



## TERMS AND CONDITIONS

1. This order is deemed accepted and becomes binding if not rejected in writing within (2) days of issuance and regardless of vendor's executed signature.
2. Unless otherwise specified, price and terms are firm for the duration of the project.
3. An acknowledgement which contains terms in addition to or is inconsistent with the terms of this order, or a rejection of any term of this order, shall be deemed to be a counteroffer to Purchaser and shall not be binding upon Purchaser unless acceptance is made in writing to the vendor. However, performance by Vendor in the absence of written acceptance of such offer or counteroffer by purchaser shall be deemed to be performance in accordance with the terms of this Order.
4. All of your employees at the jobsite shall be only such mechanics, workers and drivers as shall work in harmony with other labor employed at said jobsite.
5. Vendor is aware of the intended use of the items covered in this Order. Vendor warrants that said items supplied hereunder conform to Purchaser's specifications are of high quality and are suitable for their intended use. Vendor agrees to indemnify the Purchaser against liability for injury incurred by the Purchaser if such items are not as warranted. Vendor warrants the items covered in this Order be free from defects in materials and workmanship for a period of (1) year from the date of delivery or for a different period if so, provided in Purchaser's specification or on the face hereof.
6. By accepting this Order, Vendor guarantees that the material hereby ordered and the sale or use of it will not infringe any United States or Foreign Letters Patent, and Vendor agrees to defend, protect, and save harmless Purchaser, its successors assigns, customers, and users of its products, against all suits at law or in equity and from all damages, claims and demands for actual or alleged infringement of any Patent be reason of the sale or use of the material hereby ordered.
7. You shall not assign this Order or any part thereof or any moneys due or to become due hereunder without prior written consent.
8. This Order includes all delivery charges. All materials included in this Order shall be delivered to the address specified in good order and condition. We reserve the right to return all damaged or improper items without cost or expense to us.
9. All deliveries and installations shall be made specified or when so directed by our field representative. Failure to adhere to this condition shall subject this Order to cancellation at our discretion, without cost or expense to purchaser. In addition, this purchase order may be cancelled at any time by the purchaser without cause or expense to the purchaser.
10. No allowance of an extension of time, for any cause whatever, shall be claimed by the Vendor or to be made to him, unless the Vendor shall have made written request upon extension occurred, and unless the Purchaser and Vendor have agreed in writing upon the allowance of additional time to be made.
11. If no prices are specified on the Order, Purchaser does not obligate himself to accept items charged at a higher price than the last purchase of similar material.
12. You shall pay all taxes, assessments, and premiums under the Federal Social Security Act, any applicable Unemployment Insurance Law, Workmen's Compensation Law, Old Age Benefit Law, or other applicable laws now or hereafter in effect, payable by reason of or in connection with any part of your work.
13. You shall be responsible for the payment of all sales and use taxes imposed by law upon or on account of this order.
14. If this Order includes labor at the jobsite:
  - a) Certificates of Insurance, satisfactory to the Purchaser naming the Purchaser (and Grade Construction, and if Grade is not the Purchaser) as additional insured(s), shall be filed with Grade Construction, prior to the commencement of work. The said certificate shall contain a provision that coverage afforded under the policies will not be canceled until at least sixty (60) days after written notice has been given to Grade Construction.
  - b) Workmen's Compensation and Employer Liability Insurance shall be maintained in force during the life of this Contract, by the Subcontractor, covering all employees engaged in performance of this Contract in accordance with the applicable status. Employer's Liability Insurance shall be in accordance with State Workmen's Compensation Laws and if sub is a sole proprietor or partnership the certificate shall be evidence that the sole proprietor or partners have elected coverage for himself/themselves.
  - c) General Liability Insurance-Minimum Coverage-\$1,000,000. Bodily Injury / Property Damage Combined. The following types of coverage must be provided under the general liability insurance: Comprehensive Form, Premises Operations, Products / Completed Operations Hazard, Contractual Insurance, Broad Form Property Damage, and Property Damage. The policy shall include Contractor's Protective Liability Insurance (also known as Contingent Liability Insurance) with the same limits. In the event more than one insured is named in the policy, a gross liability endorsement shall be included, which provides that the employees of each of the Named Insured are not excluded under the policy as respect to claims made against the other named insured. In the event that the Vendor's work presents explosion of underground hazard, then these types of coverage must also be provided.
  - d) Excess Liability Insurance - Minimum Coverage shall be \$2,000,000. Combined single limit. The coverage under the Excess Liability shall be umbrella form. The Vendor's insurance carriers must be indicated in Best Guide to Insurance.
  - e) Each policy shall be endorsed to provide Waiver of Subrogation rights in favor of Grade Construction, Inc., and its owners, and all other parties owning an interest in the property on which work covered by this agreement is to be performed. Failure by you to keep the required insurance policies in force and effect during any extensions, extra or additional work agreed to by you hereunder, shall constitute a breach of this agreement without further cost to the Purchaser.
  - f) Compliance with the foregoing requirements as to insurance shall not relieve you from liability under the following indemnifications:

The Vendor shall pay and make good all losses and damages arising out of all causes connected, with this Purchase Order, and shall indemnify and save harmless Grade Construction, and the Owner(s) from all claims, liability and responsibility, of every nature and kind for losses, damages and injuries, which any persons may sustain or suffer by reason of, or in any way arising out of the Purchase Order. The Vendor shall defend every suit, of any nature, which may be brought against Grade, or any of its officers, agents, to the Owner(s), by reason of, or connected, with, the work, labor or materials and equipment furnished under the Purchase Order and shall pay all costs and expenses of any kind, character and nature whatever, accruing upon or arising out of the Purchase Order.
  - g) All sales and use taxes are included in the agreed upon price.
  - h) The 1-year warranty period shall commence upon substantial completion and/or acceptance by the Owner.
  - i) The Vendor shall keep on the site during the progress of work, a competent superintendent who shall be the authorized representative of the Vendor. Directions and communications to him from the Purchaser in connection, with the Work shall be treated as directions and communications to the Vendor.
15. You shall maintain Automobile Insurance Coverage on any vehicle (including hires and non-owned vehicles) with limits or primary limits of no less than \$1,000,000. You are to furnish a certificate indicating compliance with all insurance requirements.
16. You are hereby guaranteed to comply with all statutes, ordinances, rules, and regulations of all Federal, State, and Municipal Authorities.
17. The Vendor hereby expressly waives, releases and relinquishes any and all right to maintain, or have filed or maintained, any mechanic's lien or claim against the fore said premises or any part thereof, or any building of buildings thereon, for or on account of any work, labor and materials, performed or furnished under this agreement, and agrees that no such lien or claim for liens against the aforesaid premises or any part thereof, or any buildings thereon, or any vendor, or any persons acting through or under the Vendor, and agrees, that if at any time there shall be any evidence of the filing or maintenance of any such lien or claim for lien, the Purchaser shall have the right to deduct from the amount otherwise due to the Vendor hereunder an amount sufficient to indemnify it for any or all loss or damages which may result from such lien or claim; and the Vendor, further agrees this waiver shall be an independent covenant and shall operate and be effective, not only with respect to materials furnished or labor performed under this Vendor, but also with respect to any and all materials furnished of labor performed under any Vendor supplemental to this principal Vendor, and under any subcontract for extra labor or materials for the above described premises.
18. SAFETY. The Subcontractor shall take all reasonable safety precautions pertaining to the Work and the conduct thereof. Without limiting the generality of the foregoing, he shall comply with all applicable laws, ordinances, rules, regulations, and orders issued by a public authority whether federal, state, local, or otherwise, including, but not limited to the Federal Occupational Safety and Health Act, and, in addition, the safety measures called for by Grade Construction.
19. PRIOR UNDERSTANDINGS OR REPRESENTATIONS. The purchaser assumes no responsibility for any understandings or representations made by any of its officers or agents prior to the execution of the Subcontract unless such understandings or representations by the Purchaser are expressly stated in the Subcontract.
20. Unless otherwise indicated on the face hereof, payment to Seller shall be made as and when payment is made to Buyer by its contracting party. Payment to Seller is contingent upon Buyer's being paid by its contracting party. Acceptance by Seller of final payment of the purchase order price shall be a release of Buyer of all claims and liability to Seller for anything done, furnished, or related to the work under this purchase order or for any act or neglect of Buyer or its representatives.