

Layton Construction Company, LLC

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Delivery Required:	January 5, 2026
Ship Via:	Seller to provide Shipping
F.O.B.	Trailhead Multifamily
Terms:	Net 30 Days

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**EXHIBIT A
GENERAL TERMS & CONDITIONS
(MATERIAL & EQUIPMENT)**

I. **DEFINITIONS.** "**Order**" means the Purchase Order to which these General Terms and Conditions (the "**Terms and Conditions**") are attached or into which these Terms and Conditions are incorporated by reference, together with all exhibits, attachments and appendices thereto. "**Buyer**" means Layton Construction Company, LLC, a Utah limited liability company, "**Seller**" means the recipient of this Order as identified on the face of this Order. "**Product**" means all or any part of the materials, equipment, goods, work, and services to be provided by Seller to Buyer hereunder including, without limitation, all Seller or vendor data, information, operating instructions, manuals and other documents information and data related thereto. "**Specifications**" means all descriptive items made available to Seller concerning the design, characteristics, proposed use, intended operation or purpose of all or any part of the Product. "**Owner**" shall mean the entity for which Buyer is constructing or engineering the project in which the Product is ultimately installed or used.

II. **ACCEPTANCE.** Buyer expressly limits Seller's acceptance of this Order to the terms and conditions stated herein. Acknowledgment by Seller of this Order is provided for administrative convenience, but failure to return, sign, or complete any portion of the acceptance section of this Order will not affect the validity of this contract after acceptance by initiation of performance. Seller's signature and delivery of the Order to Buyer or delivery of the Products pursuant to the same shall constitute Seller's acceptance and execution of these Terms and Conditions for all purposes. **Unless agreed to in writing by Buyer in an amended Order proposed by Seller, any and all additional or different terms proposed by Seller in response to this Agreement shall be considered material alterations of Buyer's offer and are hereby rejected and objected to by Buyer whether inserted by Seller into a previously executed Order or included or referred to in a shipping release, order acceptance letter or confirmation or other preprinted forms, or elsewhere, and no such terms shall in any event be considered part of this Order or applicable to purchases hereunder. Any references to a quote or proposal submitted or prepared by Seller by number or otherwise in this Order shall not incorporate any general terms and conditions attached to such quote or proposal or referred to therein and the same shall not be part of this Order or these Terms and Conditions.**

III. **TERMS.** Payment terms are set forth on the face of this Order. Unless specifically set forth otherwise on the face of this Order, prices are net cash thirty (30) days from Buyer's receipt of invoice or, if later, receipt of shipped Products at Buyer's designated facility at the location described in the Order ("**Buyer's Facility**"). All payments are contingent on (a) Buyer's acceptance of materials, equipment and/or services according to the terms hereof; (b) receipt by Buyer, or upon shipment F.O.B. source, whichever is applicable, of the Product; and (c) submission of proper invoices. Payment and cash discount periods shall be calculated either from the date of Buyer's receipt of an acceptable invoice and supporting documentation or from the date of completion of delivery, whichever is later. Except as otherwise provided herein, the Product furnished by Seller hereunder shall become the property of Buyer upon payment therefor or upon delivery, whichever occurs earlier. Buyer shall own all information and materials resulting from Seller's services, work product, services furnished or performed, including all creative ideas by Seller and/or any subcontractor of Seller in connection with this Order. Upon the completion or in the event of the cancellation of this Order, all copies of all such information, materials and work product shall be delivered to Buyer. This Order shall not be filled at a higher price than shown herein, or if a price is not shown herein, this Order must not be filled at a higher than current market price effective at the date of shipment. If an invoice subject to a cash discount is not mailed on the date of shipment, any applicable discount period will commence on the day such invoice is received by Buyer.

IV. **WARRANTY.** Seller warrants to Buyer and Owner that (A) the Products are free from all defects in design, workmanship and materials, (B) are new, unless specified otherwise in the Order, (C) the Products are fit for use for their ordinary intended purpose as well as any special purpose specified in this Agreement, (D) sale or use of the Products for their ordinary intended purpose as well as any special purpose specified in this Agreement will not constitute infringement or contributory infringement of any patent, or infringement of any copyright or trademark, or violation of any trade secret, (E) the Products are in strict conformance with this Agreement and the Specifications, and shall at all times be subject to Buyer's inspection, (F) if Seller is responsible, in whole or in part, for design, the Products will be free of defect in design and engineering, and (G) Seller has good and merchantable title to the Products sold to Buyer pursuant to this Agreement and the same are free of any liens, security interests or encumbrances. If, in Buyer's reasonable opinion, the Products fail to conform to the foregoing warranties or are otherwise defective (excluding wear and tear from normal use), Seller shall repair or replace the Product free of cost to Owner and Buyer, including all labor costs of removal, repair, and installation, for a period equal to the greater of eighteen (18) months from shipment or during the first twelve (12) months of

operation, whichever shall occur first. Seller shall, at Buyer's sole option, promptly repair or replace them at Seller's expense. Neither Buyer's inspection nor failure to inspect shall relieve Seller of any warranty obligation hereunder, whether related to Products or services. The remedies stated herein shall be cumulative of any other remedies available in law or equity, and shall extend to Buyer, its successors, assigns, and customers. To the extent not prohibited by the manufacturer of the Products, Seller hereby authorizes Buyer, at Buyer's expense, to assert for Seller's account, all rights and powers of Seller under any manufacturer's and/or contractor's warranties with respect to the Products. Seller also warrants that it shall obtain and assign or otherwise provide to Buyer the benefits of warranties provided with the Products sold under the Agreement by manufacturers or suppliers. When the Product is subject to inspection as set forth herein, Seller shall not ship the Product without final release from Buyer.

V. **TAXES.** Charges specified in the Order, and any invoices sent by Seller shall, include all applicable federal, state and local taxes, duties and other governmental charges and fees imposed on the sale, use, production, transportation or handling of the Products or the performance of services under the Order. Taxes shall be stated separately on the Order and/or all invoices. Seller will not charge or collect sales and use taxes if Buyer and the sale of Products are exempt; provided that exempt Products shall be identified as exempt on the Order and Buyer shall provide Seller with an exemption certificate for the applicable jurisdiction. If Seller incurs any additional taxes or penalties from a taxing authority due to incorrect taxing information furnished by Buyer, Buyer will be responsible for all such additional taxes, penalties, and any legal expenses incurred by Seller. Seller shall be liable for all taxes applicable to income or profits received by Seller in relation to the Products.


VI. **DRAWINGS AND SPECIAL ITEMS.** All drawings, performance curves, and other information of similar nature provided by Seller shall be identified with this Order number, item number, and tag number. Drawings and prints provided by Buyer shall not be reproduced or copied in any manner by Seller and shall not be used for manufacture by any persons other than Seller. Seller shall permit reproduction by Buyer or Owner of all drawings and data supplied hereunder for the purpose of repairing and maintaining items purchased, notwithstanding any legends and notations shown on the drawings or data to the contrary. All special drawings, dies, patterns, tools or other items ("**Special Items**") supplied by Buyer shall be the property of Buyer and shall be preserved in good condition and returned when this Order has been completed or terminated. Special Items supplied by Buyer or made by Seller for the use of or delivery to Buyer or Owner or for use by Seller in supplying Buyer or Owner shall be used by Seller for any purpose other than supplying Buyer or Owner without the prior written consent of Buyer thereto.


VII. **MODIFICATIONS.** Buyer, by written notice to Seller, may from time to time modify, and direct changes to, the terms hereof. Seller agrees to modify the Product to conform to the revised Specifications, and agrees to comply with any other modification or directed change order. Any claim by Seller for adjustment must be made in writing within fifteen (15) days after Seller received notification of the modification.

VIII. **TITLE, RISK OF LOSS.** Unless expressly indicated on the face of this Order, all Products are sold to Buyer f.o.b. Buyer's Facility. Notwithstanding any agreement to pay freight, transportation charges, or to make payment or advances on account, unless otherwise stated in the Order, title and risk of loss or damage shall be on Seller until Products are delivered.

IX. **TERMINATION.**

Termination for Convenience. Buyer has the right to terminate this Order in whole or, from time to time, in part, without cause by written notice to Seller. Upon receipt of any such notice, Seller shall (1) immediately discontinue work on the date specified; (2) place no further orders for materials other than as may be necessarily required for completion of such portion of the work that is not terminated; (3) promptly either obtain cancellation on terms satisfactory to Buyer of all orders to sub-suppliers or assign those orders to Buyer, and (4) assist Buyer, upon request, in the maintenance, protection, and disposition of property acquired by Buyer under this Order. If claimed in writing within thirty (30) days after notice of termination, Buyer will pay to Seller an equitable adjustment to include: (1) all amounts due not previously paid to Seller for the Products completed in accordance with this Order prior to such notice; (2) a reasonable amount for and goods and materials then in production; provided that no such adjustment be made in favor of Seller with respect to any goods which are Seller's standard


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stock material; and (3) reasonable cost of settling and paying claims arising out of the cancelled orders. The total sum to be paid to Seller under this clause, exclusive of approved settlement costs, shall not exceed the total Order price reduced by the amount of payments otherwise made and as further reduced by the Order price of work not terminated, and will not include any consideration for loss of profits, all claims for which Seller hereby waives.

A. Termination for Cause. Buyer may terminate in whole or in part Seller's performance of work under this Order in any one of the following circumstances: (1) if Seller fails to make delivery of the Products or to perform within the time specified herein or any extension thereof; (2) if Seller delivers nonconforming Products; or (3) if Seller fails to perform any of the other provisions of this Order in accordance with its terms or so fails to make progress as to endanger performance. In the event Seller does not cure such failure within 10 days after notice from Buyer, Buyer will provide Seller with a written notice of default. In the event Buyer terminates this Order in whole or in part as provided in this clause, Buyer may procure upon such terms and in such manner as Buyer may deem appropriate, Products or services similar to those so terminated and Seller shall be liable to Buyer for any excess costs for such similar Products or services; provided, that Seller shall continue the performance of this Order to the extent not terminated under the provisions of this clause. Seller agrees to assist Buyer in the event that reprourement action is necessary as a result of default, by cooperation in the transfer of information, in the disposition of work in progress or residual material, and in the performance of other reasonable requests made by Buyer. If after notice of termination of this Order, it is determined for any reason that Seller was not in default hereunder, or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause.

X. INDEMNITY. Seller agrees that it is an independent contractor, and is not an agent of Buyer. Seller shall indemnify, defend and hold harmless Buyer and Owner, and their respective members, directors, officers, agents and employees from and against any demand, claim (including claims for contribution, indemnity or subrogation), action, loss, cost, damage, penalty, settlement payment and expense (including court costs and attorney fees) (each, a "**Claim**") for (a) personal injury, including death at any time resulting therefrom, sustained by any person or persons, or on account of damage to property, which arises out of a negligent act or omission on the part of Seller or its employees, contractors, or agents in connection with this Order or the Product, regardless of whether the party to be indemnified was concurrently negligent, (b) any lien or encumbrance arising out of the performance or nonperformance of this Order by Seller, and (c) any damages assessed against Buyer arising out of the fault, late or incomplete supply of Products that are subject to this Order. This paragraph shall survive any termination of this Order or the acceptance of the Product or payment therefor by Buyer.

XI. INTELLECTUAL PROPERTY. Seller warrants that Buyer's and Owner's purchase, use, or sale of the Product will not infringe any patent, invention, design, trademark or copyright. Seller shall indemnify, defend and hold harmless Buyer and Owner and their respective members, directors, officers, agents, employees and vendees against any Claim for actual or alleged infringement based on the purchase, use, or sale of the Product. This paragraph shall not apply to designs, processes, or equipment designed or provided by Buyer or Owner without alternative. In addition to Buyer's other rights and remedies, if Product is determined to be infringing or its use is enjoined, Seller shall, at Buyer's option, either secure for the Buyer the right to continue using the Product or, at Seller's expense, either promptly replace such Product with non-infringing Product, modify it in a manner acceptable to Buyer so that it becomes non-infringing, or remove the infringing Product and refund all sums paid.

XII. DELIVERY. Time is of the essence with regard to Product delivery dates. Buyer's representative shall be afforded free access during working hours to the Product during manufacture. Shipping instructions must be strictly observed and Products shipped only to the place designated in this Order. Seller shall be responsible for any loss or damage suffered by Buyer on account of Seller's failure to comply with such instructions. Seller shall supply schedules, progress reports, and unpriced copies of purchase orders and subcontracts for use in such expediting and inspecting. If delivery dates set forth in the Order cannot be met, Seller shall promptly inform Buyer in writing of any anticipated or actual delay, the reasons for the delay and the actions being taken to overcome or to minimize the delay. Failure by Seller to make shipment on the date(s) agreed to in this Order shall entitle Buyer, at its option, to (a) cancel all or any part of this Order, (b) recover all Claims as a result of any failure by Seller to meet specified date(s) for delivery or performance and/or (c) retain or collect an amount equal to 0.3 percent of the Product price for every day that any drawing, vendor data, description or specification is not timely delivered as required by this Order, and 0.7 percent of the Product price for every day that the final Product is not timely delivered as required by this Order. Any amounts paid to Buyer pursuant to the foregoing subpart(c) shall constitute agreed upon and liquidated minimum damages and not a penalty. No amounts will be paid for packing or drayage, or for any expedited or

express shipments, unless specifically indicated on the face of this Order.

XIII. FORCE MAJEURE. Seller shall notify Buyer as soon as Seller has reason to believe that any actual or imminent cause, whether or not beyond Seller's control, could possibly prevent or delay performance of any of Seller's obligations hereunder. Seller shall insert the substance of this clause in each lower-tier subcontract. If government actions, regulations, fires, strikes, accidents or similar causes beyond Seller's control prevent Seller from performing any of its obligations hereunder, the specific obligation(s) which Seller is prevented from performing will be suspended for a reasonable period of time during the continued existence of such cause; provided however, that Seller shall be liable for all Claims that could have been avoided by Seller if Seller fails to give time notice. Increases in the cost to Seller of goods, labor, and energy used to make the Product regardless of the extent or cause, shall not relieve Seller of its obligations hereunder.

XIV. MISCELLANEOUS. All deviations, substitutions or exceptions to this Order must be approved by Buyer in writing. If a specific Product or its equal is specified in this Order, the proposed equal must be approved by Buyer in writing. This Order sets forth the entire agreement between Buyer and Seller and no terms, conditions, understandings, or agreements purporting to modify or vary the terms of this Order shall be binding unless made in writing and signed by Buyer and Seller. In the event of a conflict or inconsistency between this Order and the Specifications, or in the case of any omission or error in such Specifications, Seller shall contact Buyer immediately for clarification. Seller agrees to observe and comply with all applicable federal, state, municipal and local laws, orders, regulations and requirements including, but not limited to, those affecting the design, manufacture, testing, safety, use, and service of the Product. If Seller provides and/or supplies chemicals, solvents, and/or acids which are classified as hazardous, Seller shall provide Material Safety Data Sheets (MSDS). Seller shall provide Buyer with an appropriate MSDS prior to or with the initial shipment and the first shipment after a MSDS is updated. Seller shall properly label all containers of hazardous chemicals shipped from their facilities to jobsites or other designated locations. This Order and any payments to be made hereunder may not be assigned or transferred by Seller without the prior written consent of Buyer. Similarly, Seller shall not subcontract any substantial portion of the work to be performed by it under this Order without the prior written consent of Buyer. Seller shall keep confidential all information relative to this Order. Any information which Seller may disclose to Buyer shall not be deemed to be confidential or proprietary information and shall be acquired by Buyer free from any restriction.

XV. GOVERNING LAW; LIMITATION OF LIABILITY. This Order shall be governed by and construed in accordance with the laws of the State of Arizona and any controversy, claim, or dispute arising out of this Order shall be brought exclusively in the courts of the State of Arizona. The remedies of Seller set forth herein are exclusive and the total liability of Buyer to Seller with respect to this Order and Product furnished hereunder whether based on contract, warranty, or statute, shall not exceed the purchase price of the Product upon which such liability is based. Buyer shall, in no event, be liable to Seller, any successors in interest, or any beneficiary or assignee of this Order for any consequential, incidental, indirect, special, or punitive damages based on this Order or any breach hereof.

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