



STANDARD TERMS AND CONDITIONS

Revision date: 28 June 2018

- 1. Scope/Applicability.** This agreement applies to the issuance and transmission of purchase orders (“Orders”) between Merrill Corporation Canada (“Merrill”) and Supplier during the term of this agreement. The Merrill terms shall control all transactions going forward. These terms are incorporated into any previous agreement between Merrill and Supplier. In the event there is a conflict between these terms and the terms of any previously executed agreement between Merrill and Supplier regarding the goods and services to be provided, the terms of the previous agreement shall govern.
- 2. Cancellation/Termination.** Merrill may at any time terminate this order in whole or in part at its convenience upon written notice to Supplier, and Merrill will receive a refund of all fees paid in advance for the products or services that have not been delivered by Supplier. Merrill will remain liable for fees and expenses incurred for products or services delivered and accepted by Merrill.
- 3. Pricing.** Supplier agrees that Merrill has been given most favored customer status with regard to the pricing set forth in this order. Any amounts charged to Merrill in excess of prices offered by Supplier to any other similarly situated customer for goods and services will promptly be refunded or credited to Merrill by Supplier at Merrill’s option.
- 4. Invoicing and Payment.** All supplier invoices should be submitted to: ca.invoices@merrillcorp.com. Supplier agrees that payment shall be made within 50 days of Merrill’s receipt of the product/service or Merrill’s receipt of invoice, whichever is later. Supplier agrees to invoice Merrill within thirty (30) days of delivery of the products/services. Supplier acknowledges that Merrill is not responsible for payment for products/services that are invoiced more than ninety (90) days past delivery of the product/services to Merrill and any such invoices will be null and void. Supplier further acknowledges that all invoices must contain a valid purchase order number, and that any invoices without a purchase order number will not be considered received by Merrill, and will be returned unpaid.
- 5. GST.** Supplier shall invoice for all sales, use, excise, value-added, goods and services, consumption and other similar taxes or duties that Supplier is permitted or required to collect from Merrill to the extent that those taxes or duties are clearly identified in, and in effect on the effective date of, this order. Each party will be responsible for taxes based on its own net income, employment taxes with respect to its own employees, and for taxes on any property it owns or leases. Supplier will be responsible for all other taxes. Supplier agrees to fully indemnify and hold Merrill harmless from any claims, losses, damages, liabilities, expenses, and costs (including reasonable attorneys’ fees) arising from Supplier’s failure to make payments, withholdings, or contributions that are required by law.
- 6. Warranties.** Supplier warrants to Merrill that (a) the title to all goods covered by this order shall be good, and its transfer rightful and (b) all goods and services to be delivered under this order will be of merchantable quality, fit for the purpose intended by Merrill, free from all liens and latent or patent defects, will conform to Merrill’s specifications or samples and will be safe for their intended use.
- 7. Changes.** Merrill shall have the right at any time prior to delivery date of the goods or services to make changes in drawings, designs, specifications, packaging, quantities, time and place of delivery and method of transportation. If any such changes cause a) an increase or decrease in the cost; b) a decrease in the time required for the performance; or c) otherwise affect any other provision of this order, an equitable adjustment shall be made, and mutually agreed upon, and this order shall be modified in writing accordingly. Any such price changes must be communicated to Merrill at the time the changes are requested by Merrill, or they will be null and void.
- 8. Inspection.** Payment for the goods or services delivered shall not constitute acceptance. Merrill shall have the right to inspect such goods or services and to reject any or all of said goods or services that are defective. Any goods or services that are defective or that have been supplied in excess of quantities called for herein may be returned to the Supplier at its expense, in addition to Merrill’s other rights.



9. **Default.** Merrill may, by a written notice of default to the Supplier, terminate the whole or any part of this order if the Supplier a) fails to deliver the correct quantity of goods or to perform the services within the time specified herein, or any agreed upon extension thereof; b) fails to replace or correct defective goods or services; c) fails to perform any of the other provisions of this order or fails to make progress so as to delay performance of this order; or d) becomes insolvent, makes a general assignment for the benefit of creditors, or becomes subject to any proceeding in bankruptcy, receivership, liquidation, or the like.
10. **Delivery.** Time is of the essence with respect to the delivery dates, specifications and quantities set forth herein. Deliveries are to be made in quantities and at times specified herein or pursuant to Merrill's written instruction. If Supplier fails to perform in accordance with this order, Merrill, without limiting its other rights or remedies, may either (i) direct expedited routing, and charge the excess cost incurred to secure timely performance to Supplier, or (ii) terminate all or part of this order in accordance with the default provisions herein. Goods which are delivered in advance of schedule are delivered at the risk of Supplier and may, at Merrill's option, be returned at Supplier's expense for proper delivery and/or have payment therefore withheld by Merrill until the date that the goods are scheduled for delivery. Unless otherwise provided in the purchase order, goods shall be delivered to Merrill's designated location and freight and insurance prepaid. A complete packing list shall be enclosed with all shipments. Merrill's count will be accepted as final on all shipments not accompanied by a packing list.
11. **Confidentiality.** All specifications, documents, information and data files ("Confidential Information") delivered by Merrill to Supplier are the property of Merrill and shall be kept confidential by Supplier. Supplier also agrees not to use the Confidential Information for any purpose other than to complete this order without the prior express written consent of the Merrill. All Confidential Information shall be returned to Merrill promptly upon written request. The obligations under this clause will survive the cancellation, termination or completion of this order.
12. **Infringement Claims of Third Parties.** Supplier agrees to indemnify, defend and hold harmless Merrill from and against any and all actions, proceedings, damages, liabilities, claims, losses and expenses (including reasonable attorney's fees) arising from claims that the goods or services provided by Supplier hereunder infringe the patent, copyright, trademark rights, or constitute the misappropriation of trade secrets, of any third party. The obligations under this clause will survive the cancellation, termination or completion of this order.
13. **Merrill's Property.** Merrill will own exclusively all goods, special tools, dies, fixtures and materials supplied or paid for by Merrill pursuant to this order together with all related patents, copyrights, trademarks, trade secrets and other intellectual property rights throughout the world (the "Developed Works"). Supplier will and does, without further consideration, assign to Merrill any and all right, title or interest that Supplier may now or hereafter possess in or to the Developed Works. To the fullest extent permissible by applicable law, all copyrightable aspects of the Developed Works will be considered "works made for hire". Supplier agrees, at Supplier's expense, to maintain all the Developed Works property in Supplier's possession in good condition and repair and adequately insured. At Merrill's request, Seller agrees to affix Merrill's name to some or all of the Developed Works.
14. **Services.** If this agreement covers the performance of labor or services for Merrill, Supplier agrees: a) Supplier is an independent contractor, free of control or supervision by Merrill as to the manner of performing such work; and b) upon the request of Merrill, to furnish an Insurance Carrier's Certificate showing that Supplier has Employer's Liability and General Public Liability insurance coverage with limits satisfactory to Merrill.
15. **Merrill Policies.** Suppliers are accountable to follow the Merrill policies where applicable. These are all located at <https://www.merrillcorp.com/en/merrill-sourcing>.
16. **Liability Limitation.** Merrill will not be liable for indirect, consequential, or special damages, including lost profits, regardless of the form of the action or the theory of recovery, even if advised of the possibility of those damages; and, in no event will Merrill's liability to Supplier exceed the amount of fees payable under this order.



17. **Public Announcements.** Supplier shall not make any news release, public announcement, advertisement or other form of publicity concerning the parties' relationship, or the services Supplier is providing, has provided, or will provide to Merrill without the prior written approval of the Merrill. No license to Merrill's trademarks or service marks is granted hereby, and no such use is permitted unless approved in writing by Merrill.
18. **Data Protection.** In providing goods and services, Supplier shall comply with applicable data protection laws together with any guidance issued by the applicable enforcement agency and shall not do, cause, or permit to be done anything which may cause or otherwise result in a breach. Merrill will collect, hold and use personal data obtained from and about Supplier personnel pursuant to Merrill's Privacy Notice (<https://www.merrillcorp.com/en/privacy-notice>) which may be updated from time to time at Merrill's sole discretion. Supplier agrees to such data being collected held and used in accordance with the Privacy Notice, this agreement, and Merrill's obligations under applicable data protection laws.
19. **General.** This order and any disputes arising from or relating to this order shall be construed and enforced in accordance with the laws of the Province of Ontario, Canada, without giving effect to the principles of conflicts of law, and not with reference to the 1980 U.N. Convention on contracts for the international sale of goods or any local implementation of that convention.