



PURCHASE ORDER TERMS AND CONDITIONS

These terms and conditions represent the complete agreement of **Mohawk Supply Chain Services (MSCS)**, a division of Mohawk Shared Services, hereafter known as the "Organization", and the Supplier for the Contract of any purchase of goods (products/equipment) or services, hereafter known as the "Supplier" under a Purchase Order (PO) activity. No terms and conditions in any way modifying the provisions hereof shall be binding upon Organization. These terms and conditions are made only to address order conflicts with any terms and conditions of Organization's documents or any other contract terms and conditions. These standard PO terms and conditions shall govern irrespective of whether Supplier accepts these terms and conditions by a written acknowledgement. No supply shall be made without a PO and shipping documents (packing slip) must be displayed and easily accessed on the top of the shipment.

If this PO is issued under a written agreement or other signed contract, between Supplier and Organization, or any other entity, covering the product(s)/ equipment or service(s) specified in this PO, it will be subject to that agreement and the terms of that agreement will override these terms in the event of any conflict or inconsistency; wherever there is an annually executed standard purchase order terms and conditions between Organization and Supplier it will be applied to all orders covering that period and there is no need to sign the terms and conditions on every order.

All PO are (except those written under a separate agreement or contract) expressly limited to the acceptance of the terms and conditions stated herein. Organization's failure to object to provisions contained in any communication received from Supplier or acceptance of the goods shall not be construed as being a waiver or modification of the provisions hereof.

1. **ACCEPTANCE** – This PO is an offer to purchase the product(s), equipment and/or services(s) as set forth on the face of the PO. Any of the following acts by Supplier shall constitute acceptance of the terms of the PO: signing and returning a copy of this PO; delivery of any of the product(s) or service(s) ordered in this PO; commencement of performance; or written acknowledgment of the terms of this PO. Any terms proposed by Supplier that are additional or inconsistent with the terms of this PO will not be binding on Organization unless Organization accepts such terms in writing. The Organization reserves the right to refuse any shipment of product with less than six (6) months expiration or has not complied with the terms herein.

2. **CHANGES** – Organization reserves the right at any time prior to delivery to change specifications, analytical methods, shipment mode, packing, or place and time of delivery, and will do so by means of a revised PO. If any such change causes an increase or decrease in the cost for the time required for performance of Supplier's obligations under this PO, an equitable adjustment shall be made in the contract price or delivery schedule (or both), or Organization may at its option cancel this PO if agreement on an equitable adjustment cannot be made.
3. **SUPPLY CHAIN CONTINUITY** - For any back order, Supplier shall communicate the estimated time of arrival (ETA) and daily updates. In the event of a product discontinuation or Supplier's inability to deliver part or all under terms of PO, no automatic substitution will be recognized by Organization, regardless if the acknowledgement indicates such through the exchange (e.g. EDI) or any other process. For clarity, Organization reserves the right to approve any substitution and failure to comply will result in the return of the shipment.
4. **RETURN OF GOODS** –A Return Goods Authorization (RGA) shall be required and at no cost to Organization under situations of recall, defective, incorrect product or shipment quantities by Supplier.
5. **TAXES** – Except for HST and unless otherwise provided herein, all prices shown on the PO are deemed to include all taxes and duties levied in respect to the goods ordered hereunder.
6. **PACKAGING/DOCUMENTS & SHIPPING** – No charges will be allowed for boxing, crating or cartage unless otherwise stated herein. The Supplier shall properly pack the goods covered by this order. The Organization reserves the right to reject items that are not properly packaged or not in suitable containers. Goods damaged in transit due to faulty packing will not be accepted and will be the sole responsibility of Supplier. Shipping terms should mutually be agreed between Supplier and Organization.

Less than full truck loads (LTL) and full truck load (FTL) Supplier inbound shipments have receiving requirements that include:

- a) Supplier truck driver must report to door number ten (10);
- b) Supplier truck driver must chock one rear tire before entering the warehouse building;
- c) Any Supplier truck load or trailer deemed to be health and safety risk by the Organization's warehouse supervisor will be turned away;
- d) Supplier products must be shrink-wrapped on a forty (40) by forty-eight (48) inch pallet, must not exceed eight (8) feet in height;
- e) Supplier side-loaded pallets must be repositioned by Supplier truck driver (a pallet truck will be provided by the Organization's warehouse);

Supplier courier shipments have receiving requirements that include:

- f) Supplier courier must report to door number ten (10);

- g) Supplier cartons or packages must each be numbered with a number that indicates that it is one of the total number. For clarity, the box would be labeled one of five total boxes;
- h) Mixed or partial cartons must be labeled as such;
- i) The location of the Supplier packing slip must be indicated on one Supplier carton or package.

All packages and pallets are to include a shipping document that includes a full packing list showing in detail the items ordered and Organization's item number(s), quantity, unit of measure supplied in each package, Organization's PO number, Supplier's lot number(s) and expiration date(s) for the item(s), if the shipment has mixed or partially filled cartons/cases and those cartons labeled as such.

Goods shall be provided in mutually agreed packaging and containers, and adequately packaged for safe delivery to site of Organization. All transportation laws and regulations must be strictly complied with. For all direct shipments crossing an International border to Organization, all documentation requirements must be followed as outlined in Customs Requirement Circular. Any penalties resulting from non compliance of these terms by Supplier will be the responsibility of Supplier.

Documents that are not part of the delivery, such as responses to competitive processes must not be part of products shipped by Supplier to Organization.

7. **DELIVERY** – Time is of the essence for any PO. Due Date is date expected arrival at Organization's location. If any shipment or delivery is made which is not in all respects in accordance with the provisions of a PO or the delivery schedule, the Organization shall be entitled to reject any shipments or deliveries not then made and cancel this PO without any liability to Supplier and without prejudice to Organization's rights to claim damages against Supplier. All expenses of transportation and storage, due to improper documentation or any negligence by Supplier, shall be for Supplier's account. Notification by Supplier for late delivery or revised shipping requirements shall be communicated to Organization (orders@mohawkssi.com) well in advance of delivery. The Organization's warehouse receiving hours are from 0630 hours until 1500 hours, except for 1130 hours to 1200 hours. Supplier full truck load shipment must be delivered between 0630 hours and 1000 hours, unless preauthorized by Organization.
8. **WARRANTIES** – Supplier warrants that product(s) shall be (a) free and clear of all liens and encumbrances; (b) free from any deficiencies or defects in design, material or workmanship (latent or otherwise) and of good and merchantable quality; (c) comply with all laws, regulations, and government agency requirements applicable to the product(s); (d) not infringe, or cause another product to infringe, any intellectual property right or any contractual right of any third party and (e) conform to Supplier's specifications and with representations previously made by Supplier and be fit for the use intended by Organization's Member Hospital. Warranties on all equipment shall be for not less than one year after the date of receipt by Organization, unless otherwise agreed upon by Organization.

As to services, in addition to any express or implied warranties, Supplier warrants that it possesses the requisite expertise, facilities, and equipment necessary and appropriate to perform the services, and that such services shall be performed in a safe and workmanlike manner; that the services will comply with all laws, regulations, and government agency requirements applicable to the services; and that the services will not infringe on, or cause a product to infringe on, any intellectual property right or any contractual right of any third party.

If the services are found not to be performed as warranted within a period of one (1) year after the conclusion of the performance of the services by Supplier, Supplier shall, at Organization's option, either refund to Organization the amount paid for the services, or perform the services again in a proper manner to the extent necessary to provide Organization with the result originally contemplated by Organization.

9. **SUBCONTRACTS** – Supplier shall not subcontract for all or part of the deliverables specified in this PO without Organization's written approval.
10. **FACILITY SAFETY REQUIREMENTS** – Contractors performing services on Organization's property or the properties of its Member Hospitals must have valid WSIB Clearance Certificate and proof of liability insurance.
11. **MODIFICATIONS** – No modifications of these terms and conditions shall be effective unless agreed to in writing by an authorized representative of the parties hereto.
12. **PATENT, COPYRIGHTS, AND TRADEMARKS** - Supplier warrants that the sale or use of product(s) and/or service(s) furnished hereunder will not infringe or contribute to infringement of any patent, copyright, trademark, trade secret or other proprietary right. Supplier shall defend, at its own expense, any suit or claim that may be instituted against Organization or any affiliate/Member of Organization for alleged infringement of rights listed above.

Organization shall have the right, at no additional charge, to use and/or reproduce Supplier's applicable literature, such as operating and maintenance manuals, technical publications, prints, drawings, training manuals, and other similar supporting documentation and sales literature, unless otherwise negotiated.

13. **LIABILITY FOR INJURY** - Supplier shall indemnify Organization against any and all costs, loss and liability for all personal injury and property damage caused by the product(s) and/or service(s) (whether performed on the premises of Supplier or Organization's Member Hospital or elsewhere), and shall defend at its sole cost and expense any action brought against Organization's Member Hospital as a result of any such personal injury or property damage.
14. **DISPUTE RESOLUTION** – Any dispute arising under this PO which is not disposed of by agreement of the parties shall follow the procedure outlined in the Organization's dispute resolution policy. Pending settlement of final decision of any

such dispute, Supplier shall proceed diligently with the performance of this PO in accordance with Organization's direction.

15. **FORCE MAJEURE**- Supplier shall not be liable for default or delay due to causes beyond Supplier's reasonable control, as long as prompt notice of supply interruption is communicated to Organization. The PO may be terminated/cancelled at any time. For clarity, strikes and disputes are not recognized under force majeure and would not be grounds for valid supply chain interruption.
16. **TERM AND TERMINATION**- The term of this PO is until delivery of product and or service is accepted, completed/received in full and closed. These terms and conditions are updated annually. The PO may be terminated at any time, with or without cause.
17. **GOVERNING LAW**- Organization's PO shall be governed by the laws of the Province of Ontario in the country of Canada.

October 19, 2013