



To:

<b>PO Number:</b> <b>Project Location:</b> <b>Job Number:</b> <b>Date</b>
--

*The above identification must appear on correspondence, invoices, shipping papers and packaging*

Deliver To:

Contact:  
Phone#:

Vendor Number:  
Shipping Instructions:

In accordance with the included instructions and attached Purchase Order Terms, this Purchase Order is an agreement between Buyer and Seller for the consideration of the following:

Item	Quantity	UM	Description (see comments on next page for additional details)	Deliver By	Price
1					
				<b>SubTotal:</b>	
				<b>PO Price:</b>	

Please send all Safety Data Sheets/ASTM Standards.

**Special Notes: Buyer will not issue payments for this PO until Buyer receives this agreement signed as originally issued and without modification.**

By signing this PO, Seller affirms that it received all documents incorporated by reference and accepts this PO.

Authorized Signature:

**Aristeo ("Buyer")**  
Authorized Signature:

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_



Comments:

**Please sign and return to our office.  
12811 Farmington Road  
Livonia, MI 48150**



## Purchase Order Terms

**1. Definitions.** The following definitions apply to the document having the title "Purchase Order", these Purchase Order Terms, Attachment A, and Attachment B.

**1.1. "Change Order"** means a written document signed by Buyer and Seller where they have agreed to change the scope, PO Price, time for performance, or other terms of the PO.

**1.2. "Buyer"** means the entity issuing this PO, and the term "Buyer" is used regardless of whether the actual role is as general contractor, construction manager, design/builder, subcontractor, or otherwise.

**1.3. "Default"** has the meaning stated in paragraph 10 of this PO.

**1.4. "Hazardous Material"** means any material containing asbestos; lead; PCB; molds; any other chemical, material, or substance subject to regulation as a hazardous material, hazardous substance, toxic substance, or otherwise, under federal, state, or local law; and any other chemical, material, or substance that might have adverse effects on human health or the environment.

**1.5. "Indemnitees"** means the Buyer and its agents, owners, officers, members, partners, affiliates, consultants, employees, and successors as well as all parties that the Prime Contract expressly identifies as indemnitees that the Seller is responsible to.

**1.6. "Owner"** means the party with whom Buyer has entered into the Prime Contract for the Project.

**1.7. "Prime Contract"** means the contract between Buyer and Owner for the Project including all changes to that contract through the date of this PO. The Prime Contract is available to Seller on request, and regardless of whether Seller receives the Prime Contract, Seller is bound to the Prime Contract as clarified by paragraph 3 and elsewhere in the PO.

**1.8. "Project"** means the project identified in the PO for construction and other services and includes the associated real property subject to improvement.

**1.9. "PO Price"** means the amount to be paid to Seller under the PO, from funds received from or on behalf of Owner, for Seller's proper performance of its Work.

**1.10. "Purchase Order"** has the meaning stated throughout the Purchase Order document and includes these Purchase Order Terms, Attachment A, Attachment B, the Prime Contract, and all other documents incorporated by reference at any tier. "PO" is equivalent to and interchangeable with Purchase Order.

**1.11. "Seller"** means the entity that this PO issued to and includes that entity's Subordinate Parties.

**1.12. "Subordinate Parties"** means Seller's employees, workers, laborers, agents, consultants, suppliers, subcontractors, or other parties, where these parties are at any tier under Seller, that perform, assist with, or otherwise are involved in the Work.

**1.13.** Along with as stated elsewhere within the PO, "Work" means all goods, duties, work, services, responsibilities, and obligations performed or to be performed by Seller under the PO.

**2. Acceptance.** Acceptance of this PO is limited to the PO as originally issued by Buyer. No prior or current course of dealing, usage of trade or custom of the industry, or any of Seller's forms, such as an invoice, quote, proposal, sales order, bill of lading, packing list, email, or other document modifies or forms a part of this PO. This PO is the entire understanding of the parties and supersedes any prior proposal or agreement. No amendment, alteration, modification, or waiver of the terms of this PO shall be valid or enforceable unless in writing and signed by both parties. Commencement of any Work is acceptance of this PO as written. If Seller commences any Work and then later signs the PO, Seller's performance prior to that signature is governed by this PO. If a conflict arises between terms in any documents that are a part of the PO, the terms that govern are those that a) confer the greatest rights or remedies to Buyer; or b) impose the greatest duty, standard, burden, or other obligation on Seller; if any document of the PO including those incorporated by reference at any tier also include a conflict-resolution term, the conflict resolution term in this paragraph governs and takes precedence over all other conflict-resolution terms. Information identified in one term and not identified in another will not be deemed a conflict or inconsistency.

**3. General Duties.** Seller shall commence the Work when directed by Buyer and shall diligently perform and complete the Work in strict accordance with the PO. For Seller's Work, Seller assumes toward Buyer all the obligations, including administrative and procedural, which Buyer assumes towards Owner or others under the Prime Contract. Buyer shall have all the rights and remedies against Seller, which Owner or others have against Buyer under the Prime Contract. Except as specifically stated in the PO, Seller shall not have any rights against Buyer that Buyer does not have against Owner under the Prime Contract. Seller shall be responsible for the correctness of its Work. Seller shall be solely responsible to Buyer for the means, methods, techniques, sequences, procedures, training of Owner personnel if specified, and for coordinating with others. Seller is responsible to Buyer for all actions, omissions, or other conduct of Subordinate Parties arising from or in connection with the Work. Obligations imposed upon Seller shall be binding on Subordinate Parties. Seller shall pay its Subordinate Parties promptly.

**4. Identification, Invoicing, and Payment.** To obtain timely payment from Owner, Seller shall furnish certificates, waivers, releases, and other documentation in a form acceptable to Owner and Buyer (the "Supporting Documentation"). The PO number must appear on every document and communication relative to the PO. A packing slip must accompany each shipment. Seller shall render an invoice electronically or in duplicate original for each shipment or service applying against this PO. Invoices with bills of lading or prepaid expense bills attached shall be directed to the billing address as listed in Attachment A unless otherwise specified. Invoices shall not cover more than one PO and must show cash discount terms. Buyer reserves the right to calculate the applicable discount period based on the terms agreed to by the parties. All electronic transmissions made pursuant to this PO shall be deemed by the parties to be the same as written communications for all purposes and for all applications of law (including any applicable statute of fraud). Upon receipt of Seller's invoice and Supporting Documentation, Buyer will issue payment to Seller within 30 days if there are no reasonable disputes as to Seller's invoice. Buyer's payment is not Buyer's admission as to the progress of the Work, its classification, quality, sufficiency, the sum due Seller, or as an acceptance or release of Seller from responsibility under the PO. Seller's receipt of final payment waives and releases all of Seller's claims against Buyer, Owner, and the Project.

**5. Shipping.** All Work shall be shipped F.O.B. destination unless otherwise stated in the PO. Shipments shall be shipped as specified in the PO, or where not specified, via the method that meets Buyer's delivery time and requirements.

**6. Delivery.** Time is of the essence. Buyer may terminate this PO if delivery is not made or services are not performed by a date specified in the PO, or if a date is not specified, then within a reasonable time following PO acceptance. No change in a scheduled delivery date or performance will be permitted without Buyer's prior written consent. Buyer's acceptance of Work after a scheduled delivery date will not waive Buyer's right with respect to such late delivery nor shall it constitute a waiver of future compliance with the PO.

**7. Inspection.** Seller shall provide reasonable access to Seller's manufacturing facilities to review the quality control of the Work. Owner or Buyer may reject Work for noncompliance and such Work shall remain the responsibility of Seller and any expenses incurred shall be deducted against Seller's account. Title to Work shall pass to Buyer upon delivery of conforming Work. Seller assumes the risk of loss for the Work a) until written acceptance by the Owner and Buyer; or b) that is nonconforming.

**8. Taxes.** Unless Buyer provides an exemption certificate, Seller shall include applicable sales, use, and other similar taxes. Seller shall pay all other taxes levied or become due as a result of this transaction.

**9. Assignment.** Seller shall not assign, delegate, or subcontract any performance of this PO, including any right to payment, without Buyer's prior written consent.

**10. Default.** Buyer may by written notice to Seller, cancel all or any part of this PO or exercise any other remedy provided by law or in equity, if:

**10.1.** Seller fails to deliver the Work within the time specified;

**10.2.** In Buyer's good faith judgment, Seller fails to perform any of the other terms of the PO, or fails to make progress so as to endanger performance consistent with this PO, and does not cure such failure within a period of 72 hours after receipt of notice from Buyer specifying such failure;

**10.3.** Seller is in breach of any term of this PO; or

**10.4.** Seller becomes insolvent or makes an assignment for the benefit of creditors, or there shall be instituted by or against Seller any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt or insolvency law.

**11. Remedies.** Buyer may withhold payment to Seller for a) defective Work; b) claims of Buyer, Owner, or any other person against Seller arising out of the Work; c) Seller's failure to pay Subordinate Parties; d) unsubstantiated liens; e) failure to supply required documentation; f) anticipated inability of Seller to complete the Work for the balance of the PO Price; or g) Seller's Default (the "Deficiencies"). If Seller fails to promptly correct or remedy any one of these Deficiencies within 72 hours of Buyer's issuance of written notice, Buyer may rectify the same at Seller's expense and deduct all reasonable costs and expenses incurred from withheld payments. If Buyer cancels this PO in whole or in part, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, work similar to that cancelled, and Seller is liable to Buyer for any excess, reasonable costs for such similar work. Seller shall continue performing this PO to the extent not cancelled.

**12. Warranties.** Seller warrants its Work against all deficiencies and defects in materials and workmanship and agrees to correct same without cost to Owner or Buyer for a period of two years from the date of substantial completion of the Project or per the Prime Contract, whichever is longer. Seller warrants that the Work performed by Seller under this PO shall conform to applicable specifications, drawings, samples, and descriptions. Seller also warrants that the Work shall be free and clear of all liens, claims, charges, or encumbrances of every kind. All Work delivered under this PO shall be new and compliant with all applicable laws, rules, and regulations.

**13. Infringement.** Seller warrants that Buyer's purchase, manufacture, installation, use, and/or resale of the Work will not result in any claim of infringement or actual infringement of any patent, trademark, copyright, franchise, or other intellectual property right, or any claim of misappropriations of third party proprietary rights, e.g., trade secrets.

**14. Indemnity.** To the fullest extent permitted by law, Seller shall indemnify, defend, and hold harmless the Indemnitees from all losses, claims, lawsuits, causes of action, damages, liabilities, injuries, royalties, penalties, fines, interest, taxes, reasonable attorney fees, costs, settlements, and other expenses that the Indemnitees might incur by reason of:

**14.1.** All bodily injury, property damage, and other harms arising out of or in connection with the design, manufacture, production, or Work related to this PO even if caused by an Indemnitee, however and notwithstanding the conflict-resolution term in paragraph 2 of this PO, Seller's indemnity and defense obligations to the Indemnitees are modified and limited to the least burdensome of the following:

**14.1.1** the extent that the written provisions of the Prime Contract obligate Buyer to indemnify and defend others for bodily injury, property damage, and other harms notwithstanding the choice of law terms in these Purchase Order Terms; or

**14.1.2** the extent allowable under applicable law as Buyer and Seller both acknowledge and agree that both will or could work in multiple jurisdictions where such jurisdictions might, and have, enacted and adopted anti-indemnity and similar limiting statutes and interpretive case law that comparatively differ among jurisdictions, so to realize contracting efficiencies. Buyer and Seller have agreed to this term with the specific intent of adapting and limiting Seller's indemnity and defense obligations to that allowable under such applicable law to otherwise prevent a finding that such applicable law voids, renders unenforceable, or otherwise bars a Seller indemnity or defense obligation associated with and sought by an Indemnitee through this Agreement;

For the avoidance of doubt as to paragraph 14.1 including its subparagraphs, Seller has no obligation to indemnify or defend Buyer for the tortious conduct of Buyer or Buyer's agents, owners, officers, members, partners, affiliates, consultants, employees, and successors.

**14.2.** violations by the Seller of any applicable laws, rules, or regulations concerning the manufacture, sale, pricing, and delivery of the Work; and

**14.3.** Seller's breach or failure to comply with this PO including Default.

**15. Insurance.** If Seller will provide Work at a Project, Seller shall maintain Workers Compensation & Employers Liability, Business Automobile, and Comprehensive General Liability Insurance. If Seller is handling Hazardous Material, Seller shall maintain Environmental/Pollution Liability Insurance, and if transporting such material, Trucking/Cargo Insurance. Seller shall maintain Trucking/Cargo Insurance covering Seller for loss of or damage to any Buyer owned, leased, or rented property/cargo whether in transit or under Seller's care or custody or both. For these insurance coverages, Seller shall comply with all related requirements stated in Attachment B and required of Buyer under the Prime Contract.

**16. Confidentiality.** This PO is confidential between the Buyer and Seller. Seller shall not publish or disclose any details relating to this PO to any third party (and in such instance shall require that each third party comply with these confidentiality obligations) without Buyer's prior written consent except to the limited extent necessary for Seller to perform under the PO.

**17. Severability.** Any PO term that is deemed unlawful or unenforceable by a court of competent jurisdiction is to be deemed as inapplicable, and the remainder of the PO is to be deemed and interpreted as valid and enforceable to the fullest extent permitted by law.

**18. Governing Law.** This PO shall be exclusively governed and construed for all purposes under the laws of the location of the Project.

**19. Dispute Resolution.** If a dispute arises out of the PO, the parties shall endeavor to settle the dispute through direct discussion. Disputes not resolved by direct discussion shall be submitted to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. Within 14 calendar days of a request for mediation, the parties shall select the mediator. Completing the mediation process is a condition precedent to initiate any form of binding dispute resolution process. For disputes unresolved after completing mediation, a party may then demand that the dispute be resolved by binding arbitration, and a court of competent jurisdiction may enter a judgment on the award the arbitrator renders. The current Construction Industry Arbitration Rules of the American Arbitration Association will apply to the arbitration. The parties will agree upon the administration of the arbitration. Arbitration is the final and exclusive means to resolve a dispute. The exclusive venue and jurisdiction for all dispute resolution procedures is the county of the Project.

**20. Waiver.** Any failure of either party to insist on strict performance of any of the terms of this PO, or to exercise any rights, is not a waiver of that party's rights.

**21. Notices.** Notices shall be provided in writing, through mail, courier, fax, e-mail, or hand delivery, to an officer or management employee of the party being notified. Notices to Buyer shall be confirmed with a copy sent, return receipt, to the address listed for Buyer on the PO. Either party may change its address by providing written notice of the new address.

**22. Compliance.** Seller shall comply with all laws, rules, ordinances, regulations, and other legal requirements including but not limited to employment opportunity applicable to and affecting the services, manufacture, sale, shipment, and delivery of the subject of this PO.



## Attachment A: Payment Procedure Checklist

- 1) **Compliance:**
  - a) Form W-9, signed within the past 365 days, must be on file
    - i) If unsure, Seller shall send a currently dated Form W-9 with the first invoice
- 2) **E-Mail and mailing address for submitting a properly executed invoice:**
  - a) Invoices will not be considered received by Accounts Payable and cannot be processed for payment unless submitted to [ap@aristeo.com](mailto:ap@aristeo.com) or mailed to:  
  
Aristeo Construction Company  
Attn: Accounts Payable  
12811 Farmington Road  
Livonia, MI 48150
  - b) *Do not e-mail invoices to any employee e-mail addresses*
- 3) **Definition of a properly executed invoice:**
  - a) **Sales tax:**
    - i) Seller shall conform to sales, use, and other similar taxation laws of all jurisdictions applicable to this Purchase Order
    - ii) Sales tax, if applicable, shall be separately stated on the invoice
  - b) **Invoice date and due date:**
    - i) Each invoice shall be dated for the month the service or product was provided
    - ii) All current month invoices shall be received by Accounts Payable no later than the 5th of the following month
  - c) **Invoice total**
    - i) The total amount of the invoice plus sales tax, if applicable, must not exceed the amount shown on the Purchase Order and as modified by fully signed Change Orders, if any
- 4) **Payment:**
  - a) Payments will be remitted based on properly executed invoices received by Accounts Payable
  - b) Payment will not be processed based on a quote or vendor statement
- 5) **Vendor statements:**
  - a) E-mail vendor statements to [ap@aristeo.com](mailto:ap@aristeo.com) or mail to the address noted above



## Attachment B: Insurance Requirements

Before mobilization to the Project Location or otherwise commencing the Work, Seller included in its pricing and shall a) procure and maintain at its expense all insurance of the type and minimum coverages stated in this attachment and the PO; and b) cause to be furnished a certificate of insurance in the ACORD format and stating policy numbers including expiration dates and endorsements or other amending documents to demonstrate such insurance coverages meet the requirements. Seller may meet minimum coverage limits by either primary policies or a combination of primary policies with the balance covered by an excess or umbrella policy. Buyer does not state that the listed policy requirements or limits of protection are adequate to satisfy Seller's interests. Seller shall determine if coverages are in effect and satisfactory for the risk management goals of Seller. Insurance providers must be domiciled in the U.S. and have an A.M. Best Co. rating of AVIII or better. Seller's policies shall not require or bind Buyer to arbitration before any tribunal, including any foreign tribunal.

1) **Commercial General Liability Insurance including the following coverages:**

- a) Premises / Operations Liability
- b) Explosion, Collapse and Underground Hazards
- c) Products / Completed Operations Hazards
- d) Contractual Liability Coverage
- e) Personal Injury Liability
- f) Independent Contractors

The limits of insurance must be equal to or greater than the following:

\$ 2,000,000	General Aggregate on a Per Project Basis (Other than Products / Completed Operations)
\$ 2,000,000	Products / Completed Operations Aggregate
\$ 1,000,000	Personal and Advertising Injury
\$ 3,000,000	Each Occurrence

Products / Completed Operations coverage, including an additional insured endorsement covering the Additional Insureds, shall remain in effect for the longer of the period required by the PO or the last applicable statutes of limitations or repose for construction defects and products liability claims in the state where the Work is performed.

If the Work requires operations within 50 feet of a railroad, subject to the standard policy terms, the definition of an insured contract in the General Liability policy will be amended to delete the exception in connection with construction or demolition on or within 50 feet of a railroad.

If the Work requires operations within 50 feet of a railroad and it is stipulated by the railroad entity that Seller provide a Railroad Protective Liability policy in the name of the specific railroad entity for performing work on the railroad right-of-way, this policy will be procured and maintained.

2) **Business Automobile Insurance including the following coverages:**

- a) Owned Vehicles
- b) Non-Owned Vehicles
- c) Hired Vehicles
- d) Each of the above listed coverages must provide coverage in the following minimum limits:  
\$ 3,000,000 Bodily Injury & Property Damage each accident

3) **Workers Compensation & Employers Liability Insurance including the following coverages:**

- a) Statutory Workers Compensation Coverage in accordance with the laws of the state within whose jurisdiction the work is performed. If the work of this contract falls within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, The Jones Act or the Federal Employer's Liability Act, Seller shall extend coverage to provide and maintain in effect during the period covered by this PO by endorsement, insurance against the liability imposed under these acts as applicable, including sole proprietors and corporate officers performing work at the Project Location, \$1,000,000.00 (or Statutory Minimum). In the case of any damages or benefits payable by or for Buyer or Seller under workers' compensation acts, disability benefit acts, or other employee benefit acts, Seller expressly waives any limitation on its liability under any workers' compensation acts, disability, acts, or other employee benefit acts. This term will explicitly apply to, but will not be limited to, any 'third party over' claims. Seller agrees that no act shall preclude such third-party indemnity actions against it.
- b) Employers Liability Coverage having a minimum of \$1,000,000.00 each accident including Occupational Disease.
- c) Policy to be endorsed with waiver of subrogation in favor of Buyer and Owner.
- d) Policy coverage is for Seller's employees as well as personnel from a professional employer organization, an employee leasing company, and other similar services.

4) **Excess Or Umbrella Liability Insurance including the following coverages:**

Excess or Umbrella coverage is to be excess over paragraph 1), paragraph 2), and Employers Liability in paragraph 3). Coverage under an excess or umbrella policy must be as broad as the coverage provided by primary policies.



5) **Trucking/Cargo Insurance including the following coverages:**

**If the PO involves trucking/hauling services**, Seller shall provide Motor Truck Cargo Liability Insurance covering Seller for loss of or damage to all Buyer owned, leased, and rented property/cargo whether in transit or under the Seller's care/custody. Policy limits are to equal the value or replacement cost of the insured cargo/matter. Seller shall comply with federal and state regulations and provide the MCS-90 endorsement if transporting Hazardous Material. Certificate is to be issued without a tariff clause.

6) **Professional Liability including the following coverages:**

**If the PO involves Professional Services**, Seller shall provide Professional Liability (Errors & Omissions) Insurance in an amount equal to or greater than **\$5,000,000** per claims made for damages caused by any error, act, or omission of Seller or of any other person for whose errors, acts, or omissions Seller may be liable arising out of the performance of services in a professional capacity. This coverage period will continue until 3 years after final payment, and if Seller terminates coverage at any time before the coverage period expires, Seller shall provide evidence of continuing coverage for the required limit amount or obtain extended reporting period coverage ("tail cover") for a coverage period equal to or greater than 3 years. Seller will furnish a copy of the Professional Liability policy on request.

7) **Environmental/Pollution Liability Insurance including the following coverages:**

**If the PO involves Hazardous Material including a) remediation; b) abatement; c) handling; or d) otherwise exposure to causing a pollution event**, Seller shall provide Pollution / Environmental Liability in the amount of **\$ 5,000,000 each claim**, aggregate or otherwise specified if Owner's requirement is greater. The coverage will remain in effect for 3 years following completion at a minimum. *Trucking/Cargo Insurance applies if transporting Hazardous Material.*

8) **Installation Floater/Builders Risk/Responsibility For Property Installed Or Being Installed including the following coverages:**

**If the PO involves equipment or materials that are to be permanently installed**, Seller shall provide an Installation Floater policy with limits to reflect one or both of the contract value and any equipment in Seller's care, custody, or control. If during construction there is a loss or damage to Seller's equipment, material, or contract work, Seller shall first seek recovery from its property insurance coverage. In cases of claims paid by Owner's or Buyer's Builders Risk Insurance coverage, Seller shall pay any deductibles and self-insured retentions applied to insured losses under those policies, which arise from Seller's Work.

9) **Miscellaneous Requirements:**

Regardless of other insurance, these coverages are on a primary and non-contributory basis. All Additional Insureds are to be covered for all liability arising from the PO to the full limits carried by Seller-not just to those required by this PO. Seller will attach to its certificate of insurance a copy of the policy endorsements under which the Additional Insureds (except for Professional Liability and Workers Compensation) are added as additional insureds, and in the case of the General Liability policy, by utilizing ISO endorsement forms that are at least as broad in additional insured coverages as a) CG 20 10 11 85; b) CG 20 10 10 01 and 20 37 10 01 combined; or c) equivalents in coverage in every respect as to option a) or b). The policies shall not eliminate or restrict coverage for claims or suits between "named insureds" and additional insureds. Seller shall obtain and provide endorsements that waive subrogation and provide continued coverage in favor of the Additional Insureds. The policies shall provide a 30-calendar-day-advance notice of when protection provided under these policies will cancel, reduce, or otherwise change. Equivalent insurance coverages must be obtained from each of Seller's Subordinate Parties, if any, before a Subordinate Party commences work at the Project or Seller shall obtain insurance covering such Subordinate Parties. Receipt by Buyer of a non-conforming certificate of insurance, endorsement, or other documentation without objection, or Buyer's failure to collect a certificate of insurance, endorsement, or other documentation shall not waive or alter Seller's duty to comply with the insurance requirements.

If Seller fails to procure and maintain any required insurance coverages, Buyer may procure and maintain the required insurance coverages for and in the name of Seller. For those insurance coverages procured by Buyer under this paragraph, Seller shall pay the cost and shall furnish all necessary information to make effective and maintain those insurance coverages. At Buyer's option, Buyer may deduct the cost of insurance coverages purchased on behalf of Seller, and Buyer may deduct those costs from any amounts that are then due or will become due to Seller under this PO or other contracts between Buyer and Seller.

Additional Insureds:

Reference Job #            \_

Certificate Holder: Aristeo Construction Company 12811 Farmington Road, Livonia, MI, 48150

Fax Certificate to: 734-427-7433 Email Certificate to: contracts@ap@aristeo.com.com