



THE DOW CHEMICAL COMPANY

PURCHASE ORDER / CONTRACT / CONTRACT RELEASE

PLAINTIFF'S EXHIBIT

DOW-2498

LUMP SUM P.O. 7605573-P009
COMMITMENT DATE 02-09-89

MAIL DUPLICATE INVOICES TO: 02/09/89
DOW CHEMICAL COMPANY
TEXAS OPERATIONS
CONTRACTOR PAYABLE, APB BUILDING
FREEPORT TX 77541

VENDOR (409-238-6725)
WIN-WAY INC K
P O DRAWER GG
FREEPORT TX 77541

DELIVER TO
DOW CHEMICAL COMPANY
LUMP SUM P.O. 7605573-P009
RECEIVING B401, TEXAS OPERATIONS
DEL TO: L R BRADEN JR/A-1146
FREEPORT TX 77541

BUYER: H M JOHNSTON 409-238-2098
SHIPPING DATE: 02-09-89
PAYMENT TERMS: RECEIPT INVOICE PLUS 15 DAYS
MODE OF TRANSPORT: NOT APPLICABLE
DELIVERY TERMS: NOT APPLICABLE FRI TERMS: NOT APPLICABLE
SHIP FROM: DFI

W/O	COST	CTR	%	LED	SUF-AC	SUBF	SOURCE-1	SOURCE-2	LOG	LOC
	1183	100.00		251				612		

EXPEDITOR: H M JOHNSTON

REQUISITION NUMBER: 07605573
REQUISITIONER: L R BRADEN JR 409-238-4851
DEPARTMENT: PROJECT/CONTRA
BLDG: A-1146

IN ACCORDANCE WITH THE TERMS AND
CONDITIONS OF THAT CERTAIN CONTINUING
CONTRACT DATED 04-01-85.

ITEM	QUANTITY	UNIT	ITEM CODE	DESCRIPTION
1	1.000	LOT		
SHIPPING DATE		02-09-89		FURNISH LABOR, MATERIALS, TOOLS AND EQUIPMENT FOR MISCELLANEOUS ASBESTOS REMOVAL, BLOCK A-36 AND A-40, PLANT A, IN ACCORDANCE WITH JOB SPECIFICATIONS M101-1183A40, DATED JANUARY 20, 1989. WORK SHALL BE COMMENCED WITHIN TWENTY- ONE CALENDAR DAYS AFTER DATE OF ORDER AND SHALL BE COMPLETED WITHIN THIRTY-

PAGE 1 L R BRADEN JR A-1146

ST0408609

ST0408609

TERMS AND CONDITIONS

1. THIS ORDER AND PERFORMANCE HEREUNDER IS TO BE CONSTRUED ACCORDING TO THE LAWS OF THE STATE FROM WHICH THIS ORDER ISSUES AS SHOWN BY THE ADDRESS OF BUYER WHICH IS PRINTED ON THE FACE OF THIS ORDER.
2. BUYER RESERVES RIGHT TO CANCEL ANY PORTION OR ALL OF THIS ORDER IF ANY SHIPMENT IS NOT MADE AS SPECIFIED.
3. NO CHARGE WILL BE ALLOWED FOR HANDLING, PACKING, CRATING, DRAYAGE OR STORAGE WITHOUT THE WRITTEN PERMISSION OF BUYER.
4. ANY GOODS OR MATERIAL DELIVERED IN EXCESS OF AMOUNT CALLED FOR ON THIS ORDER, OR ANY DEFECTIVE MATERIAL MAY BE REFUSED AND RETURNED AT EXPENSE OF SELLER.
5. THIS PURCHASE ORDER FORM MAY BE USED IN CONNECTION WITH PURCHASE RELEASES UNDER FORMAL WRITTEN CONTRACTS AND, IN SUCH CASES, THE CONTRACT TERMS SHALL PREVAIL IF INCONSISTENT WITH EITHER TERMS HEREIN OR THE ACKNOWLEDGEMENT HEREOF, UNLESS OTHERWISE SPECIFICALLY AGREED UPON IN WRITING.
6. SHIPMENT OF ANY PART OF THIS ORDER WITHOUT WRITTEN ACCEPTANCE CONSTITUTES ACCEPTANCE OF ORDER AND ITS CONDITIONS BY SELLER.
7. SELLER SHALL NOT ASSIGN THIS ORDER, OR ANY PART THEREOF, WITHOUT CONSENT OF BUYER. SUCH CONSENT SHALL NOT RELEASE SELLER FROM ITS OBLIGATIONS AND LIABILITIES.
8. PAYMENT FOR THE GOODS UNDER THIS ORDER SHALL NOT CONSTITUTE ACCEPTANCE THEREOF. ALL MATERIALS SHALL BE RECEIVED SUBJECT TO INSPECTION AND REJECTION BY BUYER. DEFECTIVE MATERIAL OR MATERIAL NOT IN ACCORDANCE WITH SPECIFICATIONS OF BUYER MAY BE HELD FOR INSPECTION BY SELLER AND AT RISK AND EXPENSE OF SELLER. IF INSTRUCTIONS ARE NOT RECEIVED WITHIN FIFTEEN (15) DAYS AFTER NOTICE OF REJECTION, GOODS MAY BE RETURNED OR SOLD FOR ACCOUNT AND AT EXPENSE OF SELLER. NO GOODS RETURNED AS DEFECTIVE SHALL BE REPLACED WITHOUT THE WRITTEN PERMISSION OF BUYER.
9. IF MATERIAL IS FURNISHED BY BUYER TO SELLER OR DESIGNEE OF SELLER IN CONNECTION WITH THIS ORDER, SELLER SHALL BE SOLELY RESPONSIBLE FOR ALL SUCH MATERIAL.
10. NEITHER PARTY SHALL BE LIABLE FOR DELAYS OR DEFAULTS DUE TO ACTS OF GOD, ACTS OF GOVERNMENTAL AUTHORITY, ACTS OF PUBLIC ENEMY, WAR, FIRES, FLOODS, EPIDEMICS, STRIKES, LABOR TROUBLES, OR CAUSES OR CONTINGENCIES REASONABLY BEYOND ITS CONTROL, BUT THIS PARAGRAPH SHALL NOT PREVENT BUYER FROM CANCELLING IN ACCORDANCE WITH PARAGRAPH 2 HEREOF.
11. SELLER WARRANTS GOODS FURNISHED HEREUNDER SHALL BE OF THE QUALITY AND SPECIFICATIONS STATED HEREIN, AND FREE FROM ALL DEFECTS IN DESIGN, WORKMANSHIP, AND MATERIALS.
12. SELLER WARRANTS THAT THE GOODS COVERED BY THIS ORDER ARE PRODUCED AND SOLD FREE OF PATENT INFRINGEMENTS.
13. NO WAIVER OF OR EXCEPTION TO ANY OF THE TERMS, CONDITIONS OR PROVISIONS CONTAINED IN THIS ORDER SHALL BE VALID UNLESS SPECIFICALLY AGREED TO IN WRITING. NO WAIVER OF A BREACH OF ANY PROVISION OF THIS ORDER SHALL CONSTITUTE A WAIVER OF ANY OTHER BREACH, OR OF SUCH PROVISION.
14. THIS OFFER IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS CONTAINED HEREIN. ANY ADDITIONAL OR CONFLICTING TERMS AND CONDITIONS CONTAINED IN ANY ACKNOWLEDGMENT OF THIS OFFER SHALL HAVE NO EFFECT.
15. THIS ORDER MUST NOT BE FILLED AT HIGHER PRICES THAN LAST QUOTED BUYER WITHOUT NOTICE TO BUYER AND ACCEPTANCE.
16. SELLER WARRANTS THAT IT IS IN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS, RULES AND REGULATIONS.
17. SELLER MUST INCLUDE AN ITEMIZED PACKING LIST WITH EACH SHIPMENT, SHOWING INDIVIDUAL ITEM NUMBERS AS THEY APPEAR ON THIS ORDER.
18. ANY INVOICES BEARING TRANSPORTATION CHARGES MUST BE SUPPORTED WITH ORIGINAL RECEIPTED TRANSPORTATION BILLS SHOWING WEIGHT AND RATE.
19. IN THE EVENT THAT THE PERFORMANCE BY SELLER HEREUNDER REQUIRED ENTRANCE ON OR INTO PREMISES OF BUYER, SELLER SHALL COMPLY WITH ALL SAFETY RULES AND REGULATIONS OF BUYER, AND SELLER FURTHER AGREES THAT IT WILL PROTECT, INDEMNIFY AND SAVE HARMLESS BUYER FROM ANY AND ALL CLAIMS, DEMANDS AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER MADE AGAINST BUYER BY SELLER OR ANY EMPLOYEE OR AGENT OF SELLER, BECAUSE OF INJURY OR ALLEGED INJURY (INCLUDING DEATH) OR DAMAGE OR ALLEGED DAMAGE TO PROPERTY OF SELLER OR ITS EMPLOYEE OR AGENT OCCURRING IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE BY SELLER HERE UNDER, HOWEVER CAUSED.



THE DOW CHEMICAL COMPANY

PURCHASE ORDER / CONTRACT / CONTRACT RELEASE

COMMITMENT NUMBER 7605573 LUMP SUM P.O. 02/09/89
VENDOR WIN-WAY INC K

ITEM	QUANTITY	UNIT	ITEM CODE	DESCRIPTION
1	****	CONTINUED	****	

FIVE WORKING DAYS THEREAFTER.

FEE APPLICABLE TO PARAGRAPH 6.01 (C)
UNDER ARTICLE VI OF DOW'S CONTRACT FORM
----- 55 %.

THE CONTRACT PRICE IS BASED ON THE
FOLLOWING CONDITIONS:

- 1) DOW TO FURNISH ALL ASBESTOS MATERIALS
PER 6.0 OF BID SPECIFICATIONS AND
ASBESTOS BAGS AND POLYFILM.
- 2) DOW TO FURNISH JLG LIFT.
- 3) WIN-WAY TO FURNISH SUFACTANT TO WET
ASBESTOS.

FIELD WORK IS NOT TO BEGIN UNTIL AN AVO
HAS BEEN ISSUED BY J. F. MCCREARY,
BUILDING A-802, PHONE 238-3489.

TAXES REMITTED BY CONTRACTOR ON LUMP SUM
PORTION ONLY. ANY ADDITIONAL COST PLUS
WORK - DO NOT TAX - DOW WILL REMIT TAX -
DIRECT PAY AUTHORIZATION #3-00001-7597-3

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A-1146

ST0408611

ST0408611

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