

**ACCEPTANCE AND ACKNOWLEDGEMENT OF PURCHASE ORDER
TERMS AND CONDITIONS**

1. ACCEPTANCE AND ACKNOWLEDGEMENT. Seller accepts Buyer's Purchase Order by returning an executed copy of these terms and conditions to Buyer or delivering the materials or equipment described in Buyer's Purchase Order, whichever occurs first. Seller's acceptance of Buyer's Purchase Order acknowledges Seller's agreement to these terms and conditions, the agreement between Buyer and owner of the project for which the materials or equipment are intended (which is incorporated into these terms and conditions by reference), and any other documents or specifications listed on the Purchase Order, which are incorporated as part of these terms and conditions. Any additional or different terms, conditions, or instructions proposed by Seller are unenforceable and of no effect unless expressly agreed to in writing by Buyer.

2. SCHEDULE. Time of delivery provided in the Purchase Order is of the essence. In the event Seller shall immediately notify Buyer in writing if Seller has reason to believe any delivery will not be made as scheduled. Buyer may terminate all or any part of the Purchase Order as to materials and equipment not received or accepted by Buyer by the date(s) provided on the Purchase Order. Acceptance of materials or equipment delivered after such date(s) shall not be deemed a waiver of Buyer's right to terminate all or any part of the Purchase Order or waiver of any other rights Buyer may have.

3. DELIVERY AND INSPECTION. All shipments shall be FOB jobsite unless the Purchase Order provides otherwise. All material and equipment shall be suitably packed, marked and shipped in accordance with the requirements of common carriers. Seller shall bear the risk of loss or damage until Buyer accepts the materials or equipment. All materials and equipment shall be received subject to Buyer's inspection and rejection and Buyer shall not be liable to Seller for any incidental damages arising out Buyer's rejection. Defective material and equipment not in accordance with Buyer's specifications will be held for Seller's instruction and at Seller's risk and, if Buyer so directs, will be returned at Seller's expense and risk of loss. No material or equipment returned by Buyer shall be replaced unless authorized by Buyer. Payment for material or equipment prior to inspection shall not constitute Buyer's acceptance, nor will acceptance remove Seller's responsibility for patent or hidden defects.

4. PAYMENT. Buyer will pay for material or equipment within 30 days of acceptance or 30 days of Buyer's receipt of payment from the owner of the project on which such material or equipment are to be used, whichever occurs later. As express conditions precedent to payment, Buyer shall have received payment from the owner of the project on which such material or equipment to be used and Seller shall provide: (i) copies of all warranties, applicable manuals, and all other close-out documents Buyer requires for the materials or equipment, (ii) evidence in a form satisfactory to Buyer that all of Seller's suppliers have been paid in full, and (iii) releases of all liens and claims by Seller and Seller's suppliers in a form reasonably acceptable to Buyer.

5. TERMINATION. Buyer may terminate the Purchase Order for cause upon Seller's breach of these terms and conditions. Buyer may terminate the Purchase Order at any time for convenience of Buyer by providing notice to Seller. In the event Buyer's termination of the Purchase Order for cause is later determined to have been improper, the termination shall automatically be deemed a termination for convenience. Buyer shall not be liable for any incidental damages nor shall any of Buyer's other rights or remedies provided by law or these terms and conditions be limited due to Buyer's termination of the Purchase Order.

6. ENCUMBRANCES. Seller shall provide all materials and equipment free and clear of all claims and encumbrances. Seller shall indemnify and defend, at its own cost (including attorney fees), Buyer against all such claims or encumbrances.

7. CHANGES AND SUBSTITUTIONS. Buyer shall have the right to make changes in the items, quantities or other information incorporated into these terms and conditions, methods of shipment or packing, place of delivery, and time of delivery upon notice to Seller. The price of material or equipment shall be equitably adjusted if and to the extent necessary to reflect the impact of any such changes. If at the time of delivery, Seller's regular selling price for any material or equipment delivered is lower than the price specified in the Purchase Order, Seller's price prevailing at the time of delivery shall be the purchase price payable by Buyer. Seller shall not substitute any material or equipment described in the Purchase Order unless approved in writing by Buyer.

8. TAXES AND INSURANCE. Seller shall assume and pay for any and all applicable federal, state or local taxes arising out of or related in any way to the Purchase Order, including sales and use taxes. Seller shall obtain and maintain all insurance in the manner and form required of Buyer under any agreement between Buyer and a third party related to the purchase of the material or equipment.

9. SAFETY. Seller shall comply with all provisions of MIOSHA and OSHA Standards. Seller shall submit to Buyer all Materials Safety Data Sheets for materials sold to Buyer, if applicable and as required by law.

ACCEPTANCE AND ACKNOWLEDGEMENT OF PURCHASE ORDER

TERMS AND CONDITIONS

10. WARRANTIES. In addition to any warranties implied or otherwise required by law, Seller warrants that all material and equipment provided in the Purchase Order shall be as represented, will conform with samples and specifications, will be of sound materials, good workmanship and free from any and all defects, and will be fit and suitable for the purposes intended.

11. LIABILITY. Seller agrees to indemnify, defend and hold Buyer, including any other person or entity to whom Buyer owes indemnity, harmless from all claims, liabilities, costs and expenses whatsoever (including attorney fees incurred in both defending the claim and tendering the claim to Seller) arising out of, resulting from or occurring in connection with Seller's performance of the Purchase Order, any defects or conditions with respect to the material or equipment, whether patent or hidden, violation of any federal or state laws, or any activity associated with the materials and equipment by Seller's employees, suppliers or subcontractors. Seller shall pay liquidated damages to Buyer in the event Seller fails to complete delivery of the materials and equipment in strict conformance with the Purchase Order and these terms and conditions. Such liquidated damages shall be \$5,000 per day including the date the material and equipment should have been delivered and the date it is actually delivered, but not to exceed 5% of the total Purchase Order price. Buyer may deduct any liquidated damages from the balance due to Seller. Seller agrees that amount is reasonable and a fair estimation of the damages Buyer will suffer due to Seller's default.

12. DISPUTES. Except for nonpayment of Buyer, Seller shall continue to provide materials, equipment and incidental services as described in the Purchase Order and maintain the delivery schedule during any dispute. Any disputes Buyer and Seller cannot resolve informally shall be submitted to binding arbitration using the current Construction Industry Arbitration Rules of the American Arbitration Association. Such arbitration shall take place in Michigan and within Wayne, Oakland or Macomb Counties, as determined by Buyer.

13. ENTIRE AGREEMENT. Seller's acceptance of the Purchase Order and these terms and conditions shall result in a contract between Buyer and Seller according Michigan law. Seller shall not assign any of its rights or duties without Buyer's prior written consent. The Purchase Order and these terms and conditions constitute the entire agreement between Buyer and Seller and cancels and supersedes any and all previous agreements between the parties related to the material and equipment described in the Purchase Order. No waiver of a breach of any provisions of the Purchase Order or these terms and conditions shall constitute a waiver of any other breach or such provisions.

Signature: _____ Date: _____

Seller: _____