

Chemical Delivery Contract

This Contract ("Contract") is entered into by and between Commercial Chemical Products, Inc., DBA Poolsure ("Supplier") and Purify ("Supplier"), located at 1707 Townhurst Drive, Houston, Texas, 77043 and City of Seabrook ("City"), a municipal corporation, located at 1700 First Street, Seabrook, Texas 77586 on the date set forth below, effective June 6, 2023.

Terms:

1. **Scope of Services:** Supplier will furnish the City's wastewater treatment plants located at 715 Main Street and 5001 Park Drive, with a quality product that meets or exceeds field standards for Sodium Bisulfite production. The chemicals shall be a virgin product that is NSF approved (NOT A BY-PRODUCT) and 38-42% NaHSO₃ by weight, respectively. Quantity ordered will be up to 1,000 gallons per shipment/delivery and distributed to the Main Street and Park Drive locations within two (2) business days from the time the order is placed. The contract price is as follows and will be held constant for one year from the date the Contract was awarded:

Sodium Bisulfite	\$2.91 per gallon
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After the first year of the Contract, the contract price may be changed in accordance with the Consumer Price Index as published by the United States Bureau of Labor Statistics.

2. **Term and Termination:** The term of this Contract shall be a three (3) years. The Contract may be renewed for two (2) additional one (1) year terms with the mutual consent of both parties, not less than 30 days prior to the expiration of the initial term.

The Contract will not automatically renew. The Supplier shall perform in accordance with the terms and conditions of the Contract. Charges of poor performance shall be documented by the City and submitted to the Supplier for corrective action. If continued poor performance is communicated, this will be deemed a breach of these specifications and shall be the cause for immediate termination of the Contract. Either party may terminate this Contract for any reason upon 120 days written notice to the other party.

3. **Compensation:** Supplier shall be paid for the services, as set forth herein. The City shall pay Supplier in accordance with the Texas Government Code 2251. Supplier must submit invoices for all services. Payment for delivery of services rendered shall not be unreasonably withheld or delayed. If the City disapproves any amount submitted for payment by Supplier, the City shall give Supplier specific reasons for disapproval in writing. Upon resolution of any disputed charges, Supplier shall submit an amended invoice covering any remaining charges to the City. All invoices must be emailed to accounts payable, payables@seabrooktx.gov or mailed to:

City of Seabrook
Attn: Accounts Payable

1700 First Street
Seabrook, TX 77586

4. **Independent Supplier:** Supplier is an independent Supplier and is not an employee, partner, joint venture, or agent of the City. Supplier understands and agrees that he/she will not be entitled to any benefits generally available to City of Seabrook employees. Supplier shall be responsible for all expenses necessary to carry out the services under this Agreement, and shall not be reimbursed by the City for such expenses except as otherwise provided in this Agreement.
5. **Warranties and Representations:** Supplier warrants and agrees that Supplier shall perform the Services and conduct all operations in conformity with all applicable federal, state, and local laws, rules, regulations, and ordinances. For any Service performed on premises owned or controlled by the City, Supplier warrants and agrees that Supplier will perform the Services in compliance with all applicable City Rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs.
6. **Licenses/Certifications:** Supplier represents and warrants that it will obtain and maintain in effect, and pay the cost of all licenses, permits or certifications that may be necessary for Supplier's performance of this Agreement. If Supplier is a business entity, Supplier warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and is authorized to execute this Agreement according to its terms on behalf of Supplier.
7. **Non-Transferable Agreement:** The Supplier shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the prior written consent of the City Manager who is hereby authorized to give such consent by the City Council of the City; provided, however, that assignments to banks or other financial institutions may be made without consent of the City. Furthermore, in the event of a merger, consolidation or transfer of all or substantially all of the assets of Supplier, the surviving or resulting corporation or transferee of Supplier's assets shall be bound by and shall have the benefit of the provisions of this Contract only upon the prior written consent of the City Manager. No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Supplier's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the performance of the work under this Contract in favor of all persons, firms, or corporations rendering such labor or services or supplying such materials, tools, or equipment.
8. **Conflict of Interest:** Supplier warrants, represents, and agrees that Supplier presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Supplier's performance of the Services hereunder. Supplier further warrants and affirms that no relationship or affiliation exists between Supplier and the City that could be construed as a conflict of interest with regard to this Agreement.

9. **INDEMNIFICATION: THE SUPPLIER HEREBY AGREES TO AND SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, DEMANDS, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEYS' FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR LOSS OF USE OR REVENUE, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE ACTUAL OR ALLEGED MALFUNCTION, DESIGN OR WORKMANSHIP IN THE MANUFACTURE OF EQUIPMENT, THE FULFILLMENT OF CONTRACT, OR THE BREACH OF ANY EXPRESS OR IMPLIED WARRANTIES UNDER THIS CONTRACT. SUCH INDEMNITY SHALL APPLY WHERE THE CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS OR LIABILITY ARISE IN PART FROM (I) THE JOINT NEGLIGENCE OF THE CITY AND THE SUPPLIER, AND/OR THEIR RESPECTIVE OFFICERS, AGENTS AND/OR EMPLOYEES OR (II) THE SOLE NEGLIGENCE OF THE SUPPLIER, ITS OFFICERS, AGENTS AND EMPLOYEES. IT IS THE EXPRESSED INTENTION OF THE PARTIES HERETO, BOTH SUPPLIER AND THE CITY, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY SUPPLIER TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCE OF (I) THE CITY'S OWN NEGLIGENCE WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE WITH THAT OF THE SUPPLIER OF THE INJURY, DEATH OR DAMAGE AND/OR (II) THE SUPPLIER'S OWN NEGLIGENCE WHERE THAT NEGLIGENCE IS THE SOLE CAUSE OF THE INJURY, DEATH, OR DAMAGE. FURTHERMORE, THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS, DAMAGE, CAUSE OF ACTION, SUIT AND LIABILITY WHERE IN INJURY, DEATH OR DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF THE CITY UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR ENTITY. IN THE EVENT ANY ACTION OR PROCEEDING IS BROUGHT AGAINST THE CITY BY REASON OF ANY OF THE ABOVE, THE SUPPLIER AGREES AND COVENANTS TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO THE CITY. THE INDEMNITY PROVIDED FOR HEREIN SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.**
10. **Force Majeure:** Neither the City nor Supplier shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, pandemic, epidemic, public health emergency or quarantine, labor disorders, strikes, work stoppages or other labor trouble, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.
11. **Notices:** Any notice given under this contract by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notice shall be deemed communicated three (3) days after mailing.


12. **Jurisdiction:** Any disputes under this Agreement shall be brought in a court of competent jurisdiction in Harris County, Texas and governed by Texas law.
13. **Entire Agreement:** This Agreement contains the entire Agreement between the parties and supersedes all prior agreements, arrangements, and understanding, oral or written between the parties relating to this Agreement. This Agreement may not be modified except by mutual written agreement of the parties executed subsequent to this Agreement.
14. **Eligibility to Receive Payment:** Supplier certifies that, as a matter of State law, it is not ineligible to enter into the Agreement and receive payments pursuant to the Agreement and acknowledges that the Agreement may be terminated, and payment withheld if this representation is inaccurate.
15. **Payment of Debt/Delinquency to State:** Supplier certifies that it is not indebted to the City of Seabrook and is current on all taxes owed to the City of Seabrook. Supplier agrees that any payments owing to Supplier under the Agreement may be applied directly toward any debt or delinquency that Supplier owes the City of Seabrook regardless of when it arises, until such debt or delinquency is paid in full.
16. **Publicity:** Supplier shall not use City's name, logo or likeness in any press release, marketing materials or other public announcement without receiving City's prior written approval.
17. **Legal Construction/Severability:** In the event that any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this contract shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this contract are declared to be severable. The Parties may mutually agree to renegotiate the contract to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.
18. **Limitations:** The Parties are aware that there are constitutional and statutory limitations on the authority of City to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on City's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on City except to the extent authorized by the laws and Constitution of the State of Texas.
19. **Sovereign Immunity:** Except as otherwise provided by Texas law, neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement is a waiver of sovereign immunity by City.

20. **Authority:** Supplier warrants and represents that Supplier has full power and authority to enter into and perform this Agreement and to make the grant of rights contained herein. The person signing on behalf of the City represents that he/she has authority to sign this Agreement on behalf of City.
21. **Non-Waiver:** No covenant or condition of this Agreement may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.
22. **Prohibition on Boycotting Israel:** Pursuant to Section 2270.002, Texas Government Code, by executing this Agreement Supplier verifies that Supplier: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement.
23. **Prohibition Against Business with Iran, Sudan or Foreign Terrorists Organizations:** Supplier warrants, covenants, and represents that Supplier is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code

(Remainder of page intentionally left blank - signature block on next page)

Executed this _____ day of _____, _____.

COMMERCIAL CHEMICAL PRODUCTS INC., DBA POOLSURE, DBA PURIFY- “Supplier”

DocuSigned by:

9C0499A8A22F4A0...
Alan Falik, President/CEO

CITY OF SEABROOK – “City”

Thom Kolupski, Mayor

Attest:

Robin Hicks, City Secretary

Approved as to Form:

Office of the City Attorney

Note: Modification of this Form requires approval by the Office of the City Attorney.

Certificate Of Completion

Envelope Id: 0BD9511FA96D4C77B9F5568DE7321BAA	Status: Completed
Subject: Complete with DocuSign: Commercial Chemical Products DBA Poolsure Purify Contract Final 202305...	
Source Envelope:	
Document Pages: 6	Signatures: 1
Certificate Pages: 4	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Lori Wallace
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	1707 Townhurst
	Houston, TX 77043
	lwallace@poolsure.com
	IP Address: 72.46.97.19

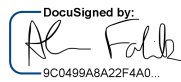
Record Tracking

Status: Original	Holder: Lori Wallace	Location: DocuSign
6/2/2023 11:21:55 AM	lwallace@poolsure.com	

Signer Events

Alan Falik
 afalik@poolsure.com
 CEO
 Security Level: Email, Account Authentication (None)

Signature



Signature Adoption: Uploaded Signature Image
 Using IP Address: 104.10.138.122
 Signed using mobile

Timestamp

Sent: 6/2/2023 11:23:18 AM
 Viewed: 6/2/2023 11:55:40 AM
 Signed: 6/2/2023 11:55:45 AM

Electronic Record and Signature Disclosure:
 Accepted: 5/10/2021 5:17:46 PM
 ID: 9383f2e9-ea06-4eef-ae4f-36236322293e

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/2/2023 11:23:18 AM
Certified Delivered	Security Checked	6/2/2023 11:55:40 AM
Signing Complete	Security Checked	6/2/2023 11:55:45 AM
Completed	Security Checked	6/2/2023 11:55:45 AM

Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Aquasol Controllars, Inc. (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the "I agree" button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign "Withdraw Consent" form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Aquasol Controllers, Inc.:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: pshaw@aquasol.com

To advise Aquasol Controllers, Inc. of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at pshaw@aquasol.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from Aquasol Controllers, Inc.

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to pshaw@aquasol.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Aquasol Controllers, Inc.

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to pshaw@aquasol.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000 or WindowsXP
Browsers (for SENDERS):	Internet Explorer 6.0 or above
Browsers (for SIGNERS):	Internet Explorer 6.0, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> • Allow per session cookies • Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to

other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the "I agree" button below.

By checking the "I Agree" box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Aquasol Controllers, Inc. as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Aquasol Controllers, Inc. during the course of my relationship with you.