

## **Pender County – Purchase Order TERMS AND CONDITIONS**

In accepting this Purchase Order, from Pender County North Carolina (the "County"), your company (the "Vendor"), acknowledges and agrees to abide by the Terms and Conditions set forth below. 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 County and attached hereto. In the event that a binding written contract signed by both the Vendor and the County exists, the terms and conditions of that contract shall supersede any conflicting terms and conditions below or on the face of this Purchase Order as expressly stated.

### **1. COUNTY RIGHT TO CANCEL OR RESCIND**

The County reserves the right to cancel or otherwise rescind a Purchase Order based on the County's best interest.

**2. PURCHASE ORDER REQUIRED** – The County will not be responsible for any equipment, supplies, and/or services delivered without a Purchase Order and assumes no obligation for products or services shipped or delivered in excess of the quantity ordered. Any unauthorized products or services are subject to the County's rejection and shall be returned at the Vendor's expense.

**3. VENDOR FAILURE TO DELIVER** – In the event of Vendor's failure to deliver as and when specified, or to perform as and when specified, the County reserves the right to cancel this order, or any part thereof, without prejudice to its other rights, and Vendor agrees that the County may return part of any shipment so made and may charge Vendor with any loss expense sustained as a result of such failure to deliver or perform.

**4. CHANGES** – If Vendor refuses to accept this purchase order exactly as written, Vendor will return it at once with explanation. Any changes to this Purchase Order will be considered a 'Change Order' and requires the written acceptance of both parties to become effective. This will include product or service substitutions, cost changes, and delivery schedule changes.

**5. INVOICES** – Vendor will deliver invoices to the County at the address or electronically at website shown on the face of this Purchase Order. Vendor will send separate invoices for each purchase order number and invoices must be itemized in accordance with the items listed on the Purchase Order.

**6. PRICE** – The itemized price listed for products and services on the Vendor invoice must match that specified on the Purchase Order. No boxing, packing, cartage, or shipping charges will be allowed by the County unless specifically authorized on the face of this Purchase Order. Any cash discount period to County will date from County's receipt of the invoice or from the date of the receipt of goods, whichever is later.

**7. TAXES** – 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 County from any damages, costs, fees, expenses, or penalties on account of such taxes. Vendor is required to list all applicable taxes as separate lines on the face of the invoice.

**8. DELIVERY/TITLE** – Unless otherwise agreed, delivery shall be f.o.b. point of destination and title shall pass to County upon acceptance at the final delivery point. Risk of damages or loss following

shipment and prior to acceptance by County shall be the responsibility of Vendor.

### **9. RIGHT OF INSPECTION AND REJECTION**

Equipment, supplies, and services supplied by Vendor shall be received subject to the County's inspection and approval either during manufacturing or delivery (with prior arrangement), or within a reasonable time after delivery, notwithstanding prior payment. If specifications or warranties are not met, material and equipment may be returned at Vendor's expense. No material or equipment returned to Vendor as defective shall be replaced except upon the County's formal authorization.

**10. ASSIGNMENT** – Neither this Purchase Order nor any interest therein nor shall any claim arising hereunder be transferred or assigned by Vendor without the prior written consent of the County. Vendor may transfer or assign the benefits of this agreement, in whole or in part, including without limitation the County's warranty, without the approval of County.

**11. WARRANTY/PERFORMANCE** – 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.

**12. INDEMNIFICATION - INFRINGEMENT** – Vendor will defend, indemnify, and save the County 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.

**13. INDEMNIFICATION – DAMAGES** – If any product provided hereunder is defective in any respect whatsoever, Vendor will defend, indemnify, and save County 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.

**14. INDEMNIFICATION – CONSEQUENCES OF ACTIONS** – If Vendor performs services or constructs, erects, inspects, or delivers hereunder, Vendor will indemnify and save harmless the County 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.

**15. USE OF COUNTY NAME OR LOGO** – Vendor agrees not to release any advertising or other materials using the County's trademark, quoting the opinion of any County employee or implying in any way that the County indorses Vendor or its products or services.

**16. FEDERAL OR STATE STATUTE** – 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 County harmless from all loss, penalties, fees, costs, and expenses resulting in whole or in part from such violation.

**17. E-VERIFY REQUIREMENTS** – As a condition for payment under this purchase order, Vendor shall: (i) comply with N.C. Gen. Stat. Sections 64-25 et seq. (the "EVerify Requirements"); and (ii) cause each subcontractor hereunder to comply with such requirements. Vendor will indemnify and save harmless the County 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.

**18. INSURANCE** – 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 County as additional insured. Vendor shall produce an insurance certificate evidencing such coverage upon request by the County.

**19. STRICT COMPLIANCE** – The County may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous custom, practice, or course of dealing.

**20. MATERIAL SAFETY DATA SHEETS** – Current Material Safety Data Sheets, when applicable to the order, shall be provided by Vendor in accordance with all regulations.

**21. VENUE FOR LEGAL ACTIONS** – This purchase order is governed by North Carolina law without regard to its conflicts of law principles. Any legal actions arising from this purchase order shall be brought in Pender County, North Carolina.