.

20. Shipping and Delivery. Seller is responsible, at its expense, for damage-free delivery of goods. Time is of the essence, and if delivery of items or rendering of services is not completed by the time promised, Buyer may, without liability and in addition to its other rights and remedies, (i) terminate this order as to items not yet shipped or services not yet rendered, (ii) purchase substitute items or services elsewhere, and (iii) charge Seller with any damages incurred, whether special, direct, indirect, incidental or consequential. No C.O.D.'s will be accepted by Buyer.

21. Inspection. Materials or equipment purchased are subject to inspection and approval at Buyer's destination. Buyer reserves the right to reject and refuse acceptance of items which are not in accordance with applicable instructions, specifications, drawings, data or other descriptions furnished or specified by Buyer, or with Seller's samples or Seller's warranties (express or implied). The quantity of material indicated on the face hereof must not be exceeded without prior written authorization from Buyer, and Buyer reserves the right to return for full credit any excess over the quantity called for in this order. Buyer may charge Seller for the cost of inspecting merchandise rejected pursuant to this paragraph. Items not accepted will be returned to Seller at Seller's expense. Payment for any item delivered shall not constitute acceptance thereof. Buyer's count and weight shall be conclusive.

22. Packing and Cartage. No charge will be allowed for packing, boxing or cartage without the written approval of Buyer. Damage to any items not packed or labeled to ensure proper protection thereto will be charged to Seller. Shipping documents and a separate invoice for each shipment on this order must be mailed to Buyer's office issuing this order on the day shipment is made. Packing lists must accompany each shipment. Each package, invoice, bill of lading and shipping notice must be marked plainly with Buyer's order number

23. Severability. If any of the terms and conditions is determined to be unenforceable or invalid, that unenforceability or invalidity shall not affect the remaining terms and conditions and such unenforceable or invalid section shall be deemed to be removed from the other terms and conditions.