

**“TERMS AND CONDITIONS”
OF PURCHASE ORDER BY AND BETWEEN
JOHN E. GREEN COMPANY (“BUYER”) AND SELLER**

The following terms and conditions shall supplement the Purchase Order and, together with that Purchase Order and all documents incorporated by reference in that Purchase Order and in these Terms and Conditions, constitute the fully integrated agreement (the “Purchase Order”) between Seller and Buyer:

1. **Acceptance.** Seller shall be deemed to have accepted this Purchase Order and be bound legally under this Purchase Order upon the earlier of:

- (a) Buyer’s receipt of a copy of this Purchase Order signed by Seller; or
- (b) Seller’s providing any of the services covered by this Purchase Order or delivering to the job any of the goods covered by this Purchase Order.

No acceptance of this Purchase Order by Seller shall be effective that varies any of the terms or conditions specified in this Purchase Order. Any addition to, alteration of, or deletion from, any of the provisions of this Purchase Order by Seller shall be deemed proposals for modifications of this Purchase Order, all of which shall be deemed conclusively rejected by Buyer, unless Buyer has expressly approved of any such additions, alterations or deletions in a writing signed by an officer of Buyer. In the event that approval of Seller or this Purchase Order is required to be given by the architect, engineer, general contractor, job owner or any other party designated by Buyer, and such approval is not obtained or is withdrawn, this Purchase Order thereupon shall be deemed void and of no further legal force or effect, except for such provisions of this Purchase Order under which Seller is obligated to indemnify, defend or hold Buyer harmless from any liability arising from Seller’s failure to fully and punctually perform any of its obligations under this Purchase Order. Seller shall furnish all information and/or documents requested as necessary to obtain the foregoing approval(s). Buyer may withdraw this Purchase Order at any time before acceptance by Seller, and upon such withdrawal, this Purchase Order shall be deemed conclusively to be without further binding force or legal effect and may not thereafter be accepted by Seller.

2. **Correlation of Purchase Order Documents.** Where any provision in these “Terms and Conditions” or in the Purchase Order form is in conflict or inconsistent with any provision of any documents incorporated by reference in this Purchase Order, the provisions requiring the greater quantity, higher quality or best performance from Seller, as reasonably determined by Buyer in its discretion, shall supersede such conflicting or inconsistent provisions of such other documents and shall govern the rights and obligations of Seller and Buyer under this Purchase Order.

3. **Prices Inclusive of All Charges.** All prices stated in this Purchase Order are deemed conclusively to include all applicable taxes, permits, fees, freight, packaging, insurance, handling, and all other charges to complete delivery of the goods and performance of the services covered by this Purchase Order, unless stated otherwise in the description and pricing columns of the Purchase Order form. Seller shall not be entitled to collect, and Buyer shall not be obligated to pay, any charges other than those stated in the Purchase Order form, unless specifically agreed otherwise in a written amendment to this Purchase Order executed by an officer of Buyer or Buyer’s project manager for the job.

4. **Time of Delivery and Performance.** Time is of the essence of this Purchase Order, and Seller shall make all deliveries and perform all services covered by this Purchase Order in accordance with the job schedule under which Buyer is obligated to perform its work on the job. Buyer may, but is not obligated to, designate a different time, place or manner of delivery of any or all of the goods or performance of any or all of the services covered by this Purchase Order. Such designations shall be confirmed in writing by Seller. Seller hereby agrees to indemnify, defend and hold Buyer (including members, officers, employees, agents and representatives thereof) harmless from any and all liability, including without limitation actual attorneys’ fees, arising from, or in any way relating to, Seller’s failure to fully and punctually perform all of its obligations for delivery of the goods and performance of the services covered under this Purchase Order in accordance with the foregoing schedule or designations.

5. **Delivery Terms.** Unless specified otherwise on the Purchase Order form, all deliveries of goods under this Purchase Order shall be F.O.B. destination, and destination shall be deemed to be the job site designated in writing by Buyer. Before delivery of any of the goods covered by this Purchase Order, Buyer may alter the destination for delivery, and Seller shall confirm in writing such revised destination. Delivery of all goods covered by this Purchase Order shall be made only to a person authorized by Buyer to receive such goods, and if such goods are to be delivered to the job site, they shall be delivered for receipt only to Buyer’s project manager.

6. **Payment Terms.** (a) Buyer shall be obligated to pay only for such goods and services as conform strictly to the provisions of this Purchase Order. Seller shall submit an invoice for such goods and services to Buyer only after such goods have been delivered or such services have been performed. Unless otherwise specified in the Purchase Order form, such invoices shall be payable by Buyer on a 2/10/net/30 basis. In the event that any goods delivered or services performed do not conform strictly to the requirements of this Purchase Order, Buyer may withhold payment for such goods or services, and if such nonconformity is discovered by Buyer subsequent to the time of payment therefor, Buyer may, in addition to the other rights and remedies available to Buyer, withhold from any subsequent payments such amounts as Buyer would have been permitted to withhold from the payments for such nonconforming goods or services. In the event that the amounts remaining payable to Seller under this Purchase Order are less than the amounts Buyer is entitled to withhold for any nonconforming goods or services, Buyer may, in addition to the other rights and remedies available to Buyer, withhold such amounts from any amounts payable, or to become payable, to Seller under any other Purchase Order or contract between Seller and Buyer.

(b) Seller acknowledges that the goods and services covered by this Purchase Order are essential to the ability of the Buyer to perform its obligations under its contract (the “Buyer’s Contract”) for work on the job. Seller also acknowledges that, if the goods and services covered by this Purchase Order fail to conform to the requirements of this Purchase Order, such nonconformity may result in the failure of Buyer to receive prompt payment under the Buyer’s Contract. Seller agrees that, in such event, Buyer’s obligation to make payment to Seller under this Purchase Order shall be suspended until such time as Seller corrects any nonconformity, the existence of which has resulted in the withholding of payment to Buyer under the Buyer’s

Contract. Seller further agrees that the time period provided in this Purchase Order for payment from Buyer (including the time period within which Buyer is entitled to any discount) shall not begin to run until such nonconformity is corrected by Seller and Buyer receives payment for the work in which Seller's goods and services are included under the Buyer's Contract.

(c) Seller agrees that a condition precedent to Buyer's obligation to pay Seller for any of the goods or services provided by Seller under the Purchase Order is Buyer's receipt of payment under the Buyer's Contract for such goods and/or services. The obligation of Buyer to pay for such services shall not arise, and Seller shall have no claim for such payment, unless and until payment therefor has been received by Buyer under the Buyer's Contract.

(d) In the event the Buyer's Contract requires that Buyer submit from its suppliers and/or subcontractors sworn statements, waivers of lien, releases of claims or other documents to obtain payment under the Buyer's Contract, Seller shall supply such documentation to Buyer, and no time period prescribed in the provisions of this Purchase Order for payment to Seller (including any time period within which Buyer may obtain a payment discount) shall begin to run, and the obligation of Buyer to make payment to Seller shall not arise, unless and until such time as Seller has delivered to Buyer such documents properly executed and in a form acceptable to the party under the Buyer's Contract that is to make payment to Buyer. If any of the foregoing documentation provided by Seller, or if any other information otherwise obtained by Buyer, discloses that Seller has not paid when due any amounts owed to any of its suppliers or subcontractors, and any of those suppliers or subcontractors has a right, or otherwise threatens, to assert a lien or other claim against the job or any bond provided in connection with the job, Buyer may pay such amount to such supplier or subcontractor and deduct the amount thereof, and any other costs incurred by Buyer arising out of such lien or claim, from any amounts payable, or to become payable, to Buyer under this Purchase Order or any other contract between Buyer and Seller.

7. Inspection and Identification of Goods to Contract. (a) Buyer may make such inspection of the goods covered under this Purchase Order at such times as Buyer may reasonably request. Buyer's right to make such inspections shall include the right to inspect the goods at the location of manufacture or at such other locations of the goods prior to their delivery or acceptance by Buyer. Seller agrees that such inspections by Buyer shall not relieve Seller in any way of Seller's obligation to furnish the goods and services covered by this Purchase Order in strict conformity with the provisions of this Purchase Order. Seller agrees that no act of Buyer, including without limitation payment for such goods or services or the making of the foregoing inspections by Buyer, shall be deemed or claimed by Seller to constitute an acceptance of the goods or services until the delivery of all goods and the performance of all services has been made in strict conformity with the provisions of this Purchase Order and Buyer has inspected such goods and services at the job and has signified Buyer's acceptance of such goods and services in writing to Seller.

(b) Seller agrees that all goods covered by this Purchase Order that are in the possession of Seller as of the date of this Purchase Order shall be deemed "identified to the contract" under this Purchase Order. Seller shall take such measures as are reasonable to segregate such goods in its inventory and to mark them appropriately to identify them as goods covered by this Purchase Order. Seller further agrees that any goods covered by this Purchase Order that come into Seller's possession subsequent to the date of this Purchase Order shall be deemed to be goods "identified to the contract" under this Purchase Order, and as to such goods, Seller shall take such measures as may be reasonable to mark and identify those goods as goods covered by this Purchase Order. In the event that any goods covered by this Purchase Order are to be manufactured or otherwise produced, Seller shall take such measures as are reasonable and as soon as possible in the manufacturing or production process to identify such goods as goods "identified to the contract" under this Purchase Order. Seller and Buyer agree that it is their intent to identify to the contract the goods covered by this Purchase Order at the earliest possible time so that Buyer's property interest in such goods accrues at the earliest opportunity.

8. Changes and Claims for Additional Cost. Buyer may make changes to any services to be performed or goods to be provided under this Purchase Order. No such change shall be effective nor shall Buyer be obligated to pay any increase in price resulting from such change, unless such change is stated in writing and signed by an officer of Buyer or Buyer's project manager for the job. In the event that Seller intends to claim any increase in the price as a result of any change by Buyer to the services to be performed or to the goods to be furnished by Seller under this Purchase Order, or if Seller intends to claim such price increase as a result of any condition or occurrence at the job site where such services are to be performed or the goods are to be delivered by Seller under this Purchase Order, Seller shall give notice in writing to Buyer within seven (7) days of such change, condition or occurrence. Such notice from Seller shall describe with reasonable detail the nature of such change, condition or occurrence and shall set forth in detail the costs incurred by Seller as a result of such change, condition or occurrence and the computation of the price increase that Seller intends to claim. Seller agrees that the amount of any price increase that it may recover for such change, condition or occurrence is limited to the amount that Buyer may recover under the Buyer's Contract for such price increase claimed by Seller to result from such change, condition or occurrence. Buyer shall have no further liability to Seller of any type or amount with respect to such change, condition or occurrence.

9. Incorporation of Job Drawings, Specifications and Other Contract Documents. Seller and Buyer agree that by this reference the job drawings, specifications and other documents forming the Buyer's Contract are incorporated in, and made a part of, this Purchase Order, and all services performed and goods furnished by Seller under this Purchase Order shall comply with all requirements of such documents. Seller acknowledges that the foregoing documents have been made available for review and copying by Seller and that Seller has made such review of the foregoing documents as it deems necessary for a complete understanding of its performance obligations under this Purchase Order.

10. Shop Drawing Review and Approval. Where required under this Purchase Order, Seller shall furnish promptly all shop drawings, product samples and other data required to be submitted for approval. Review and/or approval of such drawings and other information by Buyer shall not relieve Seller in any way of complying with all requirements of any specifications, drawings or other documents forming this Purchase Order, and Seller shall remain liable for such compliance, regardless of whether or not Buyer has approved such drawings, samples or other information furnished by Seller.

11. Warranty. Seller represents and warrants to Buyer, to Buyer's successors and assigns, and to each party to whom Buyer must provide a warranty under the Buyer's Contract, that (i) Seller has valid and marketable title to the goods covered by this Purchase Order, (ii) all goods covered by this Purchase Order are free from any lien, security interest or other claim, and (iii) all goods and services will be free from all defects and deficiencies and will conform to all requirements of all documents forming this Purchase Order. Seller further warrants that all goods furnished under this Purchase Order shall be new, unless specifically stated otherwise in this Purchase Order, and shall be fit for their intended purpose and use, including without limitation, the use in any system on the job of which the goods or services provided by Seller under this Purchase Order are a part. The term of the warranty in the preceding sentence shall be one (1) year from the later of the date on which all goods have been delivered and all services have been performed by Seller under this Purchase

Order, or the date on which acceptance of any system on the job of which such goods and services are a part has occurred under the Buyer's Contract and Buyer has received payment in full under that Contract. In the event that a longer warranty period is prescribed under any provision of any document forming this Purchase Order, including, without limitation, the Buyer's Contract, such period shall constitute the warranty period under this Purchase Order. All other warranties herein set forth shall survive continuously. If any of the goods or services provided by Seller under this Purchase Order fail to perform their intended use properly during the warranty period, Seller shall promptly correct such deficiency in performance (including without limitation providing all labor, materials and other things necessary at the job site and/or the place of manufacture to correct such deficiency) at Seller's sole and exclusive expense. The warranties and remedies provided in this Purchase Order shall be in addition to any other warranties or remedies implied by, or available at, law or required by the documents forming this Purchase Order.

12. Indemnification of Buyer. Seller hereby agrees to indemnify, defend and hold Buyer (including members, officers, employees, agents and representatives thereof) harmless from any and all liability and expense, including without limitation actual attorneys' fees and expenses, arising from, or in any way relating to: (a) the failure of Seller to perform properly or punctually any obligation provided in, or created by, the provisions of this Purchase Order; or (b) the failure of the goods or services provided by Seller under this Purchase Order to conform strictly to the requirements of this Purchase Order; or (c) the failure of the goods or services provided by Seller under this Purchase Order to conform to the requirements of any warranty provided under this Purchase Order; or (d) the breach of any warranty or representation made by Seller under this Purchase Order.

13. Patents and Trademarks. Seller warrants and represents that none of the goods provided by Seller under this Purchase Order infringe any patent, copyright, trade secret, trade name, trademark, or other proprietary right applicable to such goods. Seller agrees to indemnify, defend and hold Buyer (including members, officers, employees, agents and representatives thereof) harmless from any and all liability and expense, including without limitation actual attorneys' fees, arising from, or in any way relating to, any claim that any goods provided by Seller under this Purchase Order infringe any patent, copyright, trade secret, trade name, trademark, or other proprietary rights. Seller's indemnification under this paragraph shall not apply to any claim of patent infringement arising from Seller's manufacture of any of the goods covered by this Purchase Order in accordance with a specified design or specification furnished by Buyer and with which Seller is required to comply under the provisions of this Purchase Order.

14. Insurance. Seller at its expense shall obtain and maintain in force such insurance as is required under any of the documents forming this Purchase Order and as may be necessary to secure to Buyer performance of Seller's indemnification obligations under this Purchase Order. Such insurance shall provide limits of liability coverage not less than those specified in the documents forming this Purchase Order or as may be requested reasonably by Buyer. Seller shall provide Buyer with policies, endorsements and certificates, as requested by Buyer, evidencing that such insurance is in full force and effect and that no cancellation or amendment of such insurance shall be effective without written notice to Buyer thirty (30) days prior to such cancellation or amendment. If Seller fails to obtain such insurance, Buyer may obtain such insurance and deduct the cost thereof from any amounts payable, or to become payable, to Seller under this Purchase Order. No period of time within which payment is to be made to Seller under this Purchase Order (including any period of time during which Buyer may obtain a payment discount) shall begin to run, and Buyer shall have no obligation to make any payment to Seller, unless and until the foregoing insurance documents are provided to Buyer by Seller.

15. Compliance With Laws. In furnishing the goods and services covered under this Purchase Order and in performing all obligations stated in, or created by, the provisions of this Purchase Order, Seller agrees that it will comply with all laws, including without limitation all rules, regulations, codes, ordinances and executive orders (collectively, "Laws"). Seller's obligations under this paragraph shall require compliance with all Laws, including without limitation, all Laws governing equal employment opportunity, hiring, compensation and other employment conditions; all Laws governing health, safety and welfare of persons involved in any way with the job; and all Laws governing the protection of the environment, the conservation of natural resources and the handling, disposal and/or transportation of hazardous materials.

16. Cancellation. Buyer may cancel all or any part of this Purchase Order with respect to any goods not delivered or services not performed by Seller as of the date of such cancellation. Buyer shall give written notice to Seller of such cancellation specifying in reasonable detail the portions of the goods or services to be canceled under such notice. In the event of such cancellation, Buyer shall have no liability to Seller, unless any goods to be specially fabricated or manufactured by Seller under this Purchase Order have been partially fabricated or manufactured. In such event, Buyer's liability shall be limited to a properly allocable portion of the purchase price applicable to such specially fabricated or manufactured goods, and Buyer shall have no further liability to Seller of any type or amount. The rights of cancellation and termination set forth herein shall be in addition to, and shall include, any other rights of contract termination (including without limitation termination for convenience) provided in the Buyer's Contract. In the event of a termination of this Purchase Order for convenience, Buyer's liability to Seller shall be limited to the amount Buyer is paid under the Buyer's Contract for Seller's goods and services. Buyer shall have no other liability to Seller of any type or amount.

17. Delays and Buyer's Use of Alternative Supply Sources. Buyer shall have no liability as a result of any delay in Seller's ability to furnish the goods or services covered by this Purchase Order that is caused by conditions or events over which Buyer does not exercise exclusive control. If Seller is unable to furnish the goods and services covered by this Purchase Order because of a delay that is caused by an event or condition over which Seller does not have reasonable control, Buyer may obtain such goods and services from an alternative source of supply. In such event, the quantity of goods and services covered by this Purchase Order shall be reduced by the quantity obtained by Buyer from such alternate source of supply, and the price payable to Seller under this Purchase Order for furnishing the remaining goods and services shall be reduced by the greater of the price paid by Buyer for such alternate goods and services or the price of such goods and services specified in this Purchase Order.

18. Assignment Prohibited. Seller shall not assign this Purchase Order without Buyer's prior written consent to such assignment which consent may be withheld in Buyer's sole and absolute discretion. Any assignment by Seller without Buyer's written consent shall be void and of no legal force or effect, and Seller shall remain liable and responsible for complete and punctual performance of all of Seller's obligations under this Purchase Order.

19. Integration and Waiver. This Purchase Order, including all documents incorporated by reference, constitutes the entire fully integrated agreement between Buyer and Seller, and all prior understandings, agreements or representations are superseded by this Purchase Order. No modification or amendment of this Purchase Order shall be effective, and neither Seller nor Buyer shall claim that this Purchase Order has been modified or amended, unless such modification or amendment is in writing and signed by an officer of Buyer or Buyer's project manager for the job. No right or obligation created by the provisions of this Purchase Order shall be deemed waived, and no party to this Purchase Order shall claim that such waiver has occurred, unless such waiver

is in writing and signed by the party claimed to have waived such right or obligation, and if such party is Buyer, such writing is signed by an officer of Buyer or Buyer's project manager for the job.

20. Dispute Resolution. If Buyer is required under the Buyer's Contract to resolve any disputes by arbitration, and any dispute exists between Buyer and the other party to the Buyer's Contract that is to be resolved by arbitration and involves any goods or services provided by Seller under this Purchase Order, Seller hereby agrees to submit such dispute concerning its goods or services to binding arbitration for decision in accordance with the provisions of the Buyer's Contract providing for arbitration and under which Buyer is obligated to resolve such dispute. Seller agrees to be made a party to the arbitration under the Buyer's Contract to resolve such dispute concerning the goods or services provided by Seller under this Purchase Order. If Seller can not be made a party to such arbitration, because a party other than Buyer has objected to such procedure or for any other reason, Seller agrees to arbitrate separately with Buyer the dispute concerning any of the goods or services provided by Seller under this Purchase Order, and in such arbitration the same arbitrator(s) as used in the arbitration under the Buyer's Contract shall be used to decide the dispute between Buyer and Seller concerning the goods and services provided by Seller under this Purchase Order. The rules and procedure governing such arbitration shall be the same as the rules and procedure used in the arbitration under the Buyer's Contract. The award rendered by the arbitrator(s) shall be specifically enforceable in accordance with the governing arbitration law and a court of competent jurisdiction may enter a judgment on such award of the arbitrator(s).

21. Choice of Law and Venue. Seller and Buyer agree that their rights and obligations under this Purchase Order and this Purchase Order shall be construed and governed in accordance with the law of the State of Michigan excluding the conflicts of law principles of such law. Seller and Buyer agree that any action commenced to enforce any rights or obligations under this Purchase Order shall be commenced only in a state or federal court in Michigan where the principal office of Buyer is located.