



**Emery Sapp & Sons, Inc.**

140 Walnut St.  
Kansas City, MO 64106  
O: (816) 221-3500  
F: (816) 421-9333

2602 N. Stadium Blvd.  
Columbia, MO 65202  
O: (573) 445-8331  
F: (573) 445-0266

5350 E. State Hwy. AA  
Springfield, MO 65803  
O: (417) 833-9915  
F: (417) 833-9981

**Purchase Order**

**PO #: 0000-M2**

This number must appear on all packages, shipping documents, and Invoices.

TO: Sample Vendor/Subcontractor  
1 Someplace  
Anywhere, MO 69999

Date: December 31, 2008

ESS Job#: 00-0-00 Emery Sample Job

<b>1000.01 Sample Work-Materials</b> Sample Work-Materials	1.00	1.00	1.00
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Total: 1.00

Emery Sapp & Sons, Inc. \_\_\_\_\_ Date \_\_\_\_\_ Sample Vendor/Subcontractor \_\_\_\_\_ Date \_\_\_\_\_

Attached Purchase Order Instructions, Terms and Conditions apply to all Purchase Orders issued by Emery Sapp & Sons, Inc. All materials to meet all applicable Owner's Specifications and Standards. Seller assumes all Liability for Testing, Certification, and Approval by Owner and costs to be included in above prices. Emery Sapp & Sons will notify seller of Delivery Time, Date and Location. Material will not be accepted unless authorized delivery by Emery Sapp & Sons. Emery Sapp & Sons will not be liable for any costs incurred by shipper or trucking company for unscheduled deliveries.



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**PURCHASE ORDER INSTRUCTIONS, TERMS AND CONDITIONS**

- 1. DEFINITIONS: As used herein, the term "Contractor" or "Buyer" refers to Emery Sapp & Sons, Inc.; and the term "Contract Documents" refers to documents of the Contract between the Contractor and the Owner, including specifications, addendums, plans, drawings, other documents, samples or other description ("Contract"). The term "Seller" refers to you as a supplier or merchant.
- 2. Seller who is an on-site provider (i.e. trucking company or individual trucker) agrees to procure and maintain statutory Workers Compensation Insurance Coverage, General Liability Coverage, Automobile Insurance Coverage and such other coverages as may be appropriate, all with limits adequate to protect the interest of the Buyer and Seller as follows (Trucking Brokers will be required to verify and/or maintain all limits of insurance for all trucks working for them): The following special provisions apply to the insurance required for this project and two Certificates of Insurance must be submitted to Emery Sapp & Sons, Inc. prior to commencing work on this project, showing that these special requirements have been met.

A. MINIMUM LIMITS AND COVERAGES

1. Worker's Compensation Employer's Liability COVERAGE MUST BE EXTENDED TO SOLE PROPRIETORS, PARTNERS, AND EXECUTIVE OFFICERS OF CLOSELY HELD CORPORATIONS.	Statutory Limits \$500,000/\$1,000,000	2. Comprehensive General Liability Bodily Injury and Property Damage	\$1,000,000 C.S.L. or \$1,000,000/\$1,000,000 B.I. \$1,000,000 P.D.
		3. <u>Automobile Liability</u> 4. Umbrella -Excess Liability	\$1,000,000 C.S.L. \$1,000,000 Each Occurrence \$2,000,000 General Aggregate \$1,000,000 Products/Completed Operations

- B. The Seller shall procure and carry all required insurance until the completion of the Contract. The Seller shall add the Contractor as an additional insured on Seller's Automobile, General Liability and Umbrella Excess Liability policy. The Seller shall return to the Contractor, with the executed Purchase Order, a copy of the required insurance certificate containing the provision that the contractor 30 days written notice by certified mail, of cancellation of Seller's Insurance. Contractor shall not be obligated to pay Seller under the Purchase Order until said certificate of insurance is received by the Contractor. This provision shall not be waived should the contractor at any time pay Seller prior to obtaining said certificate of insurance.
- C. The certificate shall contain policy numbers, effective dates, expiration dates, a statement noting the inclusion of Emery Sapp & Sons, Inc. as an additional insured and be submitted to Emery Sapp & Sons, Inc. prior to commencing any work on the project. Furthermore, renewal of the certificate must be sent without reminder.
- D. A copy of the additional insured endorsement on a form acceptable to Contractor shall be attached to the insurance certificate. Seller's insurance policies shall be primary to all policies of the Contractor.



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3. Seller shall be bound to Buyer by the terms of this Purchase Order and by the terms of the Contract Documents. Seller shall assume toward Buyer all of the obligations and responsibilities which Buyer, by the Contract Documents, assumes toward the Owner, insofar as applicable to the Purchase Order, provided that where any provisions of the Contract Documents is inconsistent with any provisions of the Purchase Order, the terms of this Purchase Order shall govern.
4. CHANGES: Buyer reserves the right to make changes at any time in any one or more of the following: specifications, place of delivery and time of delivery. Any claim by Seller for adjustments under this clause shall be deemed waived unless made in writing within ten (10) days of receipt by Seller of the change.
5. CASH DISCOUNT TERMS: Indicate Cash Discount Terms on the invoice. Discount period will be calculated from date invoice is received at Buyer's office or the date of receipt of materials, whichever is later or as otherwise specified on this Purchase Order.
6. ROUTING: On freight shipments use routing specified; otherwise, any extra expense will be charged to shipper. If not specified, ship in least expensive manner consistent with delivery requirements.
7. DELIVERY: Delivery shall be made as specified and strictly in accordance with the delivery requirements during normal working hours (or, in the case of services, within the time specified) as stated on this Purchase Order. Delivery shall not be deemed to be complete until the items have been actually received and accepted by Buyer. Deliveries that are lost or rejected will be the Seller's responsibility.
8. NO MODIFICATIONS OF OFFER: (a) None of the terms and conditions contained in the Purchase Order may be added to, modified, superseded or otherwise altered except by a written instrument signed by an authorized representative of the Buyer and delivered by Buyer to Seller. (b) The Seller agrees that acceptance of the offer means acceptance of all and only the terms, instructions and conditions stated herein, to the absolute exclusion of any different or additional terms, proposed by the Seller.
9. PRICE: The Purchase Order must not be filled at a higher price than specified without the Buyer's specific authorization.
10. EXCESS GOODS: Goods delivered in a quantity exceeding that specified on the face of this Purchase Order shall be subject to rejection by the Buyer and may be returned to the Seller at the Seller's expense.
11. WARRANTIES: The Seller assumes the responsibility for obtaining and examining the Contract Documents. Seller expressly warrants that all the articles, materials and work covered by this Purchase Order will conform to the Contract Documents, will conform to any specification, plans, drawings, samples or other description furnished or adopted by the Buyer and will be free from defects in material and workmanship, whether or not the articles, materials or work are ordered pursuant to the aforementioned documents, samples or other description. Seller warrants that all articles and materials will be merchantable, fit and sufficient for the intended purpose. Seller warrants that all articles, materials and work covered by this Purchase Order shall comply with all Local, State and Federal Safety and Health standards included but not limited to O.S.H.A. and A.N.S.I. All warranties shall survive delivery and shall not be deemed waived either by reason of the Buyer's acceptance of said articles, materials or work or by payment for them.
12. INSPECTION AND ACCEPTANCE: All goods shall be received subject to the Buyer's right of inspection and rejection and subject to the approval by the Owners authorized agent. Seller shall furnish to Buyer such shop drawings, layouts, test results, material lists, samples and other documents (referred to "submittals") as may be required by the Contract Documents. Acceptance of the goods by the Buyer and/or Owner shall not relieve Seller from any of the Seller's obligations and warranties hereunder. In no event shall payment be deemed to constitute acceptance. Buyer may perform a cursory review of the submittals for the limited purpose of facilitating a pass-through of the submittals to the Owner for the Owner's review. Buyer's review of the submittals shall not be construed as a complete review or approval, nor shall it relieve Seller from Seller's responsibility for errors of any sort therein, or from the necessity of furnishing any work required by the Contract Documents which may have been omitted by Seller.



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- 13. FIELD PROBLEMS: Should field problems arise relating to the use of any materials covered by this Purchase Order, the Buyer shall determine if the project allows sufficient time for the Seller to repair or modify such problems. In order to maintain the project schedule, the Buyer may make any necessary repairs or modifications or hire a third party to do such work. The Seller will be responsible for all costs associated with any repairs or delays resulting from such problems.
- 14. DEFECTIVE GOODS: If any of the goods fail to meet the warranties contained herein, the Seller, upon notice thereof from Buyer, shall promptly correct or replace the same at Seller's expense.
- 15. DAMAGES: In addition to any other liability incurred by the Seller under the terms of this Purchase Order, Seller shall be liable for incidental and consequential damages (including attorneys fees and liquidated damages) resulting from delays in delivery, from the breach of any warranties, from defective goods and from any other breach of the terms and conditions of this Purchase Order. Buyer may offset against any sums due Seller hereunder the amount of any liquidated or unliquidated obligations of Seller to Buyer.
- 16. ERRORS: Buyer reserves the right to correct, at any time prior or subsequent to acceptance of this Purchase Order by Seller, any and all typographic or arithmetic errors which may appear herein or in any document relating to the transaction pursuant hereto.
- 17. DISPUTE RESOLUTION: All provisions, terms and conditions contained in this Purchase Order shall be interpreted under Missouri law. This Purchase Order was created and entered into in Missouri. If alternative dispute resolution, including, without limitation, arbitration or mediation, is provided for in the Contract Documents, any dispute arising between Buyer and Seller under this Purchase Order, including breach thereof, shall be settled by such alternative dispute resolution procedures in the manner provided for in the Contract Documents. In the sole discretion of Buyer, all other disputes arising between Buyer and Seller under this Purchase Order shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. A demand for arbitration shall be made within a reasonable time after the claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitations. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. If Buyer decides not to arbitrate a dispute then the dispute shall be litigated. Unless otherwise agreed in writing, Seller shall continue Purchase Order work and make delivery dates during any dispute resolution.
- 18. SELLER'S EMPLOYEES: If any employee of Seller visits the site of the project, Seller shall be solely responsible for the safety and welfare of its employees; and Seller shall defend and indemnify Buyer from any claims made against Buyer by Seller's employees on account of injuries alleged to have been suffered while on the site of the project.
- 19. MATERIAL SAFETY DATA SHEETS : Seller must supply one (1) current and lawfully completed Material Safety Data Sheet (MSDS) for each product supplied.
- 20. INDEMNIFICATION: Seller agrees to fully indemnify, defend and save harmless and to settle all liens, claims and legal actions brought against Emery Sapp & Sons, Inc., its employees, agents, insurer and bonding company for any and all accidents, injuries, damages and defects caused by or in any manner connected with the actions, negligence or work of the Seller, Seller's agents and employees and Seller's delivery agents to the extent allowed by law.
- 21. The Seller agrees that the terms and conditions of the Purchase Order and the performance required herein will be considered non-binding, null and void if the Project Owner or Prime Contractor fails to award and enter into a Contract with Emery Sapp & Sons, Inc., or if the Owner or Prime Contractor fails to approve of the Seller.
- 22. If any part of this Purchase Order is declared invalid under governing law, the balance of the Purchase Order shall remain in full force and effect.