

## **HOEKSTRA ELECTRICAL SERVICES, L.L.C.'S STANDARD TERMS FOR PURCHASES OF GOODS OR SERVICES**

1. **Formation of Contract.** The terms in this Purchase Order ("Order") are the sole terms for the purchase of goods and services by Hoekstra Electrical Services, L.L.C., ("Buyer"), and shall apply to the exclusion of any additional or different terms in Seller's quote, proposal or acknowledgment, or otherwise proposed by Seller. The Order is limited to and conditioned upon Seller's acceptance of these terms exclusively. Any contract for the purchase of goods or services by Buyer is expressly conditioned on Seller's assent to all of the terms in this Order. Buyer objects to any additional or different terms proposed by Seller. Seller's acceptance of these terms shall be conclusively presumed by Seller's signature on this Order or by Seller's shipment of goods or performance of services. By signing and returning a copy of this Order, by shipping the goods or commencing performance of the services, or by any other conduct that recognizes the existence of a contract, Seller accepts and agrees and assents to all of the terms contained in this Order.
2. **Invoicing; Payment and Price.** Unless otherwise stated in this Order, invoices for accepted goods and services will be issued by Seller within 30 days from the delivery date and paid by Buyer within 60 days of receipt. Payment does not constitute acceptance of goods or services. The price stated in this Order shall not be increased unless specifically authorized in writing by issuance of a revised Order signed by Buyer. Seller warrants that the prices charged Buyer and stated in this Order are no higher than prices charged by Seller to others for similar goods or services in similar quantities and conditions. If Seller establishes before shipment under any Order, lower prices or terms more favorable to Buyer than those stated on that Order, the lower prices or more favorable terms shall apply to that Order.
3. **Taxes.** Unless otherwise agreed in writing, Seller shall not collect from, nor shall Buyer be liable for any personal property, sales, excise, use or other taxes applicable to the sale, purchase, storage, use or ownership of the goods or work under this Order.
4. **Shipping.** Seller shall deliver to the specific location identified in the Order. Seller must include a packing list with all shipments. Delivery may be made in one shipment or in lots as specified by Buyer. Seller shall adhere to shipping directions specified by Buyer. Seller acknowledges that time is of the essence and Seller shall notify Buyer immediately if Seller believes it cannot meet Buyer's delivery requirements or if the date for delivery will be changed for any reason. Buyer may from time to time, by reasonable advance notice to Seller, change delivery schedules. Buyer shall not be liable for payment for goods delivered in excess of the quantities or after the times specified in Buyer's delivery instructions to Seller. Unless otherwise stated in this Order, all shipments shall be F.O.B. Buyer's facility identified in the Order, full freight allowed, and shall be made at Seller's expense and risk of loss. Buyer shall have the right to instruct Seller on the method of shipment and packaging. No charges will be allowed for boxing, crating, packing, or other preparation for shipment.
5. **Changes.** Buyer may cancel, modify or suspend any Order if such cancellation, modification or suspension is made before shipment. Buyer may at any time, by reasonable advance written notice to Seller, change the Order as to (a) designs or drawings of, or specifications, standards, performance criteria, or other requirements for the goods or services, (b) time, place, rate or schedule of delivery or performance, (c) method of packing or shipment, or (d) quantity of goods or extent of services. With the exception of a change or suspension to delivery schedules, if any of the above changes causes a change in Seller's cost or time of performance, then an equitable adjustment may be made in the price or time for delivery or performance, or both, if, but only if, Seller gives Buyer a written request for an adjustment within ten (10) days after Buyer notifies Seller of the change and Buyer consents in writing to the adjustment. Without Buyer's prior written approval, Seller shall not change (a) any third party supplier to Seller of services, raw materials, or goods used by Seller in connection with its performance under this Order, or (b) the nature, type, or quality of any services, raw materials, or goods used by Seller or its suppliers in connection with this Order. Buyer may, in its sole discretion, return any excess or unused products or materials to Seller for a 100% refund less actual shipping costs and a standard restocking fee.
6. **Inspection of Goods; Samples.** All goods and services shall be subject to Buyer's inspection and approval. Buyer reserves the right to reject any nonconforming goods or services. Acceptance of any goods or services shall not relieve Seller from any of its other obligations under this Order. Seller shall provide samples in the amounts and at the times requested by Buyer.
7. **Seller's Quality Control.** Seller shall establish and maintain quality control procedures to satisfy the requirements of Buyer and Buyer's customers. Buyer has the right to inspect Seller's facilities periodically to determine Seller's compliance with applicable quality control standards.
8. **Seller's Warranties.** Seller expressly warrants to Buyer, its customers and assigns, that all goods and services provided will (a) conform to the specifications, drawings, samples, representations and other descriptions of goods and services specified by Buyer, or made by Seller, (b) will be of good material and workmanship, free from defects in material, design and workmanship, (c) will be merchantable and fit for the particular purposes of Buyer and its customer; and (d) will

comply with all applicable laws and regulations, including but not limited to Seller's identification of any hazardous materials and Seller's providing to Buyer all applicable Material Safety Data Sheets. Seller shall, at Buyer's sole option, correct, repair, or replace any defects in goods or services at Seller's own expense. These warranties shall be in addition to any other warranty stated in this Order or available to Buyer under applicable law.

9. Indemnification of Buyer. Seller shall indemnify, defend, and hold Buyer and its affiliates, directors, officers, employees, shareholders and agents (hereinafter "Indemnitees") harmless from all claims, liabilities, and expenses, including but not limited to actual attorney fees (collectively, "Damages"), sustained by Indemnitees that are caused by any action or inaction of Seller or that arise out of this Order, including but not limited to defects in any goods or services supplied by Seller, except where Buyer is adjudged to be solely at fault. Seller shall also indemnify, defend, and hold Indemnitees harmless from any Damages sustained by Indemnitees and arising out of any claim of infringement of a patent, copyright, trademark, trade name, or other proprietary right, or claim of unfair trade or of unfair competition, in connection with the manufacture, sale or use of goods or services sold by Seller to Buyer.

10. Confidentiality of Buyer's Information. Any information disclosed by Buyer to Seller is confidential and Seller agrees not to use or disclose any of that information (except as necessary to fulfill Seller's obligations under this Order) without Buyer's prior written consent.

11. Seller's Default. Seller is in default of this Order if any of the following occurs (each, a "Seller Default"): (a) Seller breaches, repudiates, or threatens to breach any term of this Order or in any other agreement between Seller and Buyer; (b) insolvency of Seller or filing of a voluntary or involuntary petition in bankruptcy with respect to Seller; (c) appointment of a receiver or trustee for Seller; or (d) execution of an assignment for the benefit of creditors of Seller.

12. Buyer's Remedies. If a Seller Default occurs, Buyer may exercise any remedy available under law, including but not limited to: (a) Seller's immediate correction, repair, or replacement of goods and services at Seller's expense; (b) Buyer may suspend payments, suspend performance, or cancel all or any part of the balance of any contract with Seller; and (c) Seller shall reimburse Buyer for all damages suffered due to Seller's breach, including but not limited to incidental, consequential and other damages, lost profits, actual attorney fees, and court costs. These remedies are cumulative and in addition to any other remedies allowed to Buyer under law. No waiver by Buyer of any breach or remedy shall be a waiver of any other breach or remedy. If Seller is not in default, Buyer may cancel any contract evidenced by this Order at any time as to all or any part of the undelivered goods or services by giving written notice to Seller. On such cancellation, Buyer will reimburse Seller only for the Seller's actual cost of labor and materials for producing goods under this Order incurred by Seller before Buyer notifies Seller of cancellation, less any net recovery to Seller on disposition or other use of the materials or goods. Seller shall use its best efforts to mitigate its damages. Upon receipt of notice of cancellation, Seller, unless otherwise directed in writing by Buyer, shall (a) immediately terminate all work; (b) transfer title and deliver to Buyer the finished work, the work in process, and the parts and materials that Seller produced or acquired for this Order and that Seller cannot use in producing goods for itself or for others; (c) settle all claims by subcontractors approved by Buyer for reasonable costs that are rendered unrecoverable by the cancellation; (d) take actions reasonably necessary to protect property in Seller's possession in which Buyer has an interest; and (e) cooperate with Buyer in resourcing of Seller's goods or services covered by this Order to a different supplier designated by Buyer.

13. Limitation on Seller's Remedies. If Buyer breaches any term in this Order, Buyer shall not be liable for any incidental, consequential, indirect or any other special damages of Seller, including but not limited to Seller's lost profits or attorney fees. Any action against Buyer arising out of this Order must be filed within one (1) year after the claim accrues.

14. Compliance with Laws. Seller warrants that it is and will remain in compliance with all federal, state and local laws, regulations and ordinances relating to Seller's ability to perform its obligations under this Order.

15. Setoff. Buyer has the right to deduct or setoff any sum due to Buyer from Seller (whether or not arising from this Order) against any sum due to Seller from Buyer (whether or not arising from this Order).

16. Assignment. Seller shall not assign its rights or delegate its duties without Buyer's prior written consent. Buyer may assign to any third party its rights and obligations under this Order.

17. Entire Agreement and Amendment. This Order contains all of the terms of the agreement between Seller and Buyer as to its subject matter and supersedes all prior oral or written representations, agreements, and other communications between Seller and Buyer. This Order may be amended only by a writing signed by Seller and an officer of Buyer.

18. Severability. All terms shall be enforced only to the maximum extent permitted by law. If any term is invalid or unenforceable, all other terms shall remain in effect.

19. Governing Law. This Purchase Order and the contract created by the acceptance thereof are governed by and shall be construed in accordance with the laws of the State of Michigan, excluding its choice of law rules. Any action based upon or arising out of this Order must be brought in either a state court of competent subject matter jurisdiction located in in

Allegan County, Michigan, or a federal court of competent subject matter jurisdiction located in the Western District of Michigan. Seller irrevocably consents to personal jurisdiction in such courts, and waives any objection that such courts are an inconvenient forum.

20. Buyer's Right to Attorney's Fees and Costs. In the event that either Buyer or Seller brings any action against the other arising out of the sale of goods or services under the order and Buyer prevails in the action, then Buyer, and Buyer only, shall have the right to recover from Seller, and Seller is obligated to pay to Buyer, Buyer's actual attorneys' fees and any and all costs incurred in or for such action.