

**CITY OF MANSFIELD PURCHASE ORDER
GENERAL TERMS AND CONDITIONS**

Vendors providing goods or services to the City of Mansfield (herein "City") acknowledge that by (a) accepting this order, (b) delivering materials, or (c) performing services called for hereunder, they agree to comply with and accept the following terms and conditions without qualifications. These Terms and Conditions along with the purchase order shall constitute a contract between the Vendor and City. Should a formal or separate contract be executed between City and Vendor, the terms of the separate written agreement shall prevail over those listed here.

1. **VALIDATION:** This is a valid Purchase Order (PO) only when a PO number appears in the space provided and is signed by the designated purchasing officer.
2. **FUNDING:** Vendor recognizes that the continuation of any PO during and or after the close of any given fiscal year of City, which fiscal year ends on September 30 of each year, shall be subject to Council budget approval of City providing for or covering such PO item as an operating expenditure therein. The City does not represent that said budget item will be adopted, or remain as adopted, as this determination is within the sole discretion of the City Council. Should funding not be approved by the City Council for any given budget year during the PO term, the PO will terminate and become null and void. Vendor acknowledges and agrees that it will have no recourse against City for its failure to appropriate funds for the purposes of this PO in any fiscal year other than the year in which this PO was executed.
3. **PACKAGING OF DELIVERABLES:** Vendor will package goods in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price unless otherwise agreed upon in writing. The Vendor shall bear cost of packaging. Goods shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
4. **TITLE AND RISK OF LOSS:** For goods to be provided by Vendor's hereunder, if any, the title and risk of loss of the goods shall not pass to City until City actually receives, takes possession, and accepts the goods and, if applicable, upon the installation of such goods, testing of the goods, and determination that goods are in good and acceptable working order.
5. **F.O.B. DELIVERY:** All products offered shall be F.O.B. final destination, with all transportation and delivery charges to be prepaid by the Vendor. The City does not accept C.O.D. or collect shipments. The agreed upon price shall include all charges, including delivery, installation, and set-up fees. When articles are sold "Freight Allowed" and City' PO so confirms, Vendor shall prepay shipping charges and record prepaid charges as a separate item on invoice. It is understood that title of the merchandise appearing on this PO will not pass until the merchandise is accepted at the delivery destination and must be shipped exactly as ordered. All packaging, crating, or other debris resulting from the delivery or set-up of the commodity purchased shall be removed and properly disposed by the successful Vendor at no additional cost to the City.
6. **DELIVERY:** Exact address of delivery will be specified on the PO and shall be designated at the sole discretion of City
 - a. The delivery shall be made between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except holidays, to a City owned property unless otherwise expressed in writing by the City.
 - b. The delivery shall be made, and articles shall be placed inside the building or designated rooms at no additional charge.
7. **NO PLACEMENT OF DEFECTIVE PRODUCT:** Every delivery of goods must fully comply with all provisions of this PO as to time of delivery, quality and quantity. If a tender is made which does not fully conform, this shall constitute a breach and Vendor shall not have the right to substitute a conforming tender, provided, where the time for performance has not yet expired, the Vendor may notify City of its intention to cure and may then make a conforming tender within the contract time allotted but not afterward.
8. **INVOICES AND PAYMENTS:** Payment Terms are Net 30 and City shall make payment in accordance with Chapter 2251 of the Texas Government Code. Vendor shall submit separate invoices on each PO after each delivery. Invoices shall indicate the PO number. A copy of the bill of lading, and the freight weigh bill when applicable, should be attached to the invoice. Mail to: City of Mansfield, ATTN: Purchasing Department, 1200 E. Broad Street, Mansfield, Texas 76063. Payment shall not be due until the above instruments are submitted as required herein, after delivery. Vendors should keep the Purchasing Department advised of any changes in their remittance addresses.
9. **WARRANTY OF PRICE:**
 - a. The price to be paid by City shall be that agreed to in writing, which Vendor warrants to be no higher than Vendor's current prices on orders for products of the kind and specification covered by the PO for similar quantities under similar or like conditions and methods of purchase.
 - b. In addition to any other remedy available, City may deduct from any amounts owed to Vendor, or otherwise recover, any amounts paid for items in excess of the Vendor's current prices on orders by others for like goods under similar terms of purchase, or in the alternative, City may cancel this PO without liability to the Vendor for breach or Vendor's actual expense.
 - c. Pricing from Interlocal and Cooperative purchasing agreements may be considered.
10. **WARRANTY OF TITLE:** Vendor warrants that it has good and defeasible title to all goods and deliverables furnished under this PO, and that said deliverable and goods are free and clear of all liens, claims, security interests and encumbrances. Vendor shall indemnify and hold the City harmless from and against all adverse title claims to the Deliverables.
11. **WARRANTY OF GOODS:**
 - a. Vendor warrants and represents that all goods sold to City under this PO shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the PO, to any samples furnished by the Vendor, to the terms, covenants and conditions of this PO, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in this PO or separate contract, the goods shall be new and not used or reconditioned.
 - b. Vendor may not limit, exclude, or disclaim this foregoing warranty or any warranty implied by law; any attempt to do so shall be without force or effect.

- c. Unless otherwise specified, the warranty period shall be at least one (1) year from the date of acceptance of the goods or from the date of acceptance of any replacement goods. If during the warranty period, one or more of the above warranties are breached, the Vendor shall promptly upon receipt of demand either repair the non-conforming goods or replace the non-conforming goods with fully conforming goods, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Vendor. City shall endeavor to give the Vendor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
 - d. If the Vendor is unable or unwilling to repair or replace defective or non-goods as required by City, then in addition to any other available remedy, City may reduce the quantity of goods it may be required to purchase under this PO from the Vendor and purchase conforming goods from other sources. In such an event, the Vendor shall pay to City upon demand the increased cost, if any, incurred by City to procure such goods from another source.
 - e. If the Vendor is not the manufacturer, and the goods are covered by a separate manufacturer's warranty, the Vendor shall transfer and assign such manufacturer's warranty to City. If for any reason the manufacturer's warranty cannot be fully transferred to City, the Vendor shall assist and cooperate with City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
- 12. WARRANTY OF SERVICES:**
- a. Vendor warrants and represents that all services to be provided to City shall be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, covenants and conditions of this PO and all applicable State, Federal or local laws, rules, and regulations.
 - b. Vendor may not limit, exclude, or disclaim this foregoing warranty or any warranty implied by law; any attempt to do so shall be without force or effect.
 - c. Unless otherwise specified, the warranty period shall be at least one (1) year from the last date services have been paid for under this PO. If during the warranty period, one or more of the above warranties are breached, the Vendor shall promptly upon receipt of demand perform the services again in accordance with the above standard at no additional cost to the City. All costs incidental to such performance shall be borne exclusively by the Vendor. City shall endeavor to give the Vendor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
 - d. If the Vendor is unable or unwilling to perform its services with the above standard as required by City, then in addition to any other available remedy, City may reduce the amount of services it may be required to purchase under this PO from the Vendor and purchase conforming services from other sources. In such event, the Vendor shall pay to City upon demand the increased cost, if any, incurred by City to procure such services from another source.
- 13. NO WARRANTY BY CITY AGAINST INFRINGEMENTS:** As part of this PO, Vendor agrees to ascertain whether goods manufactured in accordance with the specifications attached to this PO will give rise to the rightful claim of any third person by way of infringement or the like. City makes no warranty that the production of goods according to the specification, contained in this PO will not give rise to such a claim, and in no event shall City be liable to Vendor for indemnification in the event that Vendor is sued on the grounds of infringement or the like. If Vendor is of the opinion that an infringement or the like will result, it will notify City to this effect in writing within two weeks after receipt of this PO. If City does not receive notice and is subsequently held liable for the infringement or the like, Vendor will indemnify and hold City harmless. If Vendor in good faith ascertains that production of the goods in accordance with the specifications herein will result in infringement or the like, this PO shall be null and void except that City will pay Vendor the reasonable cost of his search as to infringements.
- 14. RIGHT OF INSPECTION AND REJECTION:** City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the goods at delivery before acceptance. City reserves the right to reject or refuse acceptance of goods which are defective or not in accordance with City's instructions, specifications, drawings and date, or Vendor's warranties (expressed or implied). Goods not accepted will be returned to Vendor at Vendor's risk and expense. Payment for any goods shall not be deemed an acceptance thereof and shall be refunded to the City in the event Vendor cannot fulfill an acceptable order.
- 15. CANCELLATION:** City shall have the right to cancel for default all or any part of the undelivered portion of this PO if Vendor breaches any of the terms hereof including warranties of Vendor or if the Vendor becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any remedies, which City may have in law or equity.
- 16. TERMINATION:** City may terminate this PO at any time upon thirty (30) calendar days' notice in writing to Vendor. Upon receipt of such notice, Vendor shall, unless the notice directs otherwise, discontinue all services in connection with the performance of this PO. As soon as practicable after the receipt of notice of termination, Vendor shall submit a statement to the appropriate department(s) showing in detail the services performed or items delivered under this PO to date of termination. City agrees to compensate the Vendor for that portion of the prescribed charges for which the services were actually performed or items delivered under this PO and not previously paid. Such right of termination is in addition to and not in lieu of rights of City set forth in Clause 15, herein.
- 17. FORCE MAJEURE:** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligation under this PO then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereafter provided, but for no longer periods and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The terms Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kind of government of the United States or State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirements that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.
- 18. ASSIGNMENT-DELEGATION:** The rights and duties awarded Vendor on this PO shall not be assigned to another without the written consent of City. Such consent shall not relieve the assignor of liability in the event of default by the assignee.

19. **WAIVER:** No claim or right arising out of a breach of this PO can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
20. **ADVERTISING:**
- Vendor shall not advertise or publish, without City's prior written consent, the fact that City has entered into this PO with Vendor, except to the extent necessary to comply with prior requests for information from an authorized representative of federal, state or local government.
 - Vendor understands and acknowledges that City owns all rights to the name, logos, and symbols of City ("City Marks"). All rights to City Marks will at all times remain the property of City. Subject to these Terms and Conditions, City may grant to Vendor a nonexclusive right to use those specific City Marks that are directly required to complete Vendor's obligations in this PO, and which are approved for in advance, in writing.
 - All use of the City Marks will be in a manner that (i) complies with applicable laws and City rules; (ii) is consistent with Vendor's use of other City Marks under similar situations; and (iii) will not tarnish the City Marks.
21. **NOTICES:** All notices required to be given in this PO shall be provided in writing. Notices shall be deemed effective when delivered by hand delivery or on the third (3rd) business day after the notice is deposited in the U.S. Mail. Notices to City shall be sent to: City of Mansfield, ATTN: Purchasing Department, 1200 E. Broad Street, Mansfield, Texas 76063.
22. **MODIFICATIONS:** This PO can be modified only by written amendment signed by both parties or their duly authorized Managers.
23. **COMPLIANCE WITH APPLICABLE LAW:** Vendor agrees that this PO will be subject to, and Vendor will strictly comply with, all applicable federal, state, and local laws, ordinances, rules, and regulations of the State of Texas.
24. **VENUE:** Both parties agree that venue for any litigation arising from this PO shall lie in Tarrant County, Texas.
25. **GOVERNING LAW:** This PO will be governed by and construed under the laws of the State of Texas. Any controversy, claim or dispute arising out of or relating to this PO will be brought in a state court of competent jurisdiction in Tarrant County or, if in federal court, in the Federal Northern District of Texas, Fort Worth Division
26. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** No officer or employee shall have a financial interest, direct or indirect, in any contract with City, or be financially interested, directly or indirectly, in the sale to City of any land, materials, supplies or services, except on behalf of City as an officer or employee. Any knowing and willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof (shall) forfeit his office or position. Any violation of this section with the knowledge, expressed or implied, of the person or corporation conducting business with the governing body of City shall render this PO void.
27. **INDEPENDENT CONTRACTOR:** This PO shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Vendor's services shall be those of an independent contractor. The Vendor agrees and understands that this PO does not grant any rights or privileges established for employees of City.
28. **INSURANCE:** See request for proposal, request for bids, request for quotes, or request for qualifications, if applicable, for minimum requirements, required for all on-site work on City property.
29. **INDEMNITY:** VENDOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE VENDOR, OR THE VENDOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE VENDOR'S OBLIGATIONS UNDER THE PO. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE VENDOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD-PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.
30. **GRATUITIES:** City may terminate this contract if City finds that gratuities (in the form of entertainment, gifts or otherwise) were offered or given by Vendor, or any agent or representative of Vendor, to any officer or employee of City to secure favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this PO.
31. **ACCEPTANCE:** These General Terms and Conditions ("Terms and Conditions") govern all POs issued by City to Vendor identified on the PO. Fulfillment of any part of the PO, or any other conduct by Vendor which recognizes the existence of an agreement pertaining to the subject matter of such PO, shall constitute acceptance by Vendor of such PO and all the Terms and Conditions contained herein. The Terms and Conditions constitute the complete and exclusive statement of the terms and conditions between Vendor and City. No revisions to this PO or to the Terms and Conditions shall be valid unless made in writing and signed by an authorized representative of the City. The City accepts liability only for purchases of goods and services made through the Purchasing Department and evidenced by a valid PO.
32. **TAXES:** City is a governmental entity and is exempt from the payment of: (1) Federal Taxes, (2) Federal Transportation Taxes, and (3) Texas state or local sales taxes. If it is determined that the price quoted and recorded on this PO or the invoice rendered includes any such taxes, the amount of the taxes will be deducted from the total of the invoice.
33. **RIGHT TO AUDIT:** The City shall have the right to examine, reproduce and audit any and all books and records of Vendor related to the performance under this PO at any reasonable time. Vendor shall retain all such records for a period of three (3) years after final payment on this PO or until all audit and litigation matters the City has brought to the attention of Vendor are resolved, whichever is longer. Such books and records will be maintained in accordance with generally accepted accounting principles and will be adequate to enable determination of compliance with the provisions of this PO. Vendor agrees to refund City any overpayments disclosed by any such audit. Vendor shall include similar provisions in any and all subcontractor agreements entered into in connection with this PO.

34. **DISCLOSURE:** Pursuant to Chapter 176 of the Texas Local Government Code, a person or agent of a person who contracts or seeks to contract with City must complete a conflict-of-interest questionnaire if the person or agent has an affiliation or business relationship that might cause a conflict of interest with City. The conflict-of-interest questionnaire, which is available online at www.ethics.state.tx.us must be filed with the City Secretary of the City no later than the seventh business day after the person or agent begins contract discussions or negotiations with City or submits to City an application, response to a request for proposal or bid, correspondence, or another writing related to a potential agreement with City. An updated conflict of interest questionnaire must be filed in accordance with Chapter 176 of the Local Government Code. Vendor should consult with legal counsel if Vendor has questions regarding its compliance with the requirements of Chapter 176. It is the responsibility of each person or agent who is contracting or seeking to contract with City to comply with the filing requirements of Chapter 176.
35. **DISPUTE RESOLUTION:** Pursuant to subchapter I, Chapter 271, Texas Local Government Code (Code), Vendor agrees, that prior to instituting any lawsuit or other proceeding arising from any dispute or claim of breach under this PO (a "Claim"), the parties will first attempt to resolve the Claim by following the steps within said Code. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief.
36. **NON-DISCRIMINATION:** Vendor understands and certifies that it is an Equal Opportunity Employer and does not and will not discriminate in employment and in subcontracts based on race, color, sexual orientation, gender identity, national origin, sex, age, disability or economic condition and prohibits retaliation, discharge, or discrimination against any employee or applicant for employment or against any subcontractor or supplier.
37. **COMPLIANCE WITH CHAPTER 2252:**
Vendor agrees that in accordance with Chapter 2252 of the Texas Government Code, Vendor shall not do business with Iran, Sudan or a foreign terrorist organization while providing goods or services to the City.

Yes, we agree No, we do not agree *

* By selecting no, Vendor certifies that it is affirmatively excluded from the federal sanctions regime by the United States government and is not subject to the contract prohibition under Section 2252.152 of the Texas Government Code. Vendor shall provide sufficient documentation to the City of such exclusion prior to awarding of any contract for goods or services.

38. **COMPLIANCE WITH CHAPTER 2271:**
Vendor agrees that in accordance with Chapter 2271 of the Texas Government Code, Vendor has not and shall not boycott Israel at any time while providing goods or services to the City.

Yes, we agree No, we do not agree

39. **COMPLIANCE WITH CHAPTER 2274:** Pursuant to Chapter 2274, Texas Government Code, Prohibition on Contracts with Companies Boycotting Certain Energy Companies, as enacted by S.B. 13, 87th Legislature, the City is prohibited from using public funds to contract with a for-profit Company as defined by Government Code 809.01 who boycotts energy companies. If Vendor has more than 10 employees and this Contract has a value of \$100,000 or more, by signing this PO, the Vendor verifies that it does not discriminate against energy companies and will not discriminate during the term of this PO. By acceptance of this PO, Vendor certifies compliance with these requirements.
40. **COMPLIANCE WITH CHAPTER 2274:** Pursuant to Chapter 2274, Texas Government Code, Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries, as enacted by S.B. 19, 87th Legislature, the City is prohibited from using public funds to contract with a for-profit Company as defined by Chapter 2274.001, who discriminates against firearm and ammunition industries. If Vendor has at least 10 full-time employees and this Contract has a value of \$100,000 or more, by signing this PO, Vendor agrees that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this PO. By acceptance of this PO, Vendor certifies compliance with these requirements. This section does not apply if Vendor is a sole-source provider.
41. **COMPLIANCE WITH CHAPTER 2274:** Pursuant to Chapter 2274, Texas Government Code, Prohibition on Contracts with Certain Foreign-Owned Companies in Connection with Critical Infrastructure, as enacted by S.B. 2116, 87th Legislature, City is prohibited from using public funds to contract with companies that do business with certain foreign-owned companies in connection with critical infrastructure if the company is granted direct or remote access; and if the company is owned by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a "designated country", or headquartered in China, Iran, North Korea, Russia, or a designated country. Designated country is Governor-designated country as a threat to critical infrastructure. Vendor, by acceptance of this PO, certifies that it does not do business with certain foreign-owned companies in connection with critical infrastructure as described herein.