

City of Desoto Purchase Order– Terms and Conditions

1. **DEFINITIONS:** The terms “ City” means the City of Desoto, Texas and the term “Vendor” means the person, firm or corporation from whom the merchandise/ items have been ordered.
2. **AGREEMENT:** Acceptance of this order must be without qualifications. City hereby objects to and will not be bound by any different or additional terms or conditions contained in the acceptance unless City agrees to each of such different or additional term in writing. Seller’s action in (a) accepting this order, (b) delivering materials, or (c) performing services described herein shall constitute an acceptance of the terms and conditions herein.
3. **TIME IS OF THE ESSENCE:** Time is of the essence of this order. If it appears Vendor will not meet required delivery schedule, Vendor must promptly notify City in writing and, if requested by City, ship via air or expedited routing to avoid or minimize delay to the maximum extent possible, the added cost to be borne by Vendor. This is in addition to City's other remedies.
4. **DELIVERIES:** Unless otherwise specified on the face of this order, the F.O.B. point shall be the location designated by the City on the face of this order. If transportation is F.O.B. Vendor’s location, Vendor shall bear all risk of loss or damage to the merchandise, and title shall not shift to the City, until delivery of the merchandise has arrived to City’s designated location. Deliveries will be accepted only during normal working hours on normal working days (8 A.M.-5 P.M., Monday through Friday, except on federal holidays). Unless otherwise indicated, items received must be new and in first class condition and, if type of materials normally packaged for protection and convenience in storage, shall be in proper container. All services performed shall conform to the quality and workmanship of the accepted standards in the industry.
5. **FREIGHT:** All shipments are to be prepaid. In shipments made direct by Vendor’s supplier, Vendor is required to notify his supplier to prepay shipments. The City shall not be charged for boxing, packing, or crating unless by written agreement.
6. **RISK OF LOSS:** Risk of loss, damage or destruction of the materials covered by this order shall be borne by the Vendor until delivery in good condition of conforming products at the F.O.B. point designated on this order. Any rejected goods shall be at the Seller’s risk until returned to Vendor, at Vendor’s expense, or otherwise disposed of as Seller shall reasonably request.
7. **INSPECTIONS:** All merchandise is subject to the City's inspection within a reasonable time after arrival at the F.O.B. point. If the merchandise fails to comply with the specifications imposed by City or is otherwise of an unsatisfactory condition, the City may return said merchandise to Seller at Seller's expense. Payment for material on this order shall not constitute acceptance.
8. **INVOICES/PAYMENT/DISCOUNTS:** Invoice(s) must be submitted by Vendor in duplicate to City of Desoto, Texas, Attn: Sheila Johnson, 211 East Pleasant Run Road, DeSoto, Texas 75115. If invoices are subject to a cash discount, discount period to be taken from the date of completion of order or date of receipt of invoice, whichever occurs last, regardless of whether or not correct discount terms appear on invoice. Invoices are to be paid in full within thirty (30) days after satisfactory delivery and billing unless otherwise specified or mutually agreed before this order was placed. City will not be liable for payment of invoices received six (6) months after order completion (defined as “Acceptance”).

9. SUBSTITUTIONS: No substitutions or changes in this order will be accepted unless provided in writing by the City.
10. WARRANTIES: Vendor warrants that all materials, equipment and services provided under this contract are subject to all warranties arising by operation of law and additionally conform to the specifications imposed by City; all parts and materials are of a good marketable quality, of latest model and current date, exclude surplus remanufactured and used products unless so specified by City and are fit for the known purpose for which they are sold. Said warranty being in addition to any standard warranty or service guarantee given by Vendor to City.
11. PATENTS, TRADEMARKS AND COPYRIGHTS: Vendor warrants that the equipment and/or materials furnished on this order do not infringe any patent, registered trademark or copyright, and agrees to hold the City, as City, harmless in the event of any infringement or claim thereof.
12. TITLE: Vendor warrants that the merchandise is free and clear of all liens and encumbrances and that Vendor has a good and marketable title to same.
13. COMPLIANCE WITH LAWS AND REGULATIONS: Vendor, by acceptance of this order, warrants full compliance with all applicable local, state or federal laws and regulations.
14. INDEMNIFICATION: **VENDOR SHALL BE LIABLE FOR ALL DAMAGES INCURRED WHILE IN PERFORMANCE OF SERVICES UNDER THIS CONTRACT. VENDOR ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED HEREUNDER, AND HEREBY FOREVER RELEASES, INDEMNIFIES, AND DISCHARGES CITY, ITS OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES, FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, ANY PERSON WHETHER THAT PERSON BE A THIRD PERSON, SUPPLIER, OR AN EMPLOYEE OF EITHER OF THE PARTIES HERETO, AND ANY LOSS OF OR DAMAGE TO PROPERTY, WHETHER THE SAME BE THAT OF EITHER OF THE PARTIES HERETO OR OF THIRD PARTIES, CAUSED BY OR ALLEGED TO BE CAUSED BY, ARISING OUT OF OR IN CONNECTION WITH THE ISSUANCE OF THIS ORDER TO VENDOR, WHETHER OR NOT SAID CLAIMS, DEMANDS AND CAUSES OF ACTION IN WHOLE OR IN PART ARE COVERED BY INSURANCE, AND INCLUDING DAMAGES, INJURIES, OR DEATH RESULTING FROM INTENTIONAL OR NEGLIGENT ACTS OR OMISSIONS OF VENDOR, ITS OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, OR CONTRACTORS.**
15. CANCELLATION: City reserves the right to cancel this order, or any part thereof, at any time, without penalty, and shall be the sole judge of its decision to cancel this order. Such cancellation may be based upon the failure of Vendor to comply with the terms and conditions of this transaction, failure to perform the work with promptness and diligence, failure to make shipment within the time specified, or for any other reason.
16. COMPLIANCE: City may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.
17. CHOICE OF LAW; VENUE: This purchase order and the purchase and sale of the goods and/or services described herein shall be governed by and construed in accordance with the Laws of the State of Texas. The act of contracting for the purchase of the goods and services, and the payment for same, shall be deemed to have occurred in Dallas County, Texas. Venue for any dispute arising from or related to this purchase order and the purchase of the goods and/or services described herein shall be in a State District Court in Dallas County, Texas.