



TOWN *of* WAKE FOREST

Standard Terms and Conditions

1. **Town of Wake Forest Standard Terms & Conditions exclusively governs this purchase.** Vendor quotes or proposals are referenced for scope only.
2. All invoices are to be sent by email to: **accounts.payable@wakeforestnc.gov** . Or, mail or deliver all invoices to the **Town of Wake Forest, Accounts Payable, 301 S. Brooks Street, Wake Forest, NC 27587.**
3. **Important: All invoices must include a unique invoice number and this Purchase Order number.** Invoices submitted without the unique invoice number or without the correct purchase order number will result in delayed payment.
4. Invoices for partial deliveries must be indicated as such.
5. The Vendor must provide separate invoices for each Purchase Order number.
6. **The Town of Wake Forest is not exempt from State or County Sales Tax. Sales Tax will be paid from Vendors invoice, when submitted.**
7. The Town of Wake Forest is exempt from Federal Excise Tax. If any form of such tax is billed on the invoice, it must be shown as a separate item. Tax Exemption Certificates will be furnished upon request.
8. Payment term discounts will be deducted as provided for on the front of this Purchase Order or in accordance with the terms of your official quotation or bid. **Net purchases will be paid 30 days from the date of your invoice, or upon acceptance of goods or services.**
9. **Important: All packages must bear the correct Purchase Order number on the outside of each package or shipping container.**
10. The Town of Wake Forest will not be responsible for any goods delivered without a Purchase Order, if applicable, having been issued.
11. The conditions of this order cannot be modified except by written amendment in the form of a "Corrected Purchase Order" which has been approved by the Town of Wake Forest's Purchasing Manager.
12. Any rejected materials will be returned to the Vendor at the Vendor's risk and expense.
13. In the event of a Vendor's failure to deliver or perform as specified, the Town reserves the right to cancel the order or any part thereof, without prejudice to its other rights. The Vendor agrees that the Town may return part or all of any shipment and may charge the vendor with all reasonable losses or expenses sustained as a result of such failure to deliver or perform.
14. In case of default of the contractor, the Town may procure the articles or services from other sources and charge the Vendor damages for any excess costs or other damages caused by the default.
15. It is agreed that the goods, materials, equipment or services provided shall comply with all Federal, State or local laws, and that the Vendor shall defend actions or claims brought, and save harmless the Town, and/or its officials or employees, from loss, cost or damage by reason of actual or alleged failure to comply with such laws.
16. All prices must be F.O.B. Destination and delivered to the destination indicated on the front of the purchase order. Where specific purchase is quoted or negotiated F.O.B. Shipping Point, the vendor is to prepay the shipping charges and add them to the invoice.
17. The risk of loss and damage to the goods which are the subject of this order shall be the Vendor's until the goods are delivered to the destination set out in the order and accepted by the purchaser or its representative.
18. The Town may, at any time, insist upon strict compliance with these terms and conditions, notwithstanding any previous customer, practice or course of dealing to the contrary. **Acceptance of the order includes acceptance of all terms, conditions, prices, delivery instructions and specifications as shown on this order or attached to and made a part of this order.**

19. All matters relating to this Purchase Order shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action relating to this Contract shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.

20. Notwithstanding any other provisions of this Purchase Order, this Purchase Order and all materials submitted to the Town by the Vendor are subject to the public records laws of the State of North Carolina and it is the responsibility of the Vendor to properly designate materials that may be protected from disclosure as trade secrets under North Carolina law as such and in the form required by law prior to the submission of such materials to the Town. Vendor understands and agrees that the Town may take any and all actions necessary to comply with federal, state, and local laws and/or judicial orders and such actions will not constitute a breach of the terms of this Purchase Order. To the extent that any other provisions of this Purchase Order conflict with this paragraph, the provisions of this section shall control.

21. **Non-discrimination** - The Town and Vendor, for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this Purchase Order, no matter how remote.

22. **Insurance** – If performing services under this Purchase Order the Vendor agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this Purchase Order the following coverages and limits. The requirements contained herein, as well as Town's review or acceptance of insurance maintained by Vendor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Vendor under this Purchase Order:

Workers' Compensation Insurance - Vendor agrees to maintain Worker's Compensation Insurance in accordance with North Carolina General Statute Chapter 97 and with limits of no less than \$1,000,000 each accident, each employee and policy limit.

Commercial General Liability - Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

Commercial Automobile Liability - Limits of no less than \$500,000 Combined Single Limit. Coverage shall include liability for Owned, Non-Owned and Hired automobiles. In the event Vendor does not own automobiles, Vendor agrees to maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Auto Liability policy. Automobile coverage is only necessary if vehicles are used in the provision of services under this Purchase Order and/or are brought on a **TOWF** site.

Additional Insured - Vendor agrees to endorse the Town as an Additional Insured on the Commercial General Liability.

Umbrella or Excess Liability - Vendor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability, however, the Annual Aggregate limits shall not be less than the highest 'Each Occurrence' limit for required policies.

Professional Liability - Limits of no less than \$1,000,000 each claim. This coverage is only necessary for professional services such as engineering, architecture or when otherwise required by the Town.

The Town reserves the right to require a Certificate of Insurance meeting the minimum coverage and requirements of this section. Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when available, by Vendor's insurer. If Vendor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Vendor agrees to notify the Town within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. The Certificate Holder address should read:

Town of Wake Forest
301 S. Brooks Street
Wake Forest, NC 27587

All insurance companies must be authorized to do business in North Carolina and be acceptable to the Town of Wake Forest's Risk Manager. The Town may increase, decrease or waive insurance limits at its sole discretion.

23. **Indemnity** – To the extent permitted by law, the Consultant / Contractor agrees to defend, pay on behalf of, indemnify, and hold-harmless the Town of Wake Forest, its elected and appointed officials, employees, agents, and volunteers against any and all claims, demands, fault, actual liabilities, assertions of liability, expenses, suits, or losses, including all costs connected therewith, which may be asserted, claimed, or recovered against or from the Town of Wake Forest, its elected or appointed officials, employees, agents, and volunteers by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof resulting from the negligence of the Consultant / Contractor.

24. **Intellectual Property** - All intellectual property, including, but not limited to, patentable inventions, patentable plans, copyrightable works, mask works, trademarks, service marks and trade secrets invented, developed, created or discovered in performance of services under this Purchase Order shall be the property of the Town.

Copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of the Vendor's performance of services under this Purchase Order shall vest in the Town. Works of authorship and contributions to works of authorship created by the Vendor's performance of services under this Purchase Order are hereby agreed to be 'works made for hire' within the meaning of 17 U.S.C. 201.

25. **Force Majeure** - Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign actions, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Except at otherwise provided in any environmental laws, rules, regulations or ordinances applicable to the parties and the services performed under this Purchase Order, neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign actions, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God. Either party to the Purchase Order must take reasonable measures and implement reasonable protections when a weather event otherwise defined as a force majeure event is forecast to be eligible to be excused from the performance otherwise required under this Purchase Order by this provision.

26. **Cancellation** - The Town may terminate this Purchase Order at any time by providing written notice to the Vendor. Vendor shall cease performance immediately upon receipt of such notice. In the event of early termination, Vendor shall be entitled to receive just and equitable compensation for costs incurred prior to receipt of notice of termination and for the satisfactory work completed as of the date of termination and delivered to the Town. Notwithstanding the foregoing, in no event will the total amount due to Vendor under this section exceed the total amount due Vendor under this Purchase Order.

27. **Miscellaneous** - The Vendor shall be responsible for the proper custody and care of any property furnished or purchased by the Town for use in connection with the performance of this Purchase Order, and will reimburse the Town for the replacement value of its loss or damage. The Vendor shall be considered an Independent Contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Nothing herein is intended or will be construed to establish any agency, partnership, or joint venture. Vendor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Purchase Order. Such employees shall not be employees of or have any individual contractual relationship with the Town.

28. **E-Verify** – Vendor understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25 et seq. Vendor is aware of and in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes. To the best of the Vendor's knowledge, any subcontractors employed by them as a part of this contract are in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes.

29. **Iran Divestment Act Certification** – Vendor certifies that, as of the date of the purchase order or contract, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 143-6A-4 and is in compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 143C-6A-5(b). Vendor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.

30. Any questions regarding these Standard Terms and Conditions should be directed to Randy Driver, Purchasing Manager (919) 435-9474 or rdriver@wakeforestnc.gov