

## TERMS AND CONDITIONS

1. **Seller To Package Goods.** Seller will package goods in accordance with good commercial practice. Goods shall be clearly marked to provide: Seller's name, consignee's name and address, the purchase order number, and indicate the box containing the packaging slip. Seller shall bear cost of packaging.
2. All quotations are F.O.B. destination, unless specified otherwise in the body of the purchase order.
3. **Title and Risk of Loss.** The title and risk of loss of goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point of delivery.
4. **Place of Delivery.** The place of delivery shall be that set forth in the block of the purchase order. Delivery shall be made during normal work hours only, 8 a.m. to 3 p.m., unless prior approval for late deliveries has been obtained.
5. **Delivery Time.** Seller is required to place material in receiving agency's designated location in the number of days indicated on the purchase order. Absence of delivery time obligates the Seller to complete delivery in 14 calendar days. Consistent failure to meet delivery promises without valid reasons may be cause for removal from bid list.
6. **Invoices and Payment.**
  - a. Seller shall submit separate invoices, in duplicate, on each purchase order.
  - b. Invoices shall indicate the purchase order number on them. Invoices shall be itemized.
  - c. Mail invoices to: City of Baytown, Accounts Payable Division, P.O. Box 424, Baytown, Texas 77522.
  - d. Payment shall not be due until thirty days after receipt of invoice or goods or service whichever is later. Suppliers shall keep the Accounts Payable Division advised of any changes in your remittance address.
  - e. Do not include Federal Excise, State and City Sales Tax. City shall furnish a tax exemption certificate upon request.
7. **Warranty-Product.** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer, Seller warrants that the goods furnished will conform to specifications and descriptions listed. Contractor agrees to protect the City from claims involving infringement of patents and copyrights.
8. **Right of Inspection.** All deliveries shall be accepted subject to inspection, count and/or testing. A waiver on one occasion does not constitute a waiver on future occasions.
9. **Cancellation.** Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law.
10. **Force Majeure.** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, riots, landslides, lightning, earthquake, fires, hurricanes, floods, restraint of government and people, civil disturbances, and explosions. If vendor is faced with a Force Majeure, Buyer requires written notice within ten (10) days of the conditions involved. The City reserves the right to cancel this contract if the Force Majeure delays delivery of the required goods for more than 30 calendar days.
11. **Assignment-Delegation.** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
12. **Modifications.** This contract can be modified or rescinded only by writing signed by both of the parties.
13. **Applicable Law.** This agreement shall be governed by the Uniform Commercial Code as adopted in the State of Texas as effective and in force at the time of this agreement.
14. **Right to Assurances.** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of this intent to perform in the event that a demand is made and no assurance is given within ten (10) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
15. **All items bid shall be new, in first class condition and manufacturers latest model and design** including containers suitable for shipment and storage, unless otherwise indicated in bid invitation. Verbal agreements to the contrary are void.
16. **NO substitutions or cancellation permitted without written approval of the City of Baytown.**



BILL TO:  
CITY OF BAYTOWN  
ACCOUNTS PAYABLE  
P.O. BOX 424  
BAYTOWN, TEXAS 77522