



INVITATION FOR BIDS
FOR
TRANSIT SHUTTLE BUSES

IFB NUMBER: BC-21323-J

ISSUED: JUNE 15, 2023

Procurement/Issuing Office:

Department of Procurement & Strategic Sourcing
University of Maryland, Baltimore County
Administration Building, 7th Floor
1000 Hilltop Circle
Baltimore, MD 21250

Contract Management:

Facilities Management
University of Maryland, Baltimore County
1000 Hilltop Circle
Baltimore, MD 21250

TABLE OF CONTENTS

SECTION I: SUMMARY INFORMATION...	5
A. <u>SUMMARY STATEMENT</u>	5
B. <u>ISSUING OFFICE</u>	5
C. <u>QUESTIONS AND INQUIRIES</u>	5
D. <u>DELIVERY OF BIDS</u>	5
E. <u>BID OPENING DATE</u>	5
F. <u>PRE-BID CONFERENCE</u>	6
G. <u>DURATION OF OFFER</u>	6
H. <u>TERM OF CONTRACT</u>	6
I. <u>EVALUATION OF BIDS</u>	6
J. <u>BID ACCEPTANCE</u>	6
K. <u>FORMATION OF AGREEMENT/CONTRACT OR</u> <u>ISSUANCE OF PURCHASE ORDER</u>	6
L. <u>BID AFFIDAVIT AND CERTIFICATIONS</u>	7
M. <u>ELIGIBILITY TO PURCHASE</u>	7
SECTION II: GENERAL INFORMATION FOR VENDORS...	8
A. <u>PURPOSE</u>	8
B. <u>GENERAL INFORMATION FOR VENDORS</u>	8
C. <u>ADDENDA TO THE IFB</u>	8
D. <u>CANCELLATION OF THE IFB</u>	8
E. <u>INCURRED EXPENSES</u>	8
F. <u>ECONOMY OF PREPARATION</u>	9
G. <u>ACCEPTANCE OF TERMS AND CONDITIONS</u>	9
H. <u>PROCUREMENT REGULATIONS</u>	9
I. <u>MULTIPLE BIDS</u>	9
J. <u>ALTERNATE SOLUTION BIDS</u>	9
K. <u>CONTRACTOR RESPONSIBILITIES</u>	9
L. <u>PUBLIC INFORMATION ACT</u>	9
M. <u>MINORITY BUSINESS ENTERPRISE NOTICE</u>	10
N. <u>ARREARAGES</u>	10
O. <u>TAXES</u>	10
P. <u>IFB RESPONSE MATERIALS</u>	10
Q. <u>BID SECURITY</u>	10
R. <u>MARYLAND PUBLIC ETHICS LAW</u>	11
SECTION III: SPECIFICATIONS/SCOPE OF WORK...	12
A. <u>BACKGROUND</u>	12
B. <u>SCOPE OF THE SERVICES</u>	12

SECTION IV: BID FORMAT...	13
A. <u>ONE PART SUBMISSION...</u>	14
B. <u>REQUIRED BID SUBMISSION</u>	14
SECTION V: APPENDICES AND ATTACHMENTS...	14
A. <u>APPENDIX A: UMBC PURCHASE ORDER TERMS AND CONDITIONS</u>	16
B. <u>APPENDIX B: BID PROPOSAL AFFIDAVIT</u>	21
C. <u>APPENDIX C: CONTRACT AFFIDAVIT</u>	27
D. <u>APPENDIX D: BID PRICE FORM</u>	31

TRANSIT SHUTTLE BUSES
SECTION I: SUMMARY INFORMATION

A. SUMMARY STATEMENT

The University of Maryland, Baltimore County (herein called the “University” or “UMBC”) intends to contract for the purchase of three transit shuttle buses for the UMBC campus. The intent of this solicitation is to identify a Contractor or Contractors who are qualified to provide these vehicles at a reasonable cost.

B. ISSUING OFFICE

Rob Johnson
UMBC
Procurement & Strategic Sourcing
Rjohns12@umbc.edu
410-455-3945

The sole point of contact in the University for purposes of this IFB is the issuing office. Any questions with regard to any aspect of this Invitation for Bids must be directed to Rob Johnson in writing.

C. QUESTIONS AND INQUIRIES

Questions and inquiries should be directed to the individual referenced with the Issuing Office above. All such questions and inquiries must be received by the close of business **Thursday, June 22, 2023 by 5 pm**. Inquiries will receive a written reply. Copies of replies will also be posted on eMaryland Marketplace.

D. DELIVERY OF BIDS

Bids must be delivered to: Proposa.1xijcndqorwo0oo4@u.box.com

E. BID OPENING DATE

In order to be considered, the original and one electronic version on electronic storage (CD or flash drive) of each bid must arrive at the issuing office by **Friday, July 7, 2023, no later than 2:00 p.m.** Vendors should confirm receipt to the Box address provided. If there are any issues or questions about this, email to the contract administrator issuing this Invitation should be sent as well. Delivery of proposals to the campus mailroom or any location other than this office or Box address will NOT be considered “delivered” until they have physically arrived and have been clocked-in at Procurement & Strategic Sourcing. Bids or unsolicited amendments to bids arriving after the closing date and time will not be considered.

F. PRE-BID CONFERENCE

A Pre-Bid Conference will not be held in conjunction with this IFB.

G. DURATION OF OFFER

Bids are to be held valid for 90 days following the closing date for this IFB. This period may be extended by mutual agreement between the vendor and the University.

H. TERM OF CONTRACT

The contract shall be for a period on or around **July 15, 2023 through June 30, 2024**. The University shall have the option to renew the contract for **four (4) additional one-year** terms, said option(s) to be exercised at the sole discretion of the University. Applicable pricing and/or Rates shall be firm during each year contract year.

I. EVALUATION OF BIDS/METHOD OF AWARD

Award will be made to the responsive and responsible bidder(s) that meets the entire requirement of the solicitation who provides the lowest price.

The lowest priced Contractor will be given the first opportunity to provide needed vehicles. If that Contractor is unable to provide any of the three (3) vehicles required, the Contractor must email an acknowledgement that they cannot meet the needs. Then the second lowest priced Contractor will be given the opportunity to fulfill the requirements at the quoted prices in the bid submission

J. BID ACCEPTANCE

The University reserves the right to accept or reject any and all bids, in whole or in part, received as a result of this IFB, to waive minor irregularities, to negotiate in any manner necessary to best serve the interest of the University. Further, the University reserves the right to make a whole award, multiple awards, a partial award or no award at all. The University reserves the right to increase or decrease the quantities of any materials, equipment, supplies or services.

K. FORMATION OF AGREEMENT/CONTRACT OR ISSUANCE OF PURCHASE ORDER

The Contract to be entered into as a result of this IFB (the "Contract") shall be by and between the bidder as Contractor and the University in the form of either a University **Purchase Order** or **Contract** and shall contain the provisions included herein as Appendix A (Schedule B) or Appendix C (Service Contract) as well as any additional terms required by the University of Maryland, Baltimore or the State of Maryland. By submitting an offer, the Contractor warrants that they have reviewed **Appendix C (Services)** and will execute a contract on that form upon request by University of Maryland, Baltimore County.

L. BID AFFIDAVIT AND CERTIFICATIONS [Greater than \$100,000]

State procurement regulations require that bids contain certifications regarding non-collusion, debarment, cost and price, etc. The affidavit form, which should be completed by all respondents and returned with their respective responses, is included as Appendix B of the IFB.

M. ELIGIBILITY TO PURCHASE

The pricing, terms and conditions of any successful bidders bid and any contract that results from this IFB may be made available to other agencies for cooperative procurements. By submitting a bid, the Contractor agrees to extend the bid price structure and discounts to all University System of Maryland campuses and facilities within the State of Maryland, and any other educational institution in the State of Maryland.

All purchases under this contract by any entity which is not a unit or agency of the State of Maryland (1) shall constitute a purchase or contract between the Contractor and that entity only, (2) shall not constitute a purchase or contract of the State of Maryland, (3) shall not be binding or enforceable against the State of Maryland or any of its units or agencies, and (4) may be subject to other terms and conditions agreed to by the Contractor and the purchases. Contractor bears the risk of determining whether any entity from which the Contractor receives an order under the Contract is a unit or agency of the State of Maryland such that the contract may be enforced against the State of Maryland.

TRANSIT SHUTTLE BUSES
SECTION II: GENERAL INFORMATION FOR VENDORS

A. PURPOSE

The overall purpose of this IFB is to provide information to vendors interested in preparing and submitting bids to meet the requirements for **Transit Shuttle Buses** described herein. Bids will be received for the services specified herein or attached hereto under the terms, conditions and general specifications of this IFB.

The resulting contract will be for the University of Maryland, Baltimore County and will be available for use by the University of Maryland System Institutions identified in this link: <http://www.usmd.edu/institutions/>.

B. GENERAL INFORMATION FOR VENDORS

1. Bids must be made in the official name of the firm or individual under whom business is conducted (showing official business address) and must be signed by a duly authorized person.
2. Each bidder must furnish all information required by the IFB. The person signing the bid must initial erasures or other changes. Bids signed by an agent of the corporation must be accompanied by evidence of their authority.
3. This Invitation for Bids creates no obligation on the part of the University to award the contract or to compensate offerors for Bid preparation expenses.

C. ADDENDA /AMENDMENT TO THE IFB

If it becomes necessary to revise any part of the IFB, addenda will be posted to the eBid Board at: <https://procurement.umbc.edu/bid-board/> It remains the responsibility of prospective Offerors to check the website frequently until the bid opening date for any addenda issued prior to the submission of bids.

An acknowledgement of the receipt of all amendments and addenda issued before the bid due date shall be required from all vendors submitting a bid.

D. CANCELLATION OF THE IFB

The University may cancel this IFB, in completely or in part, at any time.

E. INCURRED EXPENSES

The University will not be responsible for any costs incurred by any vendor in preparing and submitting a bid, delivery of or return of representative samples (if applicable).

F. ECONOMY OF PREPARATION

Bids should be prepared simply and economically, providing a straightforward, concise description of the vendor's offer to meet the requirements of the IFB.

G. ACCEPTANCE OF TERMS AND CONDITIONS

By submitting a Bid in response to this IFB, the firm accepts the terms and conditions set forth in this IFB.

H. PROCUREMENT REGULATIONS

The USM Procurement Policies and Procedures and the State Finance and Procurement Article of the Annotated Code of Maryland and by State Procurement Regulations, Code of Maryland Regulations Title 21, shall govern this IFB and any resulting contract as applicable.

I. MULTIPLE BIDS

Vendors may not submit more than one Bid.

J. ALTERNATE SOLUTION BIDS

Vendors may not submit an alternate to the solution given in this IFB.

K. CONTRACTOR RESPONSIBILITIES

The University shall enter into contractual agreement with the selected offering vendor(s) only. The selected vendor(s) shall be responsible for all products and/or services required by this IFB. Subcontractors, if any, shall be identified and a complete description of their role relative to the Bid shall be included. The University's intent is not to direct the use of any particular vendor, however, the vendor will not contract with any such proposed person or entity to whom the University has a reasonable objection. The University will make notification of such objection within 15 days of contract. The vendor shall be fully responsible for the acts and omissions of its subcontractors and of persons directly or indirectly employed by them.

L. PUBLIC INFORMATION ACT

Offerors must specifically identify those portions of their Bids, if any, which they deem to contain confidential, proprietary information or trade secrets and must provide justification why such material should not, upon request, be disclosed by the University under the Public Information Act, , Title 4, General Provisions Article, Annotated Code of Maryland.

Vendors must clearly indicate each and every section that is deemed confidential, proprietary or a trade secret (it IS NOT sufficient to preface your Bid with a proprietary statement). This confidential and/or proprietary information should be identified Failure to comply may result in rejection of your Bid.

M. MINORITY BUSINESS ENTERPRISE NOTICES

Minority Business Enterprises (MBE) are encouraged to respond to this solicitation notice.

N. ARREARAGES

By submitting a response to this solicitation, a vendor shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing the State of Maryland, including the payment of taxes and employee benefits and that it shall not become so in arrears during the term of the contract if selected for contract award.

O. TAXES

The University of Maryland, Baltimore is exempt from Federal Excise Taxes, Maryland Sales and Use Taxes, and the District of Columbia Sales Taxes and Transportation Taxes, except as noted in applicable sections of COMAR. Exemption Certificates shall be provided upon request. Where a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, Contractor shall pay the Maryland Sales tax and the exemption does not apply.

P. IFB RESPONSE MATERIALS

All written materials submitted in response to this IFB become the property of the University and may be appended to any formal documentation, which would further define or expand the contractual relationship between the University and the successful vendor(s).

Q. BID SECURITY

N/A

R. MARYLAND PUBLIC ETHICS LAW, TITLE 5

The Maryland Public Ethics Law prohibits, among other things: State employees or officials (and in some cases, former employees) and businesses in which such an individual is employed or holds a financial interest from (i) submitting a bid or proposal, (ii) negotiating a contract, and (iii) entering into a contract with the governmental unit with which the individual is affiliated per §5-502 of the Maryland Public Ethics Law, Title 5, General Provisions Article, Annotated Code of Maryland.

If the bidder/offeror has any questions concerning application of the State Ethics law to the bidder/offeror's participation in this procurement, it is incumbent upon the bidder/offeror to see advice from the State Ethics Commission; Office of the Executive Director, 9 State Circle, Suite 200, Annapolis, MD 21401, 410-974-2068 or toll free 1-877-669-6085.

The procurement officer may refer any issue raised by a bid or proposal to the State Ethics Commission. The procurement officer may require the bidder/offeror to obtain advice from the State Ethics Commission and may reject a bid or proposal that would result in a violation of the Ethics Law.

The resulting contract is cancelable in the event of a violation of the Maryland Public Ethics Law by the vendor or any State of Maryland employee in connection with this procurement.

TRANSIT SHUTTLE BUSES

SECTION III: SPECIFICATIONS/SCOPE OF WORK

A. **BACKGROUND**

Established in 1966, the University of Maryland, Baltimore County (UMBC) is one of twelve institutions that along with two regional centers constitute the University System of Maryland. UMBC is located on 482 acres with 4.2 million gross square feet and only 15 minutes from

Baltimore's Inner Harbor and 30 minutes from Washington, D.C. and five minutes from BWI Airport.

UMBC combines the emphasis on teaching found at the best liberal arts colleges with the innovation of a research university. UMBC's students take full advantage of the educational, business, cultural, and recreational resources of Baltimore and Washington, D.C. At UMBC, students work alongside faculty who are leaders in their fields; think about the hard questions of society, science, and creative expression; and then move beyond the classroom to make a difference.

B. **SCOPE OF SERVICES/SPECIFICATIONS**

This UMBC Invitation is brand and model specific (see below) as these three gasoline-engine buses will be transitioned to electric power in the future. This repowering transition is brand and chassis style specific. The addition of three shuttle units makes possible retirement of older gas and diesel-powered shuttle buses in support of the University's sustainable practices goals.

Delivery will be to the UMBC 1000 Hilltop Circle, Transit Offices, Warehouse B, Baltimore, MD 21250 no later than COB 5:00pm August 11, 2023. Late delivery penalty: \$100/day per bus per day.

The IFB is for three shuttle buses matching an existing fleet of Ford F550/2022 StarCraft Allstar XL Commercial Buses per specifications listed below. These gasoline-engine buses will be new and untitled vehicles and will have capacity of 28 ambulatory passengers or 24 ambulatory passengers and 2 wheelchair positions, rear door emergency exit, plus driver.

Chassis: 2022 Ford F550 DRW 7.3L Gas – 10 Speed Transmission

- | | |
|--------------------------------------|-----------------------------------|
| ○ Front Air Conditioner | ○ Daytime Running Lights |
| ○ 4.88 Ratio Limited Slip Axle | ○ XL Trim Package |
| ○ 19,500 GVWR | ○ Mor-Ryde RL Suspension |
| ○ .225/70R19-5G BSW All Season Tires | ○ Rear Step Bumper |
| ○ 238" Wheelbase | ○ Heavy Duty Driver Running Board |
| ○ Valve Stem Extenders | ○ Heated & Remote Mirrors |

Body: 2022 32' Starcraft Allstar XL

- | | |
|---|--|
| ○ Grey Padded Vinyl Driver Area | ○ Grey Padded Vinyl Interior (Walls & Ceiling) |
| ○ Gerflor Sirius #6727 Anthracite (Grey) | ○ Yellow Step Nosing |
| ○ Yellow "Standee" Line | ○ 90K A/C With Roof Condenser |
| ○ Destination Sign Prep Package | ○ 2 - 65,000 BTU Heaters |
| ○ Intermotive Flex Tech Electrical Systems | ○ Surface Mount LED Entry Door Exterior Light |
| ○ LED Rear Center Mount Brake Light | ○ Deluxe AM/FM/4-Speakers |
| ○ Raised Floor | ○ Standard Roscoe Back-up Camera System w/ 7" Rearview Monitor |
| ○ Interior LED Light in Ceiling at Passenger Door | ○ Rear Door w/two Windows |
| ○ Electric Passenger Door | ○ Overhead Luggage Racks – Both Sides |
| ○ Roof Hatch Transpec 1973 Series Vent II | |

- Double Wheelchair Doors w/Windows, Interior Light, Leaf Spring, LED Exterior Lighting
- 2 - Q8301-L Max Retractor Tie Down, Q8-6326-A1 Lap/Shoulder, L Track
- 5 lb. Fire Extinguisher
- Body Fluid Kit
- Back-Up Alarm
- Interior Convex Mirror 6"x9"
- Decal "Please Stand Behind Yellow Line While Vehicle is in Motion"
- 1-1/4" Grab Handle Parallel to Entrance Steps (Both Sides)
- 12 – Berkshire Double High Back Seats –Level 4 – Sierra Black
- 14 – Black US Armrest
- Braun Century NCL 919-2 800# Lift (34"x51")
- Fast Idle Interlock
- Q Straint Storage Pouches
- Q Straint Belt Cutter
- 25 Unit First Aid Kit
- Emergency Triangle Kit
- Decal "Please Fasten your Seat Belt"
- Decal – Vehicle Height
- Stanchion and Modesty Panel Behind Driver
- Ford OEM Drivers Seat RH Armrest
- 2 – Fold Away High Back Double – Level 4 – Sierra Black
- 4 –USR Seat Belts on Foldaways
- 24 – Retractable Seat Belts

Miscellaneous requirements:

- Exterior body paint – Ford Tuxedo Black with white roof canopy
- Digital Destination Signs – front facing and curb-side mounted TwinVision brand signs
- Wheels painted argent
- Front mounted – 2 position Bike Rack – Sportwerks brand
- Stop Request System Transign brand – wall mounted touch-tape throughout passenger cabin, both seated sides
- Rear door interior latch including starter interrupt
- Curbside overhead passenger aisle side ASC brand ceiling mounted handhold rail through the extent of seated area.

TRANSIT SHUTTLE BUSES
SECTION IV: BID FORMAT

A. ONE PART SUBMISSION

Bidders shall submit one original, one (1) copy of the original, and one electronic version of their entire bid on electronic storage (CD or flash drive) in a single sealed package/envelope.

Each bidder is required to label the sealed bid. The bid label shall bear the IFB title and number, name and address of the Bidder, and closing date and time for receipt of the Bids.

B. REQUIRED BID SUBMISSION

Bidders shall include the following with their Bid:

- a. **Transmittal Letter:** A transmittal letter prepared on the vendor's business stationery should accompany the Bid. The purpose of this letter is to transmit the Bid; therefore, it should be brief. An individual who is authorized to bind the firm to all statements, including services and prices, contained in the Bid, must sign the letter. The Transmittal should include the following:
 - Name and address of the Bidder;
 - Name, title, email address and telephone number of primary contact for the Bidder;
 - Solicitation Title and Solicitation Number that the Bid is in response to;
 - Signature, typed name, and title of an individual authorized to commit the Bidder to its Bid;
 - Federal Employer Identification Number (FEIN) of the Bidder, or if a single individual, that individual's Social Security Number;
 - Bidder's MBE certification number (if applicable);
 - Any information, which is claimed to be confidential, is to be noted by reference and included in the Transmittal Letter. Each page that is confidential or proprietary should be marked.
- b. Appendix H- Bid Price Sheet
- c. Appendix B- Bid Affidavit
- d. References are requested from customers who are capable of documenting the bidder's ability to provide the services as detailed in Appendix F.
- e. Requested items listed in Section III.B. 15
- f. Acknowledgement of Amendment (if any)

TRANSIT SHUTTLE BUSES
SECTION V. APPENDICES AND ATTACHMENTS

APPENDIX A-	UMBC Purchase Order Terms and Conditions
APPENDIX B -	Bid/Proposal Affidavit
APPENDIX C-	Contract Affidavit
APPENDIX D-	Bid Price Form

Appendix A

UNIVERSITY OF MARYLAND, BALTIMORE COUNTY PURCHASE ORDER TERMS & CONDITIONS

1. **Complete Agreement:** The purchase order and these terms and conditions, together with any other documents incorporated by reference, constitute the sole and entire agreement between the University and the Seller with respect to the subject matter, superseding completely any oral or written communication unless the terms are expressly incorporated into additional written documentation that has been accepted by the University as indicated by an authorized execution of the documentation. Where Seller's quotation is referenced in the purchase order, such quotation is incorporated into the purchase order only to the extent of specifying the nature or description of the goods or services ordered.
2. **Agreement Terms:** The performance of the purchase order shall be governed solely by the terms and conditions as set forth in this document, notwithstanding any language contained on any invoice, shipping order, bill of lading, or other document furnished by the Seller at any time. The acceptance by the University of any goods or services shall not be construed as acceptance by the University of any terms or conditions which are inconsistent with the terms and conditions stated herein. In the event that Seller enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal, or in writing, with University's employees or students, such agreements shall be null, void, and without effect, and the terms of this Agreement shall apply. Additionally, all terms and conditions in any University solicitation are made part of this Agreement, as applicable. Any contrary, inconsistent, or additional terms appearing in Seller's purchase orders, invoice, shipping order, bill of lading, acknowledgements, or other documents are not binding on the University.
3. A separate invoice for this purchase for each shipment thereon shall be rendered immediately following shipment. All copies of invoices must be forwarded directly to the University of Maryland, Baltimore County, Accounts Payable Department, Administration Building, 1000 Hilltop Circle, Baltimore, MD 21250 or emailed to: busserv@umbc.edu.
4. The Seller's Federal Identification Number or Social Security Number must be included on each invoice. Questions concerning invoices should be referred to (410) 455-3638.
5. The purchase order number must be shown on all related invoices, delivery memoranda, bills of lading, packages, and correspondence. **FAILURE TO INCLUDE THE PURCHASE ORDER NUMBER MAY RESULT IN THE INVOICE BEING RETURNED TO THE SELLER OR SHIPMENTS BEING REJECTED.**
6. **Tax Exemption.** The University, as an instrumentality and agency of the State of Maryland, is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes, and transportation taxes. Exemption certificates shall be provided upon request. Where a Seller is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Seller shall pay the Maryland Sales Tax and the exemption does not apply.
7. **Payment of University Obligations.** Payments to the Seller pursuant to this Agreement shall be made no later than 45 days after the University's receipt of a proper invoice from the Seller. Charges of late payment of invoices are prohibited, other than as prescribed by the Maryland Code, State Finance and Procurement Article, §15-101 et seq., as amended.
8. **Specifications.** All goods or services shall conform to Federal and State laws and regulations, and to the specifications contained in the purchase order or solicitation, as applicable. The University assumes no obligation for goods shipped in excess of the quantity ordered. Any over shipments will be subject to rejection and will be returned at Seller's expense.
9. **Delivery and Packing.** All deliveries shall be FOB destination. All prices quoted must include delivery. All goods delivered under this purchase order shall be packaged in accordance with accepted trade practices. No charges may be made above a quoted price for packaging unless specified in the quote. No charge will be allowed for cartage unless by prior written agreement. Delivery shall be made in accordance with instructions on the purchase order. A packing slip shall be included in each shipment. All deliveries must be prepaid and must be delivered to each location designated on purchase order at no additional cost. **DELIVERIES MUST BE MADE TO THE SPECIFIED LOCATION. NO COLLECT SHIPMENTS OR SIDEWALK DELIVERIES WILL BE ACCEPTED.**
10. **TIME IS OF THE ESSENCE.** Time is of the essence in performance of this purchase order. The University, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Seller's control. No charges or claims for damages shall be made by Seller for any delays or hindrances from any cause whatsoever during the progress of any portion of Seller's obligations specified in this Agreement. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of Seller, including but not limited to, acts of God, acts of public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Seller in the performance of an agreement with the State or the University, changes in law or regulation, action by government or other competent authority, fires, earthquakes, floods, epidemics, quarantine restrictions, strikes, freight embargoes, malicious or criminal acts of third parties, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either Seller or the subcontractors or suppliers.
11. **Inspection and Acceptance.** No goods received by the University pursuant to the purchase order shall be deemed accepted until the University has had reasonable opportunity to inspect said goods for hidden damage or failure to meet specifications. Damaged/unacceptable goods shall be rejected and will be returned at Seller's expense for full credit or replacement at the University's sole option and discretion. The University reserves the right to test any goods, or effectiveness of services, delivered to determine if the specifications have been met. The University reserves the right to purchase replacement materials in the open market. Seller, failing to promptly replace materials lawfully rejected, shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.
12. **Suspension of Performance.** The University's Procurement Officer unilaterally may order the Seller in writing to

suspend, delay, or interrupt all or any part of its performance under this Agreement for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the University. Seller agrees to prosecute its obligations under this Agreement continuously and diligently. Such suspension, delay, or interruption may be subject to applicable fees and expenses incurred by the Seller. Such fees and expenses, if any, will be subject to negotiation between the University and the Seller.

13. **Warranty.** Seller expressly warrants that all goods and services offered shall conform to each and every specification, drawing, sample, or other description which is furnished to or adopted by the University and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect. Such warranty shall survive this purchase Agreement and shall not be deemed waived either by the University's acceptance of said goods and services, in whole or in part, or by payment for them, in whole or in part. The Seller further warrants all goods and services performed for a period of one (1) year from date of acceptance of the items delivered and installed, unless a longer period is otherwise provided as a component of the purchase. All repairs, replacements, or adjustments during the warranty period shall be at Seller's expense.
14. **Responsibility for Technology Export Control.** The Seller shall comply with all applicable U.S. export control laws and regulations in the performance of this purchase order, and the distribution and use of resulting work products. Generally, U.S. export control laws and regulations apply to any shipment, transmission, transfer, or exposure to any foreign person, as defined in 22 CFR 120.16, of commodities (equipment, hardware, or material); technology (technical data, information, or assistance); and software (commercial or custom), regardless of where (inside or outside the United States) or whom it may occur. The Seller shall be responsible for obtaining the appropriate licenses or other approvals for exports of commodities, technology, and software, unless an exemption or exception applies. The Seller shall also be responsible for obtaining the appropriate licenses or other approvals before utilizing a foreign person or entity in the performance of this purchase order, including instances where the work is to be performed at the University, where the foreign person or entity will have access to any information, technology, or software subject to export control. The Seller shall be responsible for all regulatory record-keeping requirements associated with the use of license exemptions and exceptions. The Seller shall ensure that the provisions of this clause apply to its subcontractors. In the event that export controlled information is required to be provided by Seller to University, the seller will so inform the University in writing and mark all Proprietary Information, which is subject to U.S. Export Control Laws and Regulations, with the Export Control Classification Number (ECCN). Notice of such information will be directed to the University's Authorized Representative prior to any such disclosure, and the University shall not be forwarded or provided any export controlled information without the express written permission of the University.
15. **Non-Hiring of Employees.** No employee of the State, or any department, commission, agency, or branch thereof, whose duties include matters relating to or affecting the subject matter of this Agreement shall, while so employed, become or be an employee of the party or parties hereby contracting with the State or any unit thereof, including the University.
16. **Non-Discrimination.** During the performance of this purchase order, the Seller agrees as follows: (a) The Seller will not discriminate against any employee, applicant for employment, or individual because of race, color, religion, creed, age, sex, gender, pregnancy, ancestry, sexual orientation, gender identity or expression, marital status, national origin, veteran's status, genetic information, or physical or mental handicap. The Seller will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, veteran's status, genetic information, or physical or mental handicap; (b) The Seller shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must, at minimum, contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined; (c) The Seller will post in conspicuous places, available to employees, applicants for employment, and representatives of each labor union with which the covered Seller has a collective bargaining agreement, notices setting forth the provisions of the nondiscrimination clause in subsection (a); (d) In the event of the Seller's noncompliance with the nondiscrimination clause, this purchase order may be cancelled, terminated, or suspended in whole or in part and the Seller may be declared ineligible for further agreements with the University; and (e) The Seller will include the provisions of paragraphs (a) through (d) in every subcontract so that such provisions will be binding upon each subcontractor.
17. **Financial Disclosure.** The Seller shall comply with the Maryland Code, State Finance and Procurement Article, §13-221, as amended, which requires that every business that enters into contracts, leases or other agreements with the State and receives in the aggregate \$200,000 or more during a calendar year shall, within 30 days of the time when the \$200,000 is reached, file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business.
18. **Political Contribution Disclosure.** The Seller shall comply with the provisions of the Maryland Code, Election Law Article, §§14-101 through 14-109, as amended, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, or a political subdivision of the State, including its agencies, during a calendar year under which the person receives in the aggregate \$200,000 or more, shall file with the State Administration Board of Election Laws, a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.
19. **Anti-Bribery.** The Seller warrants that neither it nor any of its officers, directors, or partners nor any of its employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government or has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government.
20. **Ethics.** This purchase order is cancelable in the event of a violation of the Maryland Public Ethics Laws by Seller or any University employee in connection with this Agreement.
21. **Prohibition on Gifts and Gratuities.** Seller warrants that it has not offered or given, and will not offer or give, to any

- employee, or representative or family member of a University employee, a payment, gratuity, personal service, entertainment, or gift, other than novelty advertising items of a nominal value (e.g. pens, pencils, calendars, writing pads, clipboards, cups). Legitimate business-related activities (e.g. site inspections, business symposiums, business meals, and other Seller functions) are allowed. Any other offerings may be construed as Seller's attempt to improperly influence decisions at the University. Seller agrees that the University may, by written notice to Seller, terminate this purchase order if the University determines that Seller has violated this provision.
22. **Registration.** Pursuant to the Maryland Code, Corporations and Associations Article, §7-201 *et seq.*, as amended, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in the State, a foreign corporation shall qualify with the Department of Assessments and Taxation.
23. **Contingent Fees.** The Seller warrants that it has not employed or retained any person, partnership, corporation, or other entity other than a bona fide employee or agent working for the Seller, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Agreement.
24. **EPA Compliance.** Goods or services shall comply in all respects with the Federal Noise Control Act of 1972 where applicable.
25. **Occupational Safety and Health Act (O.S.H.A.).** All goods or services supplied as a result of this Agreement shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards.
26. **Termination for Convenience.** Upon written notice to the Seller, the University may terminate this purchase order, in whole or in part, whenever the University shall determine that such termination is in the best interest of the University. The University shall pay all reasonable costs associated with the termination of the purchase order. However, the Seller may not be reimbursed for anticipatory profits. Termination hereunder, including the determination of rights and obligations of the parties, shall be governed by the provisions of the University System of Maryland (USM) Procurement Policies and Procedures.
27. **Termination for Default.** When the Seller has not performed, or has unsatisfactorily performed this Agreement, payment shall be withheld at the discretion of the University. Failure on the part of a Seller to fulfill contractual obligations shall be considered just cause for termination of the purchase order and the Seller is not entitled to recover any costs incurred by the Seller up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of the USM Procurement Policies and Procedures.
28. **Disputes.** This Agreement shall be subject to the USM Procurement Policies and Procedures. Pending resolution of the claim, the Seller shall proceed diligently with the performance of this Agreement in accordance with the Procurement Officer's decision.
29. **Changes.** This Agreement may be amended only with the written consent of both parties. Amendments may not change significantly the scope of the Agreement (including the price).
30. **Multi-Year Contracts Contingent upon Appropriations.** If the General Assembly or other funding source fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Agreement succeeding the first fiscal period, this Agreement shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the University's rights or the Seller's rights under any termination clause in this Agreement. The effect of termination of the Agreement will be to discharge both the Seller and the University from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. The Seller shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Agreement. The University shall notify the Seller as soon as it has knowledge that funds may not be available for the continuation of this Agreement for each succeeding fiscal period beyond the first.
31. **Intellectual Property.** Seller agrees to indemnify and save harmless the University, its officers, agents and employees with respect to any claim, action, cost, or judgment for patent infringement, or trademark or copyright violation arising out of purchase or use of goods or services covered by this purchase order.
32. **Maryland Public Information Act.** Seller recognizes that the University is subject to the Maryland Public Information Act, Maryland Code, General Provisions Article, Title 4, as amended. Seller agrees that it will provide any justification as to why any information, in whole or in part, is deemed to be confidential, proprietary information, or trade secrets, and provide any justification why such information should not be disclosed pursuant to the Maryland Public Information Act.
33. **Pre-Existing Regulations.** The regulations set forth in USM Procurement Policies and Procedures in effect on the date of the issuance of the purchase order are applicable to this Agreement.
34. **Indemnification.** The University shall not assume any obligation to indemnify, hold harmless, or pay attorneys' fees that may arise from, or in any way be associated with, the performance or operation of this agreement. The Seller shall be responsible for all damage to life and property due to its activities or those of its agents or employees, in connection with the services or goods required under the purchase order. The Seller shall defend and indemnify the University against, and shall hold the University harmless from, any claims made by any person or entity as a result of injuries, damages, expenses and losses incurred by such a person or entity, including without limitation such person's or entity's legal cost and attorney's fees (hereinafter collectively "Liabilities"), arising out of or relating to Seller's performance or failure to perform pursuant to the purchase order, except to the extent that the Liabilities are a result of the direct and sole negligence of the University. This provision shall survive the termination or completion of the work or expiration of the purchase order.
35. **Conflicting Terms.** Any proposal for terms in addition to or different from those set forth in this purchase order, or any attempt by the Seller to vary any of the terms of this offer by Seller's acceptance, shall not operate as a rejection of this offer, unless such variance is in the terms of the description, quantity, price, or delivery schedule, but shall be deemed a

material alteration thereof, and this offer shall be deemed acceptable by the Seller without the additional or different terms. If this purchase order is an acceptance of a prior offer by the Seller, the acceptance is expressly conditioned upon Seller's assent to any additional or different terms contained herein. The Seller understands and agrees that the terms and conditions of this purchase order may not be waived.

36. **Drug and Alcohol Free Workplace.** The Seller warrants that the Seller shall comply with COMAR 21.11.08 Drug and Alcohol Free Workplace, and that the Seller shall remain in compliance throughout the term of this purchase order.
37. **Civil Rights Act of 1964.** Sellers providing goods or services to the State under this Agreement represent and warrant that they are conforming to the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1988, and the Civil Rights Act of 1991, and Section 202 of Executive Order 11246 of the President of the United States of America as amended by Executive Order 11375, as applicable.
38. **Affirmative Action.** The Seller and all subcontractors shall develop and maintain affirmative action plans directed at increasing the utilization of women and members of minority groups on State public works projects, pursuant to the Executive Order 11246 of the President of the United States of America and guidelines on Affirmative Action issued by the Equal Employment Opportunities Commission (EEOC) 29 C.F.R. part 1608 and the Governor of Maryland's Executive Order 01.01.1993.16.
39. **Retention of Records.** The Seller shall retain and maintain all records and documents relating to this Agreement for three years after final payment by the University hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the University, including the Procurement Officer or designee, at all reasonable times. Upon demand of the University, Seller will deliver a copy of records related to this Agreement to the University.
40. **Maryland Law Prevails.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, without regard to its conflicts of law or choice of law principles. Any legal proceeding arising out of or relating to the Agreement shall be brought in and heard by the courts of the State of Maryland, and the parties voluntarily consent to the exclusive jurisdiction of the courts of this State for any such proceeding.
41. **Software Contracts:** As specifically provided by the provisions of the Maryland Code, Commercial Law Article, §22-104, the parties agree that this Agreement shall not be governed by the Maryland Uniform Computer Information Transaction Act ("UCITA"), Maryland Code, Commercial Law Article, §§ 22-101 through 22-816, as amended from time to time. This Agreement shall be governed by the common law of Maryland relating to written agreements, as well as other statutory provisions, other than UCITA, which may apply, and shall be interpreted and enforced as if UCITA had never been adopted in Maryland. Seller represents, warrants and agrees that, as delivered to the University, the software does not contain any program code, virus, worm, trap door, back door, timer, or clock that would erase data, or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of Seller selected conditions, or manually on command of Seller. Additionally, the terms and conditions of the UMBC Software Addendum shall apply.
42. **Reimbursable Expenses.** Any reimbursable expenses incurred by the Seller in the performance of the scope of work, as applicable, may be reimbursed in accordance with USM and UMBC policies and procedures, as pre-approved by the University.
43. **Security Interest.** The University is not authorized to grant a security interest to Seller.
44. **Insurance.** The University of Maryland, Baltimore County, as a constituent institution of the University System of Maryland, agency of the State of Maryland, is self-insured, pursuant to the Maryland Code, State Finance and Procurement Article, Title 9, as amended, through the State of Maryland under the Maryland Tort Claims Act. As a self-insured entity, the University is unable to insure any outside entities or name third parties as additional insured.
45. **FERPA Obligations.** Seller acknowledges that the University is obligated to comply with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. §1232g) as amended ("FERPA"). Seller agrees that Seller is a "School Official" (as that term is used in FERPA) with a "legitimate educational interest" in any University Data or University Content that is protected by FERPA, and therefore, Seller agrees that with respect to all University Content and University Data that is protected by FERPA that Seller accesses, receives, stores, or controls, Seller will comply with all obligations that FERPA imposes on a "School Official". Notwithstanding anything in this Agreement to the contrary, Seller shall not use or disclose University Content or University Data, including education records as defined by FERPA, except as necessary (i) to provide the service offerings to University and any End Users in accordance with the Documentation, or (ii) to comply with applicable law (including subpoenas) or a binding order of a Governmental Authority. Seller will give the University reasonable notice of any such request of a governmental or regulatory body (including any subpoena) to allow the University to seek a protective or other appropriate remedy (except to the extent Seller's compliance with the foregoing would cause it to violate a binding order of an Authority or applicable law). Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement is intended to limit Seller's obligations under this Section. Seller shall indemnify and hold harmless the University from and against any and all claims, suits, proceedings, costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs, attorney's fees, and other reasonable expenses of litigation, which may arise out of, relate to, or be a consequence of, an unauthorized disclosure of education records. Seller will, upon discovery, or receipt of notice, of a potential, or actual, material unauthorized disclosure of education records, immediately report said occurrence to the University. Seller will work with the University to remediate the unauthorized disclosure (or anticipated unauthorized disclosure) at the expense of Seller. The terms of the remediation are the sole and exclusive determination of the University.
46. **Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191. ("HIPAA") and Maryland Confidentiality of Medical Records Act (Maryland Health – General Code Annotated §§4-301 et seq. ("the Act").** Seller agrees that Seller's access to and use of protected health information (as defined by HIPAA), if any, under this Agreement will be conducted in accordance with the requirements of the Act and HIPAA, including the terms of a HIPAA Business Associate Agreement if so required by the University. Seller shall also cause any subcontractor, agent, or party

within Seller's direction or control that is participating in this Agreement to promptly execute a standard HIPAA Business Associate Agreement if so requested by the University.

47. **Certification regarding Investments in Iran.** The Seller certifies that, in accordance with the Maryland Code, State Finance & Procurement Article, §17-702 and §17-705, as amended, (i) it is not identified on the list created by the Maryland Board of Public Works as a person engaging in investment activities in Iran; and (ii) it is not engaging in investment activities in Iran. If Seller is unable to make the aforementioned certification regarding its investment activities in Iran, it shall immediately notify the University and provide the details of such activities.

48. **Insolvency.** If the University has reasonable cause to believe the Seller is insolvent, or if any petition in bankruptcy or under any law for the relief of debtors is filed by or in respect of Seller, then at the option of the University, this Agreement shall immediately terminate. In no event shall the Agreement become an asset in any such proceeding nor shall the University be bound hereby after any act of bankruptcy by Seller. Any delay by the University in the exercise of right to terminate under this section shall not diminish or waive that right.

49. **Compliance with University Policies.** While on the University's campus for the performance of work or any deliveries, the Seller agrees to comply with all applicable University policies. Seller understands that the University is an active higher education campus and that all delivery of services or work must be performed in a manner to minimize disruption of operations. Under no circumstance shall any driveway, access road, or walkway be blocked by Seller's vehicles to prohibit use of, or disruption to pedestrian or vehicular traffic to the buildings.

Parking. If at any time Seller shall be on the premises of the University, then Seller is responsible for acquiring a valid University parking permit, obeying all parking regulations, and paying all fines assessed for violations of parking regulations. Seller is responsible for ensuring this clause is included in Seller's agreements with subcontractors.

Smoke Free Campus. University is a smoke free environment. Fines may be assessed for violations. Seller is responsible for ensuring this clause is included in Seller's agreements with subcontractors.

50. **Insurance and Indemnification.** Seller shall defend, indemnify, and save harmless the University, University System of Maryland, its officers, employees, and agents, from any and all claims, liability, losses, and causes of actions which may arise out of the performance by the Seller, employees, subcontractors, or agents, of the work covered under this Agreement.

The Seller shall secure, pay the premiums for, and keep in force until the expiration of this Agreement, adequate insurance as provided below, such insurance to specifically include liability assumed by the Seller under this Agreement.

i) Commercial General Liability Insurance including all extensions: \$2,000,000 each occurrence; \$2,000,000 personal injury; \$2,000,000 products/completed operations; \$2,000,000 general aggregated.

ii) Workmen's Compensation Insurance and Unemployment Insurance as required by the laws of the State of Maryland.

iii) Owner's Landlord's and Tenant's and Contractor's bodily injury liability insurance, with limits of not less than \$500,000 for each person and \$2,000,000 for each accident.

iv) Property damage liability insurance with a limit of not less than \$2,000,000 for each accident.

v) If automotive equipment is used in the performance of this Agreement, automobile bodily injury liability insurance with limits of not less than \$1,000,000 for each person and \$2,000,000 for each accident, and property damage liability insurance, with a limit of not less than \$2,000,000 for each accident.

vi) Food products liability insurance, if not included in the Comprehensive, with limits of not less than \$1,000,000 for each person and \$2,000,000 for each accident.

Limits of insurance may be achieved either singularly or by combination of applicable coverages. A policy which allows the costs associated with investigating, management, or defense of any claim, or any other cost incurred by the insured or the insurance carrier, to be deducted from the policy limits is not acceptable.

All policies for liability protection, bodily injury, or property damage and fiduciary bonding must specifically name on its face the University of Maryland, Baltimore County and the University System of Maryland as additional named insured with respect to operations under this Agreement, including but not limited to Seller's data center or other premises where the University's data is stored, provided, however, with respect to Seller's liability for bodily injury or property damages above, such insurance shall cover, and not exclude, Seller's liability for injury to the property of the University and to the persons or property of employees, students, faculty members, agents, officers, regents, invitees, or guests of the University.

Seller will take commercially reasonable and practical steps to ensure that each insurance policy contains endorsements, identical to, or nearly identical to, the following: "It is understood and agreed that the Insurance Company shall notify the UMBC Procurement Officer in writing forty-five days (45) in advance of the effective date of any reduction in or cancellation of this policy." Upon the request of the Procurement Officer, a certified true copy of each policy of insurance including the above endorsement manually countersigned by an authorized representative of the insurance company shall be furnished to the Procurement Officer. Notices of policy changes shall be furnished to the Procurement Officer. All required insurance coverages must be acquired from insurers allowed to do business in the State of Maryland. The insurers must have a policy holder's rating of "A- or better."

51. **Publicity/Use of Name and Logo.** Seller is authorized to identify the University as a party to this Agreement for the purpose of identifying the University as a customer to potential customers. However, any other use of the University's name promotionally or otherwise in connection with Seller's business or the subject matter of this Agreement is prohibited without the prior written consent of the University. This Agreement does not include a trademark license. Except as allowed by law for limited informational purposes, the University grants no rights to use any of its trademarks or service marks, for any purpose, without the prior and explicit written permission of the University. Under no circumstances does the University grant the right to use its logos or marks or any related products or services. Any violation of this Section will be considered a material breach of this Agreement and grounds for its immediate termination in the University's sole discretion.

52. **Set-Off.** The University and State of Maryland may deduct from and set-off any amounts due and payable to the Seller, including but not limited to, any back-charges or damages sustained by the University by virtue of any breach of this Agreement by the Seller or by virtue of the failure or refusal of the Seller to perform the Services or any part of the Services in a satisfactory manner. Nothing herein shall be construed to relieve the Seller of liability for additional costs resulting from a failure to satisfactorily perform the Services.
53. **Prohibition Against Shifting Maryland Income to Out-of-State Affiliates.** Seller may not, for any period during this Agreement term, seek to reduce the amount of Seller's income subject to Maryland income tax by payments made to an affiliated entity or an affiliate's agent for the right to use trademarks, trade names, or other tangible property associated with Seller. Seller agrees that during the course of this Agreement it shall not make any such royalty or similar payments to any affiliated company; and if any such royalty or similar payments are made, Seller and the affiliated company shall file separate Maryland income tax, under a formula that reasonably apportions the income of the affiliated company among the states, including Maryland, in which the Seller does business. Seller agrees that it is authorized to bind its affiliated entities to the terms hereof.
54. **Reporting of Suspected Child Abuse and Neglect.** Maryland law requires any person who suspect child abuse or neglect to report it. Contractors, including Seller, must comply with the University System of Maryland [Board of Regents Policy VI-1.50 – Policy on the Reporting of Suspected Child Abuse & Neglect](#). This Policy is incorporated into this Agreement. The University reserves the right to terminate this Agreement if the Seller fails to comply with this Policy or if the University determines termination is necessary to protect a child's safety or welfare. Any required report must be made to the University Human Relations Office, and the Chief of University Police, and to the local department of social services or law enforcement agency.
55. **Remedies; Damages.** The University shall not waive or limit direct damages arising out of this Agreement and Seller's actions or omissions. The University does not assume any cost of servicing, repair, or correction of problems caused by Seller's acts or omissions, or by viruses or other harmful components. Any limitation of damages shall not apply to Seller's breach of any privacy or other law, or claim of intellectual property infringement. University reserves its right to protest and object to Injunctive Relief on the part of the Seller. The University does not waive any legal remedy, including participation in a class action.
56. **Statute of Limitations and Notice.** University does not waive any statutorily provided claim limitation period or statutorily required notice provision.
57. **Confidentiality.** Seller shall be responsible and liable for any breach of confidentiality by a sub-contractor or third party to which Seller discloses the University's confidential information or to which Seller engages to fulfill Seller's obligations under this Agreement.
58. **Responsibility of Seller.** The Seller shall perform the services with that standard of care, skill, and diligence normally provided by a Seller in the performance of services similar to the services hereunder. Notwithstanding any review, approval, acceptance, or payment for the services by the University, the Seller shall be responsible for professional and technical accuracy of Seller's work, design drawings, specifications and other materials or goods furnished by the Seller under this Agreement.
59. **Force Majeure.** If either party's performance is rendered impossible, hazardous, or is otherwise prevented or impaired due to sickness, inability to perform, accident, interruption or failure of a means of transportation, acts of god, riots, strikes, labor difficulties, epidemics, earthquakes, any act or order of any public authority, or any other cause or event, similar or dissimilar, beyond that party's control, then each party's obligations with respect to the affected performance shall be excused and neither party will have any other liability in connection to the performance.
60. **Waiver of Jury.** The University and Seller waive trial by jury in any action or proceeding to which they are parties arising out of or in any way pertaining to this Agreement. It is agreed and understood that this waiver constitutes a waiver of trial by jury of all claims against all parties who are not parties to this Agreement. This waiver is knowingly, willingly, and voluntarily made by the University and the Seller, who represent and warrant that no representations of fact or opinion have been made to an individual to induce this waiver of trial by jury or to in any way modify or nullify its effect.

Appendix B

BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title) _____ and the duly authorized representative of (business) _____ and that I possess the legal authority to make this Affidavit on _____ behalf of myself and the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. Certification Regarding Minority Business Enterprises.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, §14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the _____ date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing

contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall,

within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101—14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

K. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

(i) The dangers of drug and alcohol abuse in the workplace;

(ii) The business' policy of maintaining a drug and alcohol free workplace;

(iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §K(2)(b), above;

(h) Notify its employees in the statement required by §K(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

(i) Take appropriate personnel action against an employee, up to and including termination; or

(ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §K(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §K(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic ____) (foreign ____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: _____ Address: _____ .

(If not applicable, so state).

(2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

N. Repealed.

O. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____ (Authorized Representative and Affiant)

Appendix C

CONTRACT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, (print name) _____ possess the legal authority to make this Affidavit.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable items):

- (1) Corporation — ___ domestic or ___ foreign;
- (2) Limited Liability Company — ___ domestic or ___ foreign;
- (3) Partnership — ___ domestic or ___ foreign;
- (4) Statutory Trust — ___ domestic or ___ foreign;
- (5) ___ Sole Proprietorship

and is registered or qualified as required under Maryland Law.

I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID

Number: _____ Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: _____

Address: _____.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Annotated Code of Maryland, Section 101 *et seq.*, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$200,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
 - (c) Prohibit its employees from working under the influence of drugs or alcohol;
 - (d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
 - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
 - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business's policy of maintaining a drug and alcohol free workplace;

- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
 - (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), of this regulation;
 - (h) Notify its employees in the statement required by §E(2)(b), of this regulation, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
 - (i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction;
 - (j) Within 30 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
 - (i) Take appropriate personnel action against an employee, up to and including termination; or
 - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
 - (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), of this regulation.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), of this regulation, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.
- (4) I acknowledge and agree that:
- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
 - (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
 - (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 20____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (printed name of Authorized Representative and affiant)

_____ (signature of Authorized Representative and affiant)

Appendix D

Price Form – Pricing and Delivery Schedule

Bus Make & Model	Number of Buses	Cost
		\$

- Pricing should include all the parts and pieces (You can provide specific breakdown, but total cost will be key)
- If there are exceptions that you cannot determine ability to provide then your proposal is not viable as reviewable
- We want three units in total
- Multiple awards may be made. (I.e. if one company is able to supply one, but not two, or another company two, but not three, that is acceptable)
- Timeline for delivery is set and not flexible