



# PURCHASE ORDER

Phone:

VENDOR

Date:

Phone:

P.O. No.:

P.O. Title:

Job No.:

Project:

Project Manager:

Phone:

("Contractor") and the party named above ("Vendor") agree that the goods specified below shall be supplied by vendor in accordance with all of the provisions of this Purchase Order ("Order"). Vendor understands that Contractor has entered into a contract with, ("owner") for the construction of ("project") to be constructed on property under the Owner's control, located at according to the plans and specifications prepared for the project by . Unless otherwise agreed in writing signed by Contractor and Vendor, Vendor agrees to deliver the goods designated in the Goods to be supplied section, as required by the project schedule or otherwise specified below, to the following location .

Except to the extent inconsistent with this Order, the following documents are expressly incorporated by reference and made a part of this Order and are referred to collectively as the "contract documents."

- A. The general contract between Contractor and Owner together with the general, supplementary, special and other conditions, and any general requirements thereof.
- B. The following addenda between Contractor and Owner and all modifications incorporated prior to the date of this Order:
- C. The plans, specifications, drawings, clarifications and other technical data prepared for the project including all modifications incorporated prior to the date of this Order. The contract documents are to be construed together so that all of the items called for or indicated anywhere therein relating to Vendor's material is to be supplied by Vendor. In case of discrepancy within the contract documents, the provisions of this Order shall take precedence.
- D. All generally and specifically applicable trade, industry and governmental standards, guidelines and codes.

Vendor agrees to execute this Purchase Order. No payments will be made on this Purchase Order until a signed copy has been returned to Contractor. However, shipment of goods will constitute acceptance of this Purchase Order, including all Terms and Conditions.

### Goods to be supplied:

As full consideration for this Order, Contractor shall pay to Vendor:

### Notes :

- (1) UNLESS OTHERWISE NOTED THE AMOUNT STATED INCLUDES THE COST OF APPLICABLE SALES OR USE TAX.
- (2) THIS ORDER IS SUBJECT TO THE ATTACHED TERMS AND CONDITIONS AS SET FORTH. VENDOR'S EXECUTION BELOW CONSTITUTES ACCEPTANCE OF THESE TERMS AND CONDITIONS IN THEIR ENTIRETY. NO OTHER TERMS AND CONDITIONS CONTROL OR APPLY TO THIS ORDER UNLESS IN WRITING SIGNED BY BOTH CONTRACTOR AND VENDOR.

CONTRACTOR:

VENDOR:

BY:

BY:

TITLE: **Project Manager**

TITLE:

DATE:

DATE:

VENDOR FED. I.D.#:

INDICATE:  SOLE PROPRIETORSHIP  
 PARTNERSHIP  
 CORPORATION

**TERMS AND CONDITIONS AND INSTRUCTIONS**

1. This Purchase Order ("Order") must be immediately acknowledged by Vendor, stating probable date of delivery and accepted by Vendor in its entirety, including all necessary information and all of these Terms and Conditions. No verbal agreements shall prevail. "Vendor" means the Vendor entering into this agreement with Granger Construction Company. "Contractor" means Granger Construction Company.
2. All goods shall be satisfactory to Contractor as to quality and workmanship and subject to rejection when inspected. If the goods to be provided under the Order require Vendor or Contractor to assemble, test, set up, install or perform other preparatory work upon arrival of the goods at the designated place of delivery, Vendor or Contractor shall have a reasonable time in which to perform the same and Contractor shall not be deemed to have accepted the items until this process has been completed to Contractor's satisfaction and written notice of Contractor's acceptance provided to Vendor. Contractor also reserves the right to revoke any acceptance of nonconforming goods at any time, regardless of whether the goods require assembly or testing or are immediately usable upon arrival at the designated place of delivery.
3. All orders shall be sold F.O.B. project site. Vendor shall remain liable for any damage, accident, loss or injury to the goods prior to Contractor's written acknowledgment of receipt at the location Contractor specifies for delivery.
4. On all L.T.L. shipments, each separate article must be tagged with this order number and the project name and number. When such shipments are improperly marked and Contractor incurs expense to deliver such shipments to the proper place, Vendor's account shall be chargeable with this expense.
5. All invoices must be in duplicate and mailed on day of shipment and accompanied by bill of lading. ALL INVOICES, PACKING SLIPS AND EACH SEPARATE ARTICLE MUST SHOW CONTRACTOR'S ORDER NUMBER AND JOB NUMBER.
6. Vendor acknowledges that Contractor is depending upon receipt of the goods to fulfill Contractor's obligations to third parties, including Owner. Accordingly, Vendor shall be liable for all costs, damages and expenses Contractor incurs as a result of failure to deliver the goods on the date and at the location specified in this order, regardless of whether such delay is caused by Vendor, Vendor's agents, employees, common carriers, or any other cause, including labor disputes, shortages, epidemics, pandemics, or acts of God, unless such delay is excused by Contractor, in writing. Vendor hereby waives recovery for any damages suffered by reason of the delays contemplated in this paragraph. If granted by Contractor, an extension of time shall constitute Vendor's sole and exclusive remedy for such delay.
7. When working drawings are required, sufficient copies must be furnished for Contractor's approval. Contractor will provide this approval in writing, following a reasonable time for review. Contractor reserves the right to terminate this Order, without penalty or obligation, if Vendor fails to comply.
8. Vendor agrees to defend, at its own expense, every suit which shall be brought against Contractor or the ultimate buyer, or those selling or using products furnished or sold to the ultimate buyer by Vendor for any alleged infringement of rights (including patent, trademark, copyright or other intellectual property rights) requiring payment by reason of the sale or use of materials covered by this Order (provided that Vendor is notified of such suit and furnished all papers therein); and Vendor agrees to pay all costs, damages and profits recoverable in any such suit.
9. By acceptance of this Order, Vendor agrees to comply with all Federal, State and local laws, codes, regulations and ordinances affecting the use of the goods, labor and/or services involved in this transaction. Vendor represents and warrants that it has had full opportunity to familiarize itself with all obligations imposed upon it by Federal, State and local laws, regulations, rules and ordinances, and that it is familiar with and in full compliance with same, including but not limited to all laws, regulations, rules and ordinances referenced in or applicable to the Work of the Owner-Contractor agreement.
10. When invoices are subject to cash discount, but are not received by Contractor within two days of the date of shipment or are not accompanied by bills of lading, the discount period will begin the day both the invoice and bill of lading are received by Contractor.
11. By accepting this Order, Vendor agrees to carry product liability insurance covering all goods provided pursuant to this Order.
12. Vendor agrees to hold harmless and to indemnify Contractor from any and all liens or claims for labor or material arising out of the performance or fulfillment of this Order and to furnish such guarantees as may be required, as to workmanship and materials.
13. Vendor acknowledges that it has been advised of the purpose for which Contractor requires the goods and Vendor warrants that all goods delivered pursuant to this Order shall be merchantable, of quality fit for the trade, and Vendor warrants their fitness for the purposes generally intended for such goods and for the purpose(s) specifically intended by Contractor with respect to the goods.

14. Vendor agrees to assign to Contractor or to such persons or entities as Contractor may designate, all applicable factory and manufacturers' warranties. Vendor shall also ensure that the applicable warranty periods shall not commence to run until either the acceptance of the goods by Contractor at the designated place of delivery occurs or until the work or project for which the goods have been ordered is finally accepted by the Owner of the work or project, at Contractor's option. Vendor further agrees to furnish Contractor, upon delivery of the goods, all owners' manuals, warranty certificates, title documents and any other factory or manufacturer-issued documentation covering the goods.
15. Indemnity.  
Vendor agrees to defend and indemnify Contractor, Owner, and any other person who Contractor agreed under a contract to defend or indemnify, from and against any and all, alleged or actual, damage, claim, liability, loss, demand, injury, and expense, including attorney fees, costs, and interest, in any way arising out of or otherwise caused by Vendor's product, actions, or omissions.
16. **LIMITATION OF CONTRACTOR'S LIABILITY: IN NO EVENT SHALL CONTRACTOR BE LIABLE TO VENDOR FOR THE LOSS OF ANTICIPATED PROFITS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. CONTRACTOR'S LIABILITY TO VENDOR FOR A CLAIM OF ANY KIND OR FOR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM THIS ORDER OR FROM ANY PERFORMANCE OR BREACH, SHALL IN NO CASE EXCEED THE PRICE ALLOCABLE TO THE GOODS OR SERVICES WHICH DIRECTLY GIVE RISE TO THE CLAIM.**
17. When Contractor's Order has referenced drawings and specifications, Vendor assumes all obligations imposed upon Contractor for conformity with the drawings and specifications and Vendor unconditionally guarantees and warrants to Contractor, and to the ultimate purchaser or recipient of the goods, including Owner, that all goods delivered under this Order conform to the drawings and specifications.
18. Should Vendor at any time refuse to supply sufficient goods of the proper quality, supply nonconforming goods or fail in any respect to deliver the goods with promptness and diligence, or if Vendor should fail to perform any provision of this Order, then Contractor may, at its option, after 24 (twenty-four) hours written notice to Vendor, obtain substitute or replacement goods and deduct the cost from any money then due Vendor or which may become due Vendor; and if Contractor's expenses and damages exceed any unpaid balance(s) due Vendor, Vendor shall pay the difference to Contractor.
19. Vendor agrees that if Contractor's contract for the work under which this Order is issued should be terminated for any reason, Contractor shall have the right to terminate this Order by written notice to Vendor without owing Vendor damages beyond the value of the goods supplied to Contractor as of the date of termination.
20. Safety requirements, Contractor's Safety Policy, MIOSHA and/or other OSHA requirements and the industry standards listed on the front page of this Order are all expressly incorporated by reference in this Order and are considered a part of Vendor's contract with Contractor, and Contractor may, at its option and upon written notice to Vendor, terminate this contract for the failure of Vendor, its employees, agents and subcontractors to comply with these regulations.
21. Vendor agrees that there are no oral agreements for payment of any amount of money in excess of the fixed amount stated in this Order. Vendor also understands and agrees that this is an extremely important provision and it cannot be orally modified.
22. Vendor also agrees and understands that as a condition precedent to any claim for payment of amounts in addition to the contract price stated herein, there must be a written agreement signed by Contractor.
23. Unless otherwise noted above, the amount stated includes the cost of applicable state Sales or Use Tax. Vendor agrees to pay immediately, upon demand, any amounts charged to Contractor for applicable state Sales or Use Tax, including interest and penalties, if any, as the payment of these taxes are Vendor's sole responsibility.
24. If Contractor or Owner agrees to pay for goods stored offsite, material bonds supplied by Vendor may be required. If required, Vendor agrees, at its expense to obtain material bonds for goods stored offsite.
25. Acceptance of this Order constitutes an agreement to the terms and conditions set forth on each page and continuation sheets(s) of this Order.

26. **Exclusive Dispute Resolution.** Vendor and Contractor agree that the claims and dispute resolution process in this Paragraph shall be the exclusive remedy available to Vendor and Contractor to govern any and all disputes relating to the quality, fitness, merchantability or warranties of the goods provided pursuant to this Order, including, but not limited to, all claims which would otherwise be subject to the provisions of the applicable state's Uniform Commercial Code. By Vendor's acceptance of this Order, Vendor knowingly and voluntarily agrees for itself, its employees, agents, subsidiaries, successors and assigns, not to commence any claim, suit, administrative proceeding, or other legal or judicial process against Contractor. Vendor will not stop or delay performance of this Order because of the existence of a dispute or the absence of its final resolution, but rather, will proceed to complete this Order in accordance with its terms. Either party having a dispute shall provide the other party with written notice, either by certified mail or by facsimile, with accompanying first class mail. Upon receipt of notice, the exclusive procedure for resolving disputes is as follows:

- 1) **First Step: Written Notice.** The written notice of dispute referenced above shall detail: (a) the factual basis for the dispute; (b) the specific provision(s) of the Order or other documents involved; and (c) the complete relief requested from the party against whom the dispute is asserted.
- 2) **Second Step: Project Team Meeting.** Within fourteen (14) days after the written First Step notice is received, Contractor shall schedule a meeting and provide Vendor with written notice of the meeting to be held at the project site or other designated location. The meeting shall be attended by the respective project managers or other designated representative of both Vendor and Contractor with full authority to negotiate the dispute to resolution. The resolution of the dispute shall be reduced to writing and signed by both parties, unless the dispute is not resolved at the Project Team meeting. In the event Contractor, at its option, does not schedule the meeting within fourteen (14) days, the dispute shall be deemed denied and Vendor may proceed to arbitration under the Fourth Step and must proceed to arbitration within the next fourteen (14) days (which means twenty-eight (28) days after the Project Team meeting) or Vendor will be deemed to have agreed to Contractor's position. If Contractor schedules the meeting and Vendor does not attend, the claim shall be deemed withdrawn and waived.
- 3) **Third Step: CEO Meeting.** In the event that the Project Team meeting takes place but the dispute is not resolved by the Project Team meeting, Contractor shall schedule a meeting of the Chief Executive Officers of Vendor and Contractor at Contractor's offices or other agreed location, within fourteen (14) days after the last scheduled Project Team meeting, to resolve the dispute. Any such resolution reached by the Chief Executive Officers shall be reduced to writing and signed by both Vendor and Contractor, unless no agreement shall be reached. In the event Contractor, at its option, does not schedule the CEO meeting, Vendor's dispute shall be deemed denied and Vendor may proceed to arbitration under the Fourth Step and must proceed to arbitration within twenty-eight (28) days after the Project Team meeting, or Vendor will be deemed to have agreed to Contractor's position. If Contractor schedules the meeting and Vendor does not attend, the claim shall be deemed withdrawn and waived.
- 4) **Fourth Step: Arbitration.** In the event that Contractor does not schedule the Project Team meeting (Second Step) or CEO meeting (Third Step), or Vendor and Contractor cannot reach agreement on the dispute at the Project Team meeting or the CEO meeting, then Vendor will be deemed to have agreed to Contractor's position unless Vendor files for arbitration under the construction arbitration rules of the American Arbitration Association within twenty-eight (28) days after the last Project Team meeting or CEO meeting. The location of the arbitration shall be the county where the project is located.
- 5) **Except if** Contractor does not schedule the Project Team meeting or CEO meeting, and arbitration is therefore immediately available to Vendor, each of the steps of the dispute resolution procedure set forth herein is a condition precedent to Vendor's invoking the next step. However, Contractor may invoke arbitration at any time for any dispute, whether initiated by Vendor or not. And, except where Contractor exercises its option to invoke "forum coordination" set forth in the following paragraph, the following shall apply: (a) the exclusive dispute resolution method shall be by arbitration; (b) the agreement to arbitrate shall be specifically enforceable in court, as may be provided by applicable state statute and/or the Federal Arbitration Act; and (c) any arbitration award entered may be enforced by a circuit court of competent jurisdiction and a judgment entered accordingly.
- 6) **Arbitration Exception - Forum Coordination.** In the event that a dispute between Owner and Contractor involves goods or services provided by Vendor pursuant to this Order, Contractor may at its sole option elect at any time to not arbitrate a dispute with Vendor. In that event, Vendor agrees to dispute resolution in the same forum and/or same proceeding in which the dispute between Contractor and Owner is pending.

27. Integration; Severability; Governing Law and Forum. This Order shall constitute the entire agreement between Vendor and Contractor and may not be amended, changed or altered except by in writing, acknowledged by Vendor and Contractor. Any waiver by Contractor of a term or condition of this Order shall not constitute a waiver of any other provision. Any term or condition which shall be found unenforceable shall not affect the validity of the remaining terms and conditions, which shall continue to be enforceable. Any disputes between Vendor and Contractor shall be governed by the laws of the state where the project is located and any suit to specifically enforce the exclusive dispute resolution process or to enter judgment on an arbitration award shall be brought by Vendor or Contractor in a court of competent jurisdiction in the state where the project is located.