



Standard Terms and Conditions

1. **APPLICABILITY:** The sale of any and all Seller services ("Services") and/or goods included in and/or provided in connection with such Services ("Goods") shall be subject to the following terms and conditions ("Terms and Conditions"), which shall form an integral part of any agreement between the Buyer and the Seller. The Buyer's acceptance of any proposal, quotation or offer made by the Seller for the sale of its Services and/or goods (collectively, "Quotation") is expressly made subject to these Terms and Conditions and none of these Terms and Conditions may be supplemented, altered, superseded, or otherwise modified except as revised in writing by the Seller. All orders for Services and/or Goods received by the Seller shall be governed only by these Terms and Conditions, regardless of any terms and conditions in any purchase order, or any other form issued by the Buyer. The Seller hereby objects to any terms and conditions which may be found in any purchase order, lease order, or any other form issued by the Buyer and hereby notifies the Buyer that they are rejected.

2. **PRICING:** Prices quoted by Hoist & Crane Service Group, Inc. ("HCSG"), in the attached Proposal are valid for **THIRTY (30) DAYS** and are only for the items stated. HCSG reserves the right, at any time prior to the acceptance of a Quotation by the Buyer, to adjust prices by providing written notice to the Buyer regarding any such adjustment. Prices within the Quotation are based on the Buyer's purchase of the entire scope of Services and/or Goods identified in a Quotation. If less than the entire scope of Services and/or Goods identified in a Quotation is ordered by the Buyer, prices may vary. Prices do not include any applicable freight, taxes, and/or fees.

Unless otherwise noted in the Quotation, all prices are quoted for Straight Time, which is defined as eight (8) hours per day, Monday through Friday. Any time exceeding eight (8) hours per day may result in the assessment of additional fees.

Unless otherwise noted in the Quotation, all labor is quoted for time spent on the Buyer's site. Labor performed in a location other than on the physical premises of the Buyer's site may result in the assessment of additional fees.

Unless otherwise noted in the Quotation, all materials, travel time, mileage, lodging and other per-diem expenses will be assessed at rates determined by the Seller's local branch offices and considers a Cost of Sales percentage of fifteen percent (15%).

3. **PAYMENT:** All Seller invoices shall be paid by the Buyer within thirty days (**NET 30**) of the date of invoice, unless otherwise noted in the Quotation. If the Buyer fails to pay invoices timely, the Seller is entitled to suspend all work and deliveries and issue a late charge equal to the lesser of two percent (2%) per month / eighteen percent (18%) per annum or the maximum rate allowed by law on all unpaid invoices or invoices not paid in accordance with these Terms and Conditions.

Unless otherwise noted in a Quotation, for all Services and/or Goods with a Quotation or purchase order value more than forty thousand dollars (USD \$40,000.00), the Buyer shall adhere to the following terms:

- Ten percent (10%) of Quotation and/or purchase order due upon issuance of purchase order.
- Eighty percent (80%) of Quotation and/or purchase order due before shipment is released.
- Ten percent (10%) of Quotation and/or purchase order due 30 days from date of final invoice.
- Labor and Expenses Only Contracts: Billed at weekly intervals for work completed, due seven (7) days from date of final invoice.
- Freight: Billed one hundred percent (100%) at shipment.

If payment is made using a major credit card (Visa, MasterCard, or American Express), a fee equal to three percent (3%) of the final invoice amount to be charged will be assessed.

4. **CANCELLATION:** The Seller may cancel a purchase order at any time if (a) the Buyer fails to strictly comply with the terms of the order, (b) the Buyer becomes insolvent, appoints or has appointed a receiver, or makes an assignment for the benefit of creditors, (c) a petition for bankruptcy or insolvency is filed by or against the Buyer, (d) the Seller requests and is unable to obtain acceptable payment assurances from the Buyer, or (e) amounts due the Seller by the Buyer are unpaid. The Buyer shall be obligated to pay the Seller the price for all Services performed to date and all Goods that can be completed and shipped within thirty (30) days of cancellation, all special tooling for which commitments have been made by the Seller, and all of the Seller's costs, expenses and reasonable profit for work in process as of the date of cancellation.

5. **CREDIT APPROVAL:** All purchase orders are subject to the credit approval of the Buyer by the Seller. The Seller reserves the right to deny shipment or provision of any and all Services and/or Goods identified in any Quotation or purchase order and/or modify the payment terms identified therein or in section 3 hereof.

6. **COST OF GOODS:** Unless otherwise noted in the Quotation, the Buyer shall pay all cost increases the Seller is assessed for materials incorporated into Services and/or Goods to the extent such increases exceed any estimated costs used by the Seller to develop a quotation by ten percent (10%) and which occurs after the issuance of a quotation, but prior to the provision of the Services and/or delivery of Goods.

FREIGHT/DELIVERY: Unless otherwise noted in the Quotation, all freight is F.O.B. Origin, and all risk of loss with respect to any Goods shipped shall pass to the Buyer when such Goods are delivered to the carrier. Title of Goods shall transfer to the Buyer upon the Seller's receipt of payment in full for all Services and Goods provided pursuant to a Quotation and/or purchase order. Unless otherwise noted, any freight charges referenced in the Quotation are an estimate. The Seller is not responsible for any differences that may occur between freight estimates contained in a Quotation and actual freight charges applicable at the time of shipment, and the Buyer shall incur and be responsible for all costs associated therewith.

All dates for the shipment and/or delivery of Goods and/or for the provision of Services are approximated. The Seller shall not be liable for delay in or failure to make shipment and/or delivery of Goods or commencement, performance or completion of Services by any identified date for any reason whatsoever. In the event of any delay, regardless of the cause, the parties shall agree upon a new date of shipment and/or delivery of Goods and/or commencement, performance or completion of Services. In the event of any delay caused by the Buyer, the Buyer shall incur and be responsible for all costs associated therewith.

7. **SITE CONDITIONS:** The Buyer warrants that the location where the Seller's Goods and Services are to be performed is ready and adequate for the delivery and/or performance of Services. The Buyer's obligations in this regard include, but are not limited to, the removal of any obstacles, providing and installing scaffolding, access to air supplies and electrification, and providing man-lifts. At the Buyer's request the Seller can provide any or all additional equipment on a basis of its cost plus twenty-five percent (25%), unless otherwise noted in the Quotation. The Buyer shall be responsible for all costs and expenses associated with the Seller's delay and/or inability to deliver and/or install any Goods and/or perform any Services related to the Buyer's failure to comply with this provision. The Seller in no way warrants the sufficiency of the site where the Services are performed and/or Goods are delivered and/or installed.

8. **LOAD TESTING:** Unless otherwise noted in the Quotation, it is the responsibility of the customer to provide floor loading calculations and any other pertinent structural and/or engineering data necessary to conduct the load test.

9. **INSPECTION AND PREVENTATIVE MAINTENANCE SERVICES** – The Buyer acknowledges and accepts the following terms, conditions and disclaimers relating to these services:

- a. Seller's services on equipment or components identified in the scope of work is limited to the search of observable defects that can be safely and conveniently accessed by the inspector. These services do not include the dismantling of the equipment nor the use of technical equipment to inspect and detect hidden or non-observable defective conditions. Buyer acknowledges that these hidden or non-observable defective conditions may exist at the time of the service and may develop immediately following the service. Seller's oral or written report represents conditions at the time of the service and does not reflect any changes in condition of the equipment or components following the service. The Seller is not liable, and the Buyer retains and assumes all risk of such change in condition.
- b. The Buyer accepts responsibility for the decision to repair or replace defective equipment or components that the Seller recommends resulting from the Seller's services. Seller highly recommends Buyer authorize the repair or replacement of any equipment or component identified by the Seller as being defective prior to operating the equipment. The Seller is not liable, and the Buyer retains and assumes all risk associated with the decision to not make the recommended repairs.
- c. Using the equipment or components that possess known, hidden or non-observable defects may result in catastrophic equipment or component failure potentially causing personal injury and/or property damage.

10. **WARRANTY:** HCSG's Warranty policy applies to all proposals and customer orders. HCSG does not warrant any materials aside from the warranties given by the supplier. (see Warranty policy)

11. **NON-SOLICITATION:** HCSG employees have agreed to a non-compete contract prohibiting their employment by customers of HCSG, which includes a non-solicitation provision. HCSG considers any customers who solicit or discuss the possible employment of HCSG employees in any manner, written or oral, to be tortiously interfering with the non-solicitation provision, and reserves all rights as and against such customers to both ensure enforcement of the terms and length of the non-compete agreement as well as to obtain any other appropriate relief at law or equity, including any damages arising from or related to such solicitation.

12. **INDEMNIFICATION: WAIVER OF IMMUNITY: THE SELLER WILL NOT ACCEPT ANY LIABILITY FOR AND THE BUYER SHALL INDEMNIFY, RELEASE, DEFEND, AND HOLD HARMLESS THE SELLER AND ANY ENTITY AFFILIATED IN ANY WAY WITH THE SELLER FROM ANY DEMANDS, CLAIMS, DAMAGES (REGARDLESS OF WHAT THEY MAY BE, INCLUDING, BUT NOT LIMITED TO DIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL), LIABILITIES, LOSSES AND EXPENSES (WHETHER KNOWN OR UNKNOWN, PRESENT OR FUTURE), ANY AND ALL LIABILITY, OF AND FROM ANY AND ALL TYPE OF SUITS, ACTIONS, OR CAUSES OF ACTION (INCLUDING BUT NOT LIMITED TO SUITS FOR CONTRIBUTION AND/OR INDEMNITY AND ALL SUITS IN LAW, IN EQUITY, OR UNDER STATUTE, OF WHATEVER KIND OR NATURE) ON ACCOUNT OF OR IN ANY WAY ARISING OUT OF ACTS OR OMISSIONS OF THE BUYER, ITS AGENTS, CONTRACTORS, EMPLOYEES OR ANY PERSON UNDER THEIR CONTROL AND RELATING IN ANY WAY TO THE GOODS AND/OR SERVICES PROVIDED UNDER A QUOTATION OR THE EQUIPMENT RELATED THERETO, INCLUDING BUT NOT LIMITED TO THE BUYER'S USE, INSTALLATION, INCORPORATION OR SELECTION THEREOF. THE BUYER HEREBY WAIVES ANY IMMUNITY OR DEFENSE UNDER APPLICABLE WORKER'S COMPENSATION LAWS OR OTHER LAWS THAT WOULD OTHERWISE LIMIT THE BUYER'S OBLIGATIONS HEREUNDER.**

13. **ENVIRONMENTAL:** Full disclosure of the presence of any known chemical or biological hazards that may be present within the work area must be provided to HCSG prior to the start of any work. These hazards include, but are not limited to, lead paints, asbestos, gasses or vapors used or produced within the facility. The customer will be responsible for all abatement Services, industrial hygienist Services, site monitoring Services, and material disposal Services necessary to meet all applicable Federal and State laws. If such disclosure is not made, then HCSG will provide any hazard specific personal protection equipment, Services, etc., necessary to work within the identified hazard area on a basis of cost plus twenty percent (20%) in addition to any quoted prices.

14. **LIMIT OF LIABILITY:** Seller's total aggregate liability to Buyer for any loss claim, cost, charge, expense, liability and/or damage (including reasonable legal costs and attorneys' fees) arising out of or resulting from Seller's provision of Services and/or Goods under these Terms and Conditions, whether arising in contract, tort (including negligence whether passive or active), warranty, strict liability or otherwise, shall in no case, exceed an amount equal to one hundred percent (100%) of any payment received from Buyer for such Services and/or Goods. The limitation of liability shall not apply to or be reduced by Seller's indemnity obligations under Paragraph 12. **FURTHER, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED FOR IN THESE TERMS AND CONDITIONS, SELLER WILL NOT BE LIABLE TO BUYER FOR ANY LOSS OF PROFIT, LOSS OF USE, LOSS OF PRODUCTION, OR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES OF ANY KIND, ARISING FROM ANY CAUSE, FOR ANY REASON, OR CLAIMED UNDER ANY THEORY OF LAW, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**