

**City of New Bern  
Terms and Conditions**

**By acceptance of this purchase order, the vendor or contractor, hereinafter "Seller", declares that the supplies, materials, equipment, apparatus, or services will be furnished according to the following terms and conditions:**

1. **QUESTIONS CONCERNING THIS PURCHASE ORDER:** All questions, concerning this purchase order should be directed to the **Ship To: Department shown on purchase order.**
2. **PURCHASE ORDER NUMBER:** The purchase order number must appear on all invoices, packing slips, correspondence, and bills of lading. The City of New Bern (hereinafter "the City") will not be responsible for goods delivered exceeding \$500 without a purchase order.
3. **PRICE:** If prices or terms do not agree with your quotation, you must notify the **Ship To: Department** immediately. All prices are quoted F.O.B. DESTINATION unless specifically indicated otherwise.
4. **INVOICES:** Invoices are to be emailed to [accountspayable@newbern-nc.org](mailto:accountspayable@newbern-nc.org) or mailed to the City of New Bern, Attn: Accounts Payable, PO Box 1129, New Bern, NC 28563. Each purchase order must be invoiced separately. Invoices for partial shipments will be accepted and final invoices should indicate completion of order. The Purchase Order Number and Ship to Department should be referenced on all invoices. Do **not** mail invoices to the Ship to Department, this could result in delayed payments.
5. **CASH DISCOUNTS:** All cash discounts will be effective from the date of actual receipt of a correct and approved invoice by the ordering department.
6. **PAYMENT TERMS:** The City agrees to pay all approved invoices Net thirty (30) days from the date received and approved. The City does not agree to payment of late charges or finance charges assessed by the Seller for any reason. Invoices are "payable in U.S. currency, check, credit card, wire transfer or ACH" at the sole discretion of the City as to the method of payment.
7. **AVAILABILITY OF FUNDS:** Any and all payments to the Seller are dependent upon and subject to the availability of funds to the City for the purpose set forth in this order. In accordance with N.C.G.S. 159-28(a), "This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act."
8. **NON-APPROPRIATION:** All funds for payment by City under this Contract are subject to the availability of any annual appropriation by the governing board.
9. **TAXES:** The City is not Tax-Exempt. All applicable NC State sales taxes shall be paid by the City. Seller shall itemize taxes on the Seller's invoice by the NC County in which goods and services are received. It should be noted that the City is exempt from Federal Excise Tax except as required by law.
10. **QUANTITY:** The specific quantity ordered must be delivered in full and will not be changed without the purchasing manager's written consent. Any unauthorized quantity is subject to rejection and return at Seller's expense.
11. **FREIGHT AND PACKAGING:** Price quotations shall include freight, transportation, shipping, handling and similar charges. Collect freight shipments will be refused. The Seller shall absorb any increase in rates becoming effective after the date hereof. The Seller agrees to assume and pay all extra expense occurring on account of improper packaging.
12. **SERVICES PERFORMED:** All services rendered under this purchase order will be performed at the Seller's own risk and the Seller expressly agrees to indemnify and hold harmless the City, its officers, agents, and employees from any and all liability, loss or damage that they may suffer as a result of claims, demands, actions, damages or injuries of any kind or nature whatsoever by or to any and all persons or property.
13. **INSURANCE:** During the term of this purchase order, Seller shall maintain at its own expense (a) Commercial General Liability Insurance in an amount not less than \$1,000,000 per occurrence for bodily injury or property damage; "City of New Bern", PO box 1129, New Bern, NC 28563, shall be named as additional insured. (b) Professional Liability insurance in an amount not less than \$1,000,000 per occurrence - if providing professional services; (c) Workers Compensation Insurance, as required by the general statutes of the State of North Carolina, and Employer's Liability Insurance not less than \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease, and \$500,000 policy limit; (d) Commercial Automobile Insurance applicable to bodily injury and property damage, covering all owned, non-owned, and hired vehicles, in an amount not less than \$1,000,000 per occurrence as applicable. Certificates of Insurance shall be furnished prior to the commencement of services.
14. **APPLICABLE LAWS:** By the acceptance of this order, Seller represents that the goods covered by this order are in full compliance with all applicable local, state or federal laws and regulations and agrees to indemnify and defend the City against any loss, cost, liability or damage by reason of Seller's violation of any laws.
15. **CANCELLATION:** The City reserves the right to cancel this order, or any part thereof, at any time without penalty. Such cancellation may be based upon failure of the Seller 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 which causes the Seller not to perform as agreed. The City reserves the right to terminate this Agreement at any time, with or without cause.
16. **ACCEPTANCE AND INSPECTION:** All goods shall be subject to the City's right of inspection and rejection. Risk of loss and title to all goods shall remain with the Seller until acceptance has been made by the City. If goods are rejected, they will be returned at Seller's risk for credit or replacement at the City's option and all handling and transportation expenses both ways shall be assumed by the Seller. When goods have been rejected, the City shall have the right to cancel any unshipped portion of this order. Payment for supplies shall not constitute acceptance and is without prejudice to claims that the City may have against the Seller.
17. **WARRANTY:** The Seller expressly warrants that goods, covered by this order will conform to the specifications, drawings, or samples furnished by the City and shall be free from defects in material and/or workmanship and shall be merchantable. This warranty shall survive any inspection, delivery acceptance or payment by the City. The Seller also warrants that the goods do not infringe any "patent, registered trademark or copyright and agrees to hold the City harmless in the event" of any infringement or claim thereof. Additionally, Seller warrants that the goods are free and clear of all liens and encumbrances and that Seller has a good and marketable title to the same.
18. **HAZARDOUS CHEMICALS:** The Seller shall ensure that any container of a hazardous chemical is labeled, tagged or marked with information required by OSHA's Hazard Communication Standard, Department of Transportation requirements, and any applicable EPA or DOT requirements.
19. **SAFETY DATA SHEETS (SDS):** The Seller shall ensure that the City is provided an appropriate current SDS with or prior to the initial shipment of a hazardous chemical, and with or prior to the first shipment after the SDS is updated.
20. **NON-DISCRIMINATION POLICY:** The City does not discriminate on the basis of race, color, sex, sexual orientation or national origin, religion, age or disability or political affiliation. Any Sellers who provide services, programs or goods to the City are expected to fully comply with State and Federal non-discrimination requirements.
21. **VERBAL AGREEMENT:** The City will not be bound by any verbal agreements.
22. **INDEPENDENT CONTRACTOR:** It is mutually understood and agreed the Seller is an independent contractor and not an agent of the City, and as such, Seller, his or her agents and employees shall not be entitled to any City employment benefits, such as but not limited to vacation, sick leave, insurance, worker's compensation, pension or retirement benefits.
23. **GOVERNING LAW:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined. All terms and conditions shall be interpreted in accordance with the laws of the State of North Carolina.
24. **E-VERIFY:** As a condition of payment for services rendered under this agreement, Seller shall comply with the requirements of Article 2 Chapter 64 of the General Statutes. Further, if Seller provides the services to the City utilizing a subcontractor, Seller shall require the subcontractor to comply with requirements of Article 2 Chapter 64 of the General Statutes as well.
25. **FEDERAL FUNDS:** By acceptance of this Purchase Order, the Vendor/Contractor agrees to comply with all applicable provision of Title 2, Subtitle A, Chapter II, Part 200-Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards contained in Title 2 CFR 200 et seq.