

# GRAHAM & SONS ELECTRIC, INC.

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## TERMS & CONDITIONS

1. **ENTIRE CONTRACT.** This Proposal, if signed by the VENDEE on page one of this Proposal, is the entire agreement between the parties. There are no representations, promises, warranties or understandings of any kind or nature from either party to the other, except as set out herein and in the plans and addenda, specifications, shop drawings and other provisions which are a part hereof.
2. **EQUIPMENT & MATERIALS.** Graham & Sons Electric, Inc. (GSE) shall provide the construction, services, equipment and materials specified in this Proposal. (GSE) shall provide such equipment and materials in conformity with the plans, specifications and shop drawings. If anything in this Proposal is inconsistent with the plans, specifications or shop drawings, this Proposal govern and control over the plans, specifications or shop drawings.
3. **SUBMITTALS.** (GSE) shall submit shop drawings, submittal data, brochures and samples to Vendee within ten (10) days of Vendee's written request and in as many duplicate copies as Vendee requires. Vendee's Project Owner's and Architect's approval of all submitted shop drawings, submittal data, brochures and samples is required before (GSE) manufactures, orders or delivers any equipment or materials provided for under this Purchase Order.
4. **PROPOSAL SUM.** Vendee shall pay (GSE) the total sum reflected on page one of this Proposal, for the construction services, materials, equipment and installation services (GSE) is to provide under this Proposal. The parties hereby acknowledge that (GSE) relies solely and exclusively on the credit of vendee, and not OWNER, for payment for construction, materials and equipment provided under this Proposal.
5. **DELAY. The parties expressly understand and agree that time is of the essence as to this Proposal.** (GSE) agrees to timely deliver the equipment and materials described in this Proposal in strict compliance with the Project scheduling. Vendee agrees to refrain from any and all interference in the progress of (GSE) performance of the work, to include any changes to the project schedule. Should Vendee delay (GSE) work on the Project, or any portion thereof, in any way, Vendee shall be liable to (GSE) for any and all damages, expenses and losses incurred as a result of such delay, including any liquidated damages assessed against (GSE), all incidental and consequential damages, and costs for continued Project supervision, job overhead, insurance, Project facilities and other costs. Vendee represents that it has satisfied itself as to any provision in the contract between (GSE) and any other party (including the Contractor or Project Owner) concerning liquidated damages, and agrees that in the event liquidated damages are imposed upon (GSE) as the result, in whole or in part, of the performance or non-performance of Vendee, such liquidated damages shall constitute one element of the damages that (GSE) shall be entitled to recover from Vendee.

6. **ACCEPTANCE BY VENDEE.** Any payments made under this Proposal shall be construed as Vendee's acceptance of construction, equipment and materials supplied hereunder. Vendee must assert the right to reject any non-conforming equipment and materials, or to require (GSE) to comply with the plans and addenda, specifications and shop drawings, at the time of or prior to approval of payment to (GSE). (GSE) reserves the right to request Vendee issue a joint check to (GSE) and any material supplier or subcontractor of (GSE). Vendee will approve all reasonable requests from (GSE) for Vendee to issue joint checks to (GSE) and (GSE) material supplier(s) or subcontractor(s).

7. **ASSIGNMENT.** Neither this Proposal nor any interest herein may be transferred, voluntarily or involuntarily, without the written consent of (GSE).

8. **OTHER CONTRACTS.** There is no right of cross-collateral between this contract and any other contract or relationship between (GSE) and Vendee. Vendee expressly waives the right to offset monies owed (GSE) under this Proposal for any monies due and owing Vendee under any other contracts or relationships between Vendee and (GSE).

9. **WARRANTIES.** (GSE) expressly warrants that the equipment and materials provided for under this Proposal are new unless otherwise specified, conform generally to the plans and addenda, specifications, shop drawings, samples or other description furnished or adopted by Vendee, and are generally fit and sufficient for the purpose intended. This warranty will commence on the date Vendee receives the equipment and materials provided for under this Proposal and will continue for a period of 12 months.

10. **INDEMNITY.** In exchange for Ten Dollars (\$10.00), the receipt and sufficiency of which is acknowledged, Vendee hereby covenants to defend, indemnify, save harmless and exonerate (GSE), and (GSE) Bonding Company, if any, as to and from all fines, penalties, liability, claims, lawsuits, arbitrations, other claims for damages and injuries, or other losses for property damage, personal injury or economic losses, arising out of the construction, installation, equipment or materials provided by or to be provided by (GSE), its employees, agents and suppliers. Vendee further agrees to indemnify and reimburse (GSE) and (GSE)'s Bonding Company, if any, for (GSE) or (GSE)'s Bonding Company's legal expenses, including attorney fees, and for other attorney fees and costs assessed against (GSE) or (GSE) Bonding Company in any lawsuit, arbitration or other claims arising from any acts or omissions by Vendee, its employees, agents or suppliers related to this Proposal.

11. **CONDITION PRECEDENT TO FILING SUIT.** Vendee expressly agrees as an absolute condition precedent to filing any claim or filing any suit against (GSE) or (GSE)'s Bonding Company, to supply (GSE) with written notice of any alleged breach and to provide (GSE) thirty (30) days in which to investigate and correct the alleged breach.

12. **ATTORNEY FEES.** In the event that any litigation, or other dispute resolution proceeding is commenced, involving, arising out of or relating to this Proposal/Contract or the equipment and materials provided hereunder, then the prevailing party shall be entitled to an award of taxable court costs, other related but non-taxable costs and expenses, and reasonable attorney's fees, including attorney's fees incurred in litigating entitlement to or the amount of an attorney's fee award, from the time that the proceeding was commenced until all appeals, if any, are final. If Vendee, or any of its subcontractors, suppliers or manufacturers, brings a claim against (GSE)'s Bonding Company, if any, and (GSE)'s Bonding Company prevails, Vendee shall reimburse (GSE) for all taxable court costs, other related but non-taxable costs and expenses, and reasonable attorney's fees, including attorney's fees incurred in litigating entitlement to or the amount of an attorney's fee award, incurred by (GSE) or (GSE)'s Bonding Company in defense of such claim, from the time that the proceeding commenced until all appeals, if any, are final. Vendee acknowledges that (GSE)'s Bonding Company is an intended third-party beneficiary of this attorney fees provision. This provision shall apply where the proceeding seeks a declaration of rights, damages for default, damages for misrepresentation or other legal or equitable remedies.

13. **CHOICE OF LAW AND VENUE.** This Proposal shall be construed in accordance with the laws of the State of Florida, and all litigation brought under, arising out of, or related to this Proposal, or the equipment and materials provided hereunder, shall be governed by the laws of the State of Florida. Vendee expressly waives any right of venue in any action brought under, arising out of or related to this Proposal, or the equipment and materials provided hereunder, or brought against any bond(s) posted by Vendee, and further consents to personal jurisdiction in the courts of the State of Florida. Vendee agrees that the venue provisions of this Proposal shall control venue in any action brought against any bond(s) posted by Vendee or the OWNER on the Project, and that the (GSE)'s Bonding Company is an intended third-party beneficiary of this venue provision. Venue for any action brought under, arising out of or related to this Proposal, or the construction, equipment and materials provided hereunder, or brought against any bond(s) posted by Vendee or the OWNER of the Project, shall be located exclusively in State Court located in Columbia County, Florida.

14. **INSURANCE** Workmen's Compensation and Public Liability Insurance on the above work provided by Graham and Sons Electric, Inc.

15. **TITLES OF ARTICLES; FOR REFERENCE PURPOSES ONLY** The titles of the Articles of this Proposal are for reference purposes only. Titles in no way affect or modify the language within the Articles themselves and are not to be interpreted as substantive parts of the Proposal.