

The Procurement Division of Knox County, Tennessee will receive sealed bids for the provision of **COPIER RENTAL** as specified herein. Bids must be received by **2:00 p.m. on May 23, 2022**. Late bids will not be considered nor returned.

Deliver Bids To:
Invitation for Bids Number 3263
Knox County Procurement Division
Suite 100
1000 North Central Street
Knoxville, Tennessee 37917

The Bid Envelope must show the Company Name, Bid Number, Name and Opening Date.

SECTION I GENERAL TERMS AND CONDITIONS

- 1.1 **ADDITIONAL INFORMATION:** Knox County wants requests for additional information routed to Diane Woods, CPPB at 865.215.5760 or emailed to diane.woods@knoxcounty.org. Information about the Knox County Procurement Division and current solicitations may be obtained on the internet at www.knoxcounty.org/procurement.
- 1.2 **ACCEPTANCE:** Bidders shall hold all pricing firm and subject to acceptance by Knox County for a period of ninety (90) calendar days from the date of the bid opening, unless otherwise indicated in their bid.
- 1.3 **ALTERNATIVE BIDS:** Knox County will not accept alternate bids (those not equal to specifications) unless authorized by the Invitation for Bid.
- 1.4 **AUDIT HOTLINE:** Knox County has established an Audit Hotline to report potential fraud and waste. To report potential fraud, waste or abuse, please call or 1-866-858-4443 (toll-free). You can also file a report online by accessing <http://www.knoxcounty.org/hotline/index.php>. **Vendors are hereby cautioned that this Audit Hotline does not replace the Award Protest Procedures found in Section VI, Item M of the Knox County Procurement Regulations.**
- 1.5 **AWARD:** Award will be made to the most responsive, responsible bidder(s) meeting specifications, who present the bid that is in the best interest of Knox County. The County reserves the right to make a single award or a multiple award. **Knox County reserves the right to not award this Bid.** Award will be made in accordance with the evaluation criteria specified herein.
- 1.6 **BID DELIVERY:** Knox County is currently undergoing a software upgrade and is currently unable to accept electronic submission of bids. All bids must be submitted in hard copy format to the address listed in the solicitation. Knox County requires bidders to hand deliver bids and to time stamp and date the envelope before depositing it in the bid box. The time clock in the Procurement Division shall become the official record of time. Knox County will not be responsible for any lost or misdirected mail sent by common carrier, nor will Knox County be responsible for solicitations delivered to addresses other than the delivery address specified at the top of this solicitation.
- Solicitations must be in a sealed envelope/box prior to entering the Procurement Division office. Procurement Division personnel are not allowed to see the submittal nor assist in placing documents in an envelope/box. Additionally, the Procurement Division is not responsible for providing materials (e.g., envelopes, boxes, tape) for submittals.**
- 1.7 **BIDS REQUESTED ON BRANDS OR EQUAL:** Unit price bids are requested on products that equal or exceed the quality and performance of the brands and model numbers listed. Reference to brand names, trade names, model numbers or other descriptions peculiar to specific brand products are made to establish a required level of quality and functional capabilities and are not intended to exclude other products of that level. Comparable products of other manufacturers will be considered if proof of comparability is contained in their bid. Or Equal does not mean the manufacturing process, but rather the item will perform in the manner required by the County.
- 1.8 **BUSINESS OUTREACH PROGRAM:** Knox County has established a Business Outreach Program, which has the responsibility of increasing opportunity for small, minority and women owned businesses. This is being accomplished through community education programs, policy edification, active recruitment of interested businesses and process re-engineering.

Knox County is committed to ensuring full and equitable participation for all disadvantaged businesses. Knox County welcomes submittals from those disadvantaged businesses that have an interest in providing goods and/or services listed herein. In addition, Knox County strongly encourages the inclusion of disadvantaged businesses by non-disadvantaged contractors who may wish to partner or subcontract portions of this agreement to accomplish the successful delivery of goods and/or services. If you are a disadvantaged business and would like additional information about our Business Outreach Program, please contact:

Diane Woods, Administrator of Business Outreach
Telephone: 865.215.5760
Fax: 865.215.5778
Emails: diane.woods@knoxcounty.org

- 1.9 CLOSURES:** During period of closure due to unforeseen circumstances in Knox County or closures at the direction of the Knox County Mayor, the Procurement Division will enact the following procedures regarding solicitations and closures:
- If the Mayor closes the administrative offices prior to the time set to solicitation opening of any business day, all solicitations due that same day will be moved to the next operational business day.
 - Other unforeseen circumstances shall be at the sole direction of the Procurement Director.
 - Knox County shall not be liable for any commercial carrier's decision regarding deliveries during any unforeseen circumstances.
- 1.10 CONFLICT OF INTEREST:** Bidders must have read and complied with the "Non-Conflict of Interest" statement provided in the vendor registration process prior to the closing of this solicitation.
- 1.11 COPIES:** Knox County **requires** that bids being submitted by hand be in one (1) marked original and one (1) exact copy. Bidders must also scan their entire response into one (1) .pdf file and submit on a flash drive.
- 1.12 DECLARATIVE STATEMENTS:** Any statement or words (e.g.: must, shall, will) are declarative statements and bidders **must** comply with the condition. Failure to comply with any such condition will result in their Bid being non-responsive and disqualified.
- 1.13 DESCRIPTIVE LITERATURE:** Vendors, if bidding other than specified, must clearly identify the manufacturer and the specifications, to which they are submitting. Vendors may also be requested to provide descriptive literature with their bid.
- 1.14 ELECTRONIC TRANSMISSION OF BIDS:** Due to the nature of this bid, the Knox County Procurement Division **will not** accept electronically transmitted Bids through the County's On-Line Procurement System. Facsimile submission is strictly prohibited. Bids may be submitted by hand or commercial carrier.
- 1.15 INCURRED COSTS:** Knox County will not be responsible for any costs incurred by the Bidder in the preparation of their Bid.
- 1.16 NON-COLLUSION:** Bidders, by submitting a signed Bid, certify that the accompanying Bid is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under Tennessee or United States law.
- 1.17 PAYMENT METHOD:** No payments are to be accepted using a credit card for the copier rental. All payments for the copier rental will be made by County check. These payments can be ACH payments if the successful vendor provides their banking information to the Knox County Finance Department.
- 1.18 POSSESSION OF WEAPONS:** All vendors and their employees and their agents are prohibited from possessing any weapons on Knox County property without prior written consent from the County. In the case of a vendor whose Contract requires possession of firearms or other weapons to successfully complete their Contract, vendor must provide personnel who are bonded to bear said weaponry.
- 1.19 PROCESSING TIME FOR PAYMENT:** Bidders are advised that approximately thirty (30) calendar days are required to process invoices for payment when the invoicing instructions herein are followed.

- 1.20 PROOF OF FINANCIAL AND BUSINESS CAPABILITY:** Bidders must, upon request, furnish satisfactory evidence of their ability to fulfill all obligations of the Contract in accordance with the terms and conditions of these specifications. Knox County will make the final determination as to the Bidder's ability.
- 1.21 RECYCLING:** Knox County, in its continuing efforts to lessen the amount of landfill waste and to further recycling efforts, requests that Bids being submitted on paper shall:
- 1.21.1** Be submitted on recycled paper
 - 1.21.2** Not include pages of unnecessary advertising
 - 1.21.3** Be made on both sides of each sheet of paper
- 1.22 RESTRICTIVE OR AMBIGUOUS SPECIFICATIONS:** It is the responsibility of the prospective Bidder to review the entire Invitation for Bid (IFB) packet and to notify the Procurement Division if the specifications are formulated in a manner that would unnecessarily restrict competition. Any such protest or question regarding the specifications or bid procedures must be received in the Procurement Division no later than **May 16, 2022 at 4:30 p.m. local time.** These requirements also apply to specifications that are ambiguous.
- 1.23 SIGNING OF BIDS:** When submitting your Bid in order to be considered, all bids **must** be signed. **Please sign the original in blue ink.** Failure of Bidder to sign the Bid **will result in the rejection of the submittal.**
- 1.24 TAXES:** Knox County purchases are not subject to taxation. Tax exemption certificates will be provided upon request.
- 1.25 TERM BID AGREEMENTS:** If this bid results in a term bid Contract with the vendor, Knox County must receive all general price decreases that other similar customers receive.
- 1.26 TITLE VI OF THE CIVIL RIGHTS ACT:** "Nondiscrimination in Federally Assisted Programs"- "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. section 2000 et seq. It is the policy of Knox County Government that all its services and activities be administered in conformance with the requirements of Title VI.
- 1.27 USE OF BID FORMS:** Vendors are to complete the bid forms contained in the bid package. Failure to complete the Bid forms may result in bid rejection.
- 1.28 VENDOR DEFAULT:** Knox County reserves the right, in case of vendor default, to procure the articles or services from other sources and hold the defaulting vendor responsible for any excess costs occasioned thereby. Should vendor default be due to a failure to perform or because of a request for a price increase, Knox County reserves the right to remove the vendor from the County's bidder's list for twenty-four (24) months.
- 1.29 VENDOR REGISTRATION:** Prior to the submission deadline for this solicitation, ***ALL BIDDERS MUST*** be registered with the Procurement Division. If you are not already a registered vendor with Knox County, a vendor application must be completed and submitted via email to lindsay.stout@knoxcounty.org. Vendors must be registered with the Procurement Division **prior** to submitting their bid.
- 1.30 WAIVING OF INFORMALITIES:** Knox County reserves the right to waive minor informalities or technicalities when it is in the best interest of Knox County.

SECTION II OBLIGATIONS, RIGHTS AND REMEDIES

These terms and conditions shall be part of the Contract. Knox County reserves the right to negotiate other terms and conditions it deems appropriate and necessary under the circumstances to protect the public trust.

- 2.1 ALTERATIONS OR AMENDMENTS:** No alterations, amendments, changes, modifications or additions to this Contract shall be binding on Knox County without the prior written approval of the County.
- 2.2 APPROPRIATION:** In the event no funds are appropriated by Knox County for the goods or services in any fiscal year or insufficient funds exist to purchase the goods or services, then the Contract shall expire upon the expenditure of previously appropriated funds or the end of the current fiscal year, whichever occurs first, with no further obligations owed to or by either party.

- 2.3 ASSIGNMENT:** Contractor shall not assign or sub-contract this agreement, its obligations or rights hereunder to any party, company, partnership, incorporation or person without the prior written specific consent of Knox County.
- 2.4 BOOKS AND RECORDS:** Contractor shall maintain all books, documents, accounting records and other evidence pertaining to the goods and services provided under this Contract and make such materials available at its offices at all reasonable times during the Contract period and for three (3) years from the date of the final payment under this agreement for inspection by County or by any other governmental entity or agency participating in the funding of this agreement, or any authorized agents thereof; copies of said records to be furnished if requested.
- Such records shall not include those books, documents and accounting records that represent the Contractor's costs of manufacturing, acquiring or delivering the products and services governed by this agreement.
- 2.5 CHILD LABOR:** Contractor agrees that no products or services will be provided or performed under this Contract that have been manufactured or assembled by child labor.
- 2.6 COMPLIANCE WITH ALL LAWS:** Contractor is assumed to be familiar with and agrees to observe and comply with all federal, state, and local laws, statutes, ordinances, and regulations in any manner affecting the provision of goods and/or services, and all instructions and prohibitive orders issued regarding this work and shall obtain all necessary permits.
- 2.7 DEFAULT:** If Contractor fails to perform or comply with any provision of this Contract or the terms or conditions of any documents referenced and made a part hereof, Knox County may terminate this Contract, in whole or in part, and may consider such failure or noncompliance a breach of Contract.
- Knox County expressly retains all its rights and remedies provided by law in case of such breach, and no action by Knox County shall constitute a waiver of any such rights or remedies. In the event of termination for default, Knox County reserves the right to purchase its requirements elsewhere, with or without competitive solicitation.
- 2.8 GOVERNING LAW:** The laws of the State of Tennessee shall govern this Contract, and all obligations of the parties are performable in Knox County, Tennessee. The Chancery Court and/or the Circuit Court of Knox County, Tennessee, shall have exclusive and concurrent jurisdiction of any disputes, which arise hereunder.
- 2.9 INCORPORATION:** All specifications, drawings, technical information, Invitation for Bid, Bid, Award and similar items referred to or attached or which are the basis for this Contract are deemed incorporated by reference as if set out fully herein.
- 2.10 INDEMNIFICATION--HOLD HARMLESS:** Contractor shall indemnify, defend, save and hold harmless Knox County, its officers, agents and employees from all suits, claims, actions or damages of any nature brought because of, arising out of, or due to breach of the agreement by Contractor, its subcontractors, suppliers, agents, or employees or due to any negligent act or occurrence or any omission or commission of Contractor, its subcontractors, suppliers, agents or employees.
- 2.11 INDEPENDENT CONTRACTOR:** Contractor shall acknowledge that it and its employees serve as independent Contractors and that Knox County shall not be responsible for any payment, insurance or incurred liability.
- 2.12 INSPECTION AND ACCEPTANCE:** Warranty periods shall not commence until Knox County inspects and formally accepts the goods and/or services. The terms, conditions and timing of acceptance shall be determined by Knox County. Knox County reserves the right to reject any or all items or services not in conformance with applicable specifications, and Contractor assumes the costs associated with such nonconformance. Acceptance of goods or services does not constitute a waiver of latent or hidden defects or defects not readily detectable by a reasonable person under the circumstances.
- 2.13 IRAN DIVESTMENT ACT:** By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Tennessee Code Annotated § 12-12-106.
- 2.14 LIMITATIONS OF LIABILITY:** In no event shall Knox County be liable for any indirect, incidental, consequential, special or exemplary damages or lost profits, even if Knox County has been advised of the possibility of such damages.

2.15 NON-DISCRIMINATION AND NON-CONFLICT STATEMENT: Contractor agrees that no person on the grounds of handicap, age, race, color, religion, sex or national origin, or any individual trait or characteristic found to be an illegal consideration, shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this agreement, or in the employment practices of vendor. Contractor shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination. Contractor covenants that it complies with the Fair Wage and Hour Laws, the National Labor Relations Act, and other federal and state employment laws as applicable. Contractor covenants that it does not engage in any illegal employment practices.

Contractor covenants that it has no public or private interest and shall not acquire directly or indirectly any interest that would conflict in any manner with the provision of its goods or performance of its services. Contractor warrants that no part of the total Contract amount provided herein shall be paid directly or indirectly to any officer or employee of Knox County as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to Contractor in connection with any goods provided or work contemplated or performed relative to the agreement.

2.16 ORDER OF PRECEDENCE: In the event of inconsistent or conflicting provision of this Contract and referenced documents, the following descending order of precedence shall prevail: (1) Item Description, (2) Invitation for Bid, (3) Contractor's Response to Invitation for Bid, (4) Award, (5) Special Terms and Conditions, (6) General Terms and Conditions, (7) Specifications.

2.17 REMEDIES: Knox County shall have all rights and remedies afforded under the U.C.C. and Tennessee law in Contract and in tort, including but not limited to rejection of goods, rescission, right off, set-off, refund, incidental, consequential and compensatory damages and reasonable attorney's fees.

2.18 RIGHT TO INSPECT: Knox County reserves the right to make periodic inspections of the manner and means the service is performed or the goods are supplied.

2.19 SEVERABILITY: If any provision of this Contract is declared illegal, void or unenforceable, the remaining provisions shall not be affected but shall remain in force and in effect.

2.20 TAX COMPLIANCE: Pursuant to Resolution R-07-1-903 passed by the Commission of Knox County, Tennessee, Bidder hereby acknowledges, by submission of its bid and signature that it is current in its respective Federal, State, County, and City taxes of whatever kind or nature and is not delinquent in any way. Delinquent status must be disclosed or risk debarment by the Knox County Procurement Division.

2.21 TERMINATION: County may terminate this agreement with or without cause at any time upon thirty calendar days written notice. In the event of termination by either party, fees due for services satisfactorily performed or goods accepted prior to the termination date shall be paid.

2.22 WARRANTY: Contractor warrants to Knox County that all items delivered, and all services rendered shall conform to the specifications, drawings, Bid and/or other descriptions furnished and/or incorporated by reference, and will be fit for the particular purpose purchased, of merchantable quality, good workmanship, and free from defects. Contractor extends to Knox County all warranties allowed under the U.C.C. Contractor shall provide copies of warranties to the County. Return of merchandise not meeting warranties shall be at Contractor's expense.

SECTION III SPECIAL TERMS AND CONDITIONS

3.1 INTENT: The intent of these specifications is to set forth and convey to prospective bidders the general type, character and quality of Copier Rental desired by Knox County. Award will be based on Best Value. Best Value means more than low cost. It includes initial cost, service quality and other factors detailed herein.

3.2 ACCEPTANCE: Bidders are advised that the payment of an invoice does not necessarily constitute as an acceptance of services that are provided. Acceptance requires a specific written action by Knox County so stating.

3.3 ACCOUNT SET-UP: The successful vendor(s) will be required to set up separate accounts for each department with Knox County Government. The successful vendor(s) will be required to invoice, as well as post payments, to the proper department. All invoicing information shall be provided on the purchase orders issued by the Knox County Procurement Division. Each department within Knox County Government is responsible for their budget and paying their invoices.

If an invoice becomes over thirty (30) days late, we ask you contact the department first and if there is no resolution, please contact the Knox County Procurement Division so the matter can be resolved immediately. It is Knox County's intention to submit payment when invoices are due and to keep an outstanding relationship with its vendors.

- 3.4 **ADDITIONS AND DELETIONS:** Knox County reserves the right to add or delete goods and/or services as the need arises. If goods and/or services are to be added, Knox County and the Contractor will arrive at a mutually agreed price.
- 3.5 **ADJUSTMENT:** Knox County departments reserve the right to adjust their Volume Band within ninety (90) days from the date of installation without penalty or extra charges or without extending the original contract.
- 3.6 **AWARD:** Multiple award(s) may be made on each volume band of this agreement. Departments may determine which copiers and options best fits their office needs and budget. The bid pricing submitted shall remain firm for the length of the agreement.
- 3.7 **AWARD STATUS:** Knox County intends to issue an initial one (1) year award. Upon the mutual agreement of the Vendor and Knox County, the award may be extended four (4) additional one (1) year options. This may result in a total of five (5) years. The renewal option is at the discretion of Knox County. Should Knox County desire not to renew, no reason needs to be given. Knox County reserves the right to purchase these services from other sources if the need arises. Knox County reserves the right to revoke the award if a pattern of unavailability arises with the Vendor.
- 3.8 **BACKGROUND CHECKS:** A Knox County Sheriff's Office background check may be a requirement for all employees of the vendor's staff providing services to certain information-sensitive departments (i.e., Knox County Sheriff's Office and the court system areas). Certain felony convictions will prohibit individuals from entering these facilities. All costs associated with background checks will be the responsibility of Knox County.
- 3.9 **BID EVALUATION:** In evaluating the bids, Knox County reserves the right to use any or all of the ideas from the bids submitted without limitation and to accept any part or the entire successful bid in selecting an operation which is judged to be in the best interest of Knox County. All material submitted becomes the property of Knox County.
- 3.10 **BIDDER OBLIGATION:** Each bidder shall become fully acquainted with conditions relation to the scope and restrictions attending the execution of the work under this Invitation for Bid. The failure or omission of a bidder to become acquainted with existing conditions shall no way relieve the bidder of any obligations with respect to this bid.
- 3.11 **CHANGES AFTER AWARD:** It is possible that after award, Knox County might change its needs or requirements. Knox County reserves the right to make such changes after consultation with the vendor. Should additional costs arise, Knox County reserves the right to consider accepting these charges provided the bidder can document the increased costs. Knox County also reserves the right to accept proposed service changes from the bidder if they will lower the cost to Knox County and/or provide improved service.
- 3.12 **COMMUNICATIONS:** The successful award of this Invitation for Bid will require extensive communication between all parties involved. While information may be transmitted via telephone, it should always be followed up with an email. It is essential the vendor have email capabilities. The vendor will be required to submit a list of individuals, along with direct phone number, cell phone number, and email addresses to the agency to adjust as requested by Knox County.
- 3.13 **COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** Vendor agrees and covenants the company, its agents and employees will comply with all City, County, State and Federal codes, law, rules, and regulations applicable to the business to be conducted under this bid. If the vendor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, the vendor shall bear all costs arising from them. As applicable, all vendors must be certified by the State of Tennessee as required by Tennessee Code Annotated. All certifications for the operations requested herein must be current and submitted with the bid.
- 3.14 **CONFIDENTIAL COUNTY DATA (as applicable):** "Confidential County Data" is defined as data deemed confidential by State or Federal statute or regulation. Contractor shall ensure Confidential County Data, including backup data, is housed in the continental United States, and is encrypted at rest and in transit using the current version of the Federal Information Processing Standard (FIPS) 140-2 validated encryption technologies. Contractor shall enable, by default, Multi-Factor Authentication for any access to Confidential County Data, in accordance with the current version of National Institute of Standards and Technology (NIST) Publication 800-63-3.

Upon termination of this Contract and in consultation with the County, Contractor shall destroy all Confidential County Data it holds, including any copies and backups, in accordance with the current version of National Institute of Standards and Technology (NIST) Special Publication 800-88. Contractor shall provide a written confirmation of destruction to the County within ten business days after destruction.

Contractor warrants to Knox County that it and any data centers used by the Contractor to host County data, including those of all Subcontractors, will cooperate with the County throughout the term of the Contract so that all parties will be in compliance with Knox County Information Technology's (KCIT) enterprise security policies and requirements, and any other state and federal computer security regulations including cooperation and coordination with KCIT's security management team and compliance officers required by its regulations.

Contractor agrees to maintain information systems and applications on a current, manufacture-supported Operating System, in addition to performing updates and installing patches. Operating System is defined as the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.

Contractor agrees to perform penetration tests (in the form of attacks on the Contractor's computer system, with the purpose of discovering security weaknesses) and vulnerability assessments (designed and executed to define, identify, and classify vulnerabilities in the processing environment) on an annual basis and remedy any weaknesses or vulnerabilities discovered.

- 3.15 **CONTACT PERSONNEL:** It shall be essential to the success of this Contract to develop a good working relationship with the Contractor. It is imperative that the Knox County account be handled efficiently and professionally. Knox County should be assigned no more than two (2) Contractor contacts to handle billing inquiries and service-related issues. In the event one or both contacts leave the Knox County account, the successful Contractor shall formally introduce the new contacts to County personnel. These contacts must be knowledgeable of the County's account to avoid any interruption of service.
- 3.16 **COPIERS PLACED PRIOR TO THIS BID:** All copiers placed in Knox County offices prior to this bid shall remain under their original term agreement or may revert to the new term bid whichever is in the best interest of Knox County. There shall be no penalties assessed to any departments if they decide to switch rental plans.
- 3.17 **DELIVERY:** Delivery shall be made within thirty business (30) days after receipt of Purchase Order. If copier is delivered mid-month, that month's rental shall be pro-rated.
- 3.18 **DESTINATION AND DELIVERY:** Bidders are to include all destination and delivery charges in their price. There will be no extra hidden charges.
- 3.19 **DIGITAL EQUIPMENT:** Knox County requests that all copiers bid be of digital capability. The vendor(s) shall bid no analog equipment.
- 3.20 **DISCONTINUED MODELS:** Vendors **must notify** the Knox County Procurement Division of any model number changes throughout the term of the bid. Successful vendor(s) **must submit** quarterly updates notifying the Purchasing Division of model number changes. **Failure to not immediately notify the Procurement Division may be just cause for termination.**
- 3.21 **ELECTRICAL REQUIREMENTS:** Knox County requires all copiers use electrical systems operating at 110-120 volts. The vendor(s) shall be responsible to notify Knox County of any special electrical requirements for the machine to be placed in service.
- 3.22 **ENERGY EFFICIENCY:** Knox County encourages vendors to provide copiers that meet the Energy Star guidelines for energy efficiency. Listings of Energy Star labeled copiers are available via the internet at www.energystar.gov. Vendors are encouraged, when providing training to Knox County employees, to inform user departments of the advantages of an energy efficient machine.
- 3.23 **EVALUATION CRITERIA:** This bid will be evaluated using the following criteria:

Cost	100 Points
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3.24 EVALUATION REVIEW: Knox County reserves the right to use all pertinent information that might affect the County's judgment as to the appropriateness of an award to the best-evaluated Bidder. This information may be appended to the Bid evaluation process results. Information on a service provider from reliable sources, and not within the service provider's Bid, may also be noted and made part of the evaluation file. Knox County shall have sole responsibility for determining a reliable source.

Knox County reserves the right to conduct written and/or oral discussions/interviews after the Bid opening. The purpose of such discussions/interviews is to provide clarification and/or additional information to make an award that is in the best interest of Knox County.

3.25 HIPAA, BUSINESS ASSOCIATE AGREEMENT AND RECORD RETENTION (as applicable): Based on the determination of Knox County Government, the functions to be performed in accordance with this Contract may constitute Business Associate functions as defined by HIPAA. The Contractor shall execute a business associate agreement (BAA) as required by Knox County Government per HIPAA regulations in 45 C.F.R. §164.504. If a BAA is applicable, Knox County's BAA must be executed and incorporated into any contract awarded in conjunction with this solicitation.

As stated in Section 2.6 of this bid, Contractor is assumed to be familiar with and agrees to observe and comply with all Federal, State, and Local laws, statutes, ordinances, and regulations in any manner affecting the provision of goods and/or services; including Tennessee Code Annotated, as amended, and Records Disposition Authorization specific to protected health information retention. The BAA is included in this solicitation for your review on page 24 through page 36 or Attachment B.

3.26 INSTALLATION: After delivery of copier, vendor shall install and provide materials and instructions for the training of users at no charge to Knox County. Training is to be performed in-house after equipment installation. **There are no installation or removal charges to be paid on this solicitation.**

3.27 INSURANCE: The successful Contractor(s) must carry the insurance as indicated on the Insurance Attachment hereto. As proof of the Contractor's willingness to obtain and maintain the insurance, the Contractor must complete, sign and have its insurance agent sign the attachment and submit it with the bid response. Upon the Notification of Intent to Award, the successful Contractor(s) will be required to submit a Certificate of Insurance (COI) with the appropriate coverages including the corresponding endorsement pages and listing Knox County Government as an additional insured. It shall be the successful Contractor's responsibility to always keep a current COI on file with Knox County Procurement.

3.28 INVOICING: All invoices shall be mailed to the Knox County department indicated on the Purchase Order. All invoices must show the Purchase Order number or contract number. Without this information, the invoice may be rejected for payment. Vendor(s) **must** have the capability to setup and administer numerous departments.

3.29 LITERATURE/BROCHURES: The successful vendor(s) shall furnish to the Knox County Procurement Division brochures of copiers that are on bid. This information will be informative for the user departments in reaching a decision for their copier needs. Knox County will determine the number of brochures needed to be on file in the Procurement Division.

3.30 MANUFACTURER AND MODEL: Bidder must indicate in their bid response the manufacturer/brand and item number of the product being bid. The phrases "As specified" and "As requested" will not be an approved nor appropriate response.

3.31 METER-READINGS: The vendor(s) shall be responsible to provide a meter-reading sheet to each location to be completed monthly and faxed or emailed to the user department. The vendor(s) shall be responsible to contact each location to obtain the monthly meter readings. This can be accomplished online also.

3.32 LICENSES AND CERTIFICATIONS: Bidders must maintain the proper licenses and certifications as required by Federal, State and Local law. Bidders must provide copies of the licenses and certifications upon request by the County.

3.33 NEGOTIATION: Knox County may select a successful Bidder based on initial offers received without discussions. Therefore, each Bid shall contain the Bidder's best terms from a cost or price, experience and technical, and a service standpoint. Knox County reserves the right to enter negotiations with the highest-rated Bidder.

If Knox County and the selected Bidder cannot negotiate a successful agreement, Knox County may terminate said negotiations and begin negotiations with the next highest-rated Bidder. Knox County retains the right to negotiate with multiple Bidders simultaneously. This process will continue until a Contract has been executed or all Bidders have been rejected. No Bidder shall have any rights against Knox County arising from such negotiations.

- 3.34 NETWORKING:** Successful vendor(s) shall be aware that all Knox County departments do not have the same computer capabilities. The successful vendor shall inquire with each individual department concerning their networking capabilities before installing a machine that may not be compatible with that Knox County department. Vendor is advised that copiers placed with the option of networking shall require the approval of the Office of Information Technology Department of Knox County.
- 3.35 NEWS RELEASES BY VENDORS:** As a matter of policy, Knox County does not endorse the services of a contractor. A contractor will not make news releases concerning any resultant contract from this solicitation without the prior written approval of Knox County.
- 3.36 NO CONTACT POLICY:** After the date and time that the Vendor receives this solicitation, any contact initiated by any Bidder with any Knox County representative, other than the Procurement Division representative listed herein, concerning this Invitation for Bid, is **strictly prohibited**. Any such unauthorized contact may cause the disqualification of the Bidder from this procurement transaction.
- 3.37 OFFER WITHDRAWAL:** No bid can be withdrawn after it has been filed unless the bidder makes a request in writing to the Knox County Procurement Division prior to the time set for the opening of bids or unless the County fails to accept within ninety (90) business days after the date fixed for opening the Invitation for Bid.
- 3.38 OWNERSHIP OF COPIERS:** The equipment shall always remain the property of the vendor(s). Knox County will not remove or permit the equipment to be removed from the equipment location except by the vendors authorized employees, or with the vendor's written permission. Knox County will not pledge or otherwise encumber or subject the equipment to any lien or security interest.

Knox County shall not modify the equipment nor alter, remove, or conceal any labels, nameplates, or numbers on the equipment. The vendor shall retain ownership and Knox County shall not be held liable for any damage or theft of equipment.

- 3.39 PERFORMANCE:** Machines which develop a trend of requiring an excessive number of service calls shall be replaced, not repaired, by the vendor without loss of contract time and without additional installation and removal charges. The machine performance period will apply for the entire term of the contract period. Excessive service calls will be determined by Knox County on a departmental basis. In the event the copier needs to be removed for service, Knox County may request a loaner copier be placed as not to disrupt the service of the user department. The loaner copier would be placed without any additional cost to Knox County. The loaner copier shall be of the same quality as the originally placed copier.
- 3.40 PRICING:** All pricing will be a firm fixed price during the life of the contract. All payments are based on the number of copies produced. The vendor will be guaranteed a minimum payment at the volume band selected. The overage cost will begin after the minimum number in each band has been reached each month. Options shall be listed, and prices stated as a per month add-on cost. Bidder shall bid a firm, minimum price. **Knox County will not accept a cost per copy pricing for the additional features.**

Vendors may bid more than one (1) machine per pricing volume band. If other additional features are available other than the features listed, the bidder may attach those features on a separate sheet of paper and include it with their bid. If other features become available through technology enhancements, those features may be added later.

- 3.41 PUBLIC RECORDS ACT:** Knox County is subject to the Tennessee Public Records Act 10-7-503 et seq. Bidders are cautioned that all documents submitted on behalf of the Invitation for Bids shall be open to the public for viewing and inspection and Knox County will comply with all legitimate requests.
- 3.42 QUALIFICATIONS:** At the time of award and throughout the contract period the successful vendor(s) must be a factory authorized distributor or an authorized dealership with factory trained service technicians, fully qualified to service all the installed machines with genuine factory parts. Vendor must include with their response, a certification from the manufacturer stating that the vendor is an authorized representative for the manufacturer.

Where vendors are offering multiple brands or represent more than one manufacturer, Knox County requires a statement from the respective manufacturer outlining the support that they will provide the vendor.

3.43 **QUANTITIES:** Knox County does **not** guarantee any quantities of copiers to be placed under this contract. Purchase orders will be issued for all copiers placed pursuant to this agreement. Departments requesting a copier be placed in their office will submit a requisition to the Procurement Division requesting a purchase order be issued to the vendor. No copiers shall be placed without a purchase order. No payments for copier rental can be issued without the issuance of a Knox County purchase order.

3.44 **REJECTION OF BIDS:** Knox County reserves the right to reject all bids received because of this request and to waive any informality, technical defect, or clerical error in any bid, as the interests of the County may require. Non-acceptance of any bid will be devoid of any criticism of the bid and of any implication that the bid is deficient in any manner.

Non-acceptance of any bid shall be construed as meaning simply that the County does not deem the bid to be acceptable or that another bid was deemed to be more advantageous to Knox County for the services proposed.

3.45 **REMOVAL OF CONTRACTOR'S EMPLOYEES:** Contractor agrees to utilize only experienced, responsible, and capable people in the performance of the work. Knox County may require that the Contractor remove from the job covered by this Contract, employees who endanger persons or property or whose continued employment under this Contract is inconsistent with the interest of Knox County.

3.46 **REPLACEMENT INFORMATION:** As machine replacements are requested by end users over the life of this contract, Contractor(s) will be required to provide the serial number, equipment ID and model of the machine that is being replaced and of the machine that will replace it. This information is to be emailed to the Procurement Division representative.

3.47 **SERVICE:** On-site service shall be made within **four** (4) working hours after the request has been logged with the vendor. Service shall be available during normal working hours Monday through Friday, except on County recognized holidays. Repair services for copiers shall be the responsibility of the vendor at no expense to the County. If a copier is connected to a network, vendor shall be responsible for all related repairs. The minimum provisions for maintenance are:

- Preventive maintenance at least twice per year to include a complete inspection, installation of engineering changes, lubrication, cleaning, adjustments, and replacement of any part(s) necessary, including drums.

If the copier cannot be repaired within forty-eight (48) hours from the initial service visit, the vendor must notify the Procurement Division representative in writing via email detailing the nature of the problem and when the equipment will be operational. If repairs cannot be made within a reasonable amount of time as determined by the Procurement Division, a loaner of equal or better machine specifications must be delivered and setup by 4:30 p.m. the following business day.

3.48 **REMANUFACTURED EQUIPMENT:** Bidders are advised that Knox County will not accept remanufactured, pre-owned or refurbished equipment for this bid.

3.49 **SUPPLIES:** Toner, developer, and all chemical supplies required for machine operation must be provided by the successful vendor(s) **and** included in the bid price. It shall be the responsibility of each department to order the supplies with the successful vendor(s). The vendor(s) must provide next day delivery for such supplies.

3.50 **UPGRADE:** Departments must be able to upgrade or downgrade rental equipment on an annual basis (anniversary date) without any financial penalty **and without extending the original contract**.

3.51 **VENDOR CONDUCT:** Vendors are hereby notified that the Knox County Procurement Division has necessary and proper procedures to procure equipment for the user departments of Knox County Government. Vendors are hereby cautioned that placing any equipment prior to the issuance of a Purchase Order constitutes a violation of that procedure and may result in the vendor being debarred for a minimum period of twelve months. User departments are not authorized to sign any vendors' agreements.

3.52 **VENDOR'S CONTRACT:** The Knox County Procurement Division **will not** accept any vendors' contract. If these types of Master Agreements, Service Agreements, Terms of Agreements, Terms and Conditions or other submitted contract agreements are submitted, **they will not be accepted**.

3.53 **VOLUME BANDS:** Knox County has developed “Volume Bands” for different levels of actual usage per copier. Vendor payment will be based on a minimum monthly basis for each volume band. The vendor will be guaranteed a minimum payment at the volume band selected. Knox County shall only pay the minimum amount based upon each volume band. Once the minimum amount in each volume band has been reached the vendor(s) shall then begin applying the overage amount for any additional copies.

Example: Volume band selected: Volume II 3,000 copies

Minimum guaranteed payment: \$50.00 per month (based on 3,000 minimum)

Overage payment: \$00.001 at the 3,001st copy and continuing thereafter

4,500 copies made: \$51.50 payment

3.54 **WRITTEN SUMMARY:** When the user department has decided as to which model of copier suits their needs and at which volume band they require, the copier representative shall prepare a written summary of **all** monthly charges and submit to the user department. This written summary will accompany the requisition to the Procurement Division. The summary shall include all pertinent information as to the volume band, overage amount, model number, extra options and cost per options, etc. All costs shall be detailed in the summary. No single monthly fee will be acceptable. **No hidden charges will be paid.**

SECTION IV SPECIFICATIONS

Schedule A – Black and White Copiers

4.1 1,000 copies per month:

- 20 copies per minute
- Network print/scan
- Color scan
- Fax
- Cabinet
- Reduction & enlargement
- One paper trays & bypass
- Minimum paper capacity: 250 sheets
- Copy size: 5.5 x 8.5 to 8.5 x 14
- Automatic document feeder

4.2 3,000 copies per month:

- 20 copies per minute
- Network print/scan
- Color scan
- Cabinet
- Reduction & enlargement
- One paper trays & bypass
- Minimum paper capacity: 250 sheets
- Copy size: 5.5 x 8.5 to 8.5 x 14
- Automatic document feeder

4.3 5,000 copies per month:

- 25 copies per minute
- Network print/scan
- Color scan
- Cabinet
- Reduction & enlargement
- Two paper trays & bypass
- Minimum paper capacity: 1000 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

4.4 7,500 copies per month:

- 25 copies per minute
- Network print/scan
- Color scan
- Cabinet
- Reduction & enlargement
- Two paper trays & bypass
- Minimum paper capacity: 1000 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

4.5 10,000 copies per month:

- 33 copies per minute
- Network print/scan
- Color scan
- Cabinet
- Reduction & enlargement
- Two paper trays & bypass
- Minimum paper capacity: 1000 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

4.6 20,000 copies per month:

- 40 copies per minute
- Network print/scan
- Color scan
- Cabinet
- Reduction & enlargement
- Two paper trays & bypass
- Minimum paper capacity: 1000 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

4.7 30,000 copies per month:

- 50 copies per minute
- Network print/scan
- Color scan
- Cabinet
- Reduction & enlargement
- Two paper trays & bypass
- Minimum paper capacity: 1000 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

4.8 40,000 copies per month:

- 60 copies per minute
- Network print/scan
- Color scan
- Cabinet
- Reduction & enlargement
- One 3000 & two 500 sheet paper trays & bypass
- Minimum paper capacity: 4000 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

4.9 50,000 copies per month:

- 80 copies per minute
- Network print/scan
- Color scan
- Cabinet
- Reduction & enlargement
- One 3000 & two 500 sheet paper trays & bypass
- Minimum paper capacity: 4000 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

Schedule B – Color Copiers

4.10 3,000 copies per month:

- 20 copies per minute black & color
- Network color print
- Color scan
- Cabinet
- Reduction & enlargement
- One paper trays & bypass
- Minimum paper capacity: 250 sheets
- Copy size: 5.5 x 8.5 to 8.5 x 17
- Automatic document feeder

4.11 5,000 copies per month:

- 25 copies per minute black & color
- Network color print
- Color scan
- Cabinet
- Reduction & enlargement
- Two paper trays & bypass
- Minimum paper capacity: 500 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

4.12 7,500 copies per month:

- 30 copies per minute black & color
- Network color print
- Color scan
- Cabinet
- Reduction & enlargement
- Two paper trays & bypass
- Minimum paper capacity: 1000 sheets
- Copy size: 5.5 X 8.5 to 11 X 17
- Automatic document feeder

4.13 10,000 copies per month:

- 40 copies per minute black & color
- Network color print
- Color scan
- Cabinet
- Reduction & enlargement
- Two paper trays & bypass
- Minimum paper capacity: 1000 sheets
- Copy size: 5.5 X 8.5 to 11 X 17
- Automatic document feeder

4.14 20,000 Copies per Month:

- 50 copies per minute black & color
- Network color print
- Color scan
- Cabinet
- Reduction & enlargement
- Two paper trays & bypass
- Minimum paper capacity: 500 sheets
- Copy size: 5.5 X 8.5 to 11 X 17
- Automatic document feeder

4.15 30,000 Copies per Month:

- 60 copies per minute black & color
- Network color print
- Color scan
- Cabinet
- Reduction & enlargement
- One 3000 & two paper trays & bypass
- Minimum paper capacity: 4000 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

4.16 40,000 Copies per Month:

- 70 copies per minute black & color
- Network color print
- Color scan
- Reduction & enlargement
- One 3000 & two paper trays & bypass
- Minimum paper capacity: 4000 sheets
- Copy size: 5.5 x 8.5 to 11 x 17
- Automatic document feeder

Schedule C – Wide Format MFP Copiers

4.17 250 Linear Feet per Month:

- Up to 6 “D” prints per minute
- Network print / color scan
- Table / stand
- Reduction & enlargement
- Two roll paper feeder & single sheet bypass
- Copy / print / scan size: 36”
- Document feeder

SECTION V VENDOR'S INFORMATION FOR BID 3263, COPIER RENTAL

5.1 Vendor Name _____

5.2 Knox County Vendor Number _____

5.3 Vendor Address _____

City _____ State _____ Zip _____

5.4 Telephone Number _____ Fax Number _____

5.5 Contact Person _____

5.6 E-Mail Address _____

5.7 By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Tennessee Code Annotated § 12-12-106

Authorizing Signature _____

(Original should be signed in BLUE ink)

5.8 Knox County Business License Number (If applicable). Please enclose a copy of license with bid.

5.9 I acknowledge the receipt of: (Please write "Yes" if you received one)

ADDENDA I _____ ADDENDA II _____ ADDENDA III _____ ADDENDA IV _____

5.10 Do you accept the terms and conditions of the bid?

YES NO YES WITH EXCEPTION (Please circle your answer)

If you do not fully accept the terms and conditions, please note the exceptions below:

5.11 Have you included the signed Insurance Checklist per Section 3.27? YES NO

5.12 Have you included the letter regarding Factory Authorized Dealer? YES NO

5.13 Vendor agrees to sign the BAA, if applicable? YES NO

Failure to include any item above or any item listed in this bid may result in the bid deemed non-responsive.

Section VI PRICING FOR BID 3263, COPIER RENTAL

Schedule A - Black & White		Vendor: _____
Volume Band	Manufacture & Model	Cost Per Month
I: 1,000 Copies	Copier #1:	
	Additional Feature: 2 nd Paper Tray	
II: 3,000 Copies	Copier #1:	
	Additional Feature: Fax	
	Additional Feature: 2 nd Paper Tray	
	Additional Feature: 2 nd and 3 rd Paper Tray	
III: 5,000 Copies	Copier #1:	
	Additional Feature: Fax	
	Additional Feature: 3 rd Paper Tray	
	Additional Feature: 3 rd and 4 th Paper Tray	
	Additional Feature: Finisher (50 page)	
IV: 7,500 Copies	Copier #1:	
	Additional Feature: Fax	
	Additional Feature: 2 nd and 3 rd Paper Tray	
	Additional Feature: Finisher (50 Page)	
V: 10,000 Copies	Copier #1:	
V: 10,000 Copies	Copier #2:	
	Additional Feature: Fax	
	Additional Feature: 2 nd and 3 rd Paper Tray	
	Additional Feature: Finisher (50 page)	
	Additional Feature: Finisher (50 page) with Hole Punch	
VI: 20,000 Copies	Copier #1:	
VI: 20,000 Copies	Copier #2:	
	Additional Feature: Fax	
	Additional Feature: 3 rd Paper Tray	
	Additional Feature: 3 rd and 4 th Paper Tray	
	Additional Feature: Finisher (50 page)	
	Additional Feature: Finisher (50 page) with Hole Punch	
VII: 30,000 Copies	Copier #1:	
VII: 30,000 Copies	Copier #2:	
	Additional Feature: Fax	

	Additional Feature: 3 rd Paper Tray	
	Additional Feature: 3 rd and 4 th Paper Tray	
	Additional Feature: Finisher (50 page)	
	Additional Feature: Booklet Finisher with Hole Punch	
VIII: 40,000 Copies	Copier #1:	
VIII: 40,000 Copies	Copier #2:	
	Additional Feature: Fax	
	Additional Feature: LCT Paper Tray	
	Additional Feature: Finisher (50 page)	
	Additional Feature: Finisher (50) with Hole Punch	
	Additional Feature: Finisher (50) with Hole Punch, Saddle Stitch	
IX: 50,000 Copies	Copier #1:	
IX: 50,000 Copies	Copier #2:	
	Additional Feature: Fax	
	Additional Feature: LCT Paper Tray	
	Additional Feature: Finisher (50 page)	
	Additional Feature: Finisher (50 page) with Hole Punch	
	Additional Feature: Booklet Finisher with Hole Punch	
Overage Rate	State price per copy rate for all volume bands for Schedule A	

****Vendors may submit a table containing more additional features that are not outlined in the pricing charts above and the pricing associated with those items. The additional features would not be considered in evaluations but would be used for informational purposes and would be eligible to be added to any resulting contract.****

Schedule B – Color Copiers

Vendor: _____

Volume Band	Manufacture & Model	Cost Per Month
I: 3,000 Copies	Copier #1:	
	Additional Feature: Fax	
	Additional Feature: 2 nd Paper Tray	
	Additional Feature: 2 nd and 3 rd Paper Tray	
II: 5,000 Copies	Copier #1:	
	Additional Feature: Fax	
	Additional Feature: 3 rd Paper Tray	
	Additional Feature: 3 rd and 4 th Paper Tray	
	Additional Feature: Finisher (50 page)	
III: 7,500 Copies	Copier #1:	
III: 7,500 Copies	Copier #2:	
	Additional Feature: Fax	
	Additional Feature: 3 rd Paper Tray	
	Additional Feature: 3 rd and 4 th Paper Tray	
	Additional Feature: Finisher (50 pages)	
	Additional Feature: Finisher (50) with Hole Punch	
IV: 10,000 Copies	Copier #1:	
IV: 10,000 Copies	Copier #2:	
	Additional Feature: Fax	
	Additional Feature: 3 rd Paper Tray	
	Additional Feature: 3 rd and 4 th Paper Tray	
	Additional Feature: Finisher (50 page)	
	Additional Feature: Finisher (50 page) with Hole Punch	
	Additional Feature: Booklet Finisher (50 page) with Hole Punch	
V: 20,000 Copies	Copier #1:	
V: 20,000 Copies	Copier #2:	
	Additional Feature: Fax	
	Additional Feature: 3 rd Paper Tray	
	Additional Feature: 3 rd and 4 th Paper Tray	
	Additional Feature: Finisher (50 page)	
	Additional Feature: Finisher (50 page) with Hole Punch	
	Additional Feature: Booklet Finisher (50 page) with Hole Punch	

VI: 30,000 Copies	Copier #1:	
VI: 30,000 Copies	Copier #2:	
	Additional Feature: Fax	
	Additional Feature: LCT Paper Tray	
	Additional Feature: Finisher (50 pages)	
	Additional Feature: Finisher (50 page) with Hole Punch	
	Additional Feature: Booklet Finisher (50 page) with Hole Punch	

VII: 40,000 Copies	Copier #1:	
VII: 40,000 Copies	Copier #2:	
	Additional Feature: Fax	
	Additional Feature: LCT Paper Tray	
	Additional Feature: Finisher (50 pages)	
	Additional Feature: Finisher (50) with Hole Punch	
	Additional Feature: Booklet Finisher (50) with Hole Punch	
Overage Rate	State price per copy for all volume bands for Schedule B for Black & White Copies	
Color Copies	State price per copy for all volume bands for Schedule B for Color Copies	

****Vendors may submit a table containing more additional features that are not outlined in the pricing charts above and the pricing associated with those items. The additional features would not be considered in evaluations but would be used for informational purposes and would be eligible to be added to any resulting contract.****

Schedule C – Wide Format MFP

Vendor: _____

Volume Band	Manufacture & Model	Cost Per Month
I: 250 Linear ft.	Copier #1:	
Overage Rate	State overage rate per linear foot for Schedule C	

****Vendors may submit a table containing more additional features that are not outlined in the pricing charts above and the pricing associated with those items. The additional features would not be considered in evaluations but would be used for informational purposes and would be eligible to be added to any resulting contract.****

ATTACHMENT A

**KNOX COUNTY PROCUREMENT DIVISION
INSURANCE CHECKLIST
INVITATION FOR BID NUMBER 3263**

THE CERTIFICATE OF INSURANCE MUST SHOW ALL COVERAGES & ENDORSEMENTS WITH "YES" AND ITEMS 20 TO 24.

REQUIRED:	NUMBER	TYPE OF COVERAGE	COVERAGE LIMITS																																		
YES	1.	WORKERS COMPENSATION	STATUTORY LIMITS OF TENNESSEE																																		
NO	2.	EMPLOYERS LIABILITY	\$100,000 PER ACCIDENT \$100,000 PER DISEASE \$500,000 DISEASE POLICY LIMIT																																		
NO	3.	AUTOMOBILE LIABILITY <table border="1" style="margin-left: 20px;"> <tr> <td style="width: 20px; text-align: center;">X</td> <td>ANY AUTO-SYMBOL (1)</td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </table>	X	ANY AUTO-SYMBOL (1)														<table border="1" style="width: 100%;"> <tr> <td>COMBINE SINGLE LIMIT (Per-Accident)</td> <td>\$1,000,000</td> </tr> <tr> <td>BODY INJURY (Per-Person)</td> <td></td> </tr> <tr> <td>BODY INJURY (Per-Accident)</td> <td></td> </tr> <tr> <td>PROPERTY DAMAGE (Per-Accident)</td> <td></td> </tr> </table>	COMBINE SINGLE LIMIT (Per-Accident)	\$1,000,000	BODY INJURY (Per-Person)		BODY INJURY (Per-Accident)		PROPERTY DAMAGE (Per-Accident)												
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YES	4.	COMMERCIAL GENERAL LIABILITY <table border="1" style="margin-left: 20px;"> <tr> <td>CLAIM MADE</td> <td></td> <td>X</td> <td>OCUR</td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="5">GEN'L AGGREGATE LIMITS APPLIES PER</td> </tr> <tr> <td>POLICY</td> <td>X</td> <td>PROJECT</td> <td></td> <td>LOC</td> </tr> </table>	CLAIM MADE		X	OCUR							GEN'L AGGREGATE LIMITS APPLIES PER					POLICY	X	PROJECT		LOC	<table border="1" style="width: 100%;"> <tr> <td></td> <td>LIMITS</td> </tr> <tr> <td>EACH OCCURRENCE</td> <td>\$ 1,000,000</td> </tr> <tr> <td>FIRE LEGAL LIABILITY</td> <td>\$ 100,000</td> </tr> <tr> <td>MED EXP (Per person)</td> <td>\$ 5,000</td> </tr> <tr> <td>PERSONAL & ADV INJURY</td> <td>\$ 1,000,000</td> </tr> <tr> <td>GENERAL AGGREGATE</td> <td>\$ 2,000,000</td> </tr> <tr> <td>PRODUCTS-COMPLETED OPERATIONS/AGGREGATE</td> <td>\$ 2,000,000</td> </tr> </table>		LIMITS	EACH OCCURRENCE	\$ 1,000,000	FIRE LEGAL LIABILITY	\$ 100,000	MED EXP (Per person)	\$ 5,000	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 2,000,000	PRODUCTS-COMPLETED OPERATIONS/AGGREGATE	\$ 2,000,000
CLAIM MADE		X	OCUR																																		
GEN'L AGGREGATE LIMITS APPLIES PER																																					
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PRODUCTS-COMPLETED OPERATIONS/AGGREGATE	\$ 2,000,000																																				
NO	5.	PREMISES/OPERATIONS	\$1,000,000 CSL BI/PD EACH OCCURRENCE \$2,000,000 ANNUAL AGGREGATE																																		
NO	6.	INDEPENDENT CONTRACTOR	\$1,000,000 CSL BI/PD EACH OCCURRENCE \$1,000,000 ANNUAL AGGREGATE																																		
NO	7.	CONTRACTUAL LIABILITY (MUST BE SHOWN ON CERTIFICATE)	\$1,000,000 CSL BI/PD EACH OCCURRENCE \$1,000,000 ANNUAL AGGREGATE																																		
NO	8.	XCU COVERAGE	NOT TO BE EXCLUDED																																		
YES	9.	UMBRELLA LIABILITY COVERAGE	\$1,000,000																																		
		PROFESSIONAL LIABILITY																																			
NO	10.	ARCHITECTS & ENGINEERS	\$1,000,000 PER OCCURRENCE/CLAIM																																		
NO		ASBESTOS & REMOVAL LIABILITY	\$2,000,000 PER OCCURRENCE/CLAIM																																		
NO		MEDICAL MALPRACTICE	\$1,000,000 PER OCCURRENCE/CLAIM																																		
NO		MEDICAL PROFESSIONAL LIABILITY	\$1,000,000 PER OCCURRENCE/CLAIM																																		
NO	11.	MISCELLANEOUS E & O	\$500,000 PER OCCURRENCE/CLAIM																																		
NO	12.	MOTOR CARRIER ACT ENDORSEMENT	\$1,000,000 BI/PD EACH OCCURRENCE UNINSURED MOTORIST (MCS-90)																																		
NO	13.	MOTOR CARGO INSURANCE																																			
NO	14.	GARAGE LIABILITY	\$1,000,000 BODILY INJURY, PROPERTY DAMAGE PER OCCURRENCE																																		
NO	15.	GARAGEKEEPER'S LIABILITY	\$500,000 COMPREHENSIVE \$500,000 COLLISION																																		
NO	16.	INLAND MARINE BAILEE'S INSURANCE	\$																																		
NO	17.	DISHONESTY BOND	\$																																		
NO	18.	BUILDERS RISK	PROVIDE COVERAGE IN THE FULL AMOUNT OF THE CONTRACT UNLESS PROVIDED BY OWNER.																																		
NO	19.	USL&H	FEDERAL STATUTORY LIMITS																																		

20. Carrier rating shall be Best's Rating of A-VII or better or its equivalent.

21. ***Notice of cancellation, non-renewable or material changes in coverage shall be provided to County at least 30 days prior to action. The words "Endeavor To" and "But Failure To" (to end of sentence) are to be eliminated from the notice of cancellation provision on standard accord certificates.***

- 22. The County shall be named as an additional insured on all policies except Workers' Compensation and Auto.
- 23. Certificate of Insurance shall show the Invitation for Bid number and title.
- 24. Other insurance required _____.

Insurance Agent's Statement and Certification: I have reviewed the above requirements with the Bidder named below has advised the Bidder of required coverage.

Agency Name: _____ Authorizing Signature: _____

Bidder's Statement and Certification: If awarded the contract, I will comply with the contract insurance requirements.

Bidder Name: _____ Authorizing Signature: _____

ATTACHMENT B

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is entered into by and between Knox County Government and Knox County _____ Department by and through its governing body and its authorized representatives, Covered Entity ("CE"), and _____, Business Associate ("BA").

PURPOSE

- A. Covered Entity ("CE") operates a _____ Facility certified in Knox County, Tennessee
- B. Business Associate ("BA") is contractually obligated to provide certain services related to one or more "covered entities" as that term is defined and regulated under HIPAA.
- C. CE and BA intend to protect the privacy of Protected Health Information ("PHI") and electronic Protected Health Information ("e-PHI") disclosed to or created or received by BA pursuant to the Agreement in compliance with applicable provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and regulations promulgated there under by the U.S. Department of Health and Human Services, the privacy and security provisions of the American Recovery and Reinvestment Act (Stimulus Act) for Long Term Care, Public Law 111-5, HITECH Act and other applicable laws.
- D. CE and BA agree to comply with the Fair and Accurate Credit Transactions Act of 2003 (FACTA) and its implementing regulations at 16 CFR §681.1 and 16 CFR §681.2.
- E. The purpose of this Agreement is to satisfy certain standards and requirements of HIPAA, including the Standards for Privacy of Individually Identifiable Health Information at 45 CFR parts 160 and 164, Subparts A and E, the standards relating to Notification in the Case of Breach of Unsecured Protected health Information at 45 CFR Parts 160 and 164, Subparts A and D, and the Security Standards for the Protection of electronic Protected Health Information at 45 CFR Parts 160 and 164, Subparts A and D, as such regulations may be amended from time to time (including, without limitation any amendments required by the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act") (collectively "HIPAA Regulations")

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

1. **Definitions:** The following definitions are used by this Agreement:
 - 1.1 **Agreement** – means this Business Associate Agreement, which is an agreement required under 45 C.F.R. Section 164.314(a) (2) between a Business Associate and a Covered Entity.
 - 1.2 **Breach** – means the unauthorized acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted under the Privacy Rule which compromises the security or privacy of the protected health information. Except that: a use or disclosure of protected health information that does not include the identifiers listed at 45 CFR 164.514 (e)(2) of the Privacy Rule, date of birth, and zip code does not compromise the security or privacy of the protected health information is deemed not to be a "Breach" for purposes of this agreement. Notwithstanding the foregoing, a Breach does not include: (1) any unintentional acquisition, access, or use of Protected Health Information by an employee or individual acting under the authority of Covered Entity or Business Associate and in the scope of the employment or relationship between the employee or individual and Covered Entity or BA, provided such information is not further acquired, accessed, used, or disclosed by any person without authorization; (2) any inadvertent disclosure by an individual who is authorized to access Protected Health Information at Covered Entity's or BA's facility to another similarly situated individual at the same facility, provided such information is not further acquired, accessed, used, or disclosed by any person without authorization; and (3) a disclosure of Protected Health Information in a situation in which BA has a good faith belief that the person(s) to which the unauthorized disclosure was made would not reasonably have been able to retain such information.

- 1.3 **Business Associate (BA)** – is a person or entity, other than a member of the workforce of a covered entity CE, who performs functions or activities on behalf of a CE that involves access by the BA to protected health information as described in 45 C.F.R. Section 160.103. A BA is also a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of another business associate.
- 1.4 **Covered Electronic Transactions** – shall have the meaning given to the term “transaction” in 45 C.F.R. Section 160.103.
- 1.5 **Covered Entity (CE)** – as the term referenced to the entity to this agreement is a provider of medical and health services as described in 45 C.F.R. Section 160.103.
- 1.6 **Covered Individual** – means a person who is eligible for payment of certain services or supplies rendered or sold to the person or the person’s eligible dependents under the terms, conditions, limitations, and exclusions of the Plan.
- 1.7 **Data Aggregation** – means, with respect to Protected Health Information created or received by BA in its capacity as a BA (as that term is defined in 45 C.F.R. Section 160.103) of the Plan, the combining of such Protected Health Information by BA with the Protected Health Information received by BA in its capacity as a BA of another covered entity (as those terms are defined in 45 C.F.R. Section 160.103), to permit data analyses that relate to the health care operations of the respective covered entities.
- 1.8 **Designated Record Set** – means a group of records maintained by or for Covered Entity that is (1) the medical records and billing records about Individuals maintained by or for a covered health care provider, (2) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for Covered Entity, or (3) used, in whole or in part, by or for Covered Entity to make decisions about Individuals. As used herein, the term “Record” means any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used or disseminated by or for Covered Entity.
- 1.9 **Disclose** - means the release, transfer, provision of access to, or divulging in any other manner of PHI to parties outside the BA’s organization.
- 1.10 **Effective Date** – means the date the Agreement is fully executed, unless specifically noted otherwise herein.
- 1.11 **Electronic Health Record** – means an electronic record of health-related information regarding an Individual that is created, gathered, managed, and consulted by authorized health care clinicians and their staff.
- 1.12 **Electronic Protected Health Information** – shall have the same meaning as the term “electronic protected health information” in 45 C.F.R. Section 160.103, limited to the information created, received, maintained, or transmitted by BA from or on behalf of Covered Entity.
- 1.13 **GINA** - shall mean the Genetic Information Nondiscrimination Act of 2008 (Pub. L. 110-223).
- 1.14 **HITECH** – means Health Information Technology for Economic and Clinical Health Act.
- 1.15 **HHS** – means the United States Department of Health and Human Services.
- 1.16 **Including** – means “including but not limited to.”
- 1.17 **Individual** – shall have the same meaning as the term “individual” in 45 C.F.R. Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. Section 164.502(g).
- 1.18 **Integrity** – means that data or information have not been altered or destroyed in an unauthorized manner.

- 1.19 **Data Set** – shall have the same meaning as the term “limited data set” in 45 C.F.R. Section 164.514(e) (2).
- 1.20 **Plan** – means the group health plan(s) identified in the introductory paragraph to this Agreement.
- 1.21 **Privacy Rule** – means the Standards and Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, subparts A and E and the privacy provisions of HIPAA, as amended.
- 1.22 **Protected Health Information (PHI)** – shall have the same meaning as the term “protected health information” in 45 C.F.R. 160.103, limited to the information created, received, maintained, or transmitted by BA from or on behalf of Covered Entity. PHI includes both Hardcopy and Electronic Protected Health Information (“phi”) and means any information, whether oral or recorded in any form or medium, that
- i. Relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; and,
 - ii. Identifies the individual or there is a reasonable basis to believe the information can be used to identify the individual; and,
 - iii. Is limited to the information created or received by BA from or on behalf of CE.
 - iv. Hardcopy Protected Health Information (“paper”) is a subset of Protected Health Information and means PHI that is maintained as a paper document.
- 1.23 **Electronic Protected Health Information (“e-PHI”)** is a subset of Protected Health Information and means PHI that is transmitted by or maintained in any electronic media.
- 1.24 **Required By Law** – means a mandate contained in law that compels a covered entity to make a use or disclosure of PHI and that is enforceable in a court of law and shall have the same meaning as the term “required by law” in 45 C.F.R. Section 164.103.
- 1.25 **Secretary** – means the Secretary of Health and Human Services or any other officer or employee of HHS to whom the authority involved has been delegated.
- 1.26 **Security Incident** – shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system as provided in 45 CFR 146.304.
- 1.27 **Security Rule** – means the Security Standards and Implementation Specifications at 45 C.F.R. Part 160 and Part 164, subpart C and the security provisions of HIPAA, as amended.
- 1.28 **Standards for Electronic Transactions Rule** – means the final regulations issued by HHS concerning standard transactions and code sets under the Administrative Simplification provisions of HIPAA, 45 C.F.R. Part 160 and Part 162.
- 1.29 **Subcontractor** – means an agent of a BA described in 45 C.F.R. Section 165.103 to whom the BA provides protected health information that the BA creates, receives, maintains, or transmits on behalf of a Covered Entity.
- 1.30 **Unsecured Protected Health Information** – means Protected Health Information that has not been rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary. As of August 24, 2009, the Secretary has specified the following technologies and methodologies that will render Protected Health Information unusable, unreadable, and indecipherable (i.e., secured Protected Health Information): (1) encryption as described in the Secretary’s guidance and determined by the National Institute of Standard and Technology to meet the standards described in such guidance, or (2) destruction, in accordance with the procedures identified in the Secretary’s guidance, of the media on which the Protected Health Information was stored or recorded.
- 1.31 **Use** – means the sharing, employment, application, utilization, examination, or analysis of PHI within the BA’s organization.

2. Privacy Provisions

2.1 **Introduction.** Business Associate, on behalf of Covered Entity, performs or assists in the performance of functions and activities that may involve the use, disclosure, receipt and/or creation of Protected Health Information. The “business associate” provisions of the Privacy Rule govern the terms and conditions under which the BA may use or disclose Protected Health Information. In general, BA agrees and intends to act such that (1) Covered Entity can fulfill its responsibilities under HIPAA; and (2) BA can fulfill its contractual obligations under this Agreement. In addition, BA specifically acknowledges its direct liability for the failure to comply with certain portions of the Privacy Rule as provided under HITECH and the regulations issued thereunder.

2.2 Permitted Uses and Disclosures by Business Associate.

2.2.1 Business Associate agrees to not use or disclose PHI other than as permitted or required by this Agreement or as Required by Law. Business Associate shall comply with the provisions of this Agreement relating to privacy and security of PHI on all present and future provisions of HIPAA, the HITECH Act and HIPAA Regulations that relate to privacy and security of PHI and that are applicable to CE and/or BA. Except as otherwise limited in this Agreement, BA may use or disclose Protected Health Information (i) to perform functions, activities, or services for, or on behalf of, Covered Entity pursuant to any services agreement with the BA, (ii) as permitted or required by this Agreement, and (iii) as Required by Law. BA may disclose Protected Health Information to other BAs of Covered Entity, or to BAs of another covered entity that is part of an organized health care arrangement that includes Covered Entity, to the fullest extent allowed under applicable law. If and when BA discloses or makes available Protected Health Information to the sponsor of the Plan, BA agrees to disclose or make available Protected Health Information only to the persons identified in the attached Designated Persons Appendix (which may be updated by Covered Entity and communicated to BA from time to time) for the purpose of performing functions, services, or activities for or on behalf of Covered Entity. Upon Covered Entity’s request, BA will provide Protected Health Information to other BAs of Covered Entity that assist in administering the group health plans and that are authorized to receive such information.

2.2.2 Except as otherwise limited in this Agreement, BA may use or disclose PHI consistent with CE’s minimum necessary policies and procedures to perform functions, activities, or Services for, or on behalf of CE as specified in the Agreement, provided such use or disclosure would not violate the Privacy and Security Rule if done by the CE.

2.2.3 Disclosure for Management and Administration - Except as otherwise limited in this Agreement, BA may disclose PHI for the proper management and administration of the BA or to carry out the legal responsibilities of the BA, provided that:

- i. Disclosures are required by law; or
- ii. BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and
- iii. The person notifies the BA of any instances of which it is aware in which the confidentiality of the information has been breached.

2.2.4 Data Aggregation - Except as otherwise limited in this Agreement, BA may use PHI to provide Data Aggregation services to CE relating to the health care operations of the CE.

2.2.5 Report Violations of Law - Except as otherwise limited in this Agreement, BA may use PHI to report violations of law appropriate to Federal and State authorities consistent with 45 CFR §164.502(j)(1).

- 2.2.6 De-identification. The BA may de-identify any and all PHI that it obtains from the CE, but only if such de-identification is accomplished in accordance with the requirements of 45 CFR 514 (a) and (b).
- 2.2.7 Business Associate will limit the use, disclosure, or request of Protected Health Information, to the extent practicable, (i) to the Limited Data Set, or (ii) if needed by BA, to the minimum necessary (as determined by BA) to accomplish the intended purpose of such use, disclosure, or request, except to the extent a broader use, disclosure, or request of Protected Health Information is allowed by the Privacy Rule. BA's ability to satisfy the requirement of this Section 2.2.7 by use of the Limited Data Set shall be available until the effective date of subsequent guidance issued by the Secretary regarding what constitutes "minimum necessary," at which time BA will take reasonable efforts to limit the use, disclosure, or request of Protected Health Information to the minimum necessary (as defined by such Secretary's guidance) to accomplish the intended purpose of such use, disclosure, or request, except to the extent a broader use, disclosure, or request of Protected Health Information is allowed by the Privacy Rule.
- 2.2.8 Except as otherwise authorized by the Privacy Rule, BA shall not directly or indirectly receive remuneration (whether financial or nonfinancial) in exchange for any Protected Health Information of a Covered Individual unless Covered Entity has received a valid authorization from the Covered Individual that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that Covered Individual. This Section 2.2.8 shall apply to exchanges of Protected Health Information occurring on or after the compliance date applicable under the final regulations issued under HITECH that address this restriction.

3. Limitations on Business Associate's Uses and Disclosures. With respect to Protected Health Information that Covered Entity discloses to BA or BA creates, receives, maintains, or transmits on behalf of Covered Entity, BA will not use or further disclose the Protected Health Information other than as permitted or required by this Agreement or as Required by Law.

4. Additional Obligations of Business Associate. Except as otherwise specified in this Agreement, the provisions of this paragraph apply only to Protected Health Information that Covered Entity discloses to BA or BA creates, receives, maintains, or transmits on behalf of Covered Entity.

4.1 Safeguards. BA agrees to use appropriate safeguards to prevent the use or disclosure of the PHI other than as provided for by this Agreement. Without limiting the generality of the foregoing sentence, BA must comply with the Security Rule by:

- 4.1.1** Implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of PHI and ePHI as required by the Agreement, and as required by 45 CFR 164.308, 164.310, 164.312, and 164.316 that the BA receives, creates, maintains, or transmits to the same extent as if the BA were a CE. The BA shall undertake such actions in a manner that is consistent with any guidance issued by the Secretary pursuant to the HITECH Act.
- 4.1.2** Ensure that any subcontractors that create, receive, maintain or transmit PHI on behalf of the BA agree to comply with the applicable requirements of the Privacy and Security Rules by entering into a contract or other arrangement that complies with the Privacy and Security Rules.
- 4.1.3** Promptly report to CE any Security Incident of which BA becomes aware. In addition, BA agrees to promptly notify CE following the discovery of a Breach of Unsecured PHI. A Breach is considered "discovered" as of the first day on which the Breach is known, or reasonably should have been known, to BA or any employee, officer or agent of BA, other than the individual committing the Breach.
- 4.1.4** BA shall protect PHI from any improper oral or written disclosure by enacting and enforcing safeguards to maintain the security of and to prevent any Use or Disclosure of PHI other than is permitted by this Agreement.

- 4.2 **Reporting and Mitigation.** Business Associate will report to Covered Entity any acquisition, access, use, or disclosure of Protected Health Information of which BA becomes aware, or that is reported to BA by an agent or Subcontractor, that is in violation of this Agreement.
- BA agrees to mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI by BA or its employees, officers or agents in violation of the requirements of this Agreement (including, without limitation, any Security Incident or Breach of Unsecured PHI). BA agrees to reasonably cooperate and coordinate with CE in the investigation of any violation of the requirements of this Agreement and/or any Security Incident or Breach. BA shall also reasonably cooperate and coordinate with CE in the preparation of any reports or notices to the individual, a regulatory body or any third party required to be made under HIPAA Regulations, the HITECH Act, or any other Federal or State laws, rules, or regulations, provided that any such reports or notices shall be subject to the prior written approval of CE.
- 4.3 **Agents and Subcontractors.** BA agrees to enter into an agreement with each of its subcontractors pursuant to 45 CFR 164.308(b)(1) and HITECH 13401. BA shall monitor and ensure, in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), that any agents, including subcontractors and subcontractors of subcontractors, that create, received, maintain, or transmit PHI on behalf of the BA agree to the same restrictions, conditions, and requirements that apply to the BA through this Agreement with respect to such information.
- 4.4 **Access to Designated Record Sets.** To the extent that BA possesses or maintains PHI in a Designated Record Set, BA agrees to provide access, at the request of CE, and in the time and manner designated by the CE, to PHI in a Designated Record Set, to Covered Entity or, as directed by CE, to an Individual in order to meet the requirements under HIPAA Regulations. If an Individual makes a request for access to PHI directly to BA, BA shall notify CE of the request within three (3) business days of such request and will cooperate with CE and allow CE to send the response to the Individual.
- 4.5 **Amendment of Designated Record Sets.** To the extent that BA possesses or maintains PHI in a Designated Record Set, BA agrees to make any amendment(s) to PHI in a Designated Record Set that the CE directs or agrees to pursuant to HIPAA Regulations at the request of CE or an Individual, and in the time and manner designated by the CE. If an Individual makes a request for an amendment to PHI directly to BA, BA shall notify CE of the request within three (3) business days of such request and will cooperate with CE and allow CE to send the response to the Individual.
- 4.6 **Disclosure Accounting.** BA agrees to document disclosures of Protected Health Information and information related to such disclosures as is necessary to enable Covered Entity to respond to a request by a Covered Individual for an accounting of disclosures of PHI in accordance with HIPAA Regulations and the HITECH Act. BA agrees to provide to CE or an Individual, in the time and manner designated by the CE, information to permit CE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA Regulations and the HITECH Act. If an Individual makes a request for an accounting directly to BA, BA shall notify CE of the request within three (3) business days of such request and will cooperate with CE and allow CE to send the response to the Individual. At a minimum, Business Associate shall provide Covered Entity with the following information: (i) the date of the disclosure; (ii) the name of the entity or person who received the Protected Health Information, and if known, the address of such entity or person; (iii) a brief description of the Protected Health Information disclosed; and, (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. BA hereby agrees to implement an appropriate record keeping process to enable it to comply with the requirements of this section and applicable law. It shall be CE's responsibility to promptly notify BA of the request for an accounting, and to prepare and deliver any such accounting requested. In addition to the foregoing, BA shall track other disclosures and/or make available to CE such information as is necessary for Covered Entity to comply with any additional accounting requirements.
- 4.7 **Access to Business Associate's Internal Records.** BA shall make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received

from or created or received by Business Associate on behalf of, CE available to CE or the Secretary, for the purposes of the Secretary's determining compliance with HIPAA for Covered Entity and/or BA.

- 4.8 **Electronic Transactions.** In the event the BA transmits or receives any Covered Electronic Transaction on behalf of CE, it shall comply with all applicable provisions of the Standards for Electronic Transactions Rule to the extent Required by Law and shall ensure that any agents and Subcontractors that assist BA in conducting Covered Electronic Transactions on behalf of CE agree in writing to comply with the Standards for Electronic Transactions Rule to the extent Required by Law.
- 4.9 **GINA.** BA agrees not to use or disclose Protected Health Information that contains genetic information if such use or disclosure would violate GINA.

5. Obligations and Rights of Covered Entity.

- 5.1 **Notice of Privacy Practices.** CE shall provide BA with the notice of privacy practices that CE produces in accordance with 45 C.F.R. Section 164.520, as well as any changes to such notice.
- 5.2 **Requests by Covered Entity.** CE shall not request or direct BA to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by CE. This includes, but is not limited to, requests or directions for disclosure of Protected Health Information to the Plan sponsor in a capacity other than acting on behalf of the Plan as CE. To the extent a dispute or difference of opinion exists between the BA and CE regarding whether a use or disclosure is permissible, BA may disclose the Protected Health Information under objection pursuant to the specific, written direction of CE. Any disclosures made pursuant to such specific, written direction shall be subject to the indemnification provisions of the Agreement.
- 5.3 **Authorizations.** CE shall notify Business Associate of any authorization provided by an Individual to use or disclose Protected Health Information (and any changes in or revocation of such an authorization),, to the extent that such information may affect Business Associate's use or disclosure of Protected Health Information. Upon receipt of such notification, BA shall use or disclose Protected Health Information in accordance with the authorization or changes thereto.
- 5.4 **Restrictions.** CE shall notify BA of any restriction on the use or disclosure of Protected Health Information to which CE has agreed in accordance with 45 C.F.R. Section 164.522 or is required to agree under HITECH (and any changes to or termination of such a restriction), to the extent that such restriction may affect BA's use or disclosure of Protected Health Information. Such restrictions include, but are not limited to, a Covered Individual's request not to disclose Protected Health Information for purposes of payment or health care operations where the Protected Health Information relates solely to a health item or service for which the health care provider has been paid in full out-of-pocket by, or on behalf of, the Covered Individual. Upon receipt of such notification, BA shall comply with such a restriction.
- 5.5 **Agreement Breaches by Business Associate.** If CE obtains knowledge of a pattern of activity or practice of BA that constitutes a material breach or violation of BA's obligations under this Agreement, CE will take reasonable steps to cure such breach or end such violation. If CE cannot successfully cure the breach or end the violation, CE shall terminate the Agreement in accordance with Section 8.2 if feasible.

6. Electronic Security Provisions

- 6.1 **Introduction.** This section applies where Business Associate, on behalf of Covered Entity, performs or assists in the performance of functions and activities that may involve the creation, maintenance, receipt, or transmission of Electronic Protected Health Information. This Section 6 along with the other sections of the BA Agreement are (1) intended to meet the requirements of the "business associate" provisions of Security Rule, and (2) govern the terms and conditions under which the BA may create, maintain, receive, and transmit Electronic

Protected Health Information on behalf of CE. In general, BA agrees and intends to act such that (1) CE can fulfill its responsibilities under HIPAA; (2) BA can fulfill its responsibilities under HIPAA; and (3) BA can fulfill its contractual obligations under this Agreement.

6.2 Obligations of Business Associate. In accordance with the Security Rule, BA agrees to:

- 6.2.1 Conduct a security risk assessment (in accordance with 45 C.F.R. Section 164.308(a)(1)(ii)(A)) and adopt and implement policies and procedures designed to ensure compliance with the Security Rule and this Agreement including, but not limited to, identifying security officer and training personnel. This Section 6.2.1 shall be effective as of the compliance date applicable under the final regulations issued under HITECH that address this requirement.
- 6.2.2 Implement administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that BA creates, maintains, receives, or transmits on behalf of CE.
- 6.2.3 Enter into a written contract with any agent or Subcontractor to whom BA provides Electronic Protected Health Information that requires such agent or Subcontractor to comply with the same restrictions and conditions that apply under this Section 6 to BA, including, but not limited to, implementing reasonable and appropriate safeguards to protect such information.
- 6.2.4 Report to CE any Security Incident of which BA becomes aware. BA shall provide such notification on a quarterly basis unless a prompter notice is otherwise required by this Agreement. With respect to Security Incidents that result from an unsuccessful attempt to access, use, disclose, modify, or destroy Electronic Protected Health Information or interfere with system operations in an information system containing Electronic Protected Health Information, the notification required hereunder need only report the aggregate number of such incidents.
- 6.2.5 Promptly mitigate, to the extent practicable, any harmful effect of a Security Incident that is known to BA.

6.3 Obligations of Covered Entity. CE shall not request or direct BA to create, maintain, receive, or transmit Electronic Protected Health Information in any manner that would not be permissible under the Security Rule.

7. Breach Notification Requirements

- 7.1 **Breach Notification.** To the extent BA accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses Unsecured Protected Health Information, as set forth in Section 13402(h) of HITECH, BA shall promptly report to CE any Breach of such Unsecured Protected Health Information by it, its subcontractors, or agents of which it becomes aware. Prior to notifying CE of the Discovery of a Breach, BA shall take reasonable steps to satisfy itself based upon reasonable diligence that the acquisition, access, use or disclosure of PHI was not unintentional or inadvertent. Notification to CE shall be made without unreasonable delay and in no case later than five (5) business days after the earlier of: (i) the first day on which such Breach is known to BA; or (ii) the first day on which such Breach, by exercising reasonable diligence, would have been known to any person (other than the person committing the Breach) who is an employee, officer or other agent of BA. Notification will be made to the Knox County Privacy Officer. Notification of the Breach may only be delayed if such delay is required by law enforcement purposes as set forth in 45 C.F.R. Section 164.412. If BA has been requested orally or in writing by law enforcement officials that notification of affected individuals may impede a criminal investigation, BA shall inform CE within 24 hours of receiving the request. BA shall exercise reasonable diligence and promptly supplement its report with any additional information as may be obtained by BA. BA, its affiliates, agents and subcontractors shall not provide any notification or information regarding any Breach to any person other than CE, except to the extent such action is: (i) required by law, (ii) required under this Agreement, or (iii) taken pursuant to a prior written consent of Covered Entity.

Notwithstanding the foregoing, BA may provide information regarding a Breach to its legal counsel.

7.2 Content of Report. Notification to CE of a Breach shall include, at a minimum, the following:

- 7.2.1 A brief description of what happened, including the date of the incident and the date of the discovery of the incident, if known;
- 7.2.2 A description of the types of Unsecured PHI that were involved in the incident (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information) and that were or are reasonably believed by BA to have been impermissibly accessed, acquired, used or disclosed;
- 7.2.3 A fact-specific and detailed risk assessment of whether the incident poses a significant risk of financial, reputational, or other harm to the individual whose Unsecured PHI has been (or is reasonable believed by BA to have been) acquired, accessed, used or disclosed;
- 7.2.4 Identification of the Individuals whose Unsecured PHI has been, or is reasonably believed by BA to have been, accessed, acquired, used or disclosed;
- 7.2.5 Any steps Individuals should take to protect themselves from potential harm resulting from the incident;
- 7.2.6 A brief description of what BA is doing to investigate the incident, to mitigate harm to Individuals, and to protect against any further incidents; and
- 7.2.7 Any other information reasonably requested by CE to be included in the report.

7.3 Documentation and Retention. BA will document all actions described in this Section 7 and maintain such documentation for at least six years from the date the documentation is created or the date it was last in effect, whichever is later.

7.4 Reimbursement, Mitigation and Cooperation. BA will reimburse CE for all reasonable and necessary out-of-pocket costs incurred (including without limitation costs associated with providing required notices) as a result of a Breach by the BA, its affiliates, subcontractors or agents. Business Associate further agrees to cooperate with CE as reasonably requested, to mitigate, to the extent practicable, any harmful effect of such a Breach or other use or disclosure of Protected Health Information in violation of the terms and conditions of this Agreement, and fully cooperate with CE on all matters relating to such incident and associated notifications by CE to Individuals, the media, the Secretary, the Federal Trade Commission, or any other governmental entity.

7.5 Continuing Duty to Report. Nothing in this Agreement shall be construed to relieve BA of its existing reporting obligations under the Agreement and BA shall continue to report to CE in the time and in the manner provided for in the Agreement. The occurrence of a Security Incident of a use or disclosure of PHI in a manner that is not provided for in the Agreement shall not discharge BA's obligations under this Agreement to report a Breach unless such reporting fully and completely satisfies all the Breach reporting requirements of this Agreement.

8. Term and Termination

8.1 Term. The Term of this Agreement will begin and become effective on the Effective Date and shall terminate when all the Protected Health Information provided by CE to BA, or created or received by BA on behalf of CE is destroyed or returned to CE, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section 8

8.2 Termination. Upon CE's knowledge of a material breach by BA of the terms of this Agreement, CE shall either:

- 8.2.1 Provide an opportunity for BA to cure the
- 8.2.2 Breach or end the violation. If BA does not cure the breach or end the violation within the time specified by CE, CE shall terminate this Agreement;

- 8.2.3 If BA has breached a material term of this Agreement and cure is not possible, immediately terminate this Agreement; or
- 8.2.4 If neither termination nor cure is feasible, CE shall report the violation to the Secretary.

8.3 Effect of Relationship Termination.

- 8.3.1 Except as provided in Section 8.3.2 and/or 8.3.3 of this sub-section, upon termination of the Agreement, for any reason, BA shall return or destroy all Protected Health Information received from or created or received by it on behalf of CE and will certify that such return or destruction has been completed no later than 30 calendar days following the effective date of termination. The certificate of return or destruction should be mailed to Knox County Risk Management, Attn. Privacy Officer, 400 Main Street Suite 345, Knoxville TN 37902. This provision shall apply to Protected Health Information that is in the possession of Business Associate and/or its Subcontractors or agents. BA will not retain any copies of Protected Health Information.
- 8.3.2 In the event that BA determines that returning or destroying Protected Health Information is infeasible, BA will notify CE in writing, no later than the date required for certification under section 8.3.1, of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return, or destruction of Protected Health Information is infeasible; BA will extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as BA maintains such Protected Health Information.
- 8.3.3 Should Covered Entity notify Business Associate that the information necessary to comply with the recordkeeping requirements under other applicable law includes the Protected Health Information, BA shall return or provide to CE such information, including Protected Health Information.

9. General Provisions

- 9.1 **Regulatory References.** Any reference in this Agreement to a section in HIPAA, HIPAA Regulations, or the HITECH Act means the section as in effect or amended or modified from time to time, including any corresponding provisions of subsequent superseding laws or regulations.
- 9.2 **Amendment.** The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for CE and/or BA to comply with the requirements of HIPAA and the HITECH Act, as those statutes and their implementing regulations may be amended from time to time. No amendment to this Agreement shall be effective until reduced to writing and duly signed by the authorized representatives of the parties.
- 9.3 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit each party to comply with HIPAA and the HITECH Act, as those statutes and their implementing regulations may be amended from time to time. The provisions of this Agreement shall prevail over any provision of any other agreement between the BA and the CE that may conflict or be inconsistent with any provision in this Agreement.
- 9.4 **Survival.** The respective rights and obligations of BA under this Agreement shall survive the termination of this Agreement and any related agreement, including a services agreement.
- 9.5 **Indemnity.** The BA agrees to indemnify, hold harmless, and defend the CE and its officers, directors, employees or agents from any claim, cause of action, liabilities, damages, penalties, fines, costs, expenses or other losses (including attorney's fees) arising out of any use or disclosure of PHI by BA or its agents or subcontractors in breach of this Agreement or in violation of State or Federal Law, including without limitation, HIPAA, the HITECH Act, the Privacy Rule, or the Security Rule.

- 9.6 **No Third-Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties hereto, any rights, remedies, obligations, or liabilities whatsoever.
- 9.7 **Disputes.** If any dispute or claim arises between the parties with respect to this Agreement, the parties will make a good faith effort to resolve such matters informally, it being the intention of the parties that they reasonably cooperate with each other in the performance of the mutual obligations under this Agreement.
- 9.8 **Conformance with Law.** The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the parties to comply with the requirements of HIPAA as they apply to each party.
- 9.9 **Action.** For purposes of this Agreement, whenever action is required by a party to this Agreement, such action must be taken by a person or persons with authority to act on behalf of such party to this Agreement.
- 9.10 **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.
- 9.11 **Notices.** All notices and communications required by this Agreement shall be in writing and shall be effective upon receipt. Such notices and communications shall be given in one of the following forms: (i) by delivery in person, (ii) by a nationally recognized, next-day courier service, (iii) by first-class, registered, or certified mail, postage prepaid; or (iv) by electronic mail to the address that each party specifies in writing. Neither party shall refuse delivery of any notice hereunder.
- 9.12 **Nature of Agreement.** Nothing in this Agreement shall be construed to create a partnership, joint venture, or other joint business relationship between the parties or any of their affiliates, or a relationship of employer and employee between the parties. Rather, it is the intention of the parties that their relationship shall be that of independent contractors.
- 9.13 **Entire Agreement.** This Agreement constitutes the entire agreement between the BA and the CE relating to the matters specified in this Agreement, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters.
- 9.14 **Counterparts.** This Agreement may be executed in counterparts, each of which so executed shall be construed to be an original, but all of which together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Transmission by facsimile or electronic mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart. This Agreement and any amendment or modification may not be denied legal effect or enforceability solely because it is in electronic form, or because an electronic signature or electronic record was used in its formation.
- 9.15 **Governing Law and Venue.** This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed under the laws of the state of Tennessee. The Chancery Court and/or the Circuit Court of Knox County, Tennessee shall have exclusive and concurrent jurisdiction of any disputes which arise hereunder.
- 9.16 **Compliance with HIPAA Transaction Standards.** When providing its services and/or products, BA shall comply with all applicable HIPAA standards and requirements (including, without limitation, those specified in 45 CFR Part 162) with respect to the transmission of health information in electronic form in connection with any transaction for which the Secretary has adopted a standard under HIPAA ("Covered Transactions"). BA represents and warrants that it is aware of all current HIPAA standards and requirements regarding Covered Transactions, and BA shall comply with any modifications to HIPAA standards and requirements which become effective from time to time. BA agrees that such compliance shall be at its sole cost and expense, which expense shall not be passed on to CE in any form, including, but not limited to, increased fees. BA shall require all of its agents and subcontractors (if any) who assist BA in providing its services and/or products to comply with these terms.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below.

COVERED ENTITY:

Knox County, Tennessee

Print Name: _____

Title: _____

Date: _____

BY: _____

Title: Mayor _____

Date: _____

BUSINESS ASSOCIATE:

Print Name: _____

Title: _____

Date: _____

Designated Persons Appendix