

## **KNOX COUNTY PURCHASE ORDER LANGUAGE**

### Terms and Conditions, Obligations, Rights and Remedies

1. **DEFINITION OF PURCHASE ORDER:** Knox County has issued this document as permission for the vendor to ship goods or perform services as indicated on the front of this document and according to the terms and conditions of the Invitation to Bid, Bid and attachments hereto, Award, and the Knox County Procurement Code. The terms and conditions of the Invitation to Bid, Bid and the Knox County Procurement Code are incorporated herein and made a part hereof by reference. Vendor shall not supply the goods or services if in disagreement with these terms. Vendor's provision of goods and services pursuant to this Purchase Order is evidence of its agreement with these terms and conditions and shall conform to same.
2. **INCORPORATION:** All specifications, drawings, technical information, invitation to bid, bid, award and similar items referred to or attached or which are the basis for this purchase order are deemed incorporated by reference as if set fully herein.
3. **ACCEPTANCE:** Vendor's written acceptance or commencement of work or shipment or delivery of an items or service call shall constitute acceptance by the vendor of this purchase order, its terms and conditions and applicable law.
4. **ALTERATIONS OR AMENDMENTS:** No alterations, amendments, changes, modifications or additions to this Purchase Order shall be binding on Knox County without the prior written approval of Knox County.
5. **ASSIGNMENTS:** Vendor shall not assign this agreement, it obligations or rights hereunder to any party, company, partnership, incorporation or person without the prior written specific consent of Knox County.
6. **SUB-CONTRACTING:** Vendor shall not sub-contract this purchase order to any other vendor without the expressed written consent of Knox County.
7. **WARRANTY:** Vendor 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. Vendor extends to Knox County all warranties allowed under the U.C.C. Vendor shall provide copies of warranties to the County with invoice. Return of merchandise not meeting warranties shall be at vendor's expense.
8. **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 of set-off, refund, incidental, consequential and compensatory damages and reasonable attorneys fees.
9. **PACKING LISTS:** An itemized packing list, bearing Purchase Order number and/or requisition number shall be attached to the outside of every shipping container.

10. **INSPECTION AND ACCEPTANCE:** Final inspection of any goods or services delivered or performed hereunder shall be made at final destination, the receiving department. Knox County reserves the right to reject any or all items not in conformance with applicable specifications, and Vendor assumes the costs associated with such nonconformance. Acceptance of goods does not constitute a waiver of latent or hidden defects or defects not readily detectable by a reasonable person under the circumstances.
11. **DESCRIPTION OF SUPPLIES:** Any catalog or manufacturer's reference used in describing any items is merely descriptive and not restrictive, unless otherwise noted, and is used to indicate type and quality of material. The term "or equal" if used, identifies commercially produced items which have the essential performance characteristics of the brand name stated in the item description.
12. **ORDER OF PREFERENCE:** In the event of inconsistent or conflicting provision of this Purchase Contract and referenced documents, the following descending order of preference shall prevail: (1) Item Description, (2) Invitation to Bid, (3) Bid, (4) Award, (5) Special Terms and Conditions, (6) General Terms and Conditions, (7) Specifications, (7) Drawings.
13. **TAXES:** All prices included in this Purchase Order are exclusive of any Federal, State or local taxes.
14. **SEVERABILITY:** If any provision of this Purchase Order is declared illegal, void or unenforceable, the remaining provisions shall not be affected but shall remain in force and in effect.
15. **GOVERNING LAW:** This Purchase Contract shall be governed by the laws of the State of Tennessee, 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.
16. **PAYMENTS:** Payments shall be made by Knox County upon satisfactory delivery and acceptance of all items or service, and submission of a proper invoice(s) bearing the Purchase description, delivery date, and/or contract number. Each purchase order should be covered by separate invoice(s).
17. **FOB POINT:** Delivery of all goods shall be FOB to final destination unless otherwise set forth herein.
18. **DISCOUNTS:** In order for prompt payment discounts to be used in the determination of "low bids" for bid awards, only those discounts being open and available for at least (30) days will be considered.
19. **VARIATION IN QUALITY:** No variation in the quality of any items called for by this Purchase Order shall be allowed, unless such variation is caused by conditions of loading, shipping or packing or allowances in manufacturing processes, and then only to the extent, if any, set forth herein.

20. **FORCE MAJEURE:** If either party is prevented from performing its obligations hereunder as a result of government regulations, fires, strikes, or other causes beyond the control of such party, the obligations to so perform shall be suspended for a reasonable time during which such condition continues to exist. If actual or potential labor dispute delays or threatens to delay Vendor's timely performances, Vendor shall immediately notify County in writing.
21. **OFFICIALS NOT TO BENEFIT:** No employee or elected official of Knox County shall be permitted to any share or part of this Purchase Order or any benefit that may arise therefrom. Vendor agrees not to provide any gratuity in any form, including entertainment, gifts or otherwise to any employee, buyer, agent, or representative of Knox County, with a view to securing a contract, or securing favorable treatment with respect to the award or amendment, or the making of any determination with respect to the performances of any contract.
22. **DEFAULT:** If Vendor fails to perform or comply with any provision of this Purchase Order or the terms or conditions of any documents referenced and made a part hereof, Knox County may terminate this contract, in whole or part, and may consider such failure or noncompliance a breach of contract. Knox County expressly retains all its 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 bidding and Vendor agrees to pay any differences in costs above those conditions in this order.
23. **TERMINATION:** County may terminate this agreement with or without cause at anytime. In the event of termination by either party, fees due for services performed or goods accepted prior to the termination date shall be paid.
24. **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 Purchase 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 any party.
25. **COMPLIANCE WITH ALL LAWS:** Vendor 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.
26. **INDEMNIFICATION/HOLD HARMLESS:** Vendor 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 Vendor, its subcontractors, suppliers, agents, or employees or due to any negligent act or occurrence or any omission or commission of Vendor, its subcontractors, suppliers, agents or employees.
27. **INDEPENDENT CONTRACTOR:** Vendor 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.
28. **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.

29. **NONDISCRIMINATION AND NON-CONFLICT STATEMENT:** Vendor agrees that no person on the grounds of handicap, age, race, color, religion, sex, or national origin, shall be excluded from the 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. Vendor 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. Vendor 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. Vendor covenants that it does not engage in any illegal employment practices. Vendor 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 and performance of its services.
30. **BOOKS AND RECORDS:** Vendor shall maintain all books, documents, accounting records and other evidence pertaining to the goods and services provided under this Purchase 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 government 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 Vendor's costs of manufacturing, acquiring or delivering the products and services governed by this agreement.
31. **CHILD LABOR:** Vendor agrees that no products will be provided under this Purchase Contract which have been manufactured or assembled by child labor.