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# DELIVERY (Time is of the Essence)

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### F.O.B. DESTINATION - INSIDE DOCK/DOOR (TITLE/OWNERSHIP) FREIGHT PREPAID AND INCLUDED

**F.O.B. JOB SITE**

**FORCE MAJEURE**

**FUEL SURCHARGE**

**GREEN INITIATIVE**

**GSA PRICING**

[**GUIDELINES FOR RFP ISP EVALUATION TEAMS**](http://www.bussvc.wisc.edu/purch/contract/clauses/Guidelines%20for%20RFP%20ISP%20Evaluation%20Teams.doc)

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

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# INCENTIVE

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**MDS CROSS-DOCKING REQUIREMENTS**

**METHOD OF AWARD**

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[**NON AUTO RENEWAL**](http://www.bussvc.wisc.edu/purch/contract/clauses/Nonautorenewal.doc)

**NOTICE OF INTENT TO PARTICIPATE**

**PACKING SLIPS**

[**PATENT INFRINGEMENT LITIGATION**](http://www.bussvc.wisc.edu/purch/contract/clauses/PATENT.doc)

**PAYMENT TERMS**

**PCI COMPLIANCE**

**PERFORMANCE BOND**

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**PRE-AWARD TRIAL PERIOD**

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**PROPOSAL SCORING**

**PROTEST LANGUAGE (IT – protest handled through System vs. DOA)**

[**RECYCLED PRODUCTS**](http://www.bussvc.wisc.edu/purch/contract/clauses/Recycled%20Products.doc)

**REMEDIES ON DEFAULT - TERMINATION**

[**RIDER (HARDWARE MAINTENANCE)**](http://www.bussvc.wisc.edu/purch/contract/clauses/Rider%20(Hardware%20Maint).doc)

[**RIDER (HARDWARE)**](http://www.bussvc.wisc.edu/purch/contract/clauses/Rider%20(Hardware).doc)

[**RIDER (PERSONAL SERVICES)**](http://www.bussvc.wisc.edu/purch/contract/clauses/Rider%20(Personal%20Svcs).doc)

[**RIDER (PERSONAL SERVICES)**](http://www.bussvc.wisc.edu/purch/contract/clauses/Rider%20(Personal%20Svcs).doc) **[NON-IT]**

[**RIDER (SOFTWARE)**](http://www.bussvc.wisc.edu/purch/contract/clauses/Rider%20(Software).doc)

**SCIQUEST (**Shop@UW 1)

**SCIQUEST (**Shop@UW 2)

## [SHIPPING COSTS](http://www.bussvc.wisc.edu/purch/contract/clauses/SHIPPING%20COSTS.doc)

## SITE VISIT

## SOURCE CODE

## SPECIFICATION ACCEPTANCE

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**SPECIFICATIONS TABLE HEADER (RFP)**

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**TRAINING**

[**WAIVER OF CONSEQUENTIAL DAMAGES**](http://www.bussvc.wisc.edu/purch/contract/clauses/WAIVER%20OF%20CONSEQUENTIAL%20DAMAGES.doc)

**WAIVER OF TRIAL BY JURY**

**WARRANTY**

**WEB ACCESSIBILITY**

**“UNIQUE CLAUSES”**

**ACCESS TO UNIVERSITY FACILITIES BY VENDORS/GUESTS**

*“Contractor/<insert name> agrees to be responsible for ensuring that all access by Contractor/<insert name>  employees, contractors, customers and invitees to University equipment and facilities under this Agreement will be conducted in full compliance with US export control laws and related laws and policies, including but not limited to the Export Administration Regulations, the International Traffic in Armaments Regulations (ITAR), and the rules and policies of the Office of Foreign Assets Control (OFAC)”.*

**ADVERTISING RIDER**

**ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract or order awarded as aresult of this request except where special requirements are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the University.

**APPLICABLE LAW:** This Agreement shall be construed under the laws of the State of Wisconsin. Jurisdiction and venue for any disputes under this Agreement shall be in Dane County, Wisconsin. The Publisher shall at all times comply with and observe all federal and state laws, local laws, ordinances and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct.

**RATES:** All advertising purchased will be at the negotiated rates and terms indicated on the Publisher’s current rate cards, as revised from time to time with mutual agreement. Rates apply to advertising space relating to the business operated by the Advertiser. Rates cannot be used directly or indirectly to cover the advertising of any product for which the Advertiser may be a distributor. The space contracted for will not be sublet to others, nor used for other purposes than contemplated by this Agreement. The negotiated and edited rate cards are made a part of this Agreement. This Agreement will control if there is a conflict or inconsistency between this agreement and the advertising rates and terms on the rate cards.

The Publisher may, in its discretion, from time to time after providing written notice to advertiser, as contemplated in addendum hereto, increase the rates listed on any rate card or change its advertising terms. If the rates are increased or terms changed, the Advertiser may cancel the remainder of the term of this Agreement, as of the date the new rates or changes become effective, without liability for failure to meet the Volume Agreement on reverse side. The Advertiser must notify the Publisher in writing if the Advertiser decides to cancel the remaining term of this Agreement because of increases or changes. If the Advertiser fails to provide such written notice or negotiate any of the rates or terms, the Advertiser agrees to be bound by the new rates and terms, which will become a part of this Agreement and become effective on the date set forth in the Publisher's notice.

**COPYRIGHT:** The foregoing notwithstanding, Advertiser retains all right, title, and interest in and to any copyrights or trademarks contained in submissions provided by Advertiser. No license or other rights in or to such copyrights and trademarks are granted to Publisher, other than those rights that may be necessary for Publisher to display the advertising contemplated herein.

**OWNERSHIP:** All advertising copy which represents the creative effort of the Publisher and/or utilization of creativity, illustrations, labor, composition or material furnished by it in cooperation with the Advertiser will become the property of the Advertiser, including all rights of copyright therein. Both parties understand and agree that they cannot authorize photographic or other reproductions, in whole or in part, of any such advertising copy for use in any other newspaper or other advertising medium, without the express written consent of the other party. Publisher agrees not to use any advertising or marketing materials that implies or suggests an “endorsement” or “preferred status” of the Publisher by the Advertiser.

**ORDERING:**  Advertising commitments will be communicated via official university purchase orders or by work order.

**ADVERTISING CONTENT:** The Publisher may, in its sole discretion, edit, alter, omit, reject or cancel at any time any of Advertiser's promotions or advertising with reasonable notice to the Advertiser. All advertising positions are at the option of the Publisher, unless a position is purchased by the Advertiser and specifically identified by Contract.

**PRODUCTION ERRORS:** The Publisher agrees to run corrective advertisement for that portion of an insertion which may have been rendered valueless by typographical errors, incorrect insertion or omission of copy, unless such error arose after the advertisement had been set and proofed or otherwise confirmed by the Advertiser or the advertisement was submitted after deadline. The Publisher will not be liable to Advertiser for any loss or damage that results from a typographical error, incorrect insertion or omission or failure to insert, distribute or publish any advertising, unless it is the result of a negligent malicious act of the Publisher or their staff.

**PAYMENT:** The Advertiser will make payment to the Publisher net 30 days after receipt of a properly submitted invoice to the amount owed for unpaid advertising and applicable interest or late charges.

Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing. Invoice payment processing address is shown on the upper left corner of the purchase order. Send invoices to the Accounts Payable address on the purchase order.

**ASSIGNMENT:**  No right or duty in whole or in part of the Publisher under this contract may be assigned or delegated without the prior written consent of the University.

**PERIODIC REPORTS:** If requested, Publisher agrees to provide monthly reports to designated University contact as indicated on purchase order or work order.

**TAXES:** The University, an agency of the State of Wisconsin, is exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below. The Department of Revenue of the State of Wisconsin does not issue a tax exempt number; however, University is exempt from State of Wisconsin sales or use tax under s.77.54(9a)(a). Registration No. 39-73-1021-K, was issued by the Internal Revenue Service to authorize tax-free transactions under Chapter 32 of the Internal Revenue Code.

**VENDOR TAX DELINQUENCY:** Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.

**FORCE MAJEURE:**  Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

**HOLD HARMLESS:**  The Publisher will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the Publisher, its employees, or of any of its Publishers, in prosecuting work under this agreement.

**CANCELLATION:**  The University reserves the right to cancel any contract in whole or in part without penalty due to nonappropriation of funds or for failure of the Publisher to comply with terms, conditions, and specifications of this contract.

**TERMINATION:** The Publisher may reject an advertising order with reasonable written notice to the Advertiser and/or immediately terminate this Agreement, upon notice to Advertiser for any of the following reasons: (a) if the Advertiser fails to make payment by the date specified in the Publisher's invoice or otherwise fails to perform any of the provisions of this Agreement, (b) if the Advertiser makes an assignment for the benefit of creditors, (c) if a petition in bankruptcy or for reorganization under the bankruptcy or insolvency laws is filed by or against the Advertiser, (d) if the Advertiser ceases doing business or is likely to cease doing business if the Publisher believes the advertisement material is or could be considered offensive by any public person or entity, or (e) in the opinion of the Publisher, the credit of the Advertiser is or may be impaired.

**NONDISCRIMINATION/AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the Publisher agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01(5), Wisconsin Statutes, sexual orientation as defined in s.111.32(13m) Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Publisher further agrees to take affirmative action to ensure equal employment opportunities.

Contracts estimated to be overtwenty-five thousand dollars ($25,000) require the submission ofa written affirmative action plan by the Publisher**.** An exemption occurs from this requirement if the Publisher has a workforce of less than twenty-five (25) employees. Within fifteen (15) working days after the contract is awarded, the Publisher must submit the plan to the contracting state agency for approval**.** Instructions on preparing the plan and technical assistance regarding this clause are available from the contracting state agency.

 The Publisher agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin nondiscrimination law.

Failure to comply with the conditions of this clause may result in the Publisher's becoming declared an "ineligible" Publisher, termination of the contract, or withholding of payment.

**OMNIBUS RECONCILIATION ACT:**  (Public Law 96-499) To the extent required by law, if this contract is for acquisition of services with a cost or value of $25,000 or more within any 12-month period, including contracts for both goods and services in which the services component is worth $25,000 or more within any 12-month period, the Publisher shall in accordance with 42 C.F.R., Part 420, Section 1861 of the Omnibus Reconciliation Act of 1980 (P.L. 96499) and permit the comptroller general of the United States, the United States Department of Health and Human Services, and their duly authorized representatives, access to the Publisher's books, documents and records until the expiration date of four (4) years after the approval of procurement activities.

**PUBLIC RECORDS ACCESS:**  It is the intention of University to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract and will be considered on a case by case basis.

**DISCLOSURE:** If a state public official (s. 19.42, Wisconsin Statutes), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars ($3,000) within a twelve (12) month period, this contract is voidable by the state unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract.  Disclosure must be made to the State of Wisconsin Ethics Board, 44 E. Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123). State classified and former employees and certain University faculty/staff are subject to separate disclosure requirements, s. 16.417, Wis. Stats.

**ANTI-KICKBACK ACT of 1986:** (41 USC 51 et. seq):  To the extent required by law, the officer or employee responsible for submitting this bid shall certify, in accordance with 48 CFR 52.203-7, to the best of theirknowledge, that they haveno information concerning the violation of the Anti- Kickback Act in connection with the submitted bid**/**proposal. Signing the bid/proposal with a false statement shall void the submitted bid/proposal and any resulting contract(s).

**PROMOTIONAL ADVERTISING/NEWS RELEASES:**  Reference to or use of the State of Wisconsin, any of its departments, agencies (University) or other subunits, or any state official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the University. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency.

**APPLICABLE LAW/GOVERNING LAW**

**[Use this 1st paragraph only if the vendor/contractor is a Wisconsin company.]**

The Contract Documents and the rights of the parties shall be governed by the laws of the State of Wisconsin. Venue shall be in the county in which Owner's principal place of business is located, unless otherwise agreed to by the parties.

**[Use in the case of pursuing satisfaction of a default judgment in another state.]**

The Vendor covenants and agrees that the Laws of the State of Wisconsin shall govern this order, and in the event suit is instituted by Purchaser for any default on the part of the Vendor, and the Vendor is adjudged by a court of competent jurisdiction to be in default, it shall pay to Purchaser all costs, expenses expended or incurred by Purchaser in connection therewith, and reasonable attorney’s fees. The vendor agrees that the Superior Court of the State of Washington shall have jurisdiction over any such suit, and that venue shall be laid in the County in which the Purchaser’s principal offices are located.

**ARBITRATION**

"Any arbitration award that requires performance by University of Wisconsin employees must be submitted to the State Claims Board for review and approval before it becomes binding on the University of Wisconsin or its employees."

**ARBITRATION/MEDIATION**

Any and all claims, disputes or controversies arising under, out of, or in connection with the agreement which the parties shall be unable to resolve within sixty (60) days shall be mediated in good faith.  The party raising such dispute shall promptly advise the other party of such claim, dispute or controversy in a writing which describes in reasonable detail the nature of such dispute.  By not later than fifteen (15) business days after recipient has received such notice of dispute, each party shall have selected for itself a representative who shall have the authority to bind such party, and shall additionally have advised the other party in writing of the name and title of such representative.  By not later than thirty (30) business days after such notice of dispute, the party against whom the dispute shall be raised shall select a mediation firm and such representatives shall schedule a date with such firm for a mediation hearing.  The parties shall enter into good faith mediation and shall share the costs equally.  If the representatives of the parties have not been able to resolve the dispute within thirty (30) business days after such mediation hearing, the parties shall have the right to pursue any other remedies legally available to them.

**AUDIT**

Contractor's records which pertain to this Contract shall be open for inspection and/or audit by the State and/or University upon request for a period of five years after each Contract year. **Records subject to audit include job tickets, itemized materials slips and the detailed time records and rate of pay for any employee who’s time is billed to the University for Services**.

**1. Pre-Award Audit**

Vendor agrees to submit a report on internal controls related to customer contract management prepared by an independent CPA firm under the standards described in SAS 70. The scope of the SAS 70 report will be a Type II report that includes: the auditor’s opinion on (1) whether the organization's description of its controls presents fairly, in all material respects, the relevant aspects of the organization's controls that had been placed in operation as of a specific date; (2) whether the controls were suitably designed to achieve specified control objectives, and (3) whether the controls that were tested were operating with sufficient effectiveness to provide reasonable, but not absolute, assurance that the control objectives were achieved during the period specified.

The scope of the SAS 70 report must include disclosures of the specific control activities and processes used in calculating vendor item cost to be used as the basis for billing the University. The disclosures would include control objectives for the following business processes:

**1.** Completeness in identification of all things of value (including without limitation: rebates, promotions, quantity discounts, price changes, assistance-in-kind) earned, accrued or otherwise offered by any manufacturer, broker, distributor, representative, or other provider to the vendor, related to items under this contract.

**2**. Completeness in identification of goods and services providers that offer a prompt payment discount.

**3**. Completeness in identification of applicable freight charges.

**4** Timeliness in recognizing and recording all things of value included in paragraphs 1, 2, and 3.

**5**. Accuracy in coding purchases, returns, and things of value included in paragraph 1 to the vendor’s source record and any supplementary records used for customer contract management compliance.

**6**. Adequacy and timeliness in reconciling differences between the vendor’s source record and any supplementary records used for customer contract compliance.

**7**. Accuracy, timeliness, and completeness in extracting, summarizing, and creating billing transactions and documents sent to customers.

**8**. Accuracy, timeliness, and completeness of financial reports displaying customer account activity history.

The report on internal controls is a vendor cost, and vendor will submit the names and qualifications of the independent CPA firm to the university for approval.

Vendor agrees to obtain any client confidentiality provisions with the selected CPA firm waived for University representatives to examine working papers of the CPA firm related to the report on internal controls.

**2. Post-Award Audit Rights**

The University reserve the right to have available at the contractor's place of business, the right to inspect such documents as necessary to establish the "Cost" portion of the contractor's price. Notwithstanding cancellation notice requirements set out above, if the contractor refuses such inspection, the University of Wisconsin System Administration may immediately cancel the contract.

**BACKGROUND CHECKS**

The contractor warrants they are supplying employees who have passed a background check(s). The contractor warrants they are screening employees for **(AGENT: Choose from list below)** in a background check.  Contractor agrees to defend, indemnify and hold harmless the University, its officers, directors and employees for any claims, suits or proceedings alleging a breach of this warranty.

**NOTE:** The most common minimum background check does the following:

5. Social Security Trace

1. County Level Criminal Search (in all counties as found by the Trace) and

20. National Sex Offender Search

The UW cost is about $40 total, for all 3 tests.

|  |
| --- |
| 1. County Criminal Records Search |
| 2. Statewide Criminal |
| 3. National Criminal Database |
| 4. Federal Criminal |
| 5. Social Security Trace |
| 6. State Sexual Offender Search |
| 7. Credential / Education Verification |
| 8. Employment History Verification |
| 9. Professional License Verification |
| 10. Office of Inspector General |
| 11. Professional Reference Check –Standard 6 questions |
| 12. Medical License Verification |
| 13. FDA Debarment |
| 14. Worker’s Compensation Verification |
| 15. Motor Vehicle Report |
| 16. Military Search |
| 17. Healthcare Sanctions Check (level 3) |
| 18. Employee Credit Report |
| 19.Global Watch Alert (Prohibited Parties) |
| 20. National Sex Offender Search |
| 21. Global Sanctions and Enforcement Check |

[**BUY AMERICAN ACT**](http://legis.wisconsin.gov/2009/data/acts/09Act136.pdf)

**Purchased Services – USA Requirement**

The State of Wisconsin requires purchased contractual services to be performed in the United States. Contractor warrants that the services provided to the University under this contract will be performed in the United States.  The inability to perform services in the United States shall be grounds for disqualifying your proposal for this contract.

**CABLES:**

Any alternate product bid must be compatible with an capable of being interfaced with identical cables and connectors used with the specified equipment with no additional expense to the University to make the alternate product compatible with existing equipment.

**CANCELLATION/SEVERABILITY**

(JM5’s)

**CHEMICAL/HAZARDOUS MATERIALS**

Material Safety Data Sheets (MSDS) are required by law to be provided for hazardous materials with the item(s)/packages(s) when shipped to the final destination (refer to OSHA 1910.1200 and #20 of the Standard Terms and Conditions in Attachment C. In addition, electronic access to the contractor’s complete MSDS information database is required to be available at no cost to the UW-Madison departments (users, contract administrator or Environmental Health and Safety Department personnel). Electronic access to the MSDS information can be accomplished via at least one of the following options:

1. Provide access to contractor’s complete MSDS database via the Worldwide Web to be hosted on contractor’s site at no additional cost to the State agencies.

2. Working with, UW-Madison Purchasing to incorporate the contractor’s complete MSDS database information within the UW-MSDS database at no additional cost to the UW-Madison, or

3. Provide the complete MSDS database information on CD-ROM’s for individual and for network installations at no cost to any user, contract administrator or Environmental Health and Safety personnel from departments who requests them.

Electronic access to contractor’s complete MSDS database shall be provided to all users within the departments who request to participate. Because electronic access to MSDS information is required to be provided as described above, contractor will not be required to send the second MSDS hardcopy with the invoice as specified in the Standard Terms and Conditions.

4. **Chemical Purchase Reports**

Contractor is required to provide annual, semi-annual and/or quarterly customized reports on purchases of certain chemicals to assist State agencies with environmental compliance and reporting. The reports are to be provided upon request to the Environmental Health and Safety Department personnel from a State of Wisconsin agency or University. Contractor shall provide reports within 10 business days of request. The report is to include manufacturer, chemical stock number (catalog number), chemical name (description), CAS number, package description (case, each, etc.), units in package (4 bottles/case, etc) number of packages sold and ship-to address.

Any requested report (customized or total sales) is to be submitted as a Microsoft Excel spreadsheet on an IBM PC compatible disk.

**CHEMICAL/HAZARDOUS MATERIALS**

“The University would strongly prefer that awardee have the ability to electronically report purchases of certain hazardous materials including, but not limited to:

1. Chemicals and other materials listed on the Department of Transportation Hazardous Materials Table (49 CFR 172.101)
2. Chemicals listed in Appendix A of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS – 6 CFR 27)
3. All compressed gas cylinders

Preference will be given to vendors who can report in real time (as transactions occur), less preference to those who can report only periodically (i.e., monthly).”

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Suggested simple benchmarks for evaluation:

Highest - Report electronically in real time, flag chemicals separately by regulatory classification and quantity

Middle - Report periodically by any means, report listed chemicals only, no distinction by regulatory classification

Lowest - Inability to report selected chemicals

**CHEMICAL PURCHASING REPORTS**

Contractor is required to provide annual, semi-annual and/or quarterly customized reports on purchases of certain chemicals to assist State agencies with environmental compliance and reporting. The reports are to be provided upon request to the Environmental Health and Safety Department personnel from a State of Wisconsin agency or University. Contractor shall provide reports within 10 business days of request. The report is to include manufacturer, chemical stock number (catalog number), chemical name (description), CAS number, package description (case, each, etc.), units in package (4 bottles/case, etc) number of packages sold and ship-to address.

Any requested report (customized or total sales) is to be submitted as a Microsoft Excel spreadsheet on an IBM PC compatible disk.

## CHILD ABUSE NOTIFICATION

Contractor, per University policy, is required to make a report of child abuse or neglect **immediately** if, in the course of service, the Contractor observes an incident or threat of child abuse or neglect, or learns of an incident or threat of child abuse or neglect, and the Contractor has reasonable cause to believe that child abuse or neglect has occurred or will occur.

A report must be made personally or by telephone to UWPD, local law enforcement, or the local child protection agency.  Reports are to be made to:

            Emergency Phone Number - 911

            Non-Emergency Phone Numbers

**UW Police Department**

608-264-COPS or 608-264-2677

City of Madison Police Department

608-266-4275

**Dane County Child Protective Services**

608-261-KIDS or 608-261-5437

If the incident or threat of child abuse or neglect involves an allegation against a UW employee or agent (e.g. student, volunteer, etc.), or the incident or threat of child abuse or neglect occurred on the UW campus or during a UW sponsored activity, the reporter must also notify one of the following entities:

**UW Police Department** (*if not notified previously*) 608-264-COPS

**The Office for Equity and Diversity** 608-263-2378

**CONFIDENTIAL UNIVERSITY DATA**

Confidential University Data is defined as any data or information that Contractor creates, obtains, accesses (via records, systems, or otherwise), receives (from University or on behalf of the University), or uses in the course of its performance of the contract which include, but may not be limited to: social security numbers; credit card numbers; any data protected or made confidential or sensitive by the Family Educational Rights and Privacy Act, as set forth in 20 U.S.C. §1232g ("FERPA"), the Health Insurance Portability and Accountability Act of 1996 and the federal regulations adopted to implement that Act (45 CFR Parts 160 & 164 "the HIPAA Privacy Rule"), collectively referred to as "HIPAA", the Gramm-Leach-Bliley Act, Public Law No: 106-102 (“GLB”), Wisconsin state statute 134.98 or any other applicable federal or Wisconsin law or regulation. Functionality and automatically generated content that includes any Confidential University Data must have mechanisms to comply with the FERPA, HIPAA, GLB, Wisconsin state statutes or any other applicable federal or Wisconsin law or regulation, and UW Policies.

**CONTRACT TRANSITION**

If the incumbent Contractor is not awarded the next contract, the incumbent Contractor may be required to continue providing products and services, at contracted pricing, on a month-by-month basis in order to provide the University with continued operations and a smooth transition.

# COPYRIGHT

The Contractor agrees that all materials, programs and services developed or provided through the contract as a result of this solicitation are copyrighted, with ownership residing in the name of the Board of Regents of the University of Wisconsin.

# DELIVERY (Time is of the Essence)

# Delivery requirements are essential to the success of the University’s \_\_\_\_\_\_\_\_\_ project. Failure to provide the product in the prescribed period of time as defined by contract will result in losses to the University associated with lost research opportunity, lost opportunity for future grants, costs associated with additional resources required to keep the research project on schedule; logistical costs associated with expediting delivery; as well as other potential direct and consequential losses.

The University agrees that (Vendor Name) shall have limits of liability for consequential damages, including damages for lost research opportunity and lost opportunity for future grants.

The parties agree that in lieu of the University’s rights to seek consequential damages as a result of delivery failures, the University shall be compensated for failure to deliver products in the following manner. The following is not construed as a penalty, but rather as alternative compensation for limiting consequential damages associated with failure to deliver in a timely manner.

**Failure of Delivery shall result in compensation to the University as follows:**

1. In the event that \_\_\_\_\_\_\_would not fulfil its undertakings with regard to time of delivery of the Product(s), the University shall be entitled to claim compensation from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_amounting to X % of the price of the Product/s for each week of delay to a maximum of 12% after 4 weeks late.
2. Delivery dates will be stated on all purchase orders and these delivery dates will be used to determine on-time deliveries. The delivery date is defined as the day the shipment is ready for pickup from the freight carrier/forwarder at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
3. Prior to the shipment leaving the factory, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_must transmit to the University \_\_\_\_\_\_data and a certificate of compliance for\_\_\_\_\_\_\_\_. The certificate of compliance must show that the \_\_\_\_\_\_meets all of its specifications as detailed in \_\_\_\_\_\_\_\_drawing numbers \_\_\_\_\_\_\_\_\_\_\_.
4. Losses for direct damages shall be in addition to amounts stated in 1 above. Direct damages would include additional costs associated with expedited delivery of products in order to maintain the schedule, or additional resources that are engaged to maintain the project schedule.

5. Compensation payments will be paid in the form of a credit. The final invoice will not be paid until the credit has been received.

# DEMONSTRATION SITE

The University will allow the successful contractor to use the University as a demonstration site under the following rules as set forth by the University. The equipment is to be used for demonstration purposes only.

* The contractor must contact Rick Noll, Materials Science Center Laboratory Manager, or his designee, at 608-263-3667 two weeks prior to the requested date to demonstrate the equipment. Mr. Noll will approve and schedule all contractor visits for demonstrations. The contractor is not allowed to demonstrate the equipment without prior approval from Mr. Noll.
* The contractor’s representative is the only authorized person who can demonstrate this equipment. A University representative will be with the contractor’s representative during the demonstration period. **A qualified and trained** contractor’s representative is the only authorized person who can demonstrate this equipment
* The contractor can use the equipment for demonstration to potential purchasers no more than eight (8) hours per month and no more than four (4) hours per demonstration. The equipment may not be used for any commercial production purposes.
* The contractor will be responsible for any damage to the equipment caused by the demonstration. The contractor must maintain an approved and valid Certificate of Insurance on file with the University at all times. If the Certificate expires, the contractor forfeits all rights to demonstrate the equipment until the University’s Risk Management Office has approved a new Certificate.
* The contractor must provide all supplies that may be required to perform the demonstration.
* Contractor agrees to not use promotion or marketing material that states expressly or by fair implication that the University endorses either the Contractor or any sponsor of such material.

**DOCUMENTATION**

Must provide at least one (1) set of equipment and operation manuals

## E-COMMERCE PRE-AWARD

**Electronic Commerce through University’s SciQuest Implementation:**

The University’s electronic commerce (e-commerce) order and invoice processes will be implemented with this contract. This model requires a business-to-business link between the contractor’s e-commerce system and the University’s SciQuest system. Contractor (s) will be required to provide additional percentage discounts on orders placed using the e-Commerce model in exchange for the services below:

* **Electronic Ordering Process**

Orders placed through the University’s e-commerce model will provide contract pricing to the e-commerce user, but payment will be adjusted by a discount percentage as bid by the contractor (minimum discount of X%). This discount reflects the significant business process improvements e-commerce provides compared with orders placed through a traditional purchasing model. In exchange for this discount, the e-commerce model provides the following advantages to the contractor:

* + The contractor’s products will be available online for the 13,000 active user accounts created and supported by the University. Contractor does not need to maintain separate accounts for each customer.
  + The University centrally supports all invoicing, payment and order issues with dedicated customer service staff employed by the University.
  + UW-Madison e-commerce customers have maintained a 99% compliance rate for using vendors available through e-commerce.
* **Electronic Payment Process**
  + Orders placed through e-commerce will be consolidated into one payment and paid by check every twenty days or sooner.
  + Orders through e-commerce will not be paid by credit card, which saves the contractor from paying credit card merchant fees and eliminates delayed payment from the credit industry.

Additional business efficiencies may be available to the Contractor, including but is not limited to:

* **Centralized receiving:**
  + MDS will centrally receive and distribute all orders placed through e-commerce for end users located within MDS's service area. MDS would receive these deliveries by UPS, FedEx or contractor's truck; and redeliver the package to the end user's location.
  + Orders placed by customers located outside of MDS's delivery area would still need to be delivered or shipped to the end user's location by the contractor.

To provide centralized receiving or any other business efficiency, the University would expect the contractor to offer additional discounts above the X% base discount for standard e-commerce.

## E-Commerce Post-Award

**Electronic Commerce through University’s SciQuest Implementation:**

The University’s electronic commerce (e-commerce) model for ordering may be implemented during the term of this contract. This model will require a business-to-business link between the contractor’s e-commerce system and the University’s SciQuest system. If provided by the University, contractors selected for e-Commerce ordering will be required to provide additional percentage discounts on orders placed using the e-Commerce model in exchange for the services below:

* **Electronic Ordering Process**

The University provides access to over 13,000 customers who have purchased product through the University’s e-commerce site (traditionally called “Materials Distribution Services” or “MDS”) since 2006. This connection eliminates the need for the Contractor to set up individual accounts for University customers.

* **Electronic Payment Process**

The University pays 100% of invoices within 20 days for all end user purchases ordered through the University’s e-commerce site; disputed charges are corrected via credits. Invoices are received electronically on a daily basis, and no credit cards are utilized. This minimizes the Contractor’s accounts receivable processes, and alleviates payments to a bank for credit card processing.

**ENERGY STAR**

The State encourages the use of equipment which meets the Environmental Protection Agency (EPA) Energy Star™ requirements. The Energy Star Program is a voluntary contract between an Original Equipment Manufacturer (OEM) and the EPA. It is not mandatory that every device offered under this proposal meet Energy Star requirements but the bulk of the product line should be energy efficient.

**ENTIRE AGREEMENT**

This contract sets forth the entire Agreement between the parties.

**FERPA**

**STUDENT PRIVACY (FERPA) – SOFTWARE OR SERVICES CONTRACTS**

**Option A:** (agents to select when we do not anticipate student records governed by FERPA will be accessible by the vendor during the contract term):

Confidential University Data is defined as any data or information that Contractor creates, obtains, accesses (via records, systems, or otherwise), receives (from University or on behalf of the University), or uses in the course of its performance of the contract which include, but may not be limited to: social security numbers; credit card numbers; any data protected or made confidential or sensitive by the Family Educational Rights and Privacy Act, as set forth in 20 U.S.C. §1232g ("FERPA"), the Health Insurance Portability and Accountability Act of 1996 and the federal regulations adopted to implement that Act (45 CFR Parts 160 & 164 "the HIPAA Privacy Rule"), collectively referred to as "HIPAA", the Gramm-Leach-Bliley Act, Public Law No: 106-102 (“GLB”), Wisconsin state statute 134.98 or any other applicable federal or Wisconsin law or regulation. Functionality and automatically generated content that includes any Confidential University Data must have mechanisms to comply with the FERPA, HIPAA, GLB, Wisconsin state statutes or any other applicable federal or Wisconsin law or regulation, and UW Policies.

**Option B:** (agents to select when student records governed by FERPA may be accessible by the vendor during the contract term):

Standard language re: Contracts involving sharing of FERPA-covered information

NKL 8/12/10

1. In the course of providing services during the term of the contract, Vendor may have access to student education records that are subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, *et seq.* and the regulations promulgated there under. Such information is considered confidential and is therefore protected. To the extent that Vendor has access to “education records” under this contract, it is deemed a “school official,” as each of these terms are defined under FERPA. Vendor agrees that it shall not use education records for any purpose other than in the performance of this contract. Except as required by law, Vendor shall not disclose or share education records with any third party unless permitted by the terms of the contract or to subcontractors who have agreed to maintain the confidentiality of the education records to the same extent required of Vendor under this contract.
2. In the event any person(s) seek to access protected education records, whether in accordance with FERPA or other Federal or relevant State law or regulations, the Vendor will immediately inform University of such request in writing if allowed by law or judicial and/or administrative order. Vendor shall not provide direct access to such data or information or respond to individual requests. Vendor shall only retrieve such data or information upon receipt of, and in accordance with, written directions by University and shall only provide such data and information to University. It shall be University’s sole responsibility to respond to requests for data or information received by Vendor regarding University data or information. Should Vendor receive a court order or lawfully issued subpoena seeking the release of such data or information, Vendor shall provide immediate notification to University of its receipt of such court order or lawfully issued subpoena and shall immediately provide University with a copy of such court order or lawfully issued subpoena prior to releasing the requested data or information, if allowed by law or judicial and/or administrative order.
3. If Vendor experiences a security breach concerning any education record covered by this contract, then Vendor will immediately notify the University and take immediate steps to limit and mitigate such security breach to the extent possible. The parties agree that any breach of the confidentiality obligation set forth in the contract may, at University’s discretion, result in cancellation of further consideration for contract award and the eligibility for Vendor to receive any information from University for a period of not less than five (5) years. In addition, Vendor agrees to indemnify and hold the University harmless for any loss, cost, damage or expense suffered by University, including but not limited to the cost of notification of affected persons, as a direct result of the unauthorized disclosure of education records.
4. Upon termination of contract, Vendor shall return and/or destroy all data or information received from University upon, and in accordance with, direction from University. Vendor shall not retain copies of any data or information received from University once University has directed Vendor as to how such information shall be returned to University and/or destroyed. Furthermore, Vendor shall ensure that they dispose of any and all data or information received from University in a University-approved manner that maintains the confidentiality of the contents of such records (e.g. shredding paper records, erasing and reformatting hard drives, erasing and/or physically destroying any portable electronic devices).

**F.O.B. DESTINATION - INSIDE DOCK/DOOR (TITLE/OWNERSHIP) FREIGHT PREPAID AND INCLUDED**

Delivery will be made by common carrier or bidder's truck, with unloading to be performed by the carrier/bidder and carton(s) transported to the interior/ground floor or inside dock at various locations. Bid prices must include all packing, freight, insurance charges and installation/operation manuals.

Installation of Equipment:

When equipment purchased on this contract requires installation, the Contractor must provide the cost of installation as a separate line item on their quotation. The installation cost must include all packing, freight, insurance, set-up, instruction and operation manual charges. Equipment must be set in place in an area designated by University personnel, demonstrated to be in operating condition, and approved by University personnel. All debris must be removed from the University premises and properly disposed of by the contractor. Upon installation all operating instructions, and a minimum of 2 operating and maintenance manuals, should be furnished to the University personnel identified on the purchase order.

**-OR-**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_is to be installed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Bid prices must include cost of installation, all packing, ……..

### F.O.B. DESTINATION - INSIDE DOCK/DOOR AND ALLOWS (vendor responsible for freight costs)

Delivery will be made by common carrier or bidder's truck, with unloading to be performed by the carrier/bidder and carton(s) transported to the interior/ground floor or inside dock at various locations. Bid prices must include all packing, freight and insurance charges.

**(1)** Installation of Equipment:

When equipment purchased on this contract requires installation, the Contractor must provide the cost of installation as a separate line item on their quotation. The installation cost must include all packing, freight, insurance, set-up, instruction and operation manual charges. Equipment must be set in place in an area designated by University personnel, demonstrated to be in operating condition, and approved by University personnel. All debris must be removed from the University premises and properly disposed of by the contractor. Upon installation all operating instructions, and a minimum of 2 operating and maintenance manuals, should be furnished to the University personnel identified on the purchase order.

**(2)** Installation of Equipment:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_is to be installed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Bid prices must include cost of installation, all packing, ……..

**F.O.B. TERMS:**

1.1 **DESTINATION, FREIGHT PREPAID AND ALLOWED *(vendor responsible for freight costs)*:**

**Supply deliveries** will be made by common carrier or bidder's truck, with unloading to be performed by the carrier/bidder and carton(s) transported to the interior/ground floor or inside dock at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Bid prices must include all packing, freight, and insurance charges.

1.2 **DESTINATION FREIGHT PREPAID AND ALLOWED/INSTALLED**

**Instrument** is to be installed at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Bid prices must include all packing, freight, insurance, set-up, instruction and operation manual charges. Instrument must be set in place in an area designated by University personnel, demonstrated to be in operating condition, and approved by University personnel. All debris must be removed from the University premises and properly disposed of by the contractor. Upon installation all operating instructions, operating and maintenance manuals, must be furnished to the University personnel identified on the purchase order.

The contractor is required to maintain insurance in compliance with "Standard Terms and Conditions 22.0 Insurance."

**F.O.B. JOB SITE**:

Services are to be performed at locations indicated when orders are placed. Delivery of all materials shall be F.O.B. job site, freight paid by Contractor. Contractor shall have a representative present at the delivery site when materials are direct shipped. University employees will not accept deliveries on behalf of the Contractor. The University shall not be responsible for any materials received or accepted on behalf of the Contractor.

**FORCE MAJEURE**

Work by Owner to correct defective Work or complete the Work; whose acts Contractor is responsible, or if the change is concurrently caused by Contractor and Owner, or if the change is caused by an act of Force Majeure, then no change in the Contract Sum shall be allowed.

**-OR-**

The University shall not be liable for any delay, failure in performance, loss or damage due to: fire, explosion, power blackout, earthquake, flood, the elements, strike, embargo, labor disputes, acts of civil or military authority, war, **acts of terrorism or bonafide threat there of, National or Inter-national Health Risks**, acts of God, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond such party's reasonable control, whether or not similar to the foregoing, except that University’s obligation to pay for charges incurred for Services received by University shall not be excused.

**FUEL SURCHARGE**

In the event there is a substantial increase in the cost of fuel, the University will accept an increase in the mileage tariff based on documented price increase and its effect on the tariff. A substantial increase is defined as a 25% or more increase in fuel costs over a two month period. However, if there is a substantial decline in the cost of fuel, the mileage tariff must be decreased accordingly. The bench mark will be the cost of fuel in October 1, 2004. Enter your cost on this date on the Bidder Response Sheet. The intent of this paragraph is to provide relief between the awarded vendor and to the UW Madison in extreme cases and not to have “floating” prices for services.

**-OR-**

A surcharge may be allowed, with written University Purchasing Department approval, when fuel prices exceed 10% of the cost of fuel at the inception of the contract. Contractor must submit fuel prices per gallon effective on a date ten calendar days prior to the bid opening.

Contractor’s unit (per mile) pricing should include an allowance for a +/- 10% variance in fuel costs. A surcharge may be requested for those fuel costs in excess of the 10% variance. In their request, Contractor must indicate new fuel price, new cost per mile and the calculations for obtaining the price (for example: correlation between miles per gallon for equipment used and new cost per gallon for fuel).

Accordingly, Contractors must offer a reduced rate to the University when fuel prices decrease below the 10% variance.

**-OR-**

**Fuel Cost Adjustment:** Fuel cost reductions and increases shall be credited or debited as itemized adjustments on invoices. Adjustments may be made monthly according to the following conditions:

The average cost of diesel fuel, as listed on the federal EIA fuel information website for the Midwest the first Monday of the month of billed service differs from the average amount per gallon listed for the Midwest on the first Monday of June 2008 of $4.643 by a minimum of $.10. The site is found at: <http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp>

For each full $0.10 per gallon change over the per gallon average indicated for the Midwest average of $4.643, $0.025 shall be added or subtracted on the invoice for the month, per each mile of each trip. Increments of less than $0.10 shall not be used; increases in excess of the stated amount shall not be paid.

Mileage, for the purposes of monthly billing and calculating any adjustments, shall be calculated from the route pick-up point to the return drop-off point only and shall be determined for each route at the beginning of the school year and at the time of any significant route change. Mileage incurred to bring the vehicle to the pick-up point or for any non-contractual distance traveled shall not be used.

The fuel adjustment is not a base contract price change but a fuel cost adjustment and shall be itemized separately on any invoice in which it is added or subtracted.

**-OR-**

**Fuel Surcharge Calculation.** The US commercial carrier industry typically establishes a baseline or benchmark price for fuel from which it determines an applicable fuel surcharge. Usually this baseline is $1.10 per gallon. The fuel surcharge is then calculated by subtracting the baseline amount from the actual cost per gallon of fuel (or a regional cost published weekly by the Department of Energy) and dividing the difference by the vehicle's average miles per gallon of fuel.  The result is multiplied by the trip miles to determine the fuel surcharge to be applied to the trip.

Describe how the bidder calculates a fuel surcharge. Include the baseline price per gallon used in the calculation and the percentage or fraction of the fuel cost above the baseline that is added per mile driven. As an example, provide the average amount per mile driven that the bidder charged its customers during the months of February, March, and April 2006 and show how this was calculated. These figures may be used in conjunction with Section 7 proposals to determine lowest cost bidders.

**-OR-**

**Diesel Fuel Surcharge**.  University will pay Supplier a five dollar ($5.00) per delivery surcharge in the event the price of diesel fuel is listed as exceeding $5.00 per gallon for a period of fifteen (15) or more consecutive days by the US Energy Information Administration or comparable index. <http://tonto.eia.doe.gov/oog/info/gdu/gasdiesel.asp> The surcharge will be cancelled if the price of diesel fuel drops below $5.00 per gallon for a period of fifteen (15) or more consecutive days by the same index.

**-OR-**

Fuel surcharges will only be allowed if the price per gallon of diesel fuel **INCREASES** more than 20% from the diesel fuel prices posted on the day the RFB is due. The index used for the Contract will be the Weekly On-Highway Diesel Prices for the Midwest Region as posted each Monday by the Energy Information Agency at: <http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp>. Once the fuel prices returns to the 20% of the fuel price on the day the RFB is due, surcharges may not be charged.

All requests for fuel surcharges must be submitted and approved by the Acquisition Management Specialist of the Materials Management Division (Department of Administration) **before** they are put into effect. A copy of the rate schedule will be submitted with the request to add the fuel charge. The exact amount of the surcharge and the length of time the surcharge may be added, if any, will be governed by the validity of the documentary evidence submitted. No price increases will be effective until approved by the Acquisition Management Specialist. If fuel surcharges are authorized by the AMS, it must be indicated as a separate line item on the invoice.

Fuel surcharges may only be applied to the freight portion of the total delivered price and may not be applied against the Total Delivered Price. The Contract Vendor must show the original freight portion of the invoice so the purchaser can calculate the percentage of surcharge that will be applied and confirm its accuracy.

Because of the volatility of the oil industry at the time this RFB is being issued, the price per gallon of diesel fuel **DECREASES** more than 30% from the diesel fuel prices posted on the day the RFB is due, the Contract Vendor must pass the savings on to the purchaser at the same percentage rate as approved by the AMS. The decrease will only be applied to the freight portion of the total delivered price and will not be applied against the Total Delivered Price. The Contract Vendor must show the original freight portion on the invoice so the purchaser can calculate the percentage of decrease that will be applied and confirm its accuracy.

04-5886 (SHIPPING SERVICES).

No fuel surcharge or hazardous material charges will be allowed without proper notice to the Contract Administrator. Contractor must clearly state in their proposal response, any other charges (i.e. delivery fee, vehicle stop charges, room delivery charges, etc.). Failure to list any additional charges for anything will result in the University refusing payment for these charges.

**-OR-**

97-0032 (AIR CHARTER MEN`S BASKETBALL 96-97)

The University is aware of the volatility of the price of jet fuel. We will honor documented (pass through) fuel price increases. For auditing purposes, your bid is based on a fuel cost which is in effect November 1, 1996.

**-OR-**

02-5284 (LIQUID HELIUM/LIQUID NITROGEN)

Fuel surcharges, delivery surcharges, handling surcharges, hazardous materials fees are all considered costs associated with the delivery and sales of the products involved. If the Contractor sees significant changes in these costs over the term of the contract, they may request additional payments in the same format at 3.1 above. Significant price increases are defined as a 20% or greater charge in costs over a 2 month period.

At the point in time when the price rate causing the increase drops back to the level at which the price increase was requested, the Contractor will discontinue invoicing for the surcharge.

**-OR-**

RFP 02-5759 (LIQUID HELIUM/LIQUID NITROGEN)

**FUEL SURCHARGE INCREASE**

Fuel surcharge increase requests will be considered on a case by case basis and as a price increase request against the contract. The Contractor must be able to demonstrate that there has been a significant increase in the cost of fuel before any fuel surcharge increase will be considered. A significant increase is defined as a minimum of 15% increase over a 3 month period. Fuel surcharge request will only be considered on a per shipment or per delivery cost, not on a per cylinder delivery cost.

**-OR-**

03-5316 (MAIL DELIVERY SERVICE)

Fuel Surcharge price increases will be considered in the same manner as all other price increases under the same contract terms as above. Fuel surcharge price increase requests must be submitted in the same manner and under the same terms as those above. Fuel Surcharge price increases will be considered in the event the price of fuel increases by 25% or more over a 2 month period. If granted, the Contractor can charge the surcharge rate as long as the price of the fuel remains greater than the base rate that the 25% multiplier was applied.

**-OR-**

RFP 03-5813 (GASES - PRIME VENDOR)

No fuel surcharge or hazardous material charges will be allowed. Contractor must clearly state on the pricing statements Attachments A and B, any other charges (i.e. delivery fee, vehicle stop charges, room delivery charges, etc.). Failure to list any additional charges for anything will result in the University refusing payment for these charges.

**-OR-**

09-5082 (ANIMAL FEED)

For the purposes of any future request for fuel surcharge, Bidder must identify the fuel price they are basing their bid prices on and what the date of that fuel price is. For any fuel surcharge request, Contractors will have to show a significant (25% or more) price increase over the price identified in their bid response. Also the method of applying the price increase must be defined, negotiated as necessary and accepted by the Contract Administrator before implemented or invoiced by the Contractor.

**-OR-**

09-5583 (JANITORIAL SERVICES FOR WISCONSIN PSYCHIATRIC CLINICS (WISPIC) & UW MED SCHOOL)

Fuel Surcharge requests will not be considered under this contract as the price of fuel is not a Primary cost for providing the services identified.

**-OR-**

09-5813 (COMPRESSED GASES, BULK LIQUEFIED GAS, LIQUEFIED GAS AND RELATED SUPPLIES)

Fuel Surcharge requests will not be considered for this contract.

**-OR-**

07-5307 (KRUEGER INTERNATIONAL (KI) FURNITURE)

Fuel surcharges will be considered based on a 20% or greater increase in the price of fuel over the base price identified over the course of the contract term. The base price for the fuel surcharge will be at $2.88 per gallon price in place June 30, 2006.

**-OR-**

09-5141 (CONCRETE READY MIXED AND PEA GRAVEL - (DELIVERY/PICK-UP) NO INSTALLATION)

Requests for fuel surcharges must be submitted in accordance with 5.1.2 and 5.1.3. No fuel surcharge will be paid without prior written approval.

**GREEN INITIATIVE**

Environmental initiatives will be taken into consideration with the production of this publication. Awarded contractor should be FSC certified or in the process of becoming FSC certified within one year of this contract. The awarded contractor will use recycled, FSC certified stock (specified in bid) and print with soy-based inks. Awarded contractor may be requested by WAA to research wind energy production costs and possibly implement the use of wind energy for the production of On Wisconsin and L&S Today during the term of this contract. Price increases for the use of wind energy will be allowed but must be documented and agreed upon by WAA.

**GSA PRICING**

UW-Madison is a research institution and qualifies and receives federal grants for some of this research. The items being purchased on this bid/contract may qualify for GSA Pricing. If you have a GSA contract, please include with your bid response the process the University needs to follow allowing the University to be able to take advantage of this pricing.

BIDDER RESPONSE SHEET

12.6 Do you have a GSA contract for the items being purchased on this bid/contract?

If yes, please provide with your bid response instructions allowing the University to take advantage of this pricing.

[**GUIDELINES FOR RFP ISP EVALUATION TEAMS**](http://www.bussvc.wisc.edu/purch/contract/clauses/Guidelines%20for%20RFP%20ISP%20Evaluation%20Teams.doc)

Thank you for committing your time and expertise to this very important purchasing process. Your participation is vital to assist in determining the best proposer/plan submitter for the Request for Proposal (RFP)/Invitation to Submit Plan (ISP). It is our goal to make this process a positive experience for you, so if you have any questions regarding any of these guidelines/instructions or any aspect of the evaluation process, please feel free to contact the Purchasing Agent at any time.

**NOTE**

No person will serve on an evaluation committee where the action of that committee might benefit that person, or a member of that person’s immediate family, or any organization or business with which that person is associated. Please disclose any valid conflict to the Purchasing Agent immediately. If unsure, check with Purchasing Agent. Failure to do so may void the evaluation process.

1. Your name and the other committee member’s names are confidential and should not be shared with anyone other than internal staff ***members*** that may need to know. Those staff ***members*** should also be instructed that this is confidential information until the process is complete and an award has been made..

2. Keep all information confidential at all times. ***Do not*** discuss the RFP/ISP with anyone outside of the evaluation committee other than our own internal staff that may be assisting to determine if your requirements have been met. Those staff should also be instructed that this is confidential information at this time. Do not discuss with any proposer/plan submitter, other constituents, legislators, or any representative of the media. If you receive a request for information contact the Purchasing Agent.

3. Retain all notes and comments you want to be included with your evaluation. These might contain the important points or your pertinent notes. If you want them saved, they will be subject to the [Open Records Policy](http://www.sos.state.wi.us/open_records.htm) for any individual who requests to see the RFP/ISP information. Please keep your comments appropriate. Keep a copy of the RFP/ISP after the evaluation.

4. Review all RFPs/ISPs submitted in response to an RFP/ISP, using only the evaluation criteria included in the RFP/ISP.

5. There is one score sheet for each proposer/plan submitter response. Score each RFP/ISP individually based on what was submitted in the proposer’s/plan submitter’s response, using ONLY the evaluation criteria included in the RFP/ISP as the basis. If the evaluation committee determines that an oral presentation is needed from proposers/plan submitters, information learned from that presentation may be used to adjust your final score for that proposer/plan submitter. If you need additional blank score sheets, please let the Purchasing Agent know.

6. Please be aware that the UW Madison is committed to meeting the state Minority Business Enterprise (MBE) goal of directing 5% of each agency’s purchase dollars towards minority vendors. On an individual RFP/ISP evaluation basis, MBE vendors that submit a RFP/ISP response can be given a 5% preference in the overall scoring process. This basically means that on a timely and valid response from an MBE vendor that meets all the stated criteria and specifications, you can make an award to that MBE firm even if their score is as much as 5% below the winning proposers/plan submitters score. If there is an MBE vendor response on this evaluation, please review the MBE scoring and award policy with your procurement representative.

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

Contractor shall agree to use and disclose Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information (“Privacy Rule”) (45 C.F.R. Parts 160 and 164) under the Health Insurance Portability and Accountability Act of 1996. The definitions set forth in the Privacy Rule are incorporated by reference into this Contract (45 C.F.R. §§ 160.103 and 164.501).

(See Attachment A)

# HOLD HARMLESS/INDEMNITY

VENDOR NAME:

A. The Board of Regents of the University of Wisconsin System agrees to provide liability protection for its officers, employees and agents while acting within the scope of their employment. The Board of Regents further agrees to hold harmless      , its officers, agents and employees from any and all liability, including claims, demands, losses, costs, damages, and expenses of every kind and description (including death), or damages to persons or property arising out of or in connection with or occurring during the course of this agreement where such liability is founded upon or grows out of the acts or omissions of any of the officers, employees or agents of the University of Wisconsin System while acting within the scope of their employment where protection is afforded by ss. 893.82 and 895.46(1), Wis. Stats.

B.       agrees to hold the University harmless from any loss, claim, damage or liability of any kind involving an employee, officer or agent of the Contractor arising out of or in connection with this Agreement except to the extent that it is founded upon or grows out of the acts or omissions of any of the officers, employees or agents of the University of Wisconsin System while acting within the scope of their employment where protection is afforded by ss. 893.82 and 895.46(1), Wis. Stats.

**INCENTIVE CLAUSE:**

Incentive Clause - the consultant will be paid an additional 5% bonus for each phase of the project that is completed within 2 weeks of the agreed upon target completion date.

Payment terms may be negotiated with proposer.

**INCUMBENCY CERTIFICATE**

**INDEMNIFICATION:**

Notwithstanding anything in this Agreement to the contrary, Contractor’s liability under Section ## of this Agreement and the language in this Section ## regarding choice of law and jurisdiction shall be interpreted in accordance with the requirements of Wisconsin law as applicable to state agencies.

**INSTALLATION OF EQUIPMENT**

When equipment purchased on this contract requires installation, the Contractor must provide the cost of installation as a separate line item on their quotation. The installation cost must include all packing, freight, insurance, set-up, instruction and operation manual charges. Equipment must be set in place in an area designated by University personnel, demonstrated to be in operating condition, and approved by University personnel. All debris must be removed from the University premises and properly disposed of by the Contractor. Upon installation all operating instructions, and a minimum of 2 operating and maintenance manuals, must be furnished to the University personnel identified on the purchase order.

**INSURANCE**

The University, by its self-insured plan through the State, will provide general liability protection, including liability arising out of negligent supervision in accordance with Sec. 895.46(1), Wis. Stats., for University faculty, staff, employees and agents. Such protection shall include but shall not be limited to: claims, demands, losses, costs, damages and expenses of every kind and description (including death), or damage to persons or property arising out of or in connection with the provision of services under this agreement where such liability is founded upon or grows out of the acts or omissions of any of the University of Wisconsin faculty, staff, or employees within the scope of their employment or agency.

**-OR-**

The State of Wisconsin, including the Board of Regents of the University of Wisconsin System, is self-funded for liability (including general, professional and automobile) under s.895.46(1) and 893.82 of the Wisconsin Statutes. This protection provided coverage for our officers, employees, and agents. The State of Wisconsin Liability Program is funded to pay in excess of $1 million for the negligent acts or omissions of its officers, employees and agents, in accordance with the statutes. In addition to the self-funded program, the State purchases substantial limits of excess commercial insurance should a claim ever exceed the self-insured limits. Coverage is continuous under the law. Since this is statutory protection, there is no policy on which to name anyone as an additional insured.

**INTELLECTUAL PROPERTY**

University shall own all Intellectual Property in any deliverable created under this agreement. The University may grant Contractor a nonexclusive license use of its Protected Intellectual Property for limited/restrictive purposes.

**INVOICE PAYMENT TERMS**

Payment will not be made to any vendor receiving an award until the University of Wisconsin-Madison determines that all product and software are operating satisfactorily and according to specifications.

**INVOICING REQUIREMENTS**: (04-5694)

1. Invoices for Purchase Orders:

Contractor must agree that all invoices and purchasing card charges shall reflect the prices and discounts established for the items on this contract for all orders placed by the University even though the contract number and/or correct prices may not be referenced on each order.

The University must meet a statutory mandate to pay or reject invoices within 30 days of receipt by University Accounts Payable. Before payment is made, it also must verify that all invoiced charges are correct as per this Contract. Only properly submitted invoices will be officially processed for payment. Prompt payment requires that your invoices be clear and complete in conformity with the instructions below. All invoices must be itemized showing:

2. Invoices/Procurement Card

Orders placed by the University using a procurement card must reflect current contract pricing.

Contractor must submit invoices on a "per job" basis or as mutually agreeable with the person placing the order. Where releases are given, each release defines the scope of the job; one release per job. Each invoice submitted for a completed project shall be clearly marked FINAL INVOICE. No further charges will be authorized against a project that has previously been billed as final.

All invoices must be itemized so that the service and cost of the service can be identified by an auditor as being a part of this contract. Invoices submitted without detailed information and attachments WILL BE RETURNED for submittal of the missing information.

Invoices must show the following:

1. Contract name
2. Purchase order number
3. Release number, if given
4. Dates of work
5. Project number
6. Campus location
7. Contract Item No. for each item (Example: Item 16 Saw Cutting)
8. Description of work
9. Price per contract
10. Rental time for contractor-owned equipment shall be computed by the unit price per hour for the actual time the equipment is used and must be itemized as such on the invoice.
11. Attachments, if required
12. Contractor shall furnish with the invoice a delivery ticket for each load of concrete, granular material, sand fill and top soil. Delivery ticket shall show date, volume of material delivered, and pit making delivery.

Costs for contractor-owned special equipment when directed for use by the owner and rental time computed, will be paid for at the unit price per hour. Invoicing of contractor-owned rental equipment (including Labor) MUST show both the number of hours and the unit price for each piece of equipment used. The contract unit price shall be full compensation for furnishing of labor, necessary tools and accessories, and all other costs for the following equipment:

1. Air Compressor: including one laborer, jackhammer etc.
2. End Loader: including operator. Indicate on Bidder Response Sheet size of loader (3/4 C.Y. minimum).
3. Truck: including driver. Indicate on Bidder Response Sheet size of truck (5 C.Y. minimum).
4. Backhoe: including operator. (Capable of 10 ft. depth)

Costs for approved sub-contracting shall be shown on the invoice as only pass-through costs without additional charges. A copy of the subcontractor's and/or equipment rental invoice shall accompany the contractor's invoice.

Costs for non-contractor-owned equipment rental shall be shown on the invoice as only pass-through costs without additional charges. Rental charges shall not exceed the most current Tool and Equipment Rental Survey as published by MCAA and NAPHCO. A copy of the equipment rental invoice shall accompany the contractor's invoice.

An information copy of invoice, with attachments, must be sent to the orderer. That person will not be located at 750 University Avenue. Thus, vendor must determine, if needed, proper mailing address for information copy.

The Contractor and the University hereby agree that payment for the work shall be held until work is complete and/or approved by orderer as a means of providing security for performance-payment in lieu of requiring the Contractor to provide a bond for same.

**LETTER OF CREDIT:.... *CAUTION: Check with your supervisor before using.***

###### IRREVOCABLE LETTER OF CREDIT

Successful Contractor(s) **(shall) (may)** **[AGENT: choose one]** be required to furnish an irrevocable letter of credit in the amount of $\_\_\_\_\_\_\_\_ naming the University as beneficiary for the entire Contract period. The irrevocable letter of credit must be in an amount specified and the format content required by the University. In case of a split award the irrevocable letter of credit must be split between successful Contractors as determined by the University. Irrevocable letter of credit must be furnished by a company licensed to do business in the State of Wisconsin.

The letter of credit must provide that in the event of non-renewal, Purchasing, and the Contractor be notified in writing by the issuer a minimum of 60 calendar days prior to the anniversary of the Contract effective date.

Irrevocable letter of credit must be furnished to Purchasing within 21 calendar days of Contract award notice and prior to Contract commencement.

**PERFORMANCE BOND OR IRREVOCABLE LETTER OF CREDIT**

The successful proposer shall be required to furnish a performance bond in the amount of $250,000. Such bond must be furnished upon notification by the University prior to contract award.

In lieu of the performance bond, the contractor may provide an irrevocable letter of credit naming the University of Wisconsin Madison as beneficiary. The irrevocable letter of credit shall be in the amount specified for the performance bond and the format content required by the University. The performance bond or irrevocable letter of credit shall be furnished by a company licensed to do business in the State of Wisconsin.

The performance bond or irrevocable letter of credit shall be for the entire contract period. The performance bond or letter of credit shall provide that in the event of non‑renewal, the University, and the contractor be notified in writing by the issuer a minimum of sixty (60) days prior to the anniversary of the effective date of the contract.

In the event of non‑renewal, the contractor shall provide the University evidence of the new source of surety within twenty‑one (21) calendar days after the University’s receipt of the non‑renewal notice. Failure to maintain the required surety in force may be cause for contract termination.

Failure to provide the bond or irrevocable letter of credit within twenty‑one (21) days of notification of award may result in cancellation of contract award.

## LETTER OF INTENT - RFP

**2.1 Applicable Dates**:

Issue Request for Proposals February 20, 1999

Letter-of-Intent to Respond Due (see 2.3) March 8, 1999

Written Questions Due (see 2.11) March 12, 1999

Answers to Questions Faxed to Vendors March 16, 1999

Proposals Due March 23, 1999, 2 p.m.

The University reserves the right to revise this schedule.

**2.2 Amendments to Specifications**: Any amendment(s) to or error(s) in the specifications called to the attention of the University will be added to or corrected and furnished to all those holding specifications.

**2.3 Letter of Intent-to-Respond**: Proposers wishing to participate in this RFP process must provide a written Letter of Intent-to-Respond. Letters must be received by the date provided in the schedule found in section 2.1 of this RFP. ***The letter must state the intent of the proposer to participate in the process and their acceptance of the RFP evaluation criteria, process, and the instructions of the RFP.*** The letter should also include the name, complete address, phone number and fax number of a designated individual to whom any correspondence/addendums should be sent. Fax the letter to the Purchasing Office at (608) 262-4467. Failure to provide this will be considered a material irregularity and deemed reason for rejecting proposals.

**Communications**:

In order to most effectively and efficiently communicate with proposers, the University is asking all vendors that have an interest in possibly submitting a response to this RFP, to provide the University with a Letter of Intent to Respond. The form is attached to this amendment. The purpose of this “Letter of Intent” is to identify contact personnel who should receive all bid amendments and other possible bid correspondence throughout the course of this solicitation. E-mail will be used to communicate with all those who provide a “letter of intent”. Those vendors on our bid list who do not submit a letter of intent, will still receive correspondence by US mail. Proposers should recognize that failing to provide a “Letter of Intent” will result in reduced time to consider and respond to RFP correspondence and documentation.

Your “letter of intent” should be submitted by \_\_\_\_\_\_\_\_\_\_\_\_\_ to ensure immediate consideration; however, the University will accept “Letter of Intent to Respond” after this date.

**LIMITATION OF LIABILITY**

This limitation of liability does not apply to any work that may be performed on site which results in direct damages to real property or personal injury. On site work will only be conducted by a separate statement of work agreement between the parties and is not considered within the scope of this agreement.

Nothing in this agreement seeks to limit or restrict liability for death or personal injury, or real property damage resulting from negligence.

**-OR-**

The parties agree that (COMPANY NAME HERE) liability for damages under this agreement shall in no event exceed the amount of fees paid by The University provided that this limitation of liability shall not extend to (COMPANY NAME HERE) liability for its intellectual property infringement indemnification obligations, damages arising from its tortuous conduct that causes death or bodily injury or damages to tangible property, breach of warranty or contract, or breach of privacy.

**-OR-**

Neither party to this Agreement shall be liable for any negligent or wrongful act chargeable to the other unless such liability is imposed by a court of competent jurisdiction. This Agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one party against the other or against third parties. In the event of a claim for any wrongful or negligent act, each party shall bear the cost of its own defense.

**LIQUIDATED DAMAGES**

This shall be surety for fulfillment of the contract(s) including quality, performance and delivery under the terms of this Request for Bid. Liquidated damages shall consist of ($10.00) per working day per line item for failure to deliver according to the vendor specified delivery schedule. Liquidated damages will be deducted from payments on the invoice covering the late shipments, if the invoice is of sufficient amount to cover the liquidated damages. If the invoice is not of a sufficient amount to cover the liquidated damages on a particular shipment, the agency will request cancellation of the invoice and a credit to cover the balance.

=================================================================================

**AGENT NOTE: BEFORE USING, GET SUPERVISOR/ASSOCIATE DIRECTOR APPROVAL.**

**LIQUIDATED DAMAGES (ASSESSMENTS)**

Initial Delivery and Installation: Failure to meet the **(delivery (and/or) installation) [AGENT choose appropriate response]** date set in *13.C Delivery*, shall result in an assessment against the awarded vendor at 1.00% of the total price of contract award per calendar day.

Liquidated damages assessed for late **(delivery (and/or) installation) [AGENT choose appropriate response]** past the agreed upon date shall be $\_\_\_\_\_\_\_\_\_\_ every subsequent day for loss of **(productivity, labor, usage and/or revenue) [AGENT choose appropriate response].** The total cumulative maximum assessment shall not exceed $\_\_\_\_\_\_\_\_\_\_.(Not to exceed one half of total contract)

Liquidated damages assessed for not meeting specifications shall be the withholding of the final 20% of the total price for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**[AGENT fill in description]** until specifications are met. The University and the successful contractor agree to negotiate the final settlement if any individual specification**(s)** cannot be met during **(delivery (and/or) installation) [AGENT choose appropriate response].** This settlement is provided that all other specifications have been met and that the \_\_\_\_\_\_\_\_\_\_\_\_**[AGENT fill in description]** is acceptable to the University. The successful contractor shall reimburse the University with the **(delivery** **(and/or) installation) [AGENT choose appropriate response]** of additional **(accessories, products, and/or suitable replacements) [AGENT choose appropriate response]** as assessed in the settlement. The University agrees to accept substitutes in lieu of an individual specification that conceivably cannot be met during the **(delivery** **(and/or) installation) [AGENT choose appropriate response]**

**\*** First and second paragraphs are appropriate when delivery date is required in the bid and timeliness of delivery is part of the award. If product and or installation is not received by stated date, contractor is in breach of contract and the University suffers financial harm. (Loss of revenue, productivity, wages, etc.) The loss of revenue, productivity, wages, etc. must be real and accountable from the department suffering the loss.

Third paragraph is appropriate when delivery and or installation is completed but specifications not totally fulfilled. A settlement is in order to complete satisfaction between the University and the successful contractor.

Agent shall choose appropriate response where highlighted. Fill in the descriptions with the commodity in question. Agent modification of highlighted words to fit commodity may be necessary.

Agent may choose any of the appropriate paragraphs to support delivery specifications.

**LOSS & DAMAGE**

Total liability to customer for any actual or alleged damages arising out of, based on or relating to this support agreement whether based in contract, tort (including negligence), warranty or any other legal theory, except for personal injury or direct property damages, shall be limited to the amount of support fees actually paid by customer during the ## month period immediately preceding the events giving rise to the claim.

**MAINTENANCE**

Contractor must provide in-store or depot repair service for product purchased as result of this bid. Products may be delivered or shipped prepaid to service center with a maximum of **\_\_\_** hour(s) turn-around after receipt of product by contractor.

**MDS CROSS-DOCKING REQUIREMENTS:**

The MDS facility is located at 1061 Thousand Oaks Trail, Verona, WI 53593 (608) 497-4400. Shipments delivered to MDS must be on four way entry pallets. Pallets must be in good condition, no broken boards or rails. Multiple packages may be banded or shrink-wrapped on a single pallet. Products must not exceed the pallet dimensions (40”x48”x60"H), with no overhang. All hazardous materials must be picked, packed, wrapped, labeled, sorted and shipped per all Federal and State regulations. To facilitate delivery, dock level trucks must be used.

MDS will not accept damaged hazardous material. It is the contractor or freight company’s responsibility for Hazmat clean up.

**METHOD OF AWARD** (03-5874)

Award shall be made on the basis of the lowest total net cost for the entire lot, which is judged to be in the best interest of the University. Lowest net cost will be determined by adding the extended totals for each of the columns to form a column total. Each column total will then be multiplied by their respective weighted percentage (%) as stated on the Itemized Bid List. These figures will then be added to form a Grand Total and Lot Award.

**METHOD OF AWARD:** (04-0129)

Award(s) shall be made on the basis of the lowest net line item price(s) and/or the lowest net lot total(s), whichever is judged to be in the best interest of the University. Prices listed should be in US dollars unless otherwise indicated.

The University will obtain an estimate from the University’s contracted customs broker, for United States duty fees, port of entry documentation fees, customs clearance charge, tax, etc. and add it to all applicable bids to be used in the evaluation for award.

**METHOD OF BID** (03-5874)

Bidder must submit a unit price and extended total for each column.

Custom charges/fees should not be included in the bid price. The University will be responsible for obtaining custom charges/fees and will determine the customs broker to be used for entry into the United States. Failure to eliminate these costs from your bid may result in disqualification of your bid.

**METHOD OF BID:** (04-0129)

Bidder must submit a unit price and extended total for each item and a total price by lot as designated. Prices listed should be in US dollars unless otherwise indicated.

Custom charges/fees should not be included in the bid price. The University will be responsible for obtaining custom charges/fees and will determine the customs broker to be used for entry into the United States. Failure to eliminate these costs from your bid may result in disqualification of your bid.

## NON AUTO RENEWAL CONTRACT TERM:

XXXXXX XX, XXXXX, or date of award, through XXXXXX XX, XXXXX, or one year after date of award, with options to renew for four additional one year terms. The University reserves the right to extend beyond the Contract Term if deemed to be in the best interest of the University.

This Contract shall automatically be extended into its second, third, and fourth years unless Purchasing is notified, in writing, by the Contractor; or notifies the Contractor, in writing, 90 calendar days prior to expiration of the initial and/or succeeding Contract term(s).

## NOTICE OF INTENT TO PARTICIPATE

## In order to ensure timely communication of matters related to this RFP, interested parties should send an e-mail confirmation of their intent to participate no later than the date indicated in section 2.1. The e-mail should have the RFP Number in the Subject Line and be sent to [bids@bussvc.wisc.edu](mailto:bids@bussvc.wisc.edu), and contain the following information:

* **A statement of intent to participate in the RFP process**
* **Name of Principle Contact for Your Company**
* **Their e-mail address**
* **Their Voice Phone Number**
* **Name of Secondary Contact**
* **Their e-mail address**
* **Their Voice Phone Number**

**PACKING SLIPS**

All packing slips must be signed by University personnel after they have verified items delivered.  If any discrepancies exist, the driver will be required to co-sign and note discrepancies on the delivery packing slip. The packing slip must be itemized, showing the quantity delivered and/or backordered in addition to the same information as the invoicing requirements in Section XX.

|  |  |
| --- | --- |
|  | **DESCRIPTION** |
| 1. | All orders must include a packing slip with the following minimum information:   * Authorized User Name * Authorized User Account Number * Attention Line/Contact Name * Address * Department and floor (where applicable) * Room Number (where applicable) * Order Number * Delivery Date * Manufacturer Item Number, per line item * Manufacturer Item Description, per line item * Quantity Ordered * Quantity Delivered * Unit Price * Any back order items |

**PATENT INFRINGEMENT**

At the time of your bid submittal, is the product or service you are proposing free and clear of any patent infringement litigation? If not, please explain. (use an attached document if needed).

**PAYMENT TERMS**

Proposals must include a proposed schedule of payment. The following conditions must be incorporated into the payment schedule:

1. The University will not make prepayments for goods or services.
2. Milestone progress payments may be proposed, however, payment must represent an accurate percentage of the entire project progress.
3. At minimum, 15% of the total project sum will be retained by the Owner until the project has been "Accepted" as defined in this RFP.

**PAYMENT TERMS**

May be negotiated with contractor.

**PAYMENT TERMS**

The University pays our invoices Net 30 days after receipt of a properly completed invoice or per WI State Statue 16.528, (Prompt Pay Policy). It is appropriate to pay these 1% per month and 12% per year if we are negligent in paying within the appropriate timeframe.  The Vendor does not need to invoice if interest is due, the University will prepare and send the Vendor a check for the payment of interest if the University determines that we were negligent.

**PCI COMPLIANCE**

Contractor represents and warrants that for the life of the contract, the software and services used for processing transactions shall be compliant with standards established by the PCI Security Standards Council (<https://www.pcisecuritystandards.org/index.shtml> ).  Contractor agrees to indemnify and hold University, its officers, employees, and agents, harmless for, from and against any and all claims, causes of action, suits, judgments, assessments, costs (including reasonable attorneys’ fees) and expenses arising out of or relating to any loss of University customer credit card or identity information managed, retained or maintained by Contractor, including but not limited to fraudulent or unapproved use of such credit card or identity information.

**PERFORMANCE BOND**

Successful contractor may be required to furnish a performance bond in the amount of $10,000.00. In lieu of performance bond contractor(s) may provide an irrevocable letter of credit naming the University as beneficiary. The irrevocable letter of credit must be in an amount specified for the performance bond and the format content required by the University. In case of a split award, performance bond/irrevocable letter of credit must be split between successful contractors as determined by the University. Performance bond/irrevocable letter of credit must be furnished by a company licensed to do business in the State of Wisconsin.

The performance bond/irrevocable letter of credit must be for the entire contract period. The performance bond/letter of credit must provide that in the event of non-renewal, Purchasing, and the contractor be notified in writing by the issuer a minimum of 60 calendar days prior to the anniversary of the contract effective date.

Such bond/irrevocable letter of credit must be furnished to Purchasing within 10 calendar days of contract award notice and prior to contract commencement.

Submitter agrees to provide the University with a minimum annual commission guarantee of $15,000 for each year the contract is in effect. A performance bond or letter of credit of $5000,00 must be held by the University during the entire term of the contract to protect potential users in the event the provider defaults on this contract. Receipt of the Bond will be required prior to the start of the contract.

The successful bidder (contractor) may be required to furnish a performance bond for \_\_\*\_\_.

OPTIONAL

\*The full amount of award.

OR

\*$\_\_\_\_\_\_\_\_ to assure delivery of equipment or services identical to that ordered and

specified, and to provide that any equipment which fails because of defects in materials or

workmanship or does not give satisfactory performance under normal usage conditions will

be replaced without cost to the \_\_\_\_\_\_\_\_\_. (Optional) (Such bond must be furnished upon

request prior to issuance of the purchase order or contact. Bidder should not include the

cost of the bond in their basic bid, but must show the cost per thousand dollars of bond

required as a separate item on the Bid Form where indicated. The \_\_\_\_\_\_\_\_\_\_ shall pay the

cost for bond if it elects to require such bonding.) Failure to provide the required bond within

twenty-one (21) days of notification may result in disqualification of bid.

**\*Modify above as necessary, should read: "full amount of award or $x,000 to assure--."**

**Note, when determining dollar amount remember that bonds are issued in even**

**thousands. Also remember not to use bonds unless absolutely necessary.**

**PERFORMANCE BOND OR IRREVOCABLE LETTER OF CREDIT**

The successful proposer shall be required to furnish a performance bond in the amount of $250,000. Such bond must be furnished upon notification by the University prior to contract award.

In lieu of the performance bond, the contractor may provide an irrevocable letter of credit naming the University of Wisconsin Madison as beneficiary. The irrevocable letter of credit shall be in the amount specified for the performance bond and the format content required by the University. The performance bond or irrevocable letter of credit shall be furnished by a company licensed to do business in the State of Wisconsin.

The performance bond or irrevocable letter of credit shall be for the entire contract period. The performance bond or letter of credit shall provide that in the event of non‑renewal, the University, and the contractor be notified in writing by the issuer a minimum of sixty (60) days prior to the anniversary of the effective date of the contract.

In the event of non‑renewal, the contractor shall provide the University evidence of the new source of surety within twenty‑one (21) calendar days after the University’s receipt of the non‑renewal notice. Failure to maintain the required surety in force may be cause for contract termination.

Failure to provide the bond or irrevocable letter of credit within twenty‑one (21) days of notification of award may result in cancellation of contract award.

**PERFORMANCE BOND OR IRREVOCABLE LETTER OF CREDIT**

The successful bidder, hereafter referred to as "contractor", **shall** be required to furnish a performance bond in the amount of $\_\_\_\_\_\_.  Such bond must be furnished upon notification by the University of Wisconsin System Office of Procurement, hereafter referred to as "System Office of Procurement", and prior to contract award. In the event awards are made to more than one contractor, each contractor shall comply with all terms and obligations (Performance Bond/Irrevocable Letter of Credit levels shall be prorated) of the resulting contract.

In lieu of the performance bond, the contractor may provide an irrevocable letter of credit naming the University as beneficiary.  The irrevocable letter of credit shall be in the amount specified for the performance bond and the format content required by the University.  The performance bond or irrevocable letter of credit shall be furnished by a company licensed to do business in the State of Wisconsin.

The performance bond or irrevocable letter of credit shall be for the entire contract period.  If an irrevocable letter of credit is used, the period shall extend one month beyond the contract expiration date.  The performance bond or letter of credit shall provide that in the event of non‑renewal, the System Office of Procurement, and the contractor be notified in writing by the issuer a minimum of sixty (60) days prior to the anniversary of the effective date of the contract.

 In the event of non‑renewal, the contractor shall provide the University evidence of the new source of surety within twenty‑one (21) calendar days after the University's receipt of the non‑renewal notice.  Failure to maintain the required surety in force may be cause for contract termination.

Failure to provide the bond or irrevocable letter of credit within twenty‑one (21) days of notification of award may result in cancellation of contract award.

**PERFORMANCE SURETY**

Delivery times are an essential evaluative component of these proposals as quicker deliveries advances research opportunities. The losses sustained by the University are difficult to measure, for they are related to lost opportunities to perform research, and lost opportunities to obtain additional research grants. In order to compensate the University for lost research opportunity and to ensure the Vendor’s commitment, and not as a penalty, provide a proposal that would provide the University with enhanced opportunity for research. This can be manifested in one or more of the following ways:

**(X points Available)**

 Provide for collecting University specified data at the Vendor’s site at no cost to the University.

 Provide a dollar amount per day of delay, which will be credit to the University for research equipment or services available from the vendor.

 Extend the warranty of the delayed equipment by one month for each week of delayed delivery.

 Agree to a relaxed payment schedule that provides for no payment of any outstanding invoices (for any systems provided) until such time as timely delivery is made to the University

**PRE-AWARD TRIAL PERIOD**

An on-site trial period of \_\_\_\_\_\_ days is required for evaluation purposes. This is to be without expense or obligation to the University. If the University determines in good faith that the equipment fails to function as described in the bidder's bid response (performance level) the equipment may be rejected and the bidder must remove the equipment at no cost to the University.

**PREVAILING WAGE / LIMITED TRADES SPENDING LIMITS:**

This contract is limited so no single job shall have a total cost, including all parts and labor, greater than $30,000.00. Where releases are given, each release defines the scope of a job; one release per job. Material costs shall not exceed 50% of the total labor cost of the job (if the total job is over $1,000.00) without the approval of Purchasing.

No capital equipment shall be purchased on this contract. A capital equipment item is currently defined as an item which costs more than $5,000.00 AND has a useful life of more than one year. **[AGENT CHOOSE:]** **The University will furnish all capital equipment to be installed by contractor.**

**PROPOSAL SCORING**

Only proposals that receive a minimum of XX points or XX% of total performance points (Section 4.5-4.XX) will be scored for cost.

**PROTESTS (IT)**

Any protest of the University's solicitation or intent to award must be made as provided by the Wisconsin Administrative Code and the State Procurement Manual.

No later than five working days after the date of solicitation or the notice of intent to award is issued by the University, written notice of intent to protest must be received by:

The Office of the Chancellor

The University of Wisconsin-Madison

500 Lincoln Drive

Madison, Wisconsin 53706

with a copy to:

Director of Purchasing Services

University of Wisconsin-Madison

750 University Avenue

Madison, Wisconsin 53706-1490

The complete protest must be received by the Chancellor and the Director of Purchasing Services no later than ten working days after the date of solicitation or the intent to award is issued. The protest must be in writing. Protesters must make their protests as specific as possible and must identify statutes and Wisconsin Administrative Code provisions that are alleged to have been violated.

The decision of the University regarding the protest may be appealed to the President of the University System within five working days of the issuance, with a copy of such appeal filed with the procuring agency, provided the appeal alleges a violation of a statute or a provision of a Wisconsin Administrative Code. This should be sent in care of:

Helen McCain

Director, System Office Of Procurement

University of Wisconsin System Administration

780 Regent Street, PO Box 8010

Madison, WI 53715

**RECYCLED PRODUCTS/PACKAGING/DISPOSAL TECHNIQUES:** The University is committed to promote environmentally sound procurement, usage and disposal methods which are in compliance with State of Wisconsin County, and Municipal regulations. Currently the University has a recycling program for starch and Styrofoam packing peanuts. The University’s preference is to receive starch peanuts whenever possible. The Contractor shall not use INSTAPAK© or mix starch and Styrofoampeanutsunder any circumstances. Each product shall be separately pre-packed in accordance with commercially accepted methods. Small products may be packaged in protective envelopes (Mail-Lite or Bubble-Jet packs).

If you have an alternate shipping method than stated above, contact agent.

**REMEDIES ON DEFAULT – TERMINATION** (04-5678)

Shall either party fail to perform under the terms of this Contract, the aggrieved party may notify the other party in writing via certified mail of such failure and demand that the same be remedied within 30 calendar days. Should the defaulting party fail to remedy the same within said period, the other party shall then have the right to terminate this Contract by giving the other party 15 calendar days written notice. Performance failure can be defined as but not limited to: late deliveries, excessive back orders, improper substitution of products, failure to respond to communication requests, poor quality of product delivered, failure to meet maintenance and service requirements identified, failure to meet ADA or Energy Star specifications and requests where identified, failure to resolve invoicing issues, and failure to provide any of the conditions of the Specifications or Special Conditions of Bid.

Service training for campus service technicians to be done by a factory representative. Training will be held at the University for a minimum of 4 hours annually at no charge. Contractor may charge a fee for any additional requested training sessions beyond the original 4 hour session. Bidder is to identify on the Bidder Response Sheet hourly rate for any additional service technician training and how many bidder/contractor representatives will be attending.

**HARDWARE MAINTENANCE RIDER**

1.0 ACCESS TO EQUIPMENT

2.0 COOPERATION WITH OTHER VENDORS

3.0 ESCALATION OF PROBLEMS

4.0 KEY PERSONNEL

5.0 PRINCIPAL PERIOD OF MAINTENANCE

6.0 RECERTIFICATION

7.0 RELOCATION

8.0 REPLACEMENT PARTS

9.0 SAFETY CHANGES

10.0 SCOPE OF MAINTENANCE SERVICE

11.0 SERVICE START-UP

12.0 STANDARD OF PERFORMANCE/RESPONSE TIME

13.0 TRAVEL EXPENSE

14.0 WITHDRAWAL OF EQUIPMENT FROM MAINTENANCE

STATEMENT OF PURPOSE: The Hardware Maintenance Rider provides terms and conditions relating to acquisition of data processing hardware maintenance services. The Hardware Maintenance Rider is applicable to all Data Processing Agreements which involve the provision of hardware maintenance services.

1.0 ACCESS TO EQUIPMENT: Contractor shall keep the equipment in good operating condition and, subject to security regulations, the University shall provide Contractor with access to the equipment to perform maintenance service.

2.0 COOPERATION WITH OTHER VENDORS: Contractor agrees to cooperate with University personnel, hardware manufacturer representatives, other vendors' service personnel, and communications systems suppliers to diagnose and correct equipment malfunctions. Contractor agrees, when requested by the University, to coordinate diagnostic testing efforts involving other vendors and to accept direction from other vendors' personnel in carrying out diagnostic testing of equipment malfunctions.

3.0 ESCALATION OF PROBLEMS: Contractor agrees that for problems with equipment covered by an on-site maintenance agreement that Contractor's Field Engineer will notify a local Field Product Specialist after four (4) hours (or less) of down time if no resolution of the problem is in sight. A District Product Specialist will be notified if no resolution is in sight after eight (8) hours of down time. A National Product Specialist will be notified if no resolution is in sight after twelve (12) hours of down time.

If the University notifies Contractor that a problem has recurred when placing a service call, Contractor agrees that it will escalate the problem to the next level above the highest level reached during the previous event at the same time that a Field Engineer is dispatched.

4.0 KEY PERSONNEL: Contractor agrees that it will identify all personnel who will normally be providing maintenance service on the University's equipment, and will furnish the University with a means of identifying these personnel. Contractor will notify the University at least thirty (30) days in advance of any reductions in staffing levels of personnel at any local or district office serving Wisconsin.

5.0 PRINCIPAL PERIOD OF MAINTENANCE: Remedial maintenance shall be available twenty-four (24) hours of every day and shall be performed promptly after notification that the equipment is inoperative. Contractor shall provide the University with a mutually acceptable procedure which includes a positive response from the Contractor's maintenance representative that is acceptable to the University.

The University declares and Contractor agrees that the principal period of maintenance service availability shall be the period of 12 consecutive hours between the hours of 7:00 a.m. to 7:00 p.m. daily, Monday through Friday, except the following legal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

At the discretion of University agencies and Contractor, the principal period of maintenance service availability may be changed for a site by attaching an amendment to this rider which states the alternative hours of maintenance at that site.

All equipment at a single University site shall have a common principal period of maintenance service availability.

If the University requests unscheduled on-call remedial maintenance to be performed at a time which is outside the principal period of maintenance service availability, the service will be furnished at the applicable per call rates and terms then in effect. Travel time and expenses are not billable in connection with such maintenance.

6.0 RECERTIFICATION: To ensure an orderly transition of equipment being withdrawn from maintenance, Contractor agrees that the following steps will be taken to assure the units are recertified for original manufacturer maintenance:

- Upon thirty (30) days written notification that equipment will be withdrawn from maintenance, Contractor will establish a schedule for completing recertification which is agreeable with the University representative at the site concerned.

- After Contractor has checked a unit, the original equipment manufacturer will be notified by the Contractor to inspect that unit with the understanding that it needs to be certified for maintenance.

- If any repairs are required to recertify the equipment, Contractor will make said repairs at no additional cost to the University or as outlined in their response to the University's solicitation document.

7.0 RELOCATION: The University will notify Contractor in writing of the relocation of any equipment within thirty (30) days following its relocation. The University shall arrange and pay for all disconnection, packing, crating, transportation, rigging, drayage, unpacking, and reconnection of any equipment being relocated.

8.0 REPLACEMENT PARTS: Contractor agrees that there shall be no additional costs or expense to the University for replacement parts.

If the University sets up a float of spare parts and/or equipment, Contractor will work with the University to locate said spares in key locations. Contractor will be responsible for loss or damage of any of spare parts and/or equipment while in the possession of Contractor.

In an emergency on-site service situation, as determined by the University and Contractor, when a critical failing unit is unable to be repaired in a timely manner, Contractor will assume the responsibility for transporting the exchange equipment, repairing the initial failing unit and returning all equipment to original locations.

Contractor will provide a limited number of spare units of equipment to be used in case of a catastrophic outage. This spare equipment will be used if the failing unit shuts down the operation within a University location and the most expeditious solution would be exchanging said unit. The failing unit will be repaired and returned to the same location at a time that would cause the least inconvenience to the University site's operation.

9.0 SAFETY CHANGES: Contractor will control and install, without charge, all safety devices it deems necessary during the principal period of maintenance service availability. If the University refuses to permit installation of a safety change, or removes a safety change already installed, Contractor may, at its option, discontinue providing maintenance service until the hazard has been corrected.

If the University requests installation of engineering changes, including safety changes, at any time other than during the principal period of maintenance service availability, Contractor reserves the right to charge for such service at the applicable per call rates and terms then in effect.

10.0 SCOPE OF MAINTENANCE SERVICE: Contractor will render maintenance service to keep equipment in, or restore equipment to good working order. This maintenance service includes the preventive maintenance service, installation of safety changes, and installation of engineering changes described above based upon the specific needs of the individual item of equipment. This service shall include the repair and replacement of maintenance parts which Contractor deems necessary to restore the equipment to good working order. For purposes of this Agreement, equipment restored to good working condition shall be defined as equipment that will perform all functions as prescribed in the manufacturer's published specifications for such equipment as originally manufactured. Maintenance service provided under this Agreement does not assure uninterrupted operation of equipment.

Maintenance will include adjustments and replacement of maintenance parts deemed necessary. Maintenance parts may or may not be manufactured by the original equipment manufacturer, may be altered by Contractor to enhance maintainability and may be new or reconditioned to perform as new but will be acceptable to the original equipment manufacturer.

All maintenance parts will be furnished on an exchange basis, and the exchanged parts will become the property of Contractor.

Contractor will exert best efforts to perform all fault isolation and problem determination including hardware, software and network problem diagnosis, attributed to the equipment covered under this Agreement. There shall be no additional charge to the University for the services performed by the Contractor whether or not the actual cause was determined to be isolated to within the equipment included in this Agreement.

The following services are outside the scope of this Agreement:

105.1 Electrical work external to equipment.

105.2 Repair of damage or increase in service time due to any cause external to the equipment which shall include but not be limited to, fire, flood, water, wind, lightning and transportation, or due to neglect or misuse.

10.3 Repair and replacement work or increase in service time as a result of damage or loss resulting from accident, casualty, transportation, neglect, misuse or abuse, damage resulting from improper packing and/or failure to follow prescribed shipping instructions, failure of electrical power, air conditioning or humidity control, use of supplies not approved by the original manufacturer of the equipment or causes other than ordinary prudent use for the purposes for which the equipment was designed.

10.4 Repair of damage or increase in service time caused by the use of equipment for purposes other than that for which it is designed.

10.5 Furnishing platens, supplies or accessories, painting or refinishing the machines or furnishing material therefore, making specification changes, or adding or removing approved accessories, attachments or other devices except as set forth herein.

10.6 Service or increase in service time resulting from or which is impractical for Contractor to render because of any adjustment, repair, maintenance, alteration, attachment, addition or connection to another machine or device or any attempt toward any such ends unless Contractor has agreed in writing to such action.

10.7 Systems engineering services, programming, and operational procedures of any sort.

10.8 Activity required to restore equipment to good operating condition, if resulting from persons other than Contractor's authorized service personnel repairing, modifying or performing any maintenance service on any equipment.

10.9 Service to bring any equipment into compliance with any law, rule or regulation of any government authority having jurisdiction or any provision of any applicable insurance policy, or service to correct any health hazard.

Upon request, the rendition of services outside the scope of this Agreement will be within the discretion of Contractor and, if performed, will be at the applicable per call rates and terms as stated in Contractor's response to the University's solicitation document.

11.0 SERVICE START-UP: Maintenance service shall generally begin upon expiration of the original equipment manufacturer's warranty period. The University will provide Contractor with an order to start service at least ninety (90) days prior to warranty expiration or to the date the University intends to commence receiving maintenance service.

Contractor will notify the University at least sixty (60) days prior to the date the University intends to commence receiving maintenance service for an item of equipment if, upon inspection by Contractor, the item of equipment is not found to be in good operating condition. Contractor will provide an estimate of the cost to return the equipment to good operating condition and notify the University prior to performing any work. Contractor will proceed with needed repairs only upon receipt of an order from the University to do so. If the University chooses to have needed repairs to equipment performed by someone other than Contractor, the University shall notify Contractor when the needed repairs are complete so that Contractor may assure itself that the equipment is in good operating condition prior to commencement of maintenance service by Contractor. In the absence of notification to the University that an item of equipment is not in good operating condition, Contractor shall be deemed to have accepted the equipment for maintenance service on the date specified in the University's order.

12.0 STANDARD OF PERFORMANCE/RESPONSE TIME:

12.1 General:

All service must meet the standards set forth in the University's solicitation document except as specifically modified in this Agreement.

The standards of performance set forth below must be met and maintained by Contractor. Failure of Contractor to meet or maintain these standards of performance provides the University the options of terminating either all or part of this Agreement.

Contractor will staff adequate manpower and stock necessary levels of spare parts to provide maintenance service to all access locations per the terms and conditions of this Hardware Maintenance Rider and the University's solicitation document.

12.2 On-site Service Response Time:

Contractor's maintenance personnel shall arrive at the University's installation site within the standards set forth in the University’s solicitations after notification by the University that service is required.

Response time adversely affected by natural disorders such as snowstorms, floods, etc., shall not be included in this computation.

Contractor will make every effort to respond to emergency requests within four (4) hours.

12.3 Maximum Repair Time

Maximum repair time for on-site maintenance will be twenty-four (24) hours after notification by the University that remedial maintenance is required excluding Saturdays, Sundays, and holidays as stated herein for all University locations.

13.0 TRAVEL EXPENSE: Time spent by Contractor's personnel traveling to and from the site, travel costs and time spent after arrival at the site awaiting the arrival of additional maintenance personnel or delivery of parts after a service call has commenced, and similar situations during the principal period of maintenance service availability shall result in no additional costs to the University.

14.0 WITHDRAWAL OF EQUIPMENT FROM MAINTENANCE: The University may, at its sole option, withdraw any item of equipment from maintenance service by Contractor at any time upon thirty (30) calendar days notice without any liability provided only that the University furnishes the Contractor with a written notice of any such withdrawal before such thirty (30) calendar day period begins. Contractor agrees to proceed with recertification of any equipment withdrawn as provided in Section 6.0 of this Hardware Maintenance Rider.

**HARDWARE RIDER**

1.0 ACCEPTANCE/STANDARD OF PERFORMANCE

2.0 ACCESS TO EQUIPMENT

3.0 ALTERATIONS AND ATTACHMENTS

4.0 DOCUMENTATION AND OPERATING MANUALS

5.0 EMERGENCY EQUIPMENT

6.0 ENGINEERING CHANGES AND/OR FIELD MODIFICATIONS

7.0 INSTALLATION

8.0 MAINTENANCE CONTINUITY

9.0 ONGOING PERFORMANCE REQUIREMENT

10.0 RELOCATION OF EQUIPMENT

11.0 RETURN OF EQUIPMENT

12.0 SITE PREPARATION

13.0 SPARE PARTS

14.0 SUPPLIES

15.0 TECHNICAL SERVICES

16.0 TRAINING

STATEMENT OF PURPOSE: The Hardware Rider provides terms and conditions relating to acquisition of data processing hardware.

1.0 ACCEPTANCE/STANDARD OF PERFORMANCE:

A standard of performance must be met before any of the equipment is accepted by the University. It is also applicable to any replacement or substitute machines which are added or field modified after the equipment has completed a successful performance period.

1.1 The performance period shall begin when the University notifies Contractor in writing that acceptance testing may commence and shall end when the equipment has met the standard of performance for a period of ninety (90) consecutive days. The performance period will determine whether the following acceptance criteria are met:

a. Equipment operates in conformance with Contractor's technical specifications and functional descriptions.

b. Equipment meets the specifications and performs the functions as contained in the University's solicitation document.

c. Equipment is capable of running on a repetitive basis using a variety of live data, as supplied by the University, without failure.

d. Equipment is capable of meeting the University's performance requirement as expressed in the University's solicitation document.

e. Equipment does not require modifications to other operational systems and does not cause performance degradation of other systems operating on the University's computing system(s) and network(s).

Equipment must operate at an effectiveness level of 99.999% or more. (See items 1.5 through 1.10 below.)

1.2 In the event the equipment does not meet the standard of performance during the initial ninety (90) consecutive days, the standard of performance test shall, at the option of the University, continue on a day-to-day basis until the standard of performance is met for a total of ninety (90) consecutive days.

1.3 If the equipment fails to meet the standard of performance after ninety (90) calendar days, from commencement of acceptance testing, the University may, at its option, terminate this Agreement without penalty, request replacement equipment or continue the performance test. Contractor shall be liable for all inbound and outbound preparation and shipping costs for equipment returned pursuant to this provision. The University's option to terminate this Agreement shall remain in effect until such time as a successful completion of the performance period is attained.

1.4 The date of acceptance shall be the first day after the completion of the successful performance period.

1.5 The effectiveness level for equipment acquired under this Agreement is computed by dividing the operational use time by the sum of that time plus system failure downtime.

1.6 Operational use time for performance testing for the equipment acquired under this Agreement is defined as the accumulated time during which the equipment is in actual use.

1.7 Equipment failure downtime is that period of time when the equipment is unavailable due to equipment malfunction.

1.8 During any period of equipment downtime, the University may use operable equipment when such action does not interfere with maintenance of the inoperable equipment.

1.9 Downtime for each incident shall start from the time the University makes a bona fide attempt to contact Contractor's designated representative until equipment is returned to the University in proper operating condition.

2.0 ACCESS TO EQUIPMENT:

Contractor, its agents or employees shall have full access to the equipment at reasonable times when access locations can be open to inspect the equipment or observe its use upon first giving notice to the University of Contractor's intent to perform such inspection.

3.0 ALTERATIONS AND ATTACHMENTS:

Following acceptance by the University of the equipment that is the subject of this Agreement, the University may make alterations or attachments to the equipment upon prior written notice to Contractor.

3.1 The University shall be responsible for making such University initiated alterations or attachments to equipment, its use, and the results obtained there from, and the University shall also be responsible for paying all charges incurred and related to any such alteration or attachment. The University shall also be responsible for removing any such alteration or attachment and for restoring the equipment to its normal unaltered condition prior to its return to Contractor or upon written notice from Contractor that the alteration or attachment creates a safety hazard or renders maintenance of the equipment impractical, provided that such written notice sets forth the particular factual basis relied upon by the Contractor in making such determination.

3.2 When such alterations or attachments are made by the University or its authorized agents: (1) the University shall be responsible for damage to the equipment caused by or resulting directly or indirectly from such alterations or attachments; (2) Contractor shall not be held responsible for defects in software or documentation provided such defects are caused by or result directly from such alterations or attachments; (3) Contractor will not be liable for any performance degradation of the equipment caused by or resulting directly from such alterations or attachments; (4) Contractor will not be responsible for the proper or efficient operation of, or the cost or effort to modify any software or documentation affected directly or indirectly by such alterations or attachments.

4.0 DOCUMENTATION AND OPERATING MANUALS:

Contractor shall provide, at no additional charge, operating manuals which describe equipment capabilities, its operation, malfunction identification and troubleshooting procedures. The copy of these manuals should be in electronic form and will be furnished for each individual piece of equipment ordered by the University. Electronic manual updates or revisions published by the Contractor shall be provided free of charge. Contractor agrees that the University may make such additional copies of supplied documentation as are needed for use by University employees.

5.0 EMERGENCY EQUIPMENT:

Contractor agrees to make every reasonable effort to assist the University in obtaining the use of equipment compatible with that used by the University to meet emergencies such as a major system or equipment failure or loss which extends or is expected to extend beyond twenty-four (24) hours. The University, at its option, may accept or reject the offer of use of emergency equipment from the Contractor.

6.0 ENGINEERING CHANGES AND/OR FIELD MODIFICATIONS:

Contractor sponsored modifications and/or engineering changes shall be made with the consent of the University at no additional charge. The University reserves the right at all times to schedule these Contractor sponsored modifications and/or engineering changes to minimize the impact on the daily operations of the University. Contractor warrants that, to their knowledge, installation of such engineering changes and/or field modifications as are required or recommended from time to time, shall not cause the performance of the equipment modified to degrade below the standard of performance established for acceptance of the equipment or as described in Contractor's technical specifications and accepted by the University.

7.0 INSTALLATION:

The University agrees to have the equipment installation site prepared in accordance with vendor's written specifications prior to the installation date. The University shall provide access to the installation site to enable Contractor to plan the installation. A complete minimum disruption installation plan for installing equipment must be provided by Contractor. The plan must detail all activities required to successfully install and operate the equipment. This includes, for example, access to facilities, configuration specifications, method of procedure for installing equipment, documentation of installation (e.g. digital photos, dressing and labeling of cabling), security authorization, and operating instructions. Except for equipment specifically designated in Contractor's proposal as customer set-up or unless otherwise specified in the University's solicitation document, Contractor shall be responsible for unpacking, uncrating and installing the equipment, including the installation of all necessary cabling, connection with power, utility and communications services, and in all other respects making the equipment ready for operational use. Upon completion, Contractor shall provide written certification to the University that each unit of equipment has incorporated within it all of the Contractor's current engineering changes and that the equipment is ready for acceptance testing. For those units of equipment designated as customer set-up in Contractor's response to the University's solicitation document, the University shall:

- unpack each unit of equipment;

- inspect each unit of equipment for damaged or missing items;

- perform the physical set-up and connections as prescribed by Contractor;

- provide any data communications equipment that may be required in order for the equipment to function;

- install all required programming aids;

- utilize equipment validation and diagnostic tests as prescribed by Contractor to verify that the equipment functions properly;

- notify Contractor of equipment that is missing, damaged or apparently malfunctioning;

8.0 MAINTENANCE CONTINUITY:

Contractor agrees to make available maintenance services to meet the University's ongoing performance requirement for as long as the equipment is utilized by the University. Such services shall be available in accordance with Contractor's generally listed prices, but shall in no event exceed current prices plus 5% per year for each year after the date of acceptance of the equipment.

If Contractor is unable to provide maintenance services pursuant to this Agreement and in the University's sole opinion is unlikely to resume providing maintenance services to meet the University's ongoing performance requirement, then Contractor or its receiver or trustee shall provide the following items to the University.

8.1 All information necessary for the University to perform or to have such maintenance service performed including, but not limited to, logic diagrams, maintenance manuals, system and unit schematics.

8.2 A listing of suppliers capable of supplying necessary spare parts and equipment support.

8.3 Available information adequate to permit the University to have spare parts manufactured elsewhere.

8.4 A listing of spare parts and their frequency of use to enable the University to create a centralized inventory of spare parts.

Any information in items 8.1, 8.2, 8.3, and 8.4 above which is identified by Contractor as proprietary information shall be maintained in confidence by the University except where disclosure to a third party is necessary in order for the University to continue the maintenance service; however, any third party to whom disclosure is made pursuant thereto shall agree to hold such proprietary information in confidence and to make no further disclosure thereof. Further, the University agrees that any such proprietary information shall be used solely to perform the Contractor's obligations hereunder and shall be returned to Contractor upon completion of such use.

9.0 ONGOING PERFORMANCE REQUIREMENT:

Any equipment installed as a result of this Agreement must perform at an effectiveness level of 99.9% each month following acceptance during the effective life cycle of the equipment as specified in the University's solicitation document and as provided for in Contractor's response with respect to costs.

Should any equipment fail to meet this standard of performance, the University may at its option, choose to liquidate the damages it suffers as a result of equipment failure. In the event that equipment is inoperative, due to equipment failure, and the effectiveness level is below 99.9% of the total operational use time for three (3) consecutive calendar months, the University reserves the right to terminate this Agreement without penalty or to require Contractor to replace the equipment. As applicable, the purchase option credits for any replacement equipment shall not be less than the credits accrued from the date of acceptance of the original equipment, regardless of whether the replacement is made at the request of the University or for the convenience of Contractor.

10.0 RELOCATION OF EQUIPMENT:

10.1 The University reserves the right to move the equipment acquired under this contract from one location to any other location with the Network.

10.2 The University will prepare a relocation site that conforms to the Contractor's specifications in accordance with other provisions of this Rider.

10.3 Rearrangement of equipment within shall be entirely at University expense. Contractor may provide paid assistance and supervision.

10.4 The University shall notify Contractor at least thirty (30) days in advance of the relocation of any equipment which is not designated as customer set-up in Contractor's response to the University's solicitation document. Contractor shall be responsible for disconnecting, packing, and crating this equipment for shipping as well as all tasks associated with installation as detailed elsewhere in this Hardware Rider subject to charges as specifically stated in Contractor's response to the University's solicitation document.

11.0 RETURN OF EQUIPMENT:

11.1 If equipment is returned to Contractor for failure to fulfill contractual obligations, the following procedure will be used:

a. Within twenty (20) days of written notification Contractor will prepare equipment for removal and shall provide the University with the required shipping instructions.

b. Within thirty (30) days following preparation of equipment for shipping, the University shall ship the equipment in accordance with instructions from Contractor.

c. All shipping cost will be borne by Contractor.

11.2 If equipment is returned to Contractor for any other reason, the University shall be responsible for all costs associated with preparation of equipment for shipping and for shipping costs to Contractor's nearest location.

12.0 SITE PREPARATION:

Equipment environmental specifications shall be furnished in writing by Contractor to the ordering agency at least sixty (60) days prior to delivery. These specifications shall be in such detail to ensure that the equipment to be installed shall operate efficiently from the point of view of its environment.

The University shall prepare the site at its own expense and in accordance with the Contractor's equipment environmental specifications not later than fifteen (15) days prior to delivery, and shall make the site available thereafter for inspection by Contractor. Failure by Contractor to inspect the site prior to delivery shall be deemed to be approval of the site as meeting Contractor's equipment environmental specifications.

Contractor will notify the University in writing as to the adequacy of the site and the University's planned layout of the equipment within ten (10) days after inspection.

Contractor warrants that all equipment which is the subject of this Agreement has been approved by Underwriters Laboratories or a recognized equivalent certification agency.

Contractor understands that all equipment installations must comply with building and facilities standards established by the University.

13.0 SPARE PARTS:

Contractor agrees to furnish to the University price lists and instructions for ordering spare parts for all equipment

proposed in the Contractor's response to the University's solicitation document. Contractor agrees that these spare parts will be available, either to the University or to a third-party maintenance contractor retained by the University for the purpose of maintaining Contractor's equipment if the University chooses not to contract for maintenance service with Contractor.

14.0 SUPPLIES:

Contractor's prices do not include operational supplies unless such supplies are specifically identified. All supplies used by the University shall conform to Contractor's published specifications provided to the University at the time of equipment installation. The University reserves the right to acquire such supplies from any vendor of its choice.

15.0 TECHNICAL SERVICES:

Contractor's technical personnel shall be available to assist the University in implementation, review, and improvement of existing systems and to advise on development, and implementation of new systems involving Contractor's equipment. Charges, if any, for this assistance have been included in Contractor's response to the University's solicitation document and these charges will increase by no more than 5% per year. Any actual changes in the charges for technical services will require mutual agreement and are subject to the Pricing and Discount provisions of the General Terms and Conditions of this Agreement.

16.0 TRAINING:

Contractor shall provide continuing training for personnel to achieve the level of proficiency necessary to support the University's use of equipment provided by Contractor. Charges, if any, for training have been included in Contractor's response to the University's solicitation document and these charges will increase by no more than 5% per year. Any actual changes in the charges for training will require mutual agreement and are subject to the Pricing and Discount provisions of the General Terms and Conditions of this Agreement.

**HOTEL RIDER**

**HOTEL / LEASED SPACE CONTRACT RIDER**

Regardless of the terms and conditions defined on Vendor agreement/contract, the terms of this Rider will supersede any conflicting terms and conditions. For Purposes of this Rider, the Facility Owner refers to the contracting facility and the University refers to the contracting University Department/Organization

# INDEMNIFICATION/HOLD HARMLESS

# The Board of Regents of the University of Wisconsin System (University) agrees to provide liability protection for its officers, employees and agents while acting within the scope of their employment. The Board of Regents further agrees to hold harmless the Facility Owner, its officers, agents and employees from any and all liability, including claims, demands, losses, costs, damages, and expenses of every kind and description (including death), or damages to persons or property arising out of or in connection with or occurring during the course of this agreement where such liability is founded upon or grows out of the acts or omissions of any of the officers, employees or agents of the University of Wisconsin System while acting within the scope of their employment where protection is afforded by ss. 893.82 and 895.46(1), Wis. Stats.

# The Facility Owner agrees to hold the University harmless from any loss, claim, damage or liability of any kind involving an employee, officer or agent of the Contractor arising out of or in connection with this Agreement except to the extent that it is founded upon or grows out of the acts or omissions of any of the officers, employees or agents of the University of Wisconsin System while acting within the scope of their employment where protection is afforded by ss. 893.82 and 895.46(1), Wis. Stats.

**INSURANCE**

The State of Wisconsin, including the University, is self-funded for liability (including general, professional and automobile) under s.895.46 (1) and 893.82 of the Wisconsin Statutes. This protection provided coverage for our officers, employees, and agents. The State of Wisconsin Liability Program is funded to pay in excess of $1 million for the negligent acts or omissions of its officers, employees and agents, in accordance with the statutes. In addition to the self-funded program, the State purchases substantial limits of excess commercial insurance should a claim ever exceed the self-insured limits. Coverage is continuous under the law. Since this is statutory protection, there is no policy on which to name anyone as an additional insured.

**PAYMENT AND LATE PAYMENT**

The University pays our invoices Net 30 days after receipt of a properly completed invoice or per WI State Statue 16.528, (Prompt Pay Policy). It is appropriate to pay these 1% per month and 12% per year if we are negligent in paying within the appropriate timeframe. The Vendor does not need to invoice if interest is due, the University will prepare and send the Vendor a check for the payment of interest if the University determines that we were negligent.

**LEGAL OR COLLECTION FEES**

In the event that the University and the Facility Owner are involved in any litigation or collection action regarding the performance of any of their obligations under this agreement, the University will only pay the Facility Owner’s attorney or collection agency fees if ordered to do so by the court.

**TAX EXEMPT**

1) Wisconsin sales or use tax on its purchases under s.77.54 (9a) (a), Wisconsin Statutes. Wisconsin Department of Revenue Tax Exempt ES 40706.

2) Personal property tax on property owned, including beneficial ownership under lease/purchase agreements, under s.70.11 (1), Wisconsin Statutes.

3) Federal tax imposed under Ch. 32, I.R.C. Registration No. 39-73-1021-K was issued to the State of Wisconsin by the Internal Revenue Service. This number is on file with the District Director, U.S. Treasury Department, Internal Revenue Service, Milwaukee, Wisconsin.

**APPLICABLE LAW**

To the extent it does not waive the sovereign immunity of the State of Wisconsin, substantively or procedurally, this agreement shall be governed by the laws of the State described in the Facility Owner’s Agreement.

**ARBITRATION**

Any arbitration award that requires performance by University of Wisconsin employees must be submitted to the State Claims Board for review and approval before it becomes binding on the University of Wisconsin or its employees.

**FORCE MAJEURE**

The University shall not be liable for any delay, failure in performance, loss or damage due to: fire, explosion, power blackout, earthquake, flood, the elements, strike, embargo, labor disputes, acts of civil or military authority, war, acts of terrorism or bonafide threat there of, National or Inter-national Health Risks, acts of God, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond such party's reasonable control, whether or not similar to the foregoing, except that University’s obligation to pay for charges incurred for Services received by University shall not be excused.

**CANCELATION**

If another party can purchase the rooms, the University will not be responsible for cancelation fees.

**Waiver of Consequential damages**

In no event shall the Facility Owner be liable for loss of profits, revenue or product use, or loss or inaccuracy of data. In no event shall either party be liable for any indirect, incidental, special or consequential damages incurred by either party or any third party, even if the other party has been advised of the possibility of such damages.

**Limitation of Liability**

The parties agree that Facility Owner’s liability for damages under this agreement shall in no event exceed the amount of fees paid by The University provided that this limitation of liability shall not extend to Facility Owner’s liability for its intellectual property infringement indemnification obligations, damages arising from its tortuous conduct that causes death or bodily injury or damages to tangible property, breach of warranty or contract, or breach of privacy.

**Limitation of Liability**

Nothing in this agreement seeks to limit or restrict liability for death or personal injury, or real property damage resulting from negligence.

**State of Wisconsin Uniform Travel Schedule Amounts (UTSA)**

As per the current State of Wisconsin Uniform Travel Schedule Amounts, break and meal prices for state employees must include any and all gratuity and service charges and cannot exceed $5 per break, $8 per breakfast, $9 per lunch or $17 per dinner per person.

**PERSONAL SERVICES RIDER**

1.0 ACCEPTANCE/INSPECTION

2.0 ACCESS TO FACILITIES

3.0 COOPERATION WITH OTHER VENDORS OR CONTRACTORS

4.0 KEY PERSONNEL

5.0 LIMITATION OF COST

6.0 PROGRESS REPORTS

7.0 RESPONSIBILITIES OF CONTRACTOR

8.0 RESPONSIBILITIES OF THE STATE

9.0 RIGHT TO APPROVE CHANGES IN STAFF

10.0 TERMINATION

11.0 TIME PERIOD

12.0 TRAVEL EXPENSE

13.0 WARRANTY OF OPERATION

14.0 INTELLECTUAL PROPERTY

STATEMENT OF PURPOSE: The Personal Services Rider provides terms and conditions relating to acquisition of personal services related primarily to information systems development wherein the University expects Contractor to furnish personnel to work at the University's general direction in return for payment of a fee based on the amount of time expended by Contractor's personnel. The specifics of the work efforts and target dates for Contractor's personnel will be a part of the University's purchase order(s) under this Agreement.

1.0 **ACCEPTANCE/INSPECTION:**  All work performed under University purchase order(s) shall be subject to inspection by the University, to the extent practicable at all times and places, including the period of design or programming, but in any event, prior to acceptance. All inspections by the University shall be performed in such a manner as not to unduly delay the work. Unsatisfactory work shall be corrected prior to acceptance. Suitable acceptance criteria shall be included in the University's order(s).

The University shall promptly notify Contractor of the results of any inspection or acceptance test it performs. If an acceptance test produces unsatisfactory results, the University shall specifically identify what acceptance criteria could not be satisfied and the particular methodology that was used to reach this conclusion.

2.0 **ACCESS TO FACILITIES:** Unless otherwise agreed upon by the parties, any and all access by Contractor’s employees to UW facilities will be defined and limited to work areas where the Contractor’s employees have to be present to attend meetings, conferences or site specific events.

3.0 **COOPERATION WITH OTHER VENDORS OR CONTRACTORS:**  In the event that the University enters into agreements with other vendors or contractors for additional work, Contractor agrees that its personnel will fully cooperate with such other vendors or contractors. Contractor's personnel shall not commit any act which will interfere with the performance of work by any other contractor or by the University. Contractor's personnel will cooperate with University personnel, hardware manufacture representatives, system software suppliers, and communications systems suppliers in designing and testing any systems.

4.0 **KEY PERSONNEL:** Contractor agrees that it will furnish the University with a means of identifying all personnel assigned to perform work under this Agreement and furnish the University with security credentials on these personnel, if requested.

5.0 **LIMITATION OF COST:**  It is hereby stipulated and agreed that the total cost to the University for the performance of the work under this Agreement will not exceed the funding limitation set forth in the University's purchase order and the Contractor agrees to perform the work specified and all obligations under this Agreement within such funding limitation. Contractor agrees to notify the University in writing no later than when the billable amounts reach eighty percent (80%) of the funding limitation in an order and will include in such notification an estimate to complete the requirements of the order. The University shall not be obligated to reimburse Contractor for billing in excess of the funding limitation set forth in the order, and Contractor shall not be obligated to continue performance of work under the order or to incur costs in excess of the funding limitations if such increased costs are due to additional requirements identified by the University after the initiation of effort on the work specified in the order, unless and until a change order or amendment to the order increasing the funding limitation is approved by the University.

6.0 **PROGRESS REPORTS:** Contractor shall submit a progress report to the University signed by an authorized officer of Contractor on a weekly basis. Such progress report shall describe the status of Contractor's performance since the preceding report, including the products delivered, the progress expected to be made in the next period. Each report shall describe Contractor's activities by reference to the work schedule included in the University's order. Reports shall be sent to the Contract Administrator designated by the University.

7.0 **RESPONSIBILITIES OF CONTRACTOR:** Contractor agrees:

7.1 To perform those tasks and deliver the products identified in the University's order(s) identified under the heading "Scope of Work."

7.2 To comply with all security regulations in effect at the University's premises, and externally for materials belonging to the University or to the project.

7.3 To assign on a full-time basis Contractor's employees, agents or representatives to assist in fulfilling its performance under this Agreement.

7.4 To appoint a Contract Administrator for liaison and consultation with the University. The Contract Administrator shall have authority to make managerial and technical decisions concerning the services deliverable under this Agreement.

7.5 To correct any errors in the work found by the University or Contractor for a period of twelve (12) months after acceptance by the University. Such corrections shall commence within forty-eight (48) hours after the University's written notification to Contractor.

8.0 **RESPONSIBILITIES OF THE UNIVERSITY:** The University agrees:

8.1 To arrange for necessary cooperation by the University's officials and employees, including providing access to such records and other information needed by Contractor to carry out the work set forth in the University's order.

8.2 To appoint a Contract Administrator for liaison and consultation with Contractor. The Contract Administrator shall have authority to make managerial and technical decisions concerning services deliverable under this Agreement and to accept or approve Contractor's work on behalf of the University. The University's Contract Administrator shall not have authority to amend or in any way modify the provisions of this Agreement.

9.0 **RIGHT TO APPROVE CHANGES IN STAFF:** The University shall have the absolute right to approve or disapprove a proposed change in the assigned staff. The University, in each instance, will be provided with a resume of the proposed substitute and an opportunity to interview that person prior to giving its approval or disapproval. The University shall not unreasonably withhold its approval.

10.0 **TERMINATION:** The University reserves the right to terminate this Agreement by giving written notice to Contractor of such termination and specifying the effective date thereof, at least ten (10) days before the effective date of such termination. Contractor shall, in the event of such termination, be entitled to receive compensation for any work accepted hereunder in accordance with the University's order(s). Contractor shall also be compensated for partially completed work in the event of such termination. The compensation for such partially completed work shall be no more than the percentage of completion of each work effort, as determined in the sole discretion of the University, times the corresponding payment for completion of such work as set forth in the University's order(s).

Upon termination or other expiration of this Agreement, each party shall forthwith return to the other all papers, materials, and other properties of the other held by each for purposes of execution of this Agreement. In addition, each party will assist the other party in the orderly termination of this Agreement and the transfer of all aspects hereof, tangible or intangible, as may be necessary for the orderly, nondisruptive business continuation of each party.

11.0 **TIME PERIOD:** The term of this Agreement shall commence on the date specified on the University's order and shall continue until all work as specified on the University's order(s) has been accepted by the University, or until otherwise terminated under the provisions contained herein.

12.0 **TRAVEL EXPENSE:** Contractor shall not charge the University for any travel expense without the University's prior written approval. Upon obtaining the University's written approval, Contractor shall be authorized to incur travel expense payable by the University only to the extent provided by Wisconsin Statutes and Administrative Rules.

13.0 **WARRANTY OF OPERATION:** Contractor warrants that any work products delivered hereunder will, at the time of delivery, be free from defects in manufacture or materials and will meet the specifications set forth in the University's solicitation document and order, and Contractor will without charge to the University correct any such defects and make such additions, modifications, or adjustments to the work product as may be necessary to keep the work product in operating order in accordance with such specifications.

14.0 **INTELLECTUAL PROPERTY:** University shall own all Intellectual Property in any deliverable created under this agreement. The University may grant Contractor a nonexclusive license use of its Protected Intellectual Property for limited/restrictive purposes.

**PERSONAL SERVICES RIDER (Non IT)**

1.0 ACCEPTANCE/INSPECTION

2.0 ACCESS TO FACILITIES

3.0 COOPERATION WITH OTHER VENDORS OR CONTRACTORS

4.0 KEY PERSONNEL

5.0 LIMITATION OF COST

6.0 PROGRESS REPORTS

7.0 RESPONSIBILITIES OF CONTRACTOR

8.0 RESPONSIBILITIES OF THE STATE

9.0 RIGHT TO APPROVE CHANGES IN STAFF

10.0 TERMINATION

11.0 TIME PERIOD

12.0 TRAVEL EXPENSE

13.0 WARRANTY OF OPERATION

14.0 INTELLECTUAL PROPERTY

STATEMENT OF PURPOSE: The Personal Services Rider provides terms and conditions relating to acquisition of personal services wherein the University expects Contractor to furnish personnel to work at the University's general direction in return for payment of a fee based on the amount of time expended by Contractor's personnel. The specifics of the work efforts and target dates for Contractor's personnel will be a part of the University's purchase order(s) under this Agreement.

1.0 **ACCEPTANCE/INSPECTION:**  All work performed under University purchase order(s) shall be subject to inspection by the University, to the extent practicable at all times and places, but in any event, prior to acceptance. All inspections by the University shall be performed in such a manner as not to unduly delay the work. Unsatisfactory work shall be corrected prior to acceptance. Suitable acceptance criteria shall be included in the University's order(s).

The University shall promptly notify Contractor of the results of any inspection or acceptance test it performs. If an acceptance test produces unsatisfactory results, the University shall specifically identify what acceptance criteria could not be satisfied and the particular methodology that was used to reach this conclusion.

2.0 **ACCESS TO FACILITIES:** Unless otherwise agreed upon by the parties, any and all access by Contractor's employees to all access locations. Contractor employees shall be subject to the University site's security procedures.

3.0 **COOPERATION WITH OTHER VENDORS OR CONTRACTORS:**  In the event that the University enters into agreements with other vendors or contractors for additional work, Contractor agrees that its personnel will fully cooperate with such other vendors or contractors. Contractor's personnel shall not commit any act which will interfere with the performance of work by any other contractor or by the University. Contractor's personnel will cooperate with University personnel to insure successful completion of all projects.

4.0 **KEY PERSONNEL:** Contractor agrees that it will furnish the University with a means of identifying all personnel assigned to perform work under this Agreement and furnish the University with security credentials on these personnel, if requested.

5.0 **LIMITATION OF COST:**  It is hereby stipulated and agreed that the total cost to the University for the performance of the work under this Agreement will not exceed the funding limitation set forth in the University's purchase order and the Contractor agrees to perform the work specified and all obligations under this Agreement within such funding limitation. Contractor agrees to notify the University in writing no later than when the billable amounts reach eighty percent (80%) of the funding limitation in an order and will include in such notification an estimate to complete the requirements of the order. The University shall not be obligated to reimburse Contractor for billing in excess of the funding limitation set forth in the order, and Contractor shall not be obligated to continue performance of work under the order or to incur costs in excess of the funding limitations if such increased costs are due to additional requirements identified by the University after the initiation of effort on the work specified in the order, unless and until a change order or amendment to the order increasing the funding limitation is approved by the University.

6.0 **PROGRESS REPORTS:** As requested, Contractor shall submit a progress report to the University signed by an authorized officer of Contractor on a weekly basis. Such progress report shall describe the status of Contractor's performance since the preceding report, including the products delivered, the progress expected to be made in the next period. Each report shall describe Contractor's activities by reference to the work schedule included in the University's order. Reports shall be sent to the Technical Contract Administrator designated by the University.

7.0 **RESPONSIBILITIES OF CONTRACTOR:** Contractor agrees:

7.1 To perform those tasks and deliver the products identified in the University's order(s) identified under the heading "Scope of Work."

7.2 To comply with all security regulations in effect at the University's premises, and externally for materials belonging to the University or to the project.

7.3 To assign on a full-time basis Contractor's employees, agents or representatives to assist in fulfilling its performance under this Agreement.

7.4 To appoint a Contract Administrator who will be available for liaison and consultation with the University. The Contract Administrator shall have authority to make managerial and technical decisions concerning the services deliverable under this Agreement.

7.5 As applicable, to correct any errors in the work found by the University or Contractor for a period of twelve (12) months after acceptance by the University. These corrections will be coordinated with the University’s Technical Contract Administrator and will commence within forty-eight (48) hours after the University's written notification to Contractor.

8.0 **RESPONSIBILITIES OF THE UNIVERSITY:** The University agrees:

8.1 To arrange for necessary cooperation by the University's officials and employees, including providing access to such records and other information needed by Contractor to carry out the work set forth in the University's order.

8.2 To appoint a Contract Administrator for liaison and consultation with Contractor. The Technical Contract Administrator shall have authority to make managerial and technical decisions concerning services deliverable under this Agreement and to accept or approve Contractor's work on behalf of the University. The Technical Contract Administrator can not amend or modify the provisions of this Agreement.

9.0 **RIGHT TO APPROVE CHANGES IN STAFF:** The University shall have the absolute right to approve or disapprove a proposed change in the assigned staff. The University, in each instance, will be provided with a resume of the proposed substitute and an opportunity to interview that person prior to giving its approval or disapproval. The University shall not unreasonably withhold its approval.

10.0 **TERMINATION:** The University reserves the right to terminate this Agreement per the terms of the Request for Proposal Contract Section 3.7. Contractor shall, in the event of such termination, be entitled to receive compensation for any work accepted hereunder in accordance with the University's order(s). Contractor shall also be compensated for partially completed work in the event of such termination. The compensation for such partially completed work shall be no more than the percentage of completion of each work effort, as determined in the sole discretion of the University, times the corresponding payment for completion of such work as set forth in the University's order(s).

Upon termination or other expiration of this Agreement, each party shall forthwith return to the other all papers, materials, and other properties of the other held by each for purposes of execution of this Agreement. In addition, each party will assist the other party in the orderly termination of this Agreement and the transfer of all aspects hereof, tangible or intangible, as may be necessary for the orderly, nondisruptive business continuation of each party.

11.0 **TIME PERIOD:** The term of this Agreement shall commence on the date specified on the University's order and shall continue until all work as specified on the University's order(s) has been accepted by the University, or until otherwise terminated under the provisions contained herein.

12.0 **TRAVEL EXPENSE:** Contractor shall not charge the University for any travel expense without the University's prior written approval. Upon obtaining the University's written approval, Contractor shall be authorized to incur travel expense payable by the University at actual costs only and only to the extent provided by Wisconsin Statutes and Administrative Rules.

13.0 **WARRANTY OF OPERATION:** Contractor warrants that any work products delivered hereunder will, at the time of delivery, be free from defects and will meet the specifications set forth in the University's solicitation document and order, and Contractor will without charge to the University correct any such defects and make such additions, modifications, or adjustments to the work product as may be necessary for the work product to be in accordance with the specifications of the contract.

14.0 **INTELLECTUAL PROPERTY:** University shall own all Intellectual Property in any deliverable created under this agreement. The University may grant Contractor use of its Protected Intellectual Property but only by a negotiated and written agreement identifying the conditions under which the Intellectual Property may be used.

**SOFTWARE RIDER**

STATEMENT OF PURPOSE: The Software Rider provides terms and conditions relating to acquisition of information systems software which is offered in a pre-packaged form by a Contractor.

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# Definition of Terms

Definition of Terms – This section, near the beginning of the Rider or RFP, provides definitions for any potentially confusing, ambiguous, vague, or unique terms, as well as other terms that may be appropriate and useful in the Contract.

[Add or delete items so that only those definitions that are pertinent to this Contract are included.]

The following terms as used throughout this Software Rider shall have the meanings set forth below.

**“Acceptance”** shall mean that the Software has passed its Acceptance Testing and shall be formalized in a written notice from University to Contractor; or, if there is no Acceptance Testing, Acceptance shall occur when the Products are delivered.

**“Acceptance Date”** shall mean the date upon which University accepts the Software as provided in the section titled **Testing and Acceptance**; or, if there is no Acceptance Testing, Acceptance Date shall mean the date when the Products are delivered.

**“Acceptance Testing”** shall mean the process for ascertaining that the Software meets the standards set forth in the section titled **Testing and Acceptance,** prior to Acceptance by the University.

**“Confidential Information”** shall mean information or data that may be exempt from disclosure to the public or other unauthorized persons under state or federal law. Confidential Information includes, but is not limited to, a combination of names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver’s license numbers, medical data, law enforcement records, agency source code or object code, and agency security data.

**“Contractor”** shall mean any firm and its employees and agents; provider, organization, individual, or other entity performing the business activities under this Contract. It shall also include any Subcontractor retained by Contractor as permitted under the terms of this Contract.

**“Installation Date”** shall mean the date by which all Software ordered hereunder shall be in place at the University, in good working order *and ready for Acceptance Testing* on University hardware and software.

**“License”** shall mean the rights granted to University to use the Software that is the subject of this Contract.

**“Operating System”** shall mean a computer program that manages the hardware and software resources of a computer; the control program that provides the interface to the computer hardware and peripheral devices, and the usage and allocation of memory resources, processor resources, input/output resources, and security resources.

**“Platform”** shall mean a specific hardware and Operating System combination. A different version of the Software is required to execute the Licensed Software properly on other hardware and Operating System combinations (“Platforms”).

**“Proprietary Information”** shall mean information owned by the Contractor to which the Contractor claims an interest to be protected under law. Proprietary Information is information which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law.

**“Services”** shall mean those Services provided under this Contract and related to the Software License(s) being purchased that are appropriate to the scope of this Contract and includes such things as installation services, maintenance, training, etc.

**“Software”** shall mean the computer programs licensed pursuant to this Contract. Software also means **Modules**, a collection of routines and data structures that perform a specific function; or a **System**, a collection of multiple modules designed to function or is represented by Contractor as being capable of functioning as an entity. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections.

**“Subcontractor”** shall mean one not in the employment of Contractor, who is performing all or part of the business activities under this Contract under a separate contract with Contractor. The term “Subcontractor” means Subcontractor(s) of any tier.

**“Technical Support”** shall mean a service provided by Contractor for the support of Contractor’s Products. University shall report warranty or maintenance problems to Contractor’s Technical Support area for initial troubleshooting and possible resolution of the problems or for the initiation of repair or replacement services.

**“Updates”** means a release of Software which encompasses logical improvements, extensions and other changes to the Software that are generally made available, at no additional fee, for customers current under a Software Maintenance Agreement.

**“Upgrades”** means any modifications to the Software made by the Contractor that are so significant, in the Contractor’s discretion, as to warrant their exclusion under the current license grant for the Product(s). Contingent on the University being current under a Software Maintenance Agreement, University has the option of licensing an Upgrade to the Product(s) under the terms and conditions of this Contract by paying an additional license fee.

**“Work Product” or “Products”** shall mean data and products produced under this Contract including but not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, Software documentation, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law.

# License Grant and Use

## The Software license(s) identified in Contractor's response to the University's solicitation document is (are) purchased on a non-exclusive, non-transferable, perpetual license basis (unless otherwise stated in the Contractor's response) and shall continue in perpetuity until cancelled by the University or unless terminated in accordance with the provisions of this Contract. The license(s) granted to the University is (are) for the use of the Software product(s) at any location at the University of Wisconsin-Madison.

### For Annual Licenses: University understands and agrees that each Annual License will expire automatically immediately after its corresponding one (1) year period, unless University renews its License by remitting the annual License fee.

## This License is solely for the use of the machine-readable Software, and the user documentation provided with the Software.

## Server Licensed Software: University may install the Software on non-production servers for back-up, development, testing or training purposes at no additional charge.

## The University's rights to licensed Software developed at private expense may be restricted by Contractor in accordance with this Contract. As a minimum, however, the University shall have:

### unlimited use of such Software;

### use of such Software with a backup system if the system(s) for which or with which it was acquired is inoperative because of a malfunction, or during an emergency, or the performance of engineering changes or changes in features or model;

### the right to copy such computer programs for safekeeping (archives) or backup purposes;

### the right to modify such Software or combine it with other programs or material at University risk;

### Nothing contained herein shall be construed to restrict or limit the University's rights to use any technical data, which the University may already possess or acquire under proper authorization from other sources.

# Software Ownership and Title

Contractor shall maintain all title, copyright, and other proprietary rights in the Software. University does not acquire any rights, express or implied, in the Software, other than those specified in this Contract.

Contractor represents and warrants that it is the sole owner of the licensed Software or, if not, the owner has received all proper authorizations from the owner to license the Software, and has the full right and power to grant the rights contained in this Contract.

# Patent and Copyright Infringement

## Contactor represents and warrants that: (i) Contractor is not aware of any claim, investigation, litigation, action, suit or administrative or judicial proceeding pending based on claims that the Software infringes any patents, copyrights, or trade secrets of any third party, and (ii) that Contractor has no actual knowledge that the Software infringes upon any patents, copyrights, or trade secrets of any third party.

## Contractor agrees to hold University, its officers, employees, agents, legal representatives, successors, and assigns, harmless from and against any and all claims, causes of action, suits, judgments, assessments, costs (including reasonable attorneys’ fees) and expenses arising out of or relating to infringement by the Products (whether alleged or proven) of any patent, copyright, trademark, or other intellectual property right of a third party, including, but not limited to misappropriation of a trade secret, provided that Contractor is given timely notice of any such claim of infringement and the right to control and direct the investigation, preparation, defense and settlement of each such claim, and further provided that University fully cooperates with Contractor in connection with the foregoing and provides Contractor with all information in University’s possession related to such claim and further assistance as reasonably requested by Contractor. Contractor shall reasonably reimburse University for any requested assistance provided by University. In addition and at University’s own expense, University may elect to hire its own counsel to participate in the defense. .

## Contractor shall have no liability for any claim of infringement based on (i) a Product that has been modified by anyone other than Contractor; (ii) use of a superseded or altered release of Products if such infringement would have been avoided by the use of a current unaltered release of the Products that Contractor provides to the University at no additional charge; or (iii) the combination, operation, or use of any Products furnished under this Contract with programs or data not furnished by Contractor if such infringement would have been avoided by the use of the Products without such programs or data.

## In the event the Products are held or are believed by Contractor to infringe, Contractor may, at its own expense, (i) modify the Products to be non-infringing; (ii) obtain for the University a license to continue using the Products; (iii) substitute the Products with other Software reasonable suitable to the University; or, (iv) terminate the license for the infringing Products and refund the license fees paid for the Products.

# Software Documentation

## Contractor shall provide, at no additional charge, documentation which describes in detail the Software capabilities, its operation, installation procedures, error messages with identification of probable causes, Software modification procedures and techniques, and program interfaces. Documentation will be furnished for each individual piece of Software ordered by the University. Updated, revised, or replacement documentation published by Contractor shall be provided free of charge pursuant to the requirements specified in this section. Contractor agrees that the University may make such additional copies of documentation supplied pursuant to this section as are needed for use by University employees. Contractor agrees to make every reasonable effort to furnish documentation which will conform to industry standards for such documentation and programs used at the University's installation site.

## The Documentation to be provided by Contractor is in addition to any on-line HELP which is part of the Licensed Software user interface. Contractor shall revise such Documentation as necessary to reflect any modifications made by Contractor to the Licensed Software. University may copy and incorporate the Documentation in works prepared for University’s business endeavors so long as University includes all copyright, trademark, and other notices of Contractor in the same form as they appear on or in the Documentation. If any user manual (including any on-line documentation) or portion thereof is the proprietary material or intellectual property of another party, Contractor shall convey to University the right (to the extent possible under law) to make copies and to use the material as University deems necessary.

# Ownership of Data/Work Product

Ownership/Rights in Data – These sections ensure that data and work product originating from the Contract shall be “works for hire” as defined by the U.S. Copyright Act of 1976 and shall be owned by University.

[Include the following subsections when University is acquiring ownership of Software or Work Product.]

## University and Contractor agree that all Work Products produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and shall be owned by University. Contractor is hereby commissioned to create the Work Product. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

## If for any reason the Work Product would not be considered a work made for hire under applicable law, Contractor assigns and transfers to University the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

## Contractor shall not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership in any Work Product, without the prior written permission of the University. Contractor shall take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors shall not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

## Material that is delivered under this Contract, but that does not originate therefrom (“Preexisting Material”), shall be transferred to University with a nonexclusive, royalty-free, irrevocable license to translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so except that such license shall be limited to the extent to which Contractor has a right to grant such a license. Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. University shall receive prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right received by Contractor with respect to any Preexisting Material delivered under this Contract. The University shall have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Contractor.

## Contractor recognizes and agrees that the University data is and shall at all times remain confidential to University (for itself and on behalf of its designated Users) and University shall retain all right, title and interest in and to the data. Contractor shall acquire no right, title or interest in or to the data. Contractor further agrees that it shall protect the data and keep such data confidential as required by law.

# Code Warranty

## Contractor warrants to University that no licensed copy of the Software provided to University contains or will contain any Self-Help Code nor any Unauthorized Code as defined below. Contractor further warrants that Contractor will not introduce, electronically or otherwise, any code or mechanism that electronically notifies Contractor of any fact or event, or any key, node, lock, time-out, or other function, implemented by any type of means or under any circumstances, that may restrict University’s use of or access to any program, data, or equipment based on any type of limiting criteria, including frequency or duration of use for any copy of the Software provided to University under this Contract.

## As used in this Software Rider, “Self-Help Code” means any Software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than a licensee of the Software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee’s computer system(s) (e.g., remote access) solely for purposes of maintenance or technical support.

## As used in this Software Rider, “Unauthorized Code” means any virus, Trojan horse, worm or other Software routines or equipment components designed to permit unauthorized access, to disable, erase, or otherwise harm Software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code.

## Contractor will defend University against any claim, and indemnify University against any loss or expense arising out of any breach of the Code Warranty. No contractual limitation of liability shall apply to a breach of this warranty.

# Audit Access

Audit Access– Use only where you know the contractor may request a software license use audit.

Contractor may request a review of the University's use of the Software upon first giving ten business days notice to the University of Contractor's intent to request such audit. Such reviews shall not take place more than once annually. The University will give a written report to the Contractor, signed by an agent or officer of the University, of the review’s results.

In the event that Contractor requests such an audit, (1) the scope of the audit shall be limited to a review of the University’s written records. (2) University shall be obligated only to pay for unpaid licenses found to be in use and for not other cost, fees, or penalties.

# Testing and Acceptance

Acceptance testing is not always needed. When deciding whether to require Acceptance Testing, Purchaser can consider such things as: (1) whether the Software to be purchased performs a critical business function; (2) how well established and reliable is the technology being procured; (3) whether the Software is being customized for the University; (4) how complex is the Software’s installation; and (5) whether the Software is installed in conjunction with other University equipment or software.

Commodity-like Software performance issues are usually covered by replacing the Software while it is under warranty or through fixes and updates provided under maintenance and support services. Therefore, that Software is considered Accepted upon delivery.

Note: Line 1 of Section 8.1 can be deleted if the UW is doing the installation.

## If the Contractor is performing the Software installation, Contractor shall certify in writing to the University when the Software is installed and ready for Acceptance Testing on the University's system. The University shall begin performing acceptance tests within thirty (30) calendar days of receipt of such notification. The University will give notice to Contractor as to the actual date when the acceptance period will begin. The tests will determine whether the following Acceptance Criteria are met:

### Software operates in conformance with Contractor's technical specifications and functional descriptions.

### Software meets the specifications and performs the functions as contained in the University's solicitation document.

### Software is capable of running on a repetitive basis without failure.

### Software does not require modifications to other operational Software systems and does not cause performance degradation of other systems operating on the University's network.

## If the Software meets the University's Acceptance Criteria for 90 calendar days from the commencement of the acceptance period it shall be deemed to have met the University's standard of performance.

## If the Software does not meet the University’s Acceptance Criteria within 90 calendar days from the installation date, the University shall have the option of terminating this Contract upon written notice without penalty or continuing the Acceptance Testing on a day-to-day basis.

## Contractor shall provide written certification to the University that Contractor's most recent version of all ordered Software has been installed with all program fixes for known errors and that the Software is ready for Acceptance Testing.

## The University's option to terminate this Contract shall remain in effect until such time as a successful Acceptance Test is completed. Contractor shall be liable for all outbound shipping costs for contracted items returned under this clause. Upon successful completion of the Acceptance Test, the University shall promptly notify Contractor in writing of the acceptance and authorize the payments beginning with the first day following Acceptance.

## Time is of the essence in this Contract. The acceptance of late performance with or without objection or reservation by University shall not waive any rights of University nor constitute a waiver of the requirement of timely performance of any obligations on the part of Contractor remaining to be performed.

# Software Warranty

Software Warranty – This section specifies what Contractor will do to remedy Software problems during the Warranty Period.

NOTE: If Testing and Acceptance is part of the Rider/Contract, Sections .2 and .3 of the Software Warranty are not necessary.

Software warranties can vary considerably and University’s specific needs should be considered and expressed in the RFX. A warranty is essentially a promise from Vendor that its products are of the quality and will perform as represented. The warranty is backed up by Contractor’s offer to repair or replace any of its products that fail to so perform. The time period for warranties is generally 90 days, depending on the product. Contractors sometimes offer an “extended” warranty option. For example, Contractor’s standard warranty is for 90 days, but The University can purchase an extended warranty for one or two years for a correspondingly higher purchase price. Warranties are included in the purchase price.

Warranty and maintenance provisions are sometimes confused because they can appear similar. The most important distinction is that *warranty* costs are included in the purchase price whereas *maintenance* costs are paid on a periodic basis. The maintenance term and costs do not begin until the day after the Warranty Period ends.

## Contractor warrants that the Software shall be in good operating condition and shall conform to the Specifications for a period of *[ninety (90) days,* *or other time period as specified by The University in the RFX or in Vendor’s Response]*, the Warranty Period. This Warranty Period begins the first day after the Acceptance Date. Contractor shall replace all Software that is defective or not performing in accordance with the Specifications, at Contractor’s sole expense.

## University shall have the right for ninety (90) days following the date of installation to return the Licensed Software and receive a refund of all license and maintenance fees paid to Contractor pursuant to this Contract in the event the Products do not meet the requirements of University, as University shall determine in the sole exercise of its discretion.

## The licensed Software shall possess all material functions and features as described in the Specifications of the Request for Proposal and in the Contractor's Response to the Request for Proposal. The licensed Software shall perform in accordance with the Specifications, the user manuals, and the documentation.

# Software Updates and Enhancements

For Software Updates: see also Maintenance Release Services– Use one or the other, but probably not both.

## For the contracted term as established in the Software maintenance and technical support agreement after the University's acceptance of the Software, Contractor shall provide to the University, at no additional cost, any changed or enhanced versions of the Software within thirty (30) days after the changed or enhanced versions are made available to customers. The University shall have the option to perform an acceptance test as specified in this Software Rider and to accept the changed or revised version in lieu of the Software it had accepted previously.

## Contractor shall:

### Supply at no additional cost updated versions of the Software to operate on upgraded versions of operating systems, upgraded versions of firmware, or upgraded versions of hardware;

### Supply at no additional cost updated versions of the Software that encompass improvements, extensions, maintenance updates, error corrections, updated interface modules that were developed by Contractor for interfacing the Software to other Software products, or other changes that are logical improvements or extensions of the original Software supplied to the University.

# Software Maintenance

## Maintenance Overview: Maintenance is not linked to usage or License rights. Maintenance is an option, to be acquired at the sole option of University. Cancellation of Maintenance by University will not in any way affect other parts of this Contract and the grant of License herein. Maintenance shall include options to renew and if elected by University, shall commence upon expiration of the Software Warranty and may be renewed on an annual basis.

## Maintenance Assurance: Contractor agrees to make available maintenance services for the Software. Such services shall be available at the prices contained in Contractor's response to the University's solicitation document, but shall in no event exceed these prices increase more than the Consumer Price Index or 5%, whichever is lower, for each year after the date of acceptance of the Software.

For Maintenance Release Services: see also Software Updates– Use one or the other, but probably not both.

## Maintenance Release Services. Contractor will provide error corrections and maintenance releases to the Software that have been developed by Contractor at no additional cost to the University. Such releases shall be licensed to The University pursuant to the terms and conditions of this Contract. Each maintenance release will consist of a set of programs and files made available to the University and accompanied by a level of documentation adequate to inform the University of the problems resolved including any significant differences resulting from the release that are known by Contractor. Contractor agrees that each maintenance release of Software will be compatible with the then-current unaltered release of Software applicable to the computer system.

## Technical Support Services. Contractor shall provide Technical Support Services, for reporting errors and malfunctions and trouble shooting problems. Contractor’s Technical Support Services shall include but are not limited to the following Services:

### Assistance related to questions on the use of the subject Software;

### Assistance in identifying and determining the causes of suspected errors or malfunctions in the Software;

### Advice on workarounds for identified errors or malfunctions, where reasonably available;

### Information on errors previously identified by the University and reported to Contractor and workarounds to these where available; and

### Advice on the completion and authorization for submission of the required form(s) reporting identified problems in the Software to Contractor.

# Nondisclosure and Confidential Information

## To the extent authorized by Federal or Wisconsin law, both parties agree, on behalf of themselves, their affiliates, and their employees, independent contractors and consultants, that they shall not use, except as otherwise expressly permitted hereunder, or disclose to anyone, without a need to know in order to perform under this Contract, either during or after the term of this Contract, any Confidential Information.

## To be deemed “Confidential Information” for purposes of this Contract, any such Contractor information must be appropriately marked as confidential at the time of disclosure or should be reasonably understood by the receiving party under the circumstances.

## In recognition of the foregoing, each party agrees: (a) that it will use the same degree of care to prevent disclosure of Confidential Information as is used to protect its own confidential information of a similar nature; (b) unless otherwise required by Wisconsin Public Records Law, that it will not authorize disclosure of any Confidential Information to anyone outside of the party’s organization, except with the disclosing party’s prior written consent.

# Nondisclosure and Proprietary Information

## To the extent allowed by Wisconsin’s Public Records Law, both parties agree, on behalf of themselves, their affiliates, and their employees, independent contractors and consultants, that they shall not use, except as otherwise expressly permitted hereunder, or disclose to anyone, without a need to know in order to perform under this Contract, either during or after the term of this Contract, any Proprietary Information.

## To be deemed “Proprietary Information” for purposes of this Contract, any such Contractor information must be appropriately marked as proprietary at the time of disclosure.

## In recognition of the foregoing, each party agrees: (a) that it will use the same degree of care to prevent disclosure of Proprietary Information as is used to protect its own proprietary information of a similar nature; (b) unless otherwise required by Wisconsin Public Records Law, that it will not authorize disclosure of any Proprietary Information to anyone outside of the party’s organization, except with the disclosing party’s prior written consent.

## It is agreed by Contractor and University that the above obligations of confidentiality shall not apply to information which: (a) is publicly available prior to the date of the Contract or becomes publicly available thereafter through no wrongful act of the receiving party; (b) was known by the receiving party prior to the date of disclosure or becomes known to the receiving party thereafter from a third party having an apparent bona fide right to disclose the information; (c) is disclosed without restriction on further disclosure; (d) is independently developed by the receiving party; (e) the receiving party is obligated to produce pursuant to an order of a court or a valid subpoena, provided that the receiving party promptly notifies the disclosing party and cooperates reasonably with the disclosing party’s efforts to contest or limit the scope of such order, and may then disclose Proprietary Information only if, and to the extent, required by law.

# Protection of University’s Confidential Information

## Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under state or federal laws (“Confidential Information”). Contractor agrees to hold University’s Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without the University’s express written consent or as provided by law. Contractor agrees to implement reasonable physical, electronic, and managerial safeguards to prevent unauthorized access to University’s Confidential Information.

## Immediately upon expiration or termination of this Contract, Contractor shall, at University’s option: (i) certify to University that Contractor has destroyed all University’s Confidential Information; or (ii) return all University’s Confidential Information to University.

# Limitation of Liability

## The parties agree that Contractor’s liability for damages under this Contract shall in no event exceed the amount of fees paid by the University provided that this limitation of liability shall not extend to Contractor’s liability for its breach of copyright or trade secret or trademark rights in the US, damages arising from its tortious conduct that causes death or personal injury or damages to tangible property, or breach of privacy due to negligence.

# Indemnity and Hold Harmless

## The University agrees to provide liability protection for its officers, employees and agents while acting within the scope of their employment. The University further agrees to hold harmless Contractor, its officers, agents and employees from any and all liability, including claims, demands, losses, costs, damages, and expenses of every kind and description (including death), or damages to persons or property arising out of or in connection with or occurring during the course of this Contract where such liability is founded upon or grows out of the acts or omissions of any of the officers, employees or agents of the University of Wisconsin System while acting within the scope of their employment where protection is afforded by ss. 893.82 and 895.46(1), Wis. Stats.

## Contractor agrees to hold the University harmless from any loss, claim, damage or liability of any kind involving an employee, officer or agent of the Contractor arising out of or in connection with this Contract except to the extent that it is founded upon or grows out of the acts or omissions of any of the officers, employees or agents of the University of Wisconsin System while acting within the scope of their employment where protection is afforded by ss. 893.82 and 895.46(1), Wis. Stats.

# Installation and Training

## At the University's request, subject to the conditions listed in University's solicitation document and the Contractor’s response to the solicitation, Contractor agrees to provide expert staff at the University's installation site to install or direct the installation of the Software. Such expert staff shall remain at the University's installation site until the Software has been successfully installed.

## At the University's request, subject to the conditions listed in University's solicitation document and the Contractor’s response to the solicitation, Contractor shall furnish expert assistance at the University's installation site during the installation of any Software designated as "customer installed".

## At the University's request, subject to the conditions listed in University's solicitation document and the Contractor’s response to the solicitation, Contractor shall provide continuing training for personnel to achieve the level of proficiency necessary to support the University's use of Software provided by Contractor. Charges, if any, for training have been included in Contractor's response to the University's solicitation document and these charges will increase by no more than 5% per year.

# Specified Operating System

## The University reserves the right to exchange copies of the licensed Software designed to operate in one operating system for copies designed to operate in another operating system in which Contractor has stated the licensed Software is designed to operate. Should the University exercise this right it will pay any costs of shipping and handling involved in the exchange as well as any positive cost difference between the two licenses.

## Contractor acknowledges that the environment of equipment and Software in which the licensed Software will operate will be subject to frequent changes and enhancements other than those supplied by Contractor. Contractor agrees to cooperate with the University and other vendors of equipment and Software to support the stable operation of the licensed Software.

**SCIQUEST (**Shop@UW 1)

**Technical Requirements**

**UW Madison Marketplace Purchasing System**

In <<Date>>, UW Madison entered into a multi-year agreement with SciQuest, Inc. whereby SciQuest will provide certain electronic catalog hosting and management services to enable UW Madison customers to access a central online website to view and/or shop the goods and services. For purposes of this section, the central online website will be referred to as the <<Site Name>> Marketplace.

**Supplier’s Interface with Marketplace Purchasing System**

To be considered eligible for contract award, the Contractor must agree to cooperate with UW Madison and SciQuest (and any authorized agent or successor entity to SciQuest) in the event UW Madison selects the contract resulting from this RFP to be exhibited on the <<Site Name>> Marketplace. At a minimum, the Contractor must agree to the following:

1. Upon award, the Contractor must cooperate with UW Madison and SciQuest to create a schedule to enable the integration of the Contractor’s contract offering into the <<Site Name>> Marketplace.
2. Upon award, the Contractor must join the SciQuest Supplier Network (SQSN) and sign up for SciQuest’s Supplier Portal. Meeting this requirement enables the electronic delivery of orders as well as low-tech options of e-mail and fax at the Contractor’s option. More information about the SQSN can be found at: [www.sciquest.com](http://www.sciquest.com) or call the SciQuest Supplier Network Services team at 919-659-2152.
3. The Contractor must support use of the United Nations Standard Product and Services Code (UNSPSC). UNSPSC versions that must be adhered to are driven by SciQuest for the vendors and are upgraded every year. The UW Madison reserves the right to migrate to future versions of the UNSPSC and the Contractor will be required to support the migration effort. All line items, goods or services provided under the resulting contract must be associated to a UNSPSC code. All line items must be identified at the most detailed UNSPSC level indicated by segment, family, class and commodity. More information about the UNSPSC is available at: <http://www.unspsc.com> and <http://www.unspsc.com/FAQs.asp#howdoesunspscwork>.
4. The Contractor must agree, upon UW Madison’s request, to deliver within thirty (30) days of UW Madison’s’ written request either (1) an electronic catalog or (2) a punch-out catalog. The electronic/punch-out catalog must be limited to the Contractor’s contract offering.
   1. Electronic Catalog. By providing an electronic catalog, the Contractor is providing a list of its products/services and pricing in an electronic data file in a format acceptable to SciQuest. In this scenario, the Contractor must submit an updated electronic catalog from time to time to maintain the most up-to-date version of its product/service offering under the statewide contract. As a result, UW Madison will have an opportunity to confirm the accuracy of the electronic catalog before the electronic data file is loaded into the <<Site Name>> Marketplace by SciQuest. In addition, UW Madison will have the ability to define when the electronic catalog and any subsequent revisions thereto “go live”.
   2. Punch-Out Catalog. By providing a punch-out catalog, the Contractor is providing its own online catalog, which must be capable of being integrated with the UW Madison Marketplace as follows: Standard punch-in via Commerce eXtensible Markup Language (cXML). In this scenario, the Contractor ensures its online catalog marketplace is up-to-date by periodically updating the offered products/services and pricing listed on its online catalog.
5. Whether the Contractor is providing an electronic catalog or a punch-out catalog, the Contractor agrees to meet the following requirements:
   1. Catalog must contain the most current pricing, including all applicable administrative fees and or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the statewide contract; and
   2. The accuracy of the catalog must be maintained by Contractor throughout the duration of the contract between the Contractor and UW Madison; and
   3. The catalog must include detailed product line item descriptions; and
   4. The catalog must include pictures when possible; and
   5. The catalog must include any additional UW Madison content requirements.\*
6. The Contractor agrees that UW Madison controls which contracts appear on the <<Site Name>> Marketplace and that UW Madison may elect at any time to remove any awarded Contractor’s offering from the <<Site Name>> Marketplace.
7. The Contractor must be able to accept Purchase Orders cXML.

\* Existing suppliers in the SQSN normally host one (1) general product catalog that is made available for all customers. This avoids duplication of effort for the vendor and brings improvements to the catalog to all customers at once. It is rare that individual customers have needs that are not also required by others. SciQuest does not prohibit ‘private’ catalogs, but recommends review of requirements with the supplier enablement consultants and the suppliers in question first.

In the event UW Madison selects an awarded Contractor from this RFP to be included on the <<Site Name>> Marketplace, SciQuest’s technical documentation will be provided to the awarded Contractor after (1) the Contractor has been formally invited by UW Madison to join the <<Site Name>> Marketplace and (2) the Contractor has joined the SciQuest supplier network and signed up for SciQuest’s Supplier Portal. These services will be provided by SciQuest at no additional cost to the Contractor. The Contractor’s submitted pricing must include any and all costs to the Contractor in complying with this section.

I agree to comply with the above requirements: YES\_\_\_\_NO\_\_\_\_

**Electronic Commerce through University’s SciQuest Implementation:**

The University’s electronic commerce (e-commerce) model for ordering may be implemented during the term of this contract. This model will require a business-to-business link between the Contractor’s e-commerce system and the University’s SciQuest system (currently under development). In order to be considered for any e-Commerce opportunity,Contractors will be expectedto provide additional discounts on orders placed using the e-Commerce model in exchange for the services below. These additional discounts will be negotiated and formalized by contract amendment.

**1.1 Electronic Ordering Process**

The University provides access to over 13,000 customers who have purchased product through the University’s e-commerce site (traditionally called “Materials Distribution Services” or “MDS”) since 2006. This connection eliminates the need for the Contractor to set up individual accounts for University customers.

**1.2 Electronic Payment Process**

The University pays 100% of invoices within 20 days for all end user purchases ordered through the University’s e-commerce site; disputed charges are corrected via credits. Invoices are receipted electronically on a daily basis, and no credit cards are utilized. This minimizes the Contractor’s accounts receivable processes, and alleviates payments to a bank for credit card processing.

**SCIQUEST (**Shop@UW 2)

The following language attempts to explain the differences between "traditional" purchasing methods used with contracts not on Shop@UW (p-card & PO based transactions) vs transactions done through Shop@UW including centralized receiving. This was written for the statewide office supplies RFP in July 2013.

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

## Authorized User Profiles

The contract shall support multiple buyer profiles which differ on method of placing orders (online, B2B, phone, email, fax), delivery requirements (desktop, dock, centralized dock) and payment method (P-card, PO, check). Proposers should refer to Appendix C for more information concerning the different business models that the current contract supports.

There are plans in the near future for State agencies to have an e-commerce system in place. Proposer must be cognizant of this future requirement and have the ability to support changes in the business models required by the State.

The two most frequently used models are:

### 1.3.1 TRADITIONAL BUSINESS MODEL: Orders are primarily placed online through a vendor hosted contract website, paid with a P-card, and delivered to desktop or dock depending on user preference. Orders may also be placed by e-mail, fax or phone call to vendor’s customer service or sales representative.

The traditional business model will serve as the baseline profile for pricing purposes. Specifically, that is: order via vendor website, phone, fax or purchase order; desktop delivery by contractor and payment on an order by order basis by p-card or check.

This model accounts for approximately 42% of the 2012 annual spend against the previous contract. Online orders through the contract website accounted for 33% of all orders placed during 2012.

Proposers will be asked to propose additional discounts off the baseline price based on efficiencies either model may offer. This includes an annual rebate for orders that specify dock delivery instead of desktop delivery, rebate based on total contract sales and discounts at time of sale for large order size.

**1.3.2 THE SHOP@UW BUSINESS MODEL:** Shop@UW is the branded name of the business-to-business (B2B) e-commerce platform called SciQuest. All orders are placed, invoiced, and credited (if necessary) electronically through Shop@UW using server to server cXML communication of pertinent order, delivery and invoice information.

The Shop@UW model accounts for approximately 56% of the 2012 annual spend against the previous contract. Online orders through Shop@UW accounted for 63% of all orders placed during 2012.

The information below is meant to inform proposers of operational efficiencies in the form of payment, delivery and customer management that Shop@UW provides to suppliers enabled on Shop@UW. By providing these services centrally to all Shop@UW customers and Shop@UW suppliers, MDS is able to reduce a suppliers cost to serve when compared to the traditional business model. Proposers will be asked to propose additional discounts off the baseline price for these efficiencies in responding to the cost proposal. Similar operational efficiencies in place now or developed in the future by other State agencies, campuses or cooperative purchasing groups are also eligible for these discounts.

1.3.2.1 ***Shop@UW Customer Management:***

Shop@UW currently maintains 10,000 active accounts. All login information, order history, funding, and shipping information is managed by Shop@UW. This eliminates the need for the supplier to set up and manage any individual accounts for Shop@UW customers. In addition, the Shop@UW customer service team serves as the main point of contact for issues concerning missing packages, order failures, back orders, etc.

1.3.2.2 ***Centralized Receiving:***

Shop@UW orders destined for delivery in the greater Madison area will be coded to be drop shipped to the MDS warehouse in Verona, Wisconsin. MDS handles delivering each order to the end users specified location. This eliminates the need for the contractor (or the contractor's freight provider) to service approximately 100 buildings on the UW-Madison campus alone, which offers little consideration for sufficient loading dock area, temporary parking and traffic flow (construction, student pedestrian activity, bikes, scooters, etc).

The receiving process includes bar-code scanning of all packages delivered, and bar-code scans of all packages re-delivered. Each final destination delivery is GPS stamped with a location. This process ensures easy communication and resolution of missing or mis-delivered product complaints.

The following bullets show the breakdown of all Shop@UW orders placed in 2012 and how the delivery was handled:

* 54% - orders delivered to Verona warehouse and redelivered by MDS to the end user location in the Madison area.
* 16% - orders delivered to a central receiving warehouse other than MDS (typically another UW System campus) and redelivered by campus or agency staff.
* 30% - orders delivered by contractor directly to the end user location.

1.3.2.3 ***Shop@UW Payment Terms:***

All Shop@UW e-invoiced orders are consolidated twice per month (minimum) and one payment (less any applicable discount) for all orders is made by check or ACH (no credit cards). MDS pays 100% of all Shop@UW invoices within twenty (20) days for all end user purchases; disputed charges are corrected via credits submitted electronically through the SciQuest eSettlement process. Electronic invoices are receipted on a daily basis, and no credit cards are utilized. Historically, prime vendors’ receivables are 95% within thirty (30) days. This minimizes vendors’ accounts receivable processes and alleviates payments to a bank for credit card processing.

**SHIPPING COSTS**

The University has existing contracts and agreements with a number of shipping and freight carriers and providers.  Under these relationships, the University has access to reduced pricing rates and elimination of some costs other customers may have with the same carriers.  The University is willing to provide contract, shipper or account numbers to any awarded Contractor to use for the purposes of shipments to contract customers if the University rates are as good as or better than those the Contractor currently has with the same carrier(s).  Contractors should note that rates charged under this relationship cannot be “marked up” or used as a profit center for this contract.  Contractors should also note that this sharing of account information is for the purposes of contracts with the State of Wisconsin, Campuses and other eligible customers of the contract and are not to be used by the Contractor for non related customers.

The use of the shipping contracts is something that can and will be negotiated after the award of the contract has been made.

**SITE VISIT**

Bidder must visit the job site prior to submitting a bid to assure themselves and the University that they fully understand all requirements of the project. The mandatory site visit will be on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ [DATE] at \_\_\_\_\_\_\_ [TIME]. We will have one additional site visit time and date of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_ CDST **only if needed**. Please call \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [CONTACT PERSON] at (608) 262-\_\_\_\_\_ [PHONE] if you cannot attend the first site visit and you need to schedule an alternate visit. You MUST call prior to the 1st site visit. **THESE WILL BE THE ONLY DAYS AND TIMES FOR THE MANDATORY SITE VISITS.** **to confirm your attendance at the site visit.** The location for the site visit is at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [LOCATION]. PLEASE BE PROMPT. **Failure to attend the mandatory site visit will disqualify your bid**. In order for your bid to be considered, the attached Certificate of Site Visitation form, completed by the bidder and signed by the Purchasing Services representative, should be submitted with your bid.

**SOURCE CODE**

The Contractor shall keep and maintain current a copy of the source code in escrow with an escrow agent. The Contractor will pay all costs of providing and maintaining the source code in escrow, including the fee of the escrow agent. Prior to final system acceptance, the contract will provide the UWS Contract Administrator a copy of the agreement between the contractor and the escrow agent to verify the source code has been placed in escrow. The agreement between the Contractor and the escrow agent will authorize the escrow agent to release the source code to UWS in the event that one or more of these events occur:

a) The Contractor becomes the subject of a bankruptcy proceeding.

b) The Contractor, or its successor organization, fails or refuses to support the software installed at UWS.

c) All or any material part of the source code is generally made available by the contractor, with or without additional cost, to other users of comparable software.

d) The Contractor, or successor organization, is unable to support the UWS as specified in this contract.

## SPECIFICATION ACCEPTANCE

**Acknowledgement of Instrument Specifications.**

Please review the “Purpose” section of this bid document (page 1) and complete the following:

I understand the specifications as outlined in this document, and in signing below I acknowledge that:

**(check [√] one)**

\_\_\_ the instrument being quoted will fully meet all these specifications.

**OR**

\_\_\_ the instrument being quoted does not meet the stated specifications, and I have included with this bid response, a listing of all specifications, which cannot be met, along with an explanation clarifying the actual specifications of the alternative instrument or component being proposed.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name Position

**SPECIFICATIONS TABLE HEADER (RFB)**

**SPECIFICATIONS & INSTRUCTIONS FOR COMPLETING SPECIFICATION TABLE**The following specifications represent minimum acceptable requirement. Bidders must select either “yes” or “no” for each specification below. For any “No” Response, the bidder must provide a detailed written explanation indicating how this difference in specification would affect the performance of the product being bid. The University shall be the sole judge of acceptability.

Bidders should provide narrative responses (attach additional pages as necessary) to any or all questions below to add detail to (YES) answers, explain (NO) answers and to describe and define any Option or Exception they may be offering.

Any **exceptions** (NO answers to the requirements) **must** be thoroughly explained below or on a clearly labeled attachment in order for your bid to be considered for award.

The following specifications represent the mandatory requirements for the Primary and Secondary Mirrors required for a High Spectral Resolution Lidar. Failure to meet a specification may disqualify your bid. Bidders should submit with their response to the Specifications portion of the Itemized Bid List (Attachment C) a complete explanation of any exception or variation from the specifications listed below.

**MEET**

**SPECIFICATIONS**

**YES NO**

**SPECIFICATIONS TABLE HEADER (RFP)**

**INSTRUCTIONS FOR COMPLETING THE SPECIFICATIONS**

(10-0052)

The specifications for the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Equipment/System are in table 1 below. For the specifications requiring “yes”/”no” responses, proposer must check either the “yes” box to indicate it meets, or “no” box to indicate it does not meet, each specification. The far right column of tables 1 indicates when a written response is required. These should be addressed in an addendum in the same sequence and numbered as they appear in the table. For specifications that are not met, the proposer must explain how it differs from the specification and how it will affect the stated purpose of the RFP. In addition, if you selected the “yes” to any of the “yes’/”no” specifications, you may use the addendum to describe an option that both meets and exceeds the specification. The University will consider the written responses in the addendum and will be the sole judge of acceptability. Table 2 indicates additional items to be included with your proposal.

**Example of Table 1**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | | **SPECIFICATION** | | **MEETS SPECIFICATIONS**  **OR STATED MINIMUM/ MAXIMUM REQUIREMENTS** | | | **ADDITIONAL RESPONSE**  **REQUIRED** |
|  |  | | **YES** | | **NO** |  | |

**=================================================================================**

Proposers are encouraged to provide narrative responses (attach additional pages as necessary) to any or all questions below to add detail to (Yes) answers and describe / define any Option or Exception they may be offering.

**All** “Fail” answers **must** be thoroughly explained below or on a clearly labeled attachment in order for your proposal to be considered for evaluation.

**MEET**

**SPECIFICATIONS**

**YES NO**

**STUDENT PRIVACY (FERPA) – SOFTWARE OR SERVICES CONTRACTS**

**Option A:** (agents to select when we do not anticipate student records governed by FERPA will be accessible by the vendor during the contract term):

Confidential University Data is defined as any data or information that Contractor creates, obtains, accesses (via records, systems, or otherwise), receives (from University or on behalf of the University), or uses in the course of its performance of the contract which include, but may not be limited to: social security numbers; credit card numbers; any data protected or made confidential or sensitive by the Family Educational Rights and Privacy Act, as set forth in 20 U.S.C. §1232g ("FERPA"), the Health Insurance Portability and Accountability Act of 1996 and the federal regulations adopted to implement that Act (45 CFR Parts 160 & 164 "the HIPAA Privacy Rule"), collectively referred to as "HIPAA", the Gramm-Leach-Bliley Act, Public Law No: 106-102 (“GLB”), Wisconsin state statute 134.98 or any other applicable federal or Wisconsin law or regulation. Functionality and automatically generated content that includes any Confidential University Data must have mechanisms to comply with the FERPA, HIPAA, GLB, Wisconsin state statutes or any other applicable federal or Wisconsin law or regulation, and UW Policies.

**Option B:** (agents to select when student records governed by FERPA may be accessible by the vendor during the contract term):

Standard language re: Contracts involving sharing of FERPA-covered information

NKL 8/12/10

1. In the course of providing services during the term of the contract, Vendor may have access to student education records that are subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, *et seq.* and the regulations promulgated there under. Such information is considered confidential and is therefore protected. To the extent that Vendor has access to “education records” under this contract, it is deemed a “school official,” as each of these terms are defined under FERPA. Vendor agrees that it shall not use education records for any purpose other than in the performance of this contract. Except as required by law, Vendor shall not disclose or share education records with any third party unless permitted by the terms of the contract or to subcontractors who have agreed to maintain the confidentiality of the education records to the same extent required of Vendor under this contract.
2. In the event any person(s) seek to access protected education records, whether in accordance with FERPA or other Federal or relevant State law or regulations, the Vendor will immediately inform University of such request in writing if allowed by law or judicial and/or administrative order. Vendor shall not provide direct access to such data or information or respond to individual requests. Vendor shall only retrieve such data or information upon receipt of, and in accordance with, written directions by University and shall only provide such data and information to University. It shall be University’s sole responsibility to respond to requests for data or information received by Vendor regarding University data or information. Should Vendor receive a court order or lawfully issued subpoena seeking the release of such data or information, Vendor shall provide immediate notification to University of its receipt of such court order or lawfully issued subpoena and shall immediately provide University with a copy of such court order or lawfully issued subpoena prior to releasing the requested data or information, if allowed by law or judicial and/or administrative order.
3. If Vendor experiences a security breach concerning any education record covered by this contract, then Vendor will immediately notify the University and take immediate steps to limit and mitigate such security breach to the extent possible. The parties agree that any breach of the confidentiality obligation set forth in the contract may, at University’s discretion, result in cancellation of further consideration for contract award and the eligibility for Vendor to receive any information from University for a period of not less than five (5) years. In addition, Vendor agrees to indemnify and hold the University harmless for any loss, cost, damage or expense suffered by University, including but not limited to the cost of notification of affected persons, as a direct result of the unauthorized disclosure of education records.
4. Upon termination of contract, Vendor shall return and/or destroy all data or information received from University upon, and in accordance with, direction from University. Vendor shall not retain copies of any data or information received from University once University has directed Vendor as to how such information shall be returned to University and/or destroyed. Furthermore, Vendor shall ensure that they dispose of any and all data or information received from University in a University-approved manner that maintains the confidentiality of the contents of such records (e.g. shredding paper records, erasing and reformatting hard drives, erasing and/or physically destroying any portable electronic devices).

**TECHNOLOGY SOLUTIONS EVALUATION GUIDE**

University of Wisconsin-Madison

The following guide is intended to help University divisions, departments and project teams evaluate proposed solutions for their fit with our current technology architecture. The goal is to acquire technology solutions that are easy to integrate, supportable, secure and cost efficient. This guide does not address the evaluation of business functionality but tries to ensure infrastructure and integration requirements are appropriately considered.

Following are a list of questions along with general guidance for evaluating Request for Information (RFI) or Request for Proposal (RFP) responses and/or Proof of Concept results.

A number has been assigned to each guidance statement indicating the score to apply should analysis and/or the response to an RFP/RFI question match the guidance.

* 9 – In relation to the requirement, the solution is consistent with our current and/or future architecture.
* 3 - In relation to the requirement, the solution is not consistent with our current and/or future architecture, but **can** be accommodated with relatively little effort and/or risk.
* 1- In relation to the requirement, the solution is not consistent with our current and/or future architecture, but **may** be accommodated with significant effort and/or risk.
* 0 - In relation to the requirement, the solution is not consistent with our current and/or future architecture and **may not be able to be accommodated.**

This guide is not intended as a substitute for the engagement of Subject Matter Experts (SME). It is strongly advised that SMEs be involved in the evaluation of technology solutions. SMEs for each category are listed below.

Note that “solution” refers generically to any software application, device, appliance, or contracted service (e.g. hosted email, cloud email, etc.) being considered for acquisition.

### Identity and Access Management (IAM)

SME: DoIT Middleware Services Team: <http://www.doit.wisc.edu/middleware/>

Tags: [IAM], [IdM]

IAM is composed of two high-level domains, Identity Management (IdM) and Access Management.

An IdM system manages the digital representation of persons, including useful attributes (name, email address, department, [photo] etc.), permissions (what they are allowed or not allowed to do) and credentials (user id, password, digital certificate).

An Access Management system manages and enforces policies that ensure users only access solution functions and/or data they are authorized for.

Ideally, solutions leave most if not all IAM functions to the enterprise IAM infrastructure, calling on IAM services as needed. Unfortunately, most solutions have not evolved to this point and include their own, often non-standard methods for storing identities, managing identities and providing access.

Any solution that will be used by all or most University faculty/staff and/or students will **require** integration with the University’s IdM infrastructure. More technical or specialized solutions can benefit from IAM integration but the cost to benefit may not be justified. As a general rule, the more potential users of a solution, the more important it is that the solution has good support for integrating with our IAM infrastructure.

Note that some applications still allow or deny access based on the client’s IP address. Any solution that uses this method exclusively has no identity management and should be avoided.

**IAM 1: Where is the user identity data required by your solution stored?**

**9**: The solution can leverage identity information stored in a specific, University supported Directory Server.

**1**: The solution can be customized to integrate with a supported Directory and/or supports Directory not included in our infrastructure.

**0**: The solution has no ability to integrate with an external LDAP and customization would be difficult or impossible.

**IAM 2: How does your solution leverage Directory data? Can the solution access data in real-time, as needed or must Directory data be replicated into the local person store? What methods and protocols are supported for querying the Directory?**

**9:** The solution can query the Directory as needed, in real-time via a Directory Services Markup Language (DSML) query.

**3**: The solution can query the Directory via a Lightweight Directory Services Protocol query using SSL.

**1**: The solution can query the Directory via a Lightweight Directory Services Protocol query with no support for SSL.

**0**: Person data must be replicated from the institutional Directory and persisted in a local store.

**IAM 3: If a local solution account is required, does the application provide an API that allows for the programmatic provisioning/deprovisioning (creation/deletion) of user accounts and/or is an Oracle Identity Manager (OIM) connector available?**

**9**: The solution provides a web services interface that can receive Service Provisioning Markup Language (SPML) messages.

**3**: The solution provides a proprietary web services interface that can receive provisioning/deprovisioning messages.

**3**: An OIM connector is available for provisioning/deprovisioning accounts.

**1**: A non-web services based API is available for provisioning/deprovisioning accounts.

**0**: No interface is provided. Local accounts must be manually provisioned/deprovisioned via a user interface.

**IAM 4: If a local solution account is required, does the application provide an API that allows for the programmatic synchronization of user attributes between the enterprise directory and the local account and/or is an Oracle Identity Manager (OIM) connector available?**

**9**: The application provides a web services interface that can receive Service Provisioning Markup Language (SPML) messages and/or can use a Security Assertion Markup Language (SAML) assertion to synchronize attributes.

**3**: The solution provides a proprietary web services interface that can receive user attribute messages.

**3**: An OIM connector is available for synchronizing attributes.

**1**: A non-web services based API is available for synchronizing attributes.

**0**: No interface is provided. Local accounts must be manually updated via a user interface.

**IAM 5: Can the solution leverage an external security service or repository to make access control decisions? For example allow/deny access to a screen, function or data?**

**9:** Thesolution can in real-time access an Extensible Access Control Markup (XACML) –based external security decision service.

**9**: The solution can accept Security Assertion Markup Language assertions for use in making the access decision.

**3:** The solution can in real-time, via a web service, query a repository (e.g. Directory) to establish whether the user is a member of a group has a role and/or has an attribute which would allow or deny access.

**3**: The solution can query the Directory via a Lightweight Directory Services Protocol query using SSL.

**1**: The solution can query the Directory via a Lightweight Directory Services Protocol query with no support for SSL.

**0:** The solution cannot leverage an external service or repository to make access control decisions.

**IAM 6: Can the solution leverage an external authentication service for web user interfaces? Specifically, can it support and Single Sign-on via integration with Shibboleth/SAML by accepting a standards-based assertion from the enterprise web access management (WAM) infrastructure, eliminating the need for a user to login if they have already logged in, or redirect them to the enterprise WAM for authentication?**

**9**: The solution is “pre-integrated” to support SAML V2.

**3**: The solution includes “authentication interfaces” that support using an external authentication service.

**0**: No support for external authentication services.

**IAM 7: Does the solution’s integration with the enterprise WAM support deep linking, the practice of navigating to a page “deep” within an application, thus bypassing the application’s and/or the portal’s main page?**

**9: Complete support for deep linking. The user, if already logged in can navigate directly to pages for which they are authorized without logging in again.**

**0: No or limited support for deep linking, the user is forced to login again, is redirected to the application’s proprietary login mechanism or is denied access for which they are authorized.**

The analysis necessary to evaluate the solution’s access security model will vary widely depending on its architecture, target user population and the data it persists. The following are general questions, but more specific questions should be included as applicable.

**IAM 8: Can a user be restricted by both function (create, edit, delete, etc.) and object (i.e. the “things” created and managed by the system, e.g. payroll record, wiki page, document, etc.)? What functions can be restricted?**

**9**: Granular security where each important function **and** object can be explicitly restricted to authorized users.

**3**: Granular security associated with functions or objects, but not both. Usually, this means functions can be assigned at a granular level, but objects cannot be restricted.

**0**: Course security where users **must** be granted access to a broad range of functions and/or objects.

**IAM 9: Can functions and or access to objects be grouped to create “roles” that can then be assigned to users?**

**9:** Important functions and objects can be grouped into roles for assignment to users.

**0**: Authorization to act on important functions and/or objects must be individually assigned to users.

**IAM 10: Assuming the solution supports “roles”, are standard, pre-defined roles included and will these roles support the required business functions?**

**9**: The solution includes pre-defined roles that meet the business requirements (e.g. Administrator, Supervisor, etc.).

**3**: The solution does not include pre-defined roles.

**1**: Pre-defined roles do not meet the business requirements (e.g. oftentimes pre-defined roles grant more access than desirable).

**IAM 11: Many security models use inheritance to streamline the granting of permissions. If the application uses this model, can permission be explicitly denied on a child function and/or object?**

**9:** Permission to use a function, group of functions, objects and groups of objects can be denied at any point in the authorization tree.

**0**: Inheritance is absolute and cannot be modified at a point lower than the grant of permission.

### Information Security

SME: DoIT Security, Stefan Wahe

SME: Office of Information Security (OCIS), Jim Lowe

SME: DoIT Middleware Services Team: <http://www.doit.wisc.edu/middleware/>

Tags: [Security], [Compliance], [IAM]

The information security ensures the confidentiality, integrity and availability of the functions and data associated with the solution are maintained.

The analysis necessary to evaluate the solution’s security requirements and capabilities will vary widely depending on its architecture, target user population and the data it persists. The following are general questions, but more specific questions should be included as applicable.

Access control and credential management, key elements of information security, are primarily addressed in the IAM section of this document. While it would be ideal if all solutions could leverage the enterprise identity management system, in reality many that are necessary to run the enterprise cannot. Examples include server or client operating system local administrator accounts and special purpose hardware. Access control for these cases is addressed in this section.

**Security 1: If the solution must store passwords used to authenticate a user, are passwords stored in a secure manner?**

**9**: Passwords may be stored using SHA-2 or stronger hash with at least a 64 bit salt.

**1**: Passwords may only be stored using MD5, SHA-1 or other weak hash.

**0**: Passwords are stored in plaintext.

**Security 2: If a password may be submitted to the solution over a network, can the client (e.g. web browser) authenticate the endpoint (the solution) and is the channel encrypted?**

**9**: Appropriate cryptographic mechanisms allow the client to have high confidence that it is communicating with the solution and the channel is encrypted using a strong encryption mechanism. Both requirements would be met, for example, by transport layer security (TLS).

**0**: The solution cannot use a cryptographically strong mechanism to authenticate the solution and/or cannot support encryption of the channel (e.g. passwords sent in plaintext over the network). This is more likely with a solution that requires a “thick client” rather than a web browser.

**Security 3: If the solution is delivered with default (usually high privilege) accounts (e.g. “supervisor”, “administrator”, etc.) can the account names be changed, maintaining the functionality of the default accounts?**

**9**: Default account names can be changed while maintaining their functionality.

**0**: Default account names cannot be changed.

**Security 4: If the solution sends or receives “Sensitive” and/or “Restricted” data over the network, as defined by *the UW-Madison Sensitive Information Definition* [**[**http://www.cio.wisc.edu/policies/SensitiveDataDefinition.pdf**](http://www.cio.wisc.edu/policies/SensitiveDataDefinition.pdf)**]; can the solution support encryption of such data while in transmission?**

**9**: The solution supports standard, strong mechanisms for encrypting restricted and sensitive data while in transmission via encryption of the channel (e.g. SSL/TLS) the actual content (e.g. XML encryption) or both.

**0**: The solution does not supports standard, strong mechanisms for encrypting restricted and sensitive data while in transmission.

**Security 5: If the solution persists “Sensitive” and/or “Restricted” data, as defined by the *UW-Madison Sensitive Information Definition* [**[**http://www.cio.wisc.edu/policies/SensitiveDataDefinition.pdf**](http://www.cio.wisc.edu/policies/SensitiveDataDefinition.pdf)**]; can the solution support encryption of such data while in storage? See: *UW-Madison Policy for Storage and Encryption of Sensitive Information* [**[**http://www.cio.wisc.edu/policies/IEncryptPolicy.pdf**](http://www.cio.wisc.edu/policies/IEncryptPolicy.pdf)**].**

**9**: The solution supports standard, strong mechanisms for encrypting restricted and sensitive data while stored (e.g. whole disk encryption or file encryption using AES or similar).

**0**: The solution does not supports standard, strong mechanisms for encrypting restricted and sensitive data while stored.

**Security 6: Compliance with government regulations and/or industry standards may be required depending on the type of data a solution persists and/or processes.**

Detailed questions on compliance are outside the scope of this document. However, listed below are two regulations and one industry standard that frequently impact our solutions. If there is any question about whether a solution is required to comply, contact DoIT Security and/or OCIS for guidance.

HIPPA: The Health Insurance Portability and Accountability Act is a U.S. Federal law dealing with the portability of health insurance when workers change or leave employment. It also addresses the security and privacy of health data. Solutions that process and/or persist health related data (e.g. health records, health insurance information) may be subject to HIPPA.

FERPA: The Family Educational Rights and Privacy Act is a U.S. Federal law dealing with educational records and gives students some control over how the information in their records may or may not be used or disclosed. Solutions that store/use student records, including systems that only store/use student identity data (e.g. name, address, email, etc.) likely need to be FERPA compliant.

PCI DSS: The Payment Card Industry Data Security Standard is an industry standard defined by the Payment Card Industry Standards Council. Major card payment companies (AMEX, Discover, Mastercard and Visa) require that solutions that process and/or store payment card data comply with PCI DSS.

### Logging

SME: Systems Engineering? A more specific team?

SME: Office of Information Security (OCIS), Jeffrey Savoy

Tags: [Logging], [Security]

Logging refers to the ability to detect, communicate and persist information useful in managing the solution. Log entries might be generated related to any system operation but commonly are focused on performance, error conditions and security.

**Logging 1: Can the solution capture relevant security information?**

**9**: The solution can capture and forward security events to the security event management (SEM) system via UDP or TCP syslog.  Each event contains a single message that can be parsed, and includes event time/date, IP address, success/failure, etc. as appropriate.

**3**: Security events are stored locally in a text file.  Each event corresponds to a single line in the text file.  Each event contains a single message that can be parsed and includes event time/date, IP address, success/failure, etc. as appropriate.

**3**: Security events are stored in a relational database.  Each event corresponds to an insert of a single row within the database with a unique sequentially increasing key. Each event contains a single message including event time/date, IP address, success/failure, etc. as appropriate.

**1**: Security events are stored locally in a manner that makes if difficult or impossible to parse and determine individual events.

**0**: Security events cannot be captured.

**Logging 2: Where the solution persists logs locally or in a database, is log retention configurable?**

**9**: The solution allows the retention of log entries matching configurable criteria for a specified time period and the specification of a maximum log size.

**3**: The solution allows the retention of all captured log entries for a specified time period and the specification of a maximum log size.

**0**: The time period to retain logs may not be specified and/or it is not possible to specify a maximum log size.

### User Interface

SME: DoIT Communications (has ADI taken this over?).

Tags: [UI]

A user interface (UI) facilitates the user’s interaction with the solution allowing the user to input commands and data and receive information. The information is usually displayed on a monitor, but may be audible, tactile or some combination of the three. Input is usually through a keyboard and pointing device (e.g. mouse) but may take other forms (e.g. touch screen, etc.). Good UI design is critical to the successful use of a solution by all users as well as use by those with disabilities. UIs for computers are of two designs, thick client interfaces which are associated with software installed on the user’s computer (e.g. MS Word) and thin client interfaces usually accessed via a web browser in the form of web pages (e.g. Gmail web interface). Mobile devices (e.g. iPhone, iPad, Android devices) also incorporate user interfaces. Mobile user interfaces should be examined if it is expected that a solution will have mobile capabilities. A solution may have different user interfaces for different user roles. End user interfaces support non-technical/business functions (e.g. Outlook to create and read email). Administrative UIs support administrative/technical functions necessary to operate and maintain the system (e.g. add user accounts, assign rights, backup PeopleSoft).

**UI 1: Do all user interfaces associated with the solution (thick client, thin client, end user, administrative) comply with the U.S. Federal Rehabilitation Act, Section 508 (36 CFR Part 1194)?** [**http://www.section508.gov**](http://www.section508.gov) **Please provide a Voluntary Product Accessibility Template (VPAT).** [**http://www.itic.org/index.php?submenu=Resources&src=gendocs&ref=vpat&category=resources**](http://www.itic.org/index.php?submenu=Resources&src=gendocs&ref=vpat&category=resources)

Note that SMEs strongly suggest that evaluation teams not rely solely on vendor representations and/or certifications as proof of Section 508 compliance. Testing is strongly recommended before a commitment to acquire an application.

**9:** The vendor has provided a VPAT and testing has confirmed compliance for all user interfaces associated with the solution.

**3**. The vendor has provided a VPAT and testing has confirmed compliance for the end-user interfaces but not for administrative interfaces (this is common).

**0:** The vendor cannot or will not provide a VPAT and/or testing indicates that end user interfaces are not compliant.

**UI 2: Do the UIs associated with the solution support recommended screen readers? See this DoIT Help Desk Knowledge Base article for a current list:** [**http://kb.wisc.edu/helpdesk/page.php?id=13805**](http://kb.wisc.edu/helpdesk/page.php?id=13805) **Testing is highly recommended.**

**9:** All recommended screen readers are supported.

**3:** Not all screen readers are supported, but at least one screen reader is supported for each common platform (Windows, OS X, Linux) for internet, email and documents.

**1:** Not all screen readers are supported, but at least on screen reader is supported for Windows and OS X.

**0:** None of the recommended screen readers are supported.

**UI 3: Can end user functionality be accessed via web interfaces? Are the UIs well designed, allowing easy navigation, access to common functions and help? Can the interfaces be customized?**

**9:** All end user functionality is available via web interfaces. The UIs are well designed and may be customized to support end user requirements.

**3:** All end user functionality is available via web interfaces. The UIs are well designed but cannot be customized.

**1:** All end user functionality is available via web interfaces. The UIs are not well designed and may or may not be customized.

**0:** A significant percentage of end user functionality is not available via web interfaces.

**UI 4: Can administrative user functionality be accessed via web interfaces? Are the UIs well designed, allowing easy navigation, access to common functions and help? Can the interfaces be customized? Are the interfaces usable with mobile devices?**

**9:** All administrative user functionality is available via web interfaces. The UIs are well designed and may be customized to support administrative user requirements. Interfaces are usable with mobile devices.

**3:** All administrative user functionality is available via web interfaces. The UIs are well designed but cannot be customized and/or may not be usable with mobile devices.

**1:** All administrative user functionality is available via web interfaces. The UIs are not well designed and may or may not be customized.

**0:** A significant percentage of administrative user functionality is not available via web interfaces.

**UI 5: Can administrative user functionality be accessed via command line?**

**9:** All administrative user functionality is available via command line.

**3:** A significant percentage of administrative functionality is available via command line, but not all.

**0:** A significant percentage of administrative user functionality is not available via command line.

**UI 6: What browsers are supported by the application’s web UIs? Testing is highly recommended.**

**9:** All application functionality works in the latest versions of MS Internet Explorer, Firefox, Google Chrome, Apple Safari and Opera.

**3:** All application functionality works in the latest version of MS Explorer, Firefox and Apple Safari but not Google Chrome or Opera.

**0:** The application requires a specific browser for some or all application functionality to operate (usually Internet Explorer plus a plug-in).

### UI 7: Does the solution provide international support?

Note, international support may or may not be important depending on who will use the solution.

**9**: UIs can be rendered and all solution functionality is available in all languages desired.

**3**: UIs can be rendered and all solution functionality is available in the majority of languages desired.

**1**: UIs can be rendered in all or most of languages desired but some functionality is not available.

**0**: UIs cannot be rendered in the languages required

### Enterprise Portal Integration

SME: DoIT My UW-Madison Portal Admin Team ([my-admin@lists.wisc.edu](mailto:my-admin@lists.wisc.edu))

Tags: [Portal], [IAM], [Integration]

An enterprise portal is a software framework which integrates information and processes across organizational boundaries. Portals are usually deployed using a web user interface constructed of portlets, software components designed to provide specific information or perform a specific function. Portlets are aggregated to create a portal page which can be customized to the needs of an individual user or group of users.

My UW-Madison (<http://my.wisc.edu/> ) is the campus enterprise portal, providing applicants, students, faculty, staff, advisors and instructors with a suite of integrated information resources that are tailored to their roles and interests. My UW-Madison is highly personalized and can be customized to suit one's individual needs. The portal sees hundreds of thousands of requests each day and over one million logins each month. The portal is built using the uPortal open source software and contains Java portlets compliant with JSR 168 or JSR 286.

The My UW-Madison portal is a powerful tool to deliver information to, and facilitate the work of UW-Madison faculty, staff and students. Those considering the acquisition of web applications are strongly encouraged to explore deploying such applications via My UW-Madison.

For an acceptable portal experience, it is extremely important that applications can effectively integrate with our web access management service. See “IAM 6” and “IAM 7” for further details.

**Portal 1: Can the solution service requests on behalf of the user via an HTTP proxy?**

**9:** The solution can service requests from a proxy stripping out application-specific headers, footer and navigation markup from the response via configuration or by providing within the HTML/DOM (Document Object Model), by name or ID, what elements should be proxy-ed. The application can accept attributes from the proxy (e.g. header variables) for use in ensuring only information the user is authorized for is returned.

**0**: The solution cannot strip out application-specific headers, footers and/or navigation and/or cannot accept authorization attributes.

**Portal 2: Can the solution accept an authentication token from the proxy on behalf of the user?**

**9:** The solution can accept a SAML assertion or a session cookie from the proxy that asserts that the user has been authenticated.

**0**: The solution has its own proprietary authentication method and cannot accept an assertion from the proxy.

**Portal 3: Does the solution provide APIs that would allow for the creation of custom portlets that may directly access application data and solution functions?**

**9**: A rich set of APIs are providing allowing for the creation of portlets that can be customized to user needs while still allowing access to solution data and functions.

**1:** The functionality of provided APIs in incomplete. For example only allowing access to functions but not data, only some functions, some data, etc.

**0**: No APIs are provided.

**Portal 4: Can the solution deliver content via standard portlets usable by the uPortal portlet container?**

**9**: The solution can deliver JSR 168 and/or JSR 286 portlets. See: <http://jcp.org/en/jsr/detail?id=168> and <http://jcp.org/en/jsr/detail?id=286> .

**0**: The solution cannot deliver JSR 168 or JSR 286 portlets.

Note: Currently My UW-Madison cannot act as a Web Services for Remote Portlets (WSRP) consumer.

**Portal 5: Can the solution produce RSS feeds for consumption by the portal?**

**9**: The solution can be easily configured to produce RSS feeds relevant to an individual portal user or group.

**3**: The solution requires significant customization to produce RSS feeds of sufficient granularity to be useful to and individual portal user or group.

**1**: The solution supports RSS feeds but cannot be configured to sufficient granularity for an individual portal user or group.

**0**: The solution does not support RSS feeds.

**Portal 6: Does the solution produce logs or other raw data useful in understanding the solution’s use via the portal?**

**9**: The solution produces detailed; easily decipher logs with information useful in understanding the application’s use via the portal.

**3**: The solution produces detailed, difficult to decipher logs with information useful in understanding the application’s use via the portal.

**0**: The solution does not produce logs and/or the logs produced do not include information useful in understanding the application’s use via the portal.

### Networking

SME: DoIT Network Services, Perry Brunelli-Director ([pbrunelli@wisc.edu](mailto:pbrunelli@wisc.edu))

Tags: [Network], [COOP]

The University of Wisconsin-Madison campus network consists of a wired backbone infrastructure as well as wired and wireless local area networks serving faculty, staff, students and visitors. This network is connected via various wide area networks to support the learning, research and outreach missions of the University.

**Network 1: Does the solution support Internet Protocol version 6 (IPv6)?**

**9**: The solution supports IPv6 with no loss of functionality (i.e. feature parity with IPv4).

**3**: [Is there any middle ground?]

**0**: The solution does not support IPv6.

**Network 2: Will the solution require the deployment of servers or devices to our datacenters? If so, is the solution compatible with our network and server redundancy model?**

It is highly recommended that DoIT Network Services be consulted before a solution is acquired.

**9**: The solution is compatible with our redundancy model.

**3**: The solution need not be highly available and is not compatible with our redundancy model.

**0**: The solution needs to be highly available and is not compatible with our redundancy model.

**Network 3: Will the solution require the deployment of servers or devices? If so, is the solution “firewall friendly”?**

**9:** The solution can operate behind a stateful firewall. The protocols and port requirements of the solution are well documented.

**3:** The solution can operate behind a stateful firewall. The protocols and port requirements are not well documented.

**0:** The solution cannot operate behind a stateful firewall.

**Network 4: Will the solution require the deployment of servers or devices? If so, the solution should be “NAT friendly” (network address translation).**

**9:** The solution can operate behind a NAT device.

**0:** The solution cannot operate behind a NAT device.

**Network 4: Will the solution require IP multicast or broadcast functionality?**

It is highly recommended that DoIT Network Services be consulted if the solution includes IP multicast or broadcast functionality.

**9**: The solution will use IP multicast or broadcast functionality and analysis determines the impact on the campus network is acceptable.

**0**: The solution will use IP multicast or broadcast functionality and analysis determines the impact on the campus network is unacceptable.

**TESTING AND ACCEPTANCE**

The vendor shall perform all factory inspections and tests that are necessary to demonstrate compliance with the above specifications. Test procedures shall be mutually agreed upon by the vendor and the University in writing. .

Acceptance testing will occur within 30 days after the Contractor states the System is installed and ready to perform in compliance with specifications. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_department staff and will consist of verification of the parameters set forth in the specifications.

If System does not meet standard performance expectations, Contract will have 30 days to meet standards or remove the System from the department. If the System is brought into compliance within 30 days, department will have another full 30 days testing period. If the System still does not perform to specifications, Contractor agrees to remove the system and return all payments that have been made.

**TESTING AND ACCEPTANCE**

If the Department of Physics Determines that Testing of the product bid is necessary, Testing will occur within 30 days after the contractor delivers the product or sample ordered. University of Wisconsin Department of Physics staff will perform acceptance testing. This testing will consist of verification of the parameters set forth in the specifications. This 30 day trial shall begin one (1) day after the product is available for testing.

If equipment does not meet standard performance expectations, contractor will have 30 days to meet standard or remove from University of Wisconsin premises. Faulty product must be replaced within 30 days. University of Wisconsin will have another full 60 days testing period to test replacement product. If products still do not perform to specifications, contractor agrees to remove equipment and return all payments that have been made.

**Final Acceptance:**

Sergei Lusin is the only authorized personnel that can sign an acceptance of quality agreement. Such an agreement will not be signed until a 30 day trial period of the product occurs. Warranty period will begin on the date the Quality Agreement is signed by Sergei Lusin and the product is officially accepted.

THIRD PARTY FINANCING

Bidders that are bidding on Leases or Rentals using a third party for financing must identify the company, quote the interest rate, and include a copy of their lease or rental contract.

**TRADE-IN**

Running parallel to the trade-in option will be an Offer to Sell (OTS) process or an on-line auction process. These processes will have priority to the trade-in if it is judged to be in the best interest of the University.

Contractor would be responsible for dismantling and removal of the booth located in room 209 SMI, 1300 University Avenue, Madison, WI. Vendor must provide all equipment, labor and insurance involved in the dismantle/removal process. UW-FP&M will be responsible for removal of asbestos tile flooring in the booth and disconnecting of electrical and ventilating systems.

Due to ongoing research, contractor must coordinate process to coincide with installation of the new booth.

**TRAINING**

Must provide a minimum of 3 days of on-site intensive training for at least three (3) UW personnel.

Training must include operational, programs and maintenance of system (hardware and software)

**WAIVER OF CONSEQUENTIAL DAMAGES**

In no event shall (company name here) be liable for loss of profits, revenue or product use, or loss or inaccuracy of data. In no event shall either party be liable for any indirect, incidental, special or consequential damages incurred by either party or any third party, even if the other party has been advised of the possibility of such damages.

**WAIVER OF TRIAL BY JURY**

 Neither party in any subsequent legal action will be entitled to punitive, cover, exemplary, multiplied or consequential damages, prejudgment interest or attorneys’ fees or costs, except as may be required by statute and each party irrevocably waives any right to seek or collect any such damages, prejudgment interest, fees or costs in any subsequent legal action. Each party irrevocably waives its right to trial of any issue by jury.

**WARRANTY**

**WEB ACCESSIBILITY**

Company shall comply with, and ensure that <SOFTWARE SYSTEM> enables UW-Madison to comply with, any and all applicable federal Americans with Disabilities Act and Rehabilitation Act requirements for accessibility to the <SOFTWARE SYSTEM> throughout the Term of this Agreement, and Contractor will effectively deliver, at no additional charge, all other accessibility capabilities and resources reasonably requested by UW-Madison for its End User with disabilities. Contractor shall demonstrate compliance with Section 508 (A) of the Rehabilitation Act of 1973.

**NOTE:**

The last sentence doesn’t always apply but for web-based applications and services it will require the Company to give us a VPAT (Voluntary Product Accessibility Template) or other assessment result.