

## HYDRA ELECTRIC – PURCHASE ORDER TERMS AND CONDITIONS

1.) DEFINITIONS. As used in these Terms and Conditions: “Buyer” means Hydra Electric Company; “Order” means this purchase order; “Supplier” means the person(s) or company to whom an Order is issued.

### 2.) ACCEPTANCE.

(a) Buyer shall not be bound by this order until Supplier executes and returns to Buyer an acknowledgment of acceptance of this order. Supplier shall be bound by this order and its terms and conditions when it executes and returns the acknowledgment copy of this purchase order or, at Buyer’s option, when Supplier commences performance hereunder. By acceptance of this order Supplier agrees to all terms and conditions stated on the face of this order, on the reverse hereof or otherwise incorporated by reference herein. Buyer may revise these terms at any time by updating this site. Supplier shall visit this site from time to time to review the then-current terms. No contract shall exist unless adopted as provided herein. Any acknowledgment of this order which contains terms and conditions which are in addition to or are inconsistent with the terms and conditions shall be considered a counteroffer and will not be binding unless agreed to in writing by the Buyer. Commencement of performance by Supplier in the absence of Buyer’s acceptance of the counter offer will constitute Supplier’s acceptance of these purchase order terms and conditions.

(b) All supplements, sheets, specifications, schedules, exhibits, riders or other attachments annexed hereto or referenced herein are made part of this Purchase Order and Supplier agrees to them by acceptance of this Purchase order. Failure of Supplier to send Buyer a written acceptance or advice that Supplier has commenced performance within ten (10) days after the date hereof shall entitle Buyer, at Buyer’s option, at any time prior to receipt of such written acceptance or advice, to cancel this Purchase Order without cost or liability to Buyer.

(c) The purchase order, including these terms, supersedes all prior written or oral communication and is the sole and exclusive agreement between Buyer and Supplier.

3.) INVOICES. Invoices and credits shall be submitted in duplicate. Discounts shall be calculated from the date the articles are received by Buyer, the date delivery is specified herein, or from the date an acceptable invoice is received by Buyer, whichever later occurs.

### 4.) PACKING AND SHIPPING.

(a) Supplier shall mark containers or packages with necessary lifting, loading and shipping information, the purchase order number, dates of shipment and names and address of consignor and consignee Bill of Lading number and weight of shipment shall be shown for shipment on Government Bills of Lading. All shipments must be packaged in a manner that will provide and

preclude the possibility of damage to the supplies or other items shipped. Shipments tendered to common carriers for delivery must conform to the packaging requirements applicable to such carrier.

(b) No changes will be allowed for transportation, packaging, packing or returnable containers unless stated.

(c) Supplier shall not, without Buyer’s prior written consent, procure materials or manufacture in advance of Supplier’s normal flow time or deliver in advance of schedule. Buyer may return, shipping charges collect, all supplies received in advance of the schedule set forth herein.

(d) All goods shall be prepared for shipment and packed by Supplier to prevent damage or deterioration, secure lowest transportation rates, and comply with carrier tariffs. No additional charges will be made to Buyer for boxing, wrapping, packaging, packing, cartage or storage unless specified in this Purchase Order.

5.) CHANGES. Buyer may at any time, by written order and without notice, suspend performance, make changes in the quantities, drawings, design, specifications, deliver schedule, method of shipment or packaging of the supplies, or any combination of the foregoing. If any such change results in an increase or decrease in the cost of, or time required for, performance of this order, and equitable adjustment shall be deemed waived by Supplier unless asserted by Supplier in writing within ten (10) days of receipt of the change order. Nothing herein shall excuse Supplier from proceeding without delay in the performance of this order as changed.

6.) WARRANTIES. In addition to all other warranties, express or implied in law, Supplier expressly warrants that all materials or articles will be free from defects of material and workmanship and will comply with all specifications, drawings or other description furnished by Buyer and if not ordered to specifications will be fit and sufficient for the use and purpose intended. This warranty shall run to the Buyer, its successors, assigns, customers and users of the articles or materials and shall be construed as conditions as well as warranties and the representations and conditions herein contained shall not be deemed to be exclusive. In the event of a breach hereunder, Buyer may require that the products be repaired or replaced by

Supplier, or Buyer may return all or some of the products to Supplier for refund or Buyer may retrain the products. In the even Buyer retains the products, the price of this Purchase Order shall be equitably reduced. Buyer may replace such products with similar products and charge Supplier the cost occasioned to Buyer thereby. Buyer shall also have the option to perform or have performed by others the necessary repairs and charge the costs of such repairs to Supplier. Transportation charged to and from Supplier’s plant and other incidental expenses and responsibility for defective products while in transit shall be borne by Supplier. In the even of a breach of any of the warranties herein provided or of any warranties express or implied in law, Supplier agrees to pay and indemnify Buyer, its customers or subsequent owners for all liability, loss, costs and

expenses resulting from such breach including the cost of tests performed by Buyer in determining whether a breach occurred, and all costs of disassembly and reassembly, attorney's fees and costs of litigation. The rights and remedies of Buyer herein provided shall not be construed to negate, replace, or limit, but shall be additional to any rights of Buyer as a result of breach of warranty by Supplier by virtue of any applicable laws or regulations. All warranties shall be construed as conditions as well as promises and shall not be deemed to be exclusive.

7.) USE. The articles contracted for herein are understood to be for the use of the Buyer, its affiliated companies or its or their suppliers. All articles contracted for may be subjected to further processes of manufacture, combined with any articles, or put to any use whatsoever, by the Buyer, its affiliated companies or its or their supplies, as it or they may elect, and in no event shall any claim for royalty or other additional compensation be made by the Supplier by reason of such manufacture, combination or use.

8.) EXCUSABLE DELAYS. Supplier shall not be liable for damages or delay in delivery arising out of causes beyond its control and without its fault or negligence, including but not limited to acts of God, or of the public enemy acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather. If the delay is caused by a subcontractor at any tier and without the fault or negligence of either of them, Supplier shall not be liable to Buyer in damages unless the supplies to be furnished by the subcontractor (at any tier) were obtainable from other sources in sufficient time to permit the Supplier to meet the required delivery schedule. Supplier will notify Buyer in writing within ten (10) days after the beginning of any such cause.

9.) TERMINATION.

- (a) Time is of the essence in the performance by Supplier of this Purchase Order. Buyer may at any time postpone delivery of all or any of the products ordered herein for a reasonable time.
- (b) If Supplier fails to comply with any of the provisions hereof, or if Supplier becomes the subject of a proceeding under State or Federal law for relief of creditors, or if Supplier makes an assignment for the benefits of creditors, Buyer shall have the right notwithstanding the provisions of the clauses hereof entitled "Excusable Delay" to hold Supplier in default and cancel this order in whole or in part.
- (c) Without affecting its right to cancel this order under subparagraph (b) hereof, Buyer may terminate this order in whole or from time to time in part, and such termination shall be effected in accordance with the provisions of "Subcontract Termination Clause" contained in ASPR Section 8-706 in effect on the date hereof, which is incorporated herein by reference, except that claims shall be submitted not later than ninety (90) days from the effective date of termination. The word "Contract" as used in said clause shall be deemed to refer to this order. If this order is not placed

under a government contract, reference to the "government" shall be deemed deleted.

10.) INDEMNITY. Supplier shall, at its expense, hold harmless and defend Buyer, its successors, assigns, customers and users and all persons claiming under Buyer against any claim or action for the infringement of any patent, copyright or trademark, and shall indemnify the aforesaid party against all damages, costs, including attorneys' fees, and expenses arising therefrom by reason of the manufacture, sales or the use of supplies covered by this contract. Buyer agrees to give the Supplier prompt notice in writing of any such claim or for infringement and full opportunity to conduct the defense thereof.

11.) PATENT RIGHTS. Patent rights to all improvements embodied in designs, tools, patterns, drawings, information and equipment supplied by the Buyer under this contract and exclusive rights for the use and reproduction thereof are reserved by the Buyer.

12.) SPECIAL EQUIPMENT. If the price to be paid is stated on the face of this order to include jigs, dies, fixtures, tools, patterns, drawings, specifications or other special equipment and manufacturing aids used in the manufacture of the supplies, such item or items shall become the property of Buyer, its successors, assigns, and customers immediately upon acquisition by Supplier. Such items and any similar items furnished to Supplier by Buyer are hereinafter referred to as "Special Equipment". Special Equipment shall be kept in good condition and from time to time replaced by Supplier without expense to Buyer, except that the cost of changes due to Buyer's change of design or specifications shall be paid for by Buyer. If such changes are made prior to the exhaustion of the useful life thereof, Supplier shall not, except with written consent of Buyer disclose any information to other persons with regard to Special Equipment except as may be required to carry out its obligations hereunder. Special Equipment shall not, except with written consent of Buyer be used in the production, manufacture or design of any supplies other than those called for by this order. Supplier shall not destroy nor make any disposition of Special Equipment except as pursuant to Buyer's writing notification.

Supplier shall maintain adequate property control records for Special Equipment and as and when the Special Equipment is no longer required hereunder, Supplier shall promptly furnish Buyer with a list thereof. Upon completion or termination of this contract, Buyer shall be entitled to storage of Special Equipment by the Supplier, at no additional cost for a period not to exceed one (1) year and have the right to direct disposition of such equipment at no additional cost except for freight and shipping charges and Supplier shall deliver such equipment in accordance with such directions.

13.) LAW GOVERNING. This contract shall be governed by, subject and construed according to the laws of the State of California. The Supplier will comply with all applicable Federal, State and local laws and ordinances and all lawful orders, standards, rules and regulations thereunder now in effect or as

hereafter amended. By entering into this Agreement, Supplier irrevocably consents to the jurisdiction of the courts located in the State of California. Supplier may litigate any dispute arising hereunder or in connection herewith in a court of competent jurisdiction, provided, however, that no action may be instituted or maintained against Buyer in any state, without Buyer's prior written consent, except in the State of California. Pending settlement or final judgment, Supplier shall proceed diligently with the performance of this Purchase order.

14.) **ASSIGNMENT.** The Supplier may not assign the contract or any rights thereunder, including monies due or to become due, without Buyer's prior written consent.

15.) **RISK OF LOSS.** All risk of loss on supplies or items furnished under this contract shall follow the custody thereof, except that Supplier shall bear the risk of loss on rejected supplies after receipt of notice from Buyer of such rejection.

16.) **SUBCONTRACTS.** No subcontractor shall be made by the Supplier with any other party for furnishing any of the supplies hereunder in completed or substantially completed form without the prior written approval of Buyer.

17.) **LABOR DISPUTES.** Whenever the Supplier has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Supplier shall immediately give notice thereof, including all relevant information with respect thereto, to Buyer and comply with the provision of ASPR Section 7-104.4 whether or not this contract is under a Government prime contract.

18.) **WAIVER.** No waiver, alteration or modification of any of the provisions of this contract shall be binding on Buyer unless evidenced by a change order or written amendment duly signed by Buyer.

19.) **DISCLOSURE OF INFORMATION.** Supplier shall not, without prior written consent of Buyer, disclose information relative to this order, except as may be required to insure performance.

20.) **PRICES.** Supplier represents that the prices specified in this order are based on current pricing data and do not exceed the lowest current selling price for the same or substantially similar articles whether to the Government or to any other purchaser, taking into account the quantity and schedule under consideration, and that such prices include all applicable Federal, State and local taxes, in effect on the date of this order, except any sales or use tax payable at source. In the event that the price or prices shown in this Purchase Order are less favorable or in the event that Supplier reduces its price to any other customer for such products during the term of this Purchase Order, Supplier agrees to reduce the prices hereof correspondingly. Unless otherwise specified in a purchase order, prices are in U.S. dollars.

21.) **TAXES.** No charges will be made for taxes, unless stated. All sales, use, excise or similar taxes to be paid by Buyer must be itemized separately hereon and on invoices.

22.) **ADVERTISING.** Supplier shall not without the prior written consent of Buyer in any manner advertise or publish the fact that Buyer has placed this purchase order. Supplier shall not use Buyer's name, logo, trademark or any other proprietary information for any purpose whatsoever, including but not limited to any advertising and press releases, without the prior written consent of Buyer.

23.) **GRATUITIES.** Supplier, its employees, agents or representatives are prohibited from providing or attempting to provide, or offering to provide, any money, fee, commission, credit, gift, gratuity, thing of value or compensation of any kind to Buyer or any of its employees, agents, or representatives, for purpose of improperly obtaining any Order from Buyer, or for rewarding favorable treatment in connection with any Order between Buyer and Supplier.

24.) **NON-EXCLUSIVE RIGHTS AND REMEDIES.** The rights and remedies herein reserved to Buyer shall be cumulative and additional to any other or further rights and remedies provided in law or equity.

25.) **EFFECT OF INVALIDITY.** The invalidity in whole or in part of any provision of this purchase order shall not affect the validity of other conditions.

26.) **CONTROL OF FASTENERS CERTIFICATION.** Supplier furnishes documentation that identifies the fastener manufacturer and the manufacturer's production lot or batch with each shipment. In addition, the Supplier certifies that the manufacturer or other source of the fasteners is not currently listed as a "debarred, suspended, or ineligible contractor" on the current issue of the "lists of parties" published by the U.S. Government, General Services Administration (GSA).

27.) **MATERIALS SUPPLIED.** Supplier acknowledges that materials supplied are in accordance with all applicable procurement specifications, and in compliance with DFARS 252.225-7014, preference for domestic specialty metals, ALT 1 as applicable, and must retain full traceability.

28.) **U.S. EXPORT AND IMPORT COMPLIANCE.** Buyer and Supplier (hereafter collectively as "Parties") shall comply with the laws and regulations of the United States (U.S.) relating to exports and foreign transactions. Including, but not limited to, the International Traffic Arms Regulations (ITAR) (22 C.F.R. Parts 120-130), the Arms Export

Control Act (22 U.S.C. 2778), the Export Administration Regulation (EAR) (15 C.F.R. Parts 730-774) and the Export Administration Act of 1979, as amended (50 U.S.C. 2401 et seq). In particular, the Parties shall not disclose any technical data, nor deliver, export, re-export or retransfer any product out of the USA, or to foreign persons or

entities within or outside the USA, without the proper written authorization and /or license, or re-export/re-transfer license from the U.S. Government. Supplier hereby indemnifies and agrees to hold Buyer harmless from any costs, damages, penalties attorney's fees and similar expenses of Buyer due to Supplier's breach (or threatened breach) of such obligation. The Parties shall reasonably cooperate with each other in obtaining all required export and import licenses, approval and/or notifications pursuant to such U.S. laws.

#### GOVERNMENT CONTRACTS

When work, materials or products covered by this purchase order are for use on a United States Government contract or subcontract, the following additional provision are applicable of which Supplier has agreed to by acceptance of this purchase order.

- (a) **FEDERAL LAWS AND REGULATIONS.** This purchase order shall be subject to all applicable provisions and will contain all clauses and agreements required by the terms of any government contract under which this purchase order is issued, by Federal Laws and Regulations and by the applicable sections of the Armed Services Procurement Regulations.
- (b) **EXAMINATION OF RECORDS.** The Comptroller General of the U.S. and the Department or Agency having cognizance over the prime contract referred to on the face of this order and any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under this order, have access to and the right to examine any directly pertinent books, documents, papers and records of Supplier involving transactions related to this order.
- (c) **EMPLOYMENT OF ALIENS.** If forbidden by law or regulations, no alien in the employ of Supplier shall be permitted to have access to the plans or specifications of the work hereunder unless the written consent of the U.S. Government has first been obtained.
- (d) **BUY AMERICAN ACT.** Supplier warrants that the goods delivered under this order will be mined or produced in the U.S. or manufactured therein from components mined, produced or manufactured therein to the extent required under the Buy American Act (41 U.S.C. Sec. 10 a-d) and the applicable determinations thereunder referred to in NASA PR, Part 6, Subpart 1.
- (e) **PATENT RIGHTS.** If payment under this order is to be made for experimental, development, or research work as such, Supplier agrees to disclose to the U.S. Government each invention, improvement or discovery conceived or first actually reduced to practice in the performance hereof, and to grant such rights to the U.S. Government and to perform such other acts as are required by the patent provisions of Buyer's prime contract under which this order is issued. Buyer will furnish copies of patent clauses on request of Supplier.
- (f) **NON-DISCRIMINATION.** The Supplier performing the work required by this order, shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Supplier represents it will comply with Sec. 202, Paragraph 1.7 of

Executive Order 11246, which is incorporated herein by reference. Supplier shall include in all subcontracts a provision similar to the foregoing.

- (g) **RENEGOTIATION.** This contract, and any subcontract hereunder, is subject to the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 et seq.) and shall be deemed to contain all the provisions required by Section 104 thereof, and is subject to any subsequent act of Congress providing for the renegotiation of Contracts.
- (h) **COVENANT AGAINST CONTINGENT FEES.** Supplier warrants that it has not employed any person to solicit or secure this order upon any agreement for a commission, percentage, brokerage or contingent fees. Breach of this warranty shall give the Buyer the right to annual this order or, in its discretion, to deduct from the agreed price or consideration the amount of such commission, percentage, brokerage or contingent fee. This warranty shall not apply to commissions payable to Supplier upon orders or sales secured or made through bona fide established commercial or selling agencies maintained by the Supplier for the purpose of securing business.
- (i) **OFFICIALS NOT TO BENEFIT.** No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this order or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this order if made with a corporation for its general benefit.

29.) **SUPPLIER PRODUCT REQUIREMENTS.** Supplier acknowledges that in addition to the above Purchase Order Terms and Conditions, they are also subject to Hydra Electric Form [QWI-800](#), (Quality Supplier Requirements).

#### 30.) QUALITY CONTROL/INSPECTION.

- (a) Supplier shall establish and maintain a quality management system acceptable to Buyer for the Items purchased under this Order. Supplier shall permit Buyer to review procedures, practices, processes and related documents to determine such acceptability. Supplier shall have a continuing obligation to promptly notify Buyer of any violation or deviation from Supplier's approved inspection/quality control system and to advise Buyer of the quantity and specific identity of any Items delivered to Buyer during the period of any such violation or deviation. Supplier will maintain the accepted quality management system throughout the duration of the Order. If Supplier is cited for compliance violations, Supplier shall within 48 hours so notify the Buyer and within 60 days must rectify the non-compliance issues. If the violation is not corrected and certification has not taken place within this time frame, Buyer at its discretion may terminate this Order. Supplier will notify Buyer of any significant changes that affect quality within 24 hours of that change. These changes include , but are not limited to, change in key management or personnel, change in process related to manufacture of product, change in source of supply of key materials, change in address or site configuration.
- (b) Buyer and/or its customer, to the extent practicable at all times and places including the period of manufacture, may inspect and test material, work in progress, and supplies. This Order grants

Buyer and its customer the right to so inspect and test, but not the obligation to do so. Supplier retains the obligation to ensure proper inspection and testing.

- (c) Buyer shall have the right to reject any Items or lots of Items which it determines are defective in material or workmanship or otherwise not in conformity with the requirements of this Order and to require their correction or replacement. Rejected Items shall be removed or if permitted or required by Buyer, corrected in place by and at the expense of Supplier promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Supplier fails to promptly replace, correct, or remove such Items or lots of Items which are required to be removed, Buyer may:
- (1) replace or correct such Items and charge to Supplier the cost occasioned Buyer thereby;
  - (2) pay for such Items at a reduced price which is equitable under the circumstances; or
  - (3) cancel this Order for default as provided in Article 32 entitled —Default; or
  - (4) exercise any other applicable rights or remedies.
- (d) If Buyer rejects any Items as non-conforming, Buyer may, at its option, (a) reduce the quantities of Items ordered under this Order by the quantity of non-conforming Items – in this case, however, the original quantities will be maintained for Supplier performance and scoring, (b) require Supplier to replace the non-conforming Items, and/or (c) exercise any other applicable rights or remedies. If Supplier fails to inform Buyer in writing of the manner in which Supplier desires that Buyer dispose of non-conforming Items within forty-eight (48) hours of notice of Buyer's rejection of non-conforming Items (or such shorter period as is reasonable under the circumstances), Buyer will be entitled to dispose of the non-conforming Items without liability to Supplier, provided, however, that in any event Buyer may elect to arrange for the shipment of any non-conforming Items back to Supplier at Supplier's expense. Supplier will bear all risk of loss with respect to all non-conforming Items and will promptly pay or reimburse all costs incurred by Buyer to return, store or dispose any non-conforming Items. Buyer's payment for any non-conforming payments will not constitute acceptance by Buyer, limit or impair Buyer's right to exercise any rights or remedies, or relieve Supplier of responsibility for the non-conforming Items. In the event Buyer decides for any reason to accept non-conforming items, any costs incurred by Buyer testing, evaluating and manufacturing, relating to the design changes to any of the Items, shall be responsibility of the Supplier, and Supplier may not pass along any costs in relation to the design change(s).
- (e) If any inspection or test is made by Buyer and/or its customer on the premises of Supplier or a lower tier subcontractor, Supplier without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of Buyer and/or customer inspectors in the performance of their duties. In the case of rejection, Buyer shall not be liable for any reduction in value of samples used in connection with such inspection or test. All inspections and tests by Buyer and/or its customer shall be

performed in such a manner as not to unduly delay the work. Buyer reserves the right to charge to Supplier any additional cost of inspection and test when Items are not ready at the time such inspection and test was requested by Supplier or when re-inspection or retest is necessitated by prior rejection. Unless otherwise provided herein, final inspection and acceptance or rejection of Items shall be made as promptly as practicable after delivery to Buyer's facility. Buyer's failure to inspect or accept or reject Items in a timely manner shall neither relieve Supplier from full compliance with all requirements of this Order, nor impose responsibility on Buyer therefore.

- (f) Supplier shall provide and maintain an inspection system acceptable to Buyer covering the Items hereunder. Records of all test and inspection work by Supplier shall be kept complete and available to Buyer and/or its customer for ten (10) years following completion of this Order.
- (g) Inspection and test by Buyer or its customer of any Items or lots thereof does not relieve Supplier from any responsibility regarding defects or other failures to meet Order requirements which may be discovered prior to acceptance or during the warranty period set forth in Article 5.
- (h) If, prior to or at the time of final acceptance or within the warranty period, it was known or should be known by Buyer that said Items would not or did not conform to the requirements of this Order, final acceptance shall not be construed as a waiver of any rights Buyer may have with respect to the Items purchased under this Order, notwithstanding the failure of Buyer to timely inform Supplier of such nonconformance.
- (i) Final acceptance by Buyer of the Items provided hereunder shall take place only after complete delivery of all Items in accordance with the delivery schedule specified herein or later agreed upon by the parties in writing and after final inspection of those Items by Buyer and Buyer's customer. Final acceptance shall be contingent upon agreement by Buyer and the Buyer's customer that the Items conform to the requirements of this Order. Final acceptance by Buyer shall be conclusive, except for latent defects, negligent or intentional misrepresentations by Supplier that a nonconformity or defect would be or had been cured or did not exist, acceptance induced by false or negligent assurances of Supplier, or as otherwise provided in this Order or applicable law. Final acceptance by Buyer of the Items delivered hereunder shall not limit or affect the warranty or indemnity granted by Supplier hereunder.

31.) RIGHT OF ENTRY. Buyer shall have the right to enter Supplier's facility during normal business hours or, in the event of a Supplier shutdown, at reasonable times, to inspect the facility, goods, materials and any property of Buyer covered by this purchase order and, without the necessity of a court order, may enter upon Supplier's property and remove property belonging to Buyer or any customer of Buyer, including, without limitation, Buyer Provided Special Tooling and other goods, inventory or Supplier's property that has been or is agreed to be sold to Buyer under this purchase order.

32.) DEFAULT. Upon the occurrence of any one of the following events, Supplier shall be deemed to be in default under this purchase order, and Buyer shall (without limitation to any other rights or remedies that may be available to Buyer at law or equity) have the unrestricted right, upon written notice, to terminate this purchase order and, upon the delivery or mailing of such notice to Supplier, every obligation of Buyer hereunder shall immediately terminate:

- (a) Supplier becoming insolvent;
- (b) commencement of proceedings by, for or against Supplier under any law relating to bankruptcy or the relief of debtors; the appointment of a receiver or trustee for Supplier; or the execution by Supplier of an assignment for the benefit of its creditors;
- (c) determination by Buyer, in its sole judgment, that Supplier's financial condition is such as to endanger its performance hereunder;
- (d) the dissolution of Supplier; the sale, transfer or disposition by Supplier of all or substantially all of its assets (either in one transaction or through a series of transactions); or any merger, consolidation, reorganization, sale or other transfer of stock or other equity or other event that results in more than fifty percent (50%) of the equity ownership of Supplier being owned by a person(s) who is not currently an equity owner of Supplier;
- (e) Supplier's failure to strictly comply with any of the provisions, terms, conditions or obligations of this purchase order (including, without limitation, its failure to make timely deliveries of material specified hereunder) or the Supply Agreement;
- (f) any breach by Supplier of any representations or warranties hereunder or in the Supply Agreement;
- (g) Supplier at any time ceasing in any way to be competitive with respect to cost, quality or delivery; or
- (h) Supplier's failure to comply with any other obligation owed by Supplier to Buyer, including, without limitation, pursuant to other contracts between Buyer and Supplier. If Buyer cancels this purchase order as hereinabove provided, Buyer shall not be liable to Supplier for any amount, except for payments owed for conforming materials accepted by Buyer prior to termination, and (without limitation to any other rights that Buyer may have hereunder or at law or in equity) Supplier shall compensate Buyer for all losses and damages (direct or indirect, including, without limitation, consequential and incidental damages and lost profits) sustained, and costs and expenses incurred, by Buyer by reason of such default and/or cancellation, including, without limitation, excess costs incurred by Buyer as a result of obtaining materials from another source.

33.) WORK ON BUYER'S PREMISES. If Supplier's work under this Purchase Order involves operations by Supplier on Buyer's premises, Supplier shall take all necessary precautions to prevent the occurrences of any injury to persons or property during the progress of such work and, except to the extent that any such injury is due solely and directly to Buyer's negligence, shall indemnify Buyer against all loss which may result from any act or omission of Supplier,

its agents, employees, or subcontractors. Supplier shall maintain and furnish Buyer with copies of such public liability, property damage and employer's liability compensation insurance as will protect Buyer from said risks and from any claim under any applicable Workers' Compensation and Occupational Disease Act.

34.) OUTSIDE PROCESS PROCEDURE. To avoid payment delays, provide H-E with pricing prior to the start of processing. Capped items must be re-capped and wrapped items must be re-wrapped to avoid metal to metal contact upon return to H-E. No metal to metal contact allowed. Parts must be returned in the same lots as originally received. Do not mix lots. Delivery will be accepted sooner than due date unless otherwise stated. All H-E furnished documents, including drawings, are to be returned with parts. Certificate of conformance and reference to the latest revision of applicable specifications are also required.