

S.J. Amoroso Construction Co., LLC
1875 S. Grant Street, Suite 200
San Mateo, CA 94402

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PURCHASE CONTRACT

Contractor License No. CA 331024

PURCHASE CONTRACT NUMBER: _____
(This no. must appear on all invoices, packages and shipping papers.)

SELLER:

SHIP TO:

DATE:	ACCT CODE NUMBER	F.O.B.	JOB NUMBER
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The Contract Documents for this Purchase Contract consist of this Purchase Contract and any exhibits attached hereto the Agreement between _____, ("Owner) and Buyer dated _____, the Conditions of the Contract between Owner and Buyer (General, Supplementary and other Conditions), Drawings, Specifications, all Addenda issued prior to execution of the Agreement between Owner and Buyer and all Modifications issued subsequent thereto. All of the above documents which form the Contract between the Owner and Buyer are by this reference a part of this Purchase Contract and shall be available for inspection by Seller upon his request. THIS CONTRACT IS SUBJECT TO TERMS AND CONDITIONS ON THE REVERSE SIDE HEREOF. All items of this Contract are subject to Owner's approval, Submit Samples, shop drawings, brochures, etc. at a time required by job to the job office. Delivery as directed by Buyer's Project Superintendent.

NOTE: NO PAYMENT CAN BE MADE ON THIS ORDER UNTIL SIGNED BUYER'S COPY IS RETURNED TO S.J. AMOROSO CONSTRUCTION CO., LLC
**Please sign and return BOTH copies.

SELLER

BUYER

_____ **S.J. Amoroso Construction Co., LLC**

(Print) (Title)

(Print) (Title)

(Signature) (Date)

(Signature) (Date)

Federal ID No. _____

Federal ID No. 94-1461459

☐ Corporation ☐ Partnership ☐ Proprietorship ☐ L.L.C .

☒ Corporation ☐ Partnership

GENERAL CONDITIONS

1. **ACCEPTANCE:** This purchase contract may only be accepted by Seller on the exact terms set forth therein. No additional terms or modifications shall be binding on Buyer, unless accepted by it in writing. Acceptance can only be made by Seller by signing and returning this form or shipping conforming goods.
2. **CHANGES:** Changes will be binding on Buyer only if in writing and signed by Buyer. Buyer may by written change order make any change, including additions or omissions in quantities ordered, or in the specifications or drawings. The price for any change in quantities shall be adjusted in accordance with the unit prices specified herein. If any change otherwise affects the amount due or the time of performance hereunder, an equitable adjustment shall be made. Upon reasonable notice to the Seller, Buyer may by written change order terminate this purchase contract, as to any materials not then shipped without liability to Seller therefore, except that there shall be an equitable adjustment between the parties as to any work or materials then in progress; provided that no such adjustment shall be made in favor of Seller as to any such materials which are Seller's standard stock. No such terminations shall relieve Buyer or Seller of any of their obligations as to any material delivered hereunder. Any claim for adjustment by Seller hereunder must be asserted in writing within (10) days from the date the change or termination is ordered.
3. **PRICE AND PAYMENT:** The price herein specified shall, unless otherwise expressly stated, include all taxes and duties of any kind levied by any governmental authority which either party is required to pay with respect to the production, sale or shipment of the goods and all charges for packing, loading and shipping. If transportation charges are part of the price, only actual transportation costs shall be included. Payment will be made in accordance with the applicable provisions of this purchase contract. The time for payment of invoices, or for accepting any discounts offered, shall run only from the date correct invoices are received by Buyer and payment is made by Owner. Payment to Buyer by Owner is a condition precedent to payment by Buyer, unless payment is withheld on account of any culpable act or omission of Buyer.
4. **RISK OF LOSS:** Notwithstanding the terms of shipment, the risk of loss shall pass to Buyer only after Buyer takes actual delivery of the materials. Seller's delivery to a carrier or to an intermediate party shall not be deemed actual delivery of the goods to Buyer.
5. **DELIVERY:** Unless a delivery date is otherwise specified on the face hereof, all deliveries of materials shall conform to the date or dates specified from time to time by Buyer's representative. Failure of Seller to make timely delivery of materials shall make Seller liable for all damages suffered as a result thereof by Buyer, including without limitation any liquidated damages under Buyer's prime contract. Buyer shall give Seller and extension of time for any delays beyond the control of Seller if Seller shall give written notice thereof to Buyer within Seven (7) days after the commencement of any such delay; provided, however, that if buyer's performance under the prime contract is delayed hereby, Seller shall be entitled to an extension of time only to the extent Buyer is allowed an extension therefore by Owner.
6. **DEFAULTS:** Time is of the essence hereof. If Seller fails to perform any of its obligations hereunder, Buyer shall be entitled to all remedies provided by law, and to recover all consequential and incidental damages and any replacement and repair costs resulting therefrom. If either party hereto shall have reasonable grounds to question the other party's intent or ability to perform, such party may, in writing, demand that the other party give adequate assurance, in writing, of due performance. If such a demand is made and no written assurance is given within five (5) working days, the demanding party may without further notice to the other party treat this failure to give such assurance as an anticipatory repudiation of the contract.
7. **INSPECTION:** Buyer shall have the right to inspect and test the materials at Seller's plant any time prior to shipment, and final inspection within a reasonable time after arrival at the ultimate destination. The materials shall not be deemed accepted until after final inspection. The making or failure to make any inspection of, or payment for or acceptance of the materials, shall in no way impair Buyer's right to reject nonconforming goods, to recover damages or exercise any other remedies to which Buyer may be entitled, notwithstanding Buyer's knowledge of the nonconformity, its substantiality, or the ease of its discovery. Seller shall be liable for all inspection, reshipment and return costs on nonconforming goods. Seller shall not replace returned materials unless so directed by Buyer in writing.
8. **WARRANTIES:** Seller warrants to Buyer and its successor in interest to the materials and service that the same shall be free from all defect, shall be of the quality specified or of the best grade of their respective kinds if no quality is specified, shall be fit for the purpose intended and shall conform to the provisions, specifications, drawings, samples or other description contained herein or in the Buyer's prime contract and to representations whenever made by Seller or its representatives whether extrinsic to this purchase contract or otherwise. All warranties implied by law or usage of trade are incorporated herein to apply to any services as well as the materials covered hereby and shall run in and services against any and all defects in workmanship and materials which may develop for a period of eighteen (18) months following delivery to Buyer or twelve (12) months following acceptance of the goods by Buyer's successor in interest, whichever period is longer. The materials and services are ordered by Buyer in reliance on each and all of the warranties and guarantees specified herein and implied by law of usage of trade, and said warranties and guarantees shall control even if Seller's quotation to Buyer or Seller's form of acknowledgment or acceptance of the purchase contract attempts to disclaim said warranties or guarantees or to limit Buyer's remedies for breach.
9. **NON-WAIVER:** Failure of Buyer to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights or remedies provided herein or by law or failure to properly notify Seller in the event of breach or to notify Seller of a rejection of nonconforming materials or to specify with particularity any defect in nonconforming materials after rejection or acceptance, or the acceptance of or payment for any materials hereunder, or approval of design or shop drawings, shall not release Seller of any warranties or obligations of this purchase contract and shall not be deemed a waiver of any right of Buyer to insist upon strict performance hereof or any of its rights or remedies as to any such materials, regardless when shipped, received or accepted, or as to any prior or subsequent default hereunder, nor shall any purported oral modification or rescission of this purchase contract by Buyer operate as a waiver of any of the terms hereof.
10. **INFRINGEMENT:** Seller warrants that the goods sold under this purchase contract shall be free of any claim, whether rightful or otherwise, of any persons by way of infringement or the like and Seller shall indemnify, hold harmless and defend Buyer and its successor in interest to the goods from any and all such claims, legal proceedings arising therefrom and from any liabilities, losses, legal expenses, damages and costs resulting, or claimed to result therefrom, except any such claim arises out of compliance with specifications furnished by Buyer to Seller.
11. **COMPLIANCE:** Seller shall produce, furnish and deliver all materials, or any services to be furnished hereunder, in strict compliance with all applicable laws, regulations, safety orders, labor agreements and working conditions to which they are subject, including, without limitation and where applicable, Equal Employment Opportunity provisions, and any such applicable provisions referred to or required under Buyer's prime contract with Owner by law are, by this reference, incorporated herein. Seller shall execute and deliver to Buyer such documents as may be required to effect or to evidence compliance.
12. **HOLD HARMLESS:** Seller assumes all risks in furnishing the materials and any services ordered hereunder, and shall indemnify, defend and save harmless Buyer, its members, directors, officers and employees, from and against any and all claims, debts, demands, damages (including direct, liquidated, consequential, incidental or other damages), judgments, awards, losses, liabilities, interest, attorneys' fees, costs and expenses of whatsoever kind or nature at any time arising out of any failure of Seller to perform any of the terms and conditions of this contract or which are in any manner directly or indirectly caused or occasioned by, or contributed to, or claimed to be caused or occasioned by, or contributed to, by any act, omission, fault or negligence, whether active or passive, of Seller or anyone acting under his direction or control, or on his behalf in connection with or incidental to the goods, even though the same may have resulted from the joint, concurring or contributory act, omission or negligence, whether active or passive, of Buyer, Owner or any other person, unless the same is caused by the sole negligence or willful misconduct of Buyer or Buyer's agents, servants or independent contractors who are directly responsible to Buyer. Without limiting the generality of the foregoing, the same shall include injury or death to any person or persons, including agents and employees of Owner, Buyer and Seller, and damage to any property, regardless of location, including property of Owner, Buyer and Seller, and shall extend to any similar obligations of Buyer undertaken by it under the prime contract with respect to the goods hereunder.
13. **ASSIGNMENTS, SETOFF:** Any delegation, subletting or assignment, by operation of law or otherwise, of all or any portions of the obligations to be performed hereunder by Seller without the prior written consent of Buyer shall be void. In the event of any transfer, hypothecation or assignment by Seller of the right to receive all or any part of any payments due or to become due hereunder until final payment is due and all conditions precedent to such payment have been satisfied. Buyer may setoff against any amount payable to any person under this purchase contract any claim or charge it might have against Seller.
14. **DEFINITIONS:** Buyer means S.J. Amoroso Construction Co., LLC or joint venture including S.J. Amoroso Construction Co., LLC as a member thereof if so designated on the face hereof. If Buyer is not the ultimate consumer of the goods, then all rights, benefits and remedies available to Buyer, including any guarantees and warranties made by Seller or required with respect to the goods under Buyer's contract with Owner, shall accrue and be available to and be for the express benefits of Buyer's successor in interest hereunder.