

## TERMS AND CONDITIONS

The Terms and Conditions listed below will govern all matters relating to the goods and services provided by you or your company (the "Vendor") to the City of Charlotte (the "City") under this purchase order. Additional terms and conditions stated on the face of this purchase order shall take precedence over any conflicting terms and conditions stated below. Any terms and conditions not stated on the face of this purchase order but incorporated by reference therein shall be binding only if provided or signed by the City and attached hereto. In the event that a binding written contract signed by both the Vendor and the City exists, the terms and conditions of that contract shall supersede any conflicting terms and conditions below or on the face of this purchase order.

1. If Vendor refuses to accept this purchase order exactly as written, Vendor will return it at once with explanation.
2. The City will not be responsible for any goods or services delivered without a purchase order. Vendor will deliver invoices to the City only at the address shown on the face of this purchase order. Vendor will send separate invoices for each purchase order number.
3. No boxing, packing, cartage, or shipping charges will be allowed by City unless specifically authorized on the face of this purchase order.
4. Any cash discount period to City will date from City's receipt of the invoice or from the date of the receipt of goods, whichever is later.
5. Unless "FOB Origin" is stated on the face of this purchase order, the risk of loss of and damage to goods which are the subject of this purchase order remain on Vendor until the goods are delivered to the destination set out in this purchase order and accepted by the City.
6. The City may inspect all products or service deliverables prior to acceptance. Payment does not constitute acceptance. The City's failure to accept or reject products or services shall not relieve Vendor from liability for products or services that are defective or do not meet specifications. Rejected products shall be returned to Vendor at Vendor's risk and expense.
7. Vendor warrants that the products and services furnished pursuant to this purchase order shall: (a) comply with all federal, state, and local laws applicable thereto; (b) satisfy all requirements set forth on the face of this purchase order and any applicable documentation incorporated herein; (c) meet industry standards and be suitable for the purpose intended; (d) be of merchantable quality; and (e) be free from defects in title, labor, material, or fabrication.
8. The City may terminate this purchase order for convenience at any time by providing ten (10) days' written notice to Vendor. The City may terminate this purchase order or any part thereof effective immediately upon the giving of written notice of termination for cause if Vendor violates or fails to deliver or perform any covenant, provision, obligation, term, or condition contained in this purchase order, or if the City determines that Vendor will not be able to deliver or perform due to insolvency or other reason.
9. Vendor will defend, indemnify, and save the City harmless from any and all loss, damages, costs, fees, and expenses incurred on account of any and all claims, suits, or judgments alleging that any product or service provided under this purchase order violates any patent, copyright, trade secret, trade name, or any other intellectual property right of any nature.
10. If any product provided hereunder is defective in any respect whatsoever, Vendor will defend, indemnify and save City harmless from all loss, damages, costs, fees, and expenses incurred by reason of such defect, including without limitation all liability arising from any accidents, injuries, or damages to persons or property that may result in whole or in part from such product.
11. If Vendor performs services or constructs, erects, inspects, or delivers hereunder, Vendor will indemnify and save harmless the City from all loss, damages, costs, fees, or expenses incurred in connection with any accidents, injuries, or damages to persons or property that may result in whole or in part from the performance thereof.
12. Vendor agrees not to release any advertising or other materials using the City's trademark, quoting the opinion of any City employee or implying in any way that the City endorses Vendor or its products or services.
13. Vendor represents and warrants that no federal or state statute or regulation or municipal ordinance has been or will be violated in the manufacture, sale, or delivery of any product or service sold and delivered hereunder and if such violation has or does occur, Vendor will indemnify and save the City harmless from all loss, penalties, fees, costs, and expenses resulting in whole or in part from such violation.
14. As a condition for payment under this purchase order, Vendor shall: (i) comply with N.C. Gen. Stat. Sections 64-25 et seq. (the "E-Verify Requirements"); and (ii) cause each subcontractor hereunder to comply with those requirements. Vendor will indemnify and save harmless the City from all losses, damages, fees, costs, expenses, fines, and other liabilities resulting from any failure by Vendor or any subcontractor to comply with the E-Verify Requirements.
15. Except as required by law, any information or data of the City or its suppliers or subcontractors that Vendor receives access to in connection with this purchase order shall be kept as confidential proprietary information of the City and not divulged or made available to any individual or organization without City's prior written approval. Such information or data will be the sole property of the City and not Vendor. Access to "Restricted Data" (as defined by the City's Restricted Data Policy) is subject to execution of a confidentiality agreement by Vendor.
16. All intellectual property, including, but not limited to, patentable inventions, patentable plans, copyrightable works, trademarks, service marks, and trade secrets invented, developed, created, or discovered in performance of this purchase order shall be the property of the City.
17. Vendor agrees to comply with the Non-Discrimination Policy set forth in Chapter 2, Article V of the Charlotte City Code, and available for review at <http://library.municode.com/index.aspx?clientId=19970> and incorporated herein by reference. Vendor consents to be bound by the award of any arbitration conducted thereunder.
18. The City is a drug-free workplace employer. Charlotte City Council adopted a policy requiring City vendors to provide a drug-free workplace in the performance of any City contract, which is available at <https://cityvendors.charmeck.org> and incorporated herein by reference. Vendor certifies that it will comply with the City's drug-free workplace policy with respect to all personnel who provide services under this purchase order.
19. Vendor agrees to provide Payment Affidavits as required by Part D, Section 9 of the Charlotte Business Inclusion Policy, which is available at <http://charmeck.org/city/charlotte/CharlotteBusinessInclusion/Pages/default.aspx> and incorporated herein by reference.
20. Vendor shall pay all sales or use taxes that are or become due in connection with any products or services provided hereunder, and shall indemnify and save harmless the City from any damages, costs, fees, expenses, or penalties on account of such taxes. Vendor may charge the City only for those taxes that are set forth as a separate line item on the face of this purchase order.
21. Vendor shall secure, before delivery of any goods or services hereunder, Commercial General Liability insurance in an amount not less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate, with the City listed as additional insured. Vendor shall produce an insurance certificate evidencing such coverage upon request by the City.
22. In addition to the insurance required in the preceding paragraph, if Vendor performs services hereunder, Vendor shall secure, before delivery of such services (1) Workers' Compensation Insurance meeting State of North Carolina statutory requirements with \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit, providing coverage for employees and owners; and (2) Commercial Automobile Liability Insurance with limits of no less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit each occurrence/aggregate, with the City listed as additional insured. Evidence of commercial automobile coverage is necessary only if vehicles are used in the provision of services under this purchase order. Vendor shall produce an insurance certificate evidencing such coverage upon request by the City.
23. The City may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous custom, practice, or course of dealing.
24. The terms and conditions as stated in this purchase order govern in event of conflict with any terms of Vendor's proposal, and are not subject to change by reason of any written or verbal statements by Vendor or by any terms stated in Vendor's acknowledgment unless accepted in writing by the City.
25. This purchase order is governed by North Carolina law. Any legal actions arising from this purchase order shall be brought in Mecklenburg County, North Carolina.