



PURCHASE ORDER
Stipulated Form of Agreement

Project: [Redacted]

P. O. No.: [Redacted] Quote No.: [Redacted]

VENDOR/SUBCONTRACTOR:

Send Invoice to:
Suntec Concrete, Inc.
23751 N. 23rd Avenue
Suite 175
Phoenix, AZ 85085

P.O. Date:

Terms: Per Terms and Conditions

Quote Date:

FOB: JOBSITE

Via: Freight | Delivery by SELLER

Required Delivery Date:

- 1. SCOPE AND DESCRIPTION:
VENDOR shall provide all goods, services, transportation, delivery, equipment, labor, materials and all other, necessary to satisfy goods and services as per the quote provided by VENDOR.

Description:

2. Delivery time and terms:

- 3. DETAIL OF ITEMS PURCHASED:
Vendor agrees to furnish all materials, and or services, as contemplated and defined in the quote, and for well and faithfully providing the aforesaid goods and services, in the manner and according to the requirements of the terms and condition herein, and specifications of the contract documents, Suntec agrees to pay per the amount on the quote as the full and final amount, as indicated below.

- 4. Vendor's acceptance of this Purchase Order, partial or full performance, or by any actions toward completing this Purchase, constitutes agreement and acceptance of the terms and conditions contained herein.

TOTAL AMOUNT OWED FOR SCOPE OF THIS PURCHASE ORDER \$ [Redacted]

**SUNTEC CONCRETE, INC PURCHASE ORDER
GENERAL TERMS AND CONDITIONS**

1. This Agreement represents the entire contract for the good or services to be provided and may not be altered, amended, or cancelled without the written consent of SUNTEC CONCRETE. Failure of SUNTEC to object to any altered provision by VENDOR, or conflicting terms in a prior or subsequent document, shall not be construed as a waiver of the conditions set forth herein, nor an acceptance by SUNTEC of such conflicting provision.
2. VENDOR's acceptance of this order is upon any of the following: a) written notice, b) the shipment of any article, or c) the commencement of full or partial performance by VENDOR in any form shall constitute acceptance.
3. All products, equipment, materials or services are subject to inspection, within a reasonable time and approval by SUNTEC, delivery alone is not acceptance.
4. The reference to VENDOR shall include and have the same meaning as Subcontractor.
5. The terms and conditions of this Purchase Order shall supersede, control and prevail over any and all terms and conditions presented by VENDOR regardless if prior or subsequent to this Purchase Order, including delivery tickets, invoices, quotes or other, even if signed by an employee.
6. **TIME OF ESSENCE:** The date(s) required on this Agreement are the dates VENDOR agrees the products, materials or services will be supplied. VENDOR acknowledges and agrees that SUNTEC may be subject to substantial fees or damages, including but not limited to, delay damages, liquidated damages, costs, market value of substitution of goods, extended overhead, attorneys fees and other related damages resulting from VENDOR's untimely performance. VENDOR expressly agrees that SUNTEC has the right to rely on the date(s) required for delivery of the products, materials or services furnished by VENDOR in accordance with this Agreement. VENDOR agrees to be liable for all damages occurred by SUNTEC resulting from such a delay including consequential damages of all kinds and shall pay SUNTEC immediately upon notice.
7. **WARRANTIES:** All products, materials or services furnished by VENDOR are guaranteed to be: a) free from manufacturer and design defects, b) of the highest workmanship or material, c) warranted to be fit for the intended purpose, d) warranty of merchantability and e) express and implied warranties, provided in the Uniform Commercial Code, and none of which is waived by the VENDOR. If for any reason any product, material or service are determined defective, nonconforming or unfit for the purpose intended, do not meet the specifications provided, or warranty, VENDOR will at its own expense, immediately remedy such defect by repair, replacement or other method as directed by SUNTEC to fully comply with the warranty. VENDOR shall be liable and indemnify SUNTEC for all damages and injuries resulting from defects, nonconforming goods and breach of warranty.
8. No charge will be allowed for packing, freight, boxing, crating or cartage, unless specifically stated in the quote, and agreed upon, in writing by SUNTEC. VENDOR is liable for all damages to any materials not properly packed.
9. Unless specifically stated on the face on the quote by the VENDOR, and agreed to by SUNTEC, SUNTEC shall not be liable to pay for any added, modified or varied costs reflected on the VENDOR'S invoice that differ from the quoted price. The prices set forth in this quote/bid shall include all applicable federal, state and local taxes. Under no circumstances will SUNTEC pay tax on labor for equipment rented and operated by the VENDOR, and those will be void, and the amount deducted from the invoice or quote, for all PO's based upon a project, which is under the prime, as per Arizona Transaction Privilege Tax.
10. VENDOR is fully responsible for all damage caused in whole or in part by VENDOR in delivering the goods, or in providing the services defined herein. Tender of goods or services is upon delivery not at shipment.
11. Regardless of what may be stated elsewhere, SUNTEC shall not liable for damages or injuries resulting from equipment that is operated by VENDOR's employees or provided personnel.
12. VENDOR must inspect returned goods or equipment within 24 hours, and failure to do so, shall waive any rights to assert a claim for damages against SUNTEC.
13. No payment, in full or part, constitutes acceptance of any defective or damaged product, material and/or service. SUNTEC may reject goods or services upon inspection of the goods and/or services within a reasonable period of time from delivery or performance as non-conforming goods or services.
14. Should VENDOR breach any provision herein, become insolvent, enter voluntary or involuntary bankruptcy or receivership proceedings or make an assignment for the benefit of creditors, SUNTEC has the right without limiting any other rights or remedies hereunder or by law to terminate this Agreement by written notice to VENDOR, and SUNTEC shall be relieved of all further obligation or liable to VENDOR. In any such event, VENDOR is responsible to SUNTEC for any and all cost impacts incurred by SUNTEC to complete VENDOR's work that may exceed remaining or available contract proceeds. Excess proceeds, if any, will be paid to VENDOR only after SUNTEC has completed the work and reconciled all offsets. SUNTEC's right to require strict performance of this Agreement shall not be affected by any previous waiver forbearance or course of dealing.
15. SUNTEC will not in any manner be responsible for goods delivered or services furnished on its account unless duly authorized by a Purchase Order or written agreement. Where a PO has been issued, Suntec agrees to the terms and pricing on the quote for the listed goods or services, and nothing additional.
16. SUNTEC shall pay invoices within 45 days of receipt.
17. In the event that VENDOR's products, materials or services are not accepted by the Owner, or its authorized representative, for the project, for which these goods or services were purchased, as complying with the contract documents, or quote provided by VENDOR, VENDOR agrees that SUNTEC will have no obligation to receive VENDOR's products, materials or services manufactured or supplied by VENDOR, and who expressly agrees to compensate SUNTEC for any additional costs incurred in securing substitute materials to comply with the contract documents and requirements. VENDOR acknowledges that damages suffered by SUNTEC as a result of VENDOR's failure to provide products, materials or services in accordance with the contract documents or

specifications provided, include, but are not limited to, delays, replacement costs, consequential damages, additional costs for securing said products, materials or services, liquidated damages and extended overhead. Further, in the event the Owner/Contractor of the project, for which the goods and or services were ordered, for any reason, and from no fault of SUNTEC, cancels SUNTEC's contract on the project, or modifies the requirements, cancellation of this order will occur automatically without any charges or liability to SUNTEC.

18. VENDOR agrees, at all times, to comply with all applicable federal, state and local laws, rules, regulations and ordinances and agrees upon request to furnish SUNTEC a certificate to such effect and to indemnify, defend and hold harmless SUNTEC against all liability arising from failure of VENDOR to comply with any such regulations.
19. Subcontractor hereby assumes the entire responsibility and liability for all Work, supervision, labor and materials provided, whether or not erected in place, and for all plant, scaffolding, tools, equipment, supplies and other things provided by Subcontractor until final acceptance of the entirety of the Work by Owner. In the event of any loss, damage or destruction thereof from any cause, Subcontractor shall be liable therefor, and shall repair, rebuild and make good said loss, damage or destruction at Subcontractor's cost, subject only to the extent that any net proceeds are payable under any builder's risk property insurance that may be maintained by Owner or Contractor, if any.
20. To the fullest extent permitted by law, the VENDOR shall indemnify, defend, and hold harmless SUNTEC, Owner and their respective officers, directors, employees and agents ("Indemnified Parties") from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities, (including all costs reasonable attorneys' fees, consequential damages, and punitive damages), arising out of or resulting from, or alleged to arise out of or arise from, the performance of VENDOR'S Work under the Purchase Order, whether such claim, damage, demand, loss or expense is attributable to bodily injury, personal injury, sickness, disease or death, or injury to or destruction of tangible property, including the loss of use resulting therefrom; attributable to the negligence of the VENDOR or any entity for which it is legally responsible or vicariously liable: regardless of whether the claim is presented by the VENDOR's employee, his/her spouse, legal or domestic partner under applicable state law and/or dependents of the VENDOR'S employee, and regardless of whether SUNTEC has proportional fault. Such indemnity obligation shall not be in derogation or limitation of any other obligation or liability of the VENDOR or the rights of the SUNTEC contained in this contract or otherwise. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the VENDOR under any workers' compensation acts, disability benefits acts or other employee benefits acts and includes any loss or injury suffered by an employee of the VENDOR or any others who claim to have directly or derivatively sustained injury or damages due to the injury sustained by the Subcontractor's employee. This indemnification shall be in addition to any indemnity liability imposed by the Contract Documents and shall survive the completion of the Work or the termination of the Subcontract.
21. VENDOR also expressly assumes with respect to the goods, services, materials, equipment to be furnished hereunder, all of the liability imposed on SUNTEC by the construction contract between SUNTEC and the Project Owner or prime contractor. If there are any claims for injuries to persons or property unsettled upon completion of this Purchase Order, final settlement between SUNTEC and VENDOR may be deferred at SUNTEC's option until such claims are adjusted or until VENDOR furnishes indemnity acceptance to SUNTEC.
22. SUNTEC'S AGGREGATE LIABILITY ARISING FROM OR RELATING TO THIS ORDER ARE LIMITED TO THE AMOUNT PAID FOR THE GOODS AND OR SERVICES OF THIS PURCHASE ORDER. TO THE MAXIMUM EXTENT ALLOWABLE UNDER THE LAW.
23. VENDOR AGREES TO WAIVE ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL, AND PUNITIVE DAMAGES, INCLUDING LOST PROFITS AND ECONOMIC LOSS OF ANY KIND AGAINST SUNTEC.
24. In connection with the work of this Agreement, VENDOR agrees it will not discriminate against any employee or applicant due to race, creed, color, gender, national origin or any other legally protected status.
25. VENDOR shall secure, maintain and provide, in full force and effect, all insurance coverage including, but not limited to Workers Compensation; General Liability including premises operations; contractual liability; products, completed operations with no exclusion for explosion, collapse, and underground hazards or subsidence; automobile liability included owned, non-owned and hired vehicles to satisfy any and all obligations including warranty, delays, damages, injury, and indemnification obligations herein. VENDOR shall name SUNTEC, Prime Contractor, Project Owner, and any other entity required by the Contract Documents, as an additional insured as respects said coverage and shall include a Waiver of Subrogation in favor of the additional insured. Such policies shall be endorsed to stipulate that coverage is primary and non-contributory to any coverage provided by the additional insured. VENDOR shall, prior to beginning its work, upon request by SUNTEC, furnish to SUNTEC certificates of insurance evidencing that all the foregoing insurance is in full force and effect and will not be cancelled without thirty (30) days prior written notice. VENDOR agrees to maintain sufficient insurance; however, the insurance shall in no way set the limits of VENDOR's obligations.
26. Prior to commencing the Work, Subcontractor shall procure, and thereafter maintain, at its own expense, until final acceptance of the Work or later as required by the terms of the Purchase Order, insurance coverage required by the Contract Documents and this Subcontract. At a minimum, the types of insurance and minimum policy limits specified shall be maintained in a form and from insurers acceptable to Contractor as set forth below. All insurers shall have at least an A- (excellent) rating by A.M. Best and be qualified to do business and issue the requisite line of insurance in the state where the project is located.

This insurance will provide a defense and indemnify the Contractor, but only to the extent attributable to the negligence of the Subcontractor or any entity for which it is legally responsible or vicariously liable.

Proof of this insurance shall be provided to the Contractor before the Work commences, as set forth below. To the extent that the Subcontractor subcontracts with any other entity or individual to perform all or part of the Subcontractor's

Work, the Subcontractor shall require the other Sub-Subcontractors, prior to the commencement of the Work, to furnish evidence of equivalent insurance coverage that includes in all respects the same terms and conditions as set forth herein. In no event shall the failure to provide this proof, prior to the commencement of the Work, be deemed a waiver by the Contractor of Subcontractor's or the Sub-Subcontractor's insurance obligations set forth herein.

In the event that the insurance company(ies) issuing the policy(ies) required by this Purchase Order Agreement deny coverage to the Owner, Contractor or the Subcontractor, the Sub-Subcontractor will, upon demand by the Contractor, defend and indemnify the Owner and Contractor at the Subcontractor's or Sub-Subcontractor's expense.

Commercial General Liability Insurance

\$1,000,000 Each Occurrence Limit (Bodily Injury and Property Damage) \$2,000,000 General Aggregate per Project

\$2,000,000 Products & Completed Operations Aggregate

\$1,000,000 Personal and Advertising Injury Limit

Business or Commercial Automobile Liability Insurance

\$1,000,000 Combined Single Limit per accident

Workers' Compensation and Employers' Liability Insurance (at the limit chosen in the drop down box below)

Each Employee for Injury by Disease; \$1,000,000 Aggregate for Injury by Disease

Excess or Umbrella Liability (to overlay Employer's Liability, Automobile Liability and Commercial General Liability coverages at the limit chosen in the drop down box below).

\$1,000,000 Occurrence /aggregate

The Contractor and Owner, along with their respective officers, agents and employees, shall be named as additional insureds on the Business or Commercial Automobile Liability Policy and for Ongoing Operations and Products/Completed Operations on the Subcontractor's and any Sub-Subcontractor's Commercial General Liability Policy and Excess or Umbrella Policy. The Subcontractor shall continue to carry Completed Operations Liability Insurance for at least three (3) years after either ninety (90) days following Substantial Completion of the Work or final payment to the Contractor on any individual Project, whichever is later.

It is expressly understood by the parties to this Subcontract that it is the intent of the parties that any insurance obtained by the Contractor shall be deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the Subcontractor, or any of their respective consultants, officers, agents, Sub-subcontractors, employees or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law.

To the fullest extent permitted by applicable state law, a Waiver of Subrogation Clause shall be added to the General Liability, Automobile, Excess or Umbrella Liability and Workers Compensation policies in favor of Contractor and Owner, and this clause shall apply to the Contractor's and Owner's officers, agents and employees, with respect to all Projects during the policy term.

Prior to commencement of Work on any individual Project, Subcontractor shall submit a Certificate of Insurance in favor of Contractor and an Additional Insured Endorsement (in a form acceptable to the Contractor) as required hereunder.

The required Insurance policies and Certificate shall provide for thirty (30) days' advance notice to Contractor of the cancellation or any change in coverage. Copies of insurance policies shall promptly be made available to the Contractor upon request.

27. VENDOR will furnish all necessary lien waivers, affidavits or other documents of waiver, release and discharge necessary or reasonably requested by Owner or SUNTEC required to keep Owner's premises free from liens or claims for liens arising out of the furnishing of the products, materials or services by VENDOR as such payments are made from time to time by SUNTEC under this Agreement. VENDOR agrees and hereby irrevocably grants to SUNTEC authority to negotiate on VENDOR's behalf any check payable jointly to SUNTEC and VENDOR by Owner for work performed or products, materials or services supplied. VENDOR shall not unreasonably withhold any endorsement or other consent necessary to ensure prompt payment and receipt by SUNTEC of monies to be paid by Owner. VENDOR expressly assumes any and all warranty obligations which SUNTEC may have to Owner with respect to the products, materials or services furnished.
28. VENDOR also understands and accepts the risk that SUNTEC's obligation to pay VENDOR is contingent upon SUNTEC receiving payment from the Owner of the project for which these goods or services were purchased.
29. VENDOR assumes the risk and liability during the performance of this Purchase Order, for all wage, price, labor and material increases and will not be entitled to additional payment or adjustment for market volatility.
30. VENDOR will make all claims, regardless of nature, in writing to SUNTEC in compliance with the Contract Documents related to the project for which these goods or services were requested, and in all instances within (48) hours of first occurrence or knowledge of the event giving rise to the claim. Such notice is a condition precedent to SUBCONTRACTOR's right to seek recovery for any claim.
31. The relationship of SUNTEC to VENDOR is that of an independent contractor and not that of principal and agent, employer and employee, partners or joint ventures. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either SUNTEC or VENDOR.
32. VENDOR's failure to comply with any condition of this agreement may be deemed a material breach by SUNTEC.
33. The venue for any action brought to enforce rights under or terms of this agreement, will be Maricopa County, Arizona. The prevailing party shall be entitled to an award of costs and reasonable attorneys' fees. The parties waive the right to jury trial in any action relating to this agreement, except third party actions entitled to a trial.
34. VENDOR agrees not to assign any portion of this Purchase Order without the SUNTEC's written consent.

35. Any controversy, claim or breach arising out of this PO shall be resolved in accordance with the Dispute Resolution provision of the General Contract. In the event no such provision is present, disputes hereunder shall be in accordance with the Construction Industry Mediation Procedures of the American Arbitration Association.
36. The Contractor makes no representation with respect to the physical conditions or safety of any Project Site. The Subcontractor or Sub-Subcontractor shall, at its own expense, preserve and protect from injury its employees engaged in the performance of the Work and all property and persons which may be affected by its operations in performing the Work. The prevention of accidents to workers engaged in the Work and others affected by the Work is the responsibility of the Subcontractor or Sub-Subcontractor, and Subcontractor or Sub-Subcontractor shall comply with all federal, state, labor and local laws, regulations and codes concerning safety as shall be applicable to the Work and to the safety standards established by Contractor during the progress of the Work. Subcontractor or the Sub-Subcontractor shall clean up the areas used by it or it's Work on a daily basis in a manner that will not impede either the progress of the Project or of other trades.