



Purchasing Services

## REQUEST FOR PROPOSAL (RFP)

TITLE: PROVISION OF CARDIAC HOLTER AND EVENT MONITORS  
WITH ACCESSORIES AND MONITORING SERVICES

RFP NUMBER: P13-033

DATE ISSUED: January 25, 2013

DUE DATE: March 14, 2013

TIME: 2:00 P.M.

LOCATION: UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY  
DEPARTMENT OF PURCHASING SERVICES  
LIBERTY PLAZA  
335 George Street, 2<sup>nd</sup> Floor  
New Brunswick, New Jersey 08903

Important Note: Bidders should check Section 1.3 of this document to verify if attendance at a mandatory event (e.g., pre-bid conference, site visit, etc.) is required for this procurement. Failure to attend a mandatory event will result in the rejection of your proposal.

In accordance with the requirements of this proposal, the undersigned offers and agrees, if their proposal is accepted, to furnish any and all services for which the prices are submitted in accordance with the attached conditions as specified in this proposal.

BIDDER NAME: \_\_\_\_\_

BIDDER REPRESENTATIVE:

ADDRESS: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_

EMAIL: \_\_\_\_\_

FAX NO.: \_\_\_\_\_

FED. TAX ID: \_\_\_\_\_

\_\_\_\_\_  
BIDDER'S AUTHORIZED SIGNATURE

*Request for Proposal: (RFP # P13-033) Provision of Cardiac Holter and Event Monitors with Accessories and Monitoring Services*

## 1.0 INFORMATION FOR BIDDERS

### 1.1 **Purpose and Intent of the Procurement**

#### 1.1.1 **Purpose**

This Request for Proposal (RFP) is being issued by the University of Medicine and Dentistry of New Jersey (UMDNJ), Department of Purchasing Services on behalf of the Department of Pediatrics, Division of Pediatrics-Cardiology of the Robert Wood Johnson Medical School at the Clinical Academic Building (CAB), on the New Brunswick Campus.

The purpose of this RFP is to enter a contract to provide Holter cardiac monitors and monitoring services and accessories.

#### 1.1.2 **Intent**

It is the intent of the University of Medicine and Dentistry of New Jersey to award a contract for one contractor to provide twenty-four (24) hour Holter monitors and thirty (30) day event monitors plus equipment and accessories, along with the provision of patient monitoring services and reports.

### 1.2 **Background**

The Department of Pediatrics, Division of Pediatrics-Cardiology of the Robert Wood Johnson Medical School at the Clinical Academic Building (CAB), on the New Brunswick Campus, past records of patients assigned (24-hour) Holter monitors per year.

- 2010 = 475
- 2011 = 525
- 2012 = 489 January-November

Past usage of the Holter's cardiac monitors at the Department of Pediatrics, Division of Pediatrics-Cardiology of the Robert Wood Johnson Medical School at the Clinical Academic Building (CAB), on the New Brunswick Campus does not guarantee future usage.

#### 1.2.1 **Location**

Central New Jersey

- The Department of Pediatrics, Division of Pediatrics-Cardiology of the Robert Wood Johnson Medical School is located in the Clinical Academic Building (CAB) at 125 Paterson Street Suite 6100, New Brunswick New Jersey.

### 1.3 **Key Events**

#### 1.3.1 **Questions and Inquiries**

It is the policy of the UMDNJ, Purchasing Services to accept questions and inquiries from all potential bidders receiving this RFP.

Written questions should be mailed or faxed to the UMDNJ, Purchasing Services to the attention of the assigned buyer at the following address:

UMDNJ, DEPARTMENT OF PURCHASING SERVICES  
335 GEORGE STREET, 2<sup>ND</sup> FLOOR  
NEW BRUNSWICK, NEW JERSEY 08903  
ATTN: Sam Perez  
Buyer's Phone Number: 732-235-9032  
Buyer's Fax Number: 732-235-9058  
Buyer's E-mail Address: [perezsa@umdnj.edu](mailto:perezsa@umdnj.edu)

##### 1.3.1.1 **Cut-Off Date for Questions and Inquiries**

A mandatory Pre-bid Conference has been scheduled for this procurement; therefore, the cut-off date for submission of questions will be the conclusion of the mandatory Pre-Bid Conference. While all questions will be entertained at the mandatory Pre-bid Conference, it is strongly urged that questions be submitted in writing prior to the mandatory Pre-bid Conference. Written questions must be delivered to the Department of Purchasing Services' Buyer. It is requested that bidders having long, complex or multiple part questions submit them in writing as far in advance of the mandatory Pre-bid Conference as possible. This request is made so that answers can be prepared prior to the mandatory Pre-bid Conference.

##### 1.3.1.2 **Question Protocol**

Questions should be submitted in writing to the attention of the assigned UMDNJ, Purchasing Services buyer. Written questions should be directly tied to the RFP by the writer. Questions should be asked in consecutive order, from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number and section number to which it relates.

Short procedural inquiries may be accepted by telephone by the buyer; however, oral explanations or instructions given over the telephone shall not be binding upon the University. Bidders shall not contact any person within the University directly, in person, or by telephone, other than the assigned buyer, concerning this RFP.

### 1.3.2 **Mandatory Pre-Bid Conference**

A mandatory Pre-Bid Conference has been scheduled for this procurement. The purpose of the mandatory Pre-Bid Conference is to provide a structured and formal opportunity for bidders to raise questions and clarify any of the proposal requirements. The date, time and location are provided as follows:

DATE: February 21, 2013

TIME: 10:30 A.M. to 12:00 P.M.

LOCATION: UMDNJ, ROBERT WOOD JOHNSON CLINICAL ACADEMIC BUILDING  
LOCATED AT 125 PATERSON STREET SUITE 6160 (Sixth Floor) NEW BRUNSWICK,  
NEW JERSEY DEPARTMENT OF PEDIATRICS-CARDIOLOGY

CAUTION: Bids will be automatically rejected from any bidder that was not represented or failed to properly register at the Mandatory Pre-bid Conference.

It is the responsibility of the bidder to identify and address any additional requirements or information needed to submit a proposal. No special consideration shall be given to any bidder, because of the bidder's failure to be knowledgeable of all the requirements of the proposal after the pre-bid conference date.

### 1.3.3 **Site Visit**

Not applicable under this contract.

### 1.4 **Additional Information for Bidders**

#### 1.4.1 **Revisions to this RFP**

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum. Any RFP addendum will be distributed as follows:

Since a mandatory Pre-Bid Conference has been scheduled for this procurement, any addendum issued before the mandatory Pre-Bid Conference will be distributed to all bidders who were sent the initial RFP. Any addendum issued at the time of or after the mandatory Pre-Bid Conference will be distributed only to those bidders represented and properly registered at the mandatory Pre-Bid Conference.

#### 1.4.2 **Addendum as a Part of this RFP**

Any addendum to this RFP shall become part of this RFP and part of any contract resulting from this RFP. **Notice to Bidders:** It is the responsibility of all potential bidders to check UMDNJ's web site ([www.umdny.edu/purchweb](http://www.umdny.edu/purchweb)) regularly and obtain all addenda that may be issued to bid specifications. UMDNJ is not responsible for direct distribution of addenda posted on the web site to all vendors who desire to submit a proposal.

#### **1.4.3 Issuing Office**

This RFP is issued by the UMDNJ, Department of Purchasing Services. The buyer noted in Section 1.3.1 is the sole point of contact between the bidder and the UMDNJ for purposes of this RFP.

#### **1.4.4 Bidder Responsibility**

The bidder assumes sole responsibility for the complete effort required in this RFP. No special consideration shall be given after bids are opened because of a bidder's failure to be knowledgeable of all the requirements of this RFP. By submitting a proposal in response to this RFP, the bidder represents that it has satisfied itself, from its own investigation, of all the requirements of this RFP.

#### **1.4.5 Cost Liability**

UMDNJ assumes no responsibility and bears no liability for costs incurred by bidders in the preparation and submittal of proposals in response to this RFP.

#### **1.4.6 Contents of Bid Proposal**

All information submitted by bidders in response to a bid solicitation is considered public information, except as may be exempted from disclosure by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and the common law.

All bid proposals as public records, with the exception of information determined by the courts or UMDNJ to be proprietary, are available for public inspection after contract award.

A bidder may designate specific information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. UMDNJ reserves the right to make the determination and will advise the bidder accordingly. The location in the bid proposal of any such designation should be clearly stated in a cover letter.

UMDNJ will not honor any attempt by a bidder either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal. The bidder will be required to withdraw such designation before the bid proposal will be considered for contract award.

In the event of a challenge to the bidder's designation of confidentiality/proprietary materials, the bidder shall have be solely responsible for defending its designation and UMDNJ shall have no responsibility therefore.

#### **1.4.7 Price Alterations**

Bid prices must be typed or written in ink. Any price changes (including "white-outs") must be initialed. Failure to initial price changes may preclude an award being made to the bidder.

#### **1.4.8 Joint Venture**

If a joint venture is submitting a bid, the agreement between the parties relating to such joint venture should be submitted with the joint venture's proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal. A separate Ownership Disclosure Form, Affirmative Action Employee Information Report, MacBride Principles Certification and, if applicable, foreign (out of State) corporate registration must be supplied for each party to the joint venture.

#### **1.4.9 Small Business Subcontractor Utilization Plan**

Not applicable for this contract.

#### **1.4.10 Bid Bond**

Not applicable for this contract.

#### **1.4.11 HIPAA Compliance**

As a State Agency, New Jersey State regulations require that we obtain documentation regarding our vendor "HIPAA Compliance" status. In order to be in compliance and conduct business with your company for the procurements of goods and/or services, it will be necessary for your company to complete a Business Associate Agreement. This agreement involves the access to protected health information that is considered protected pursuant to federal, state and/or local laws and regulations in accordance with the privacy requirements of the "HIPAA" – Health Insurance Portability and Accountability Act of 1996. The requirement is a precondition of entering into a valid and binding contract.

#### **1.4.12 Business Registration Notice**

All New Jersey and out of State business organizations must obtain a Business Registration Certificate (BRC) from the Department of the Treasury, Division of Revenue, prior to conducting business with the State of New Jersey. Proof of valid business registration should be submitted by a bidder with its bid proposal. The business registration form (Form NJ-REG) can be found online at: <http://www.state.nj.us/treasury/revenue/busregcert.shtml>

#### **1.4.12.1 Definitions**

For the purpose of the section, the following shall be defined as follows:

“Affiliate” means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. An entity controls another entity if it owns, directly or individually, more than 50% of the ownership in that entity.

“Business organization” means an individual, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof.

“Business registration” means a business registration certificate issued by the Department of the Treasury or such other form or verification that a contractor or subcontractor is registered with the Department of Treasury.

“Contractor” is a business organization that seeks to enter, or has entered into, a contract to provide goods or services with a contracting agency.

“Contracting agency” means the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, or any independent State authority, commission, instrumentality or agency, or any State college or university, any county college, or any local unit. “Subcontractor” means any business organization that is not a contractor that knowingly provides goods or performs services for a contractor or another subcontractor in the fulfillment of a contract.

#### **1.4.12.2 Requirements Regarding Business Registration Form**

A contractor should submit a copy of its business registration at the time of submission of its bid proposal in response to this RFP.

A subcontractor shall provide a copy of its business registration to any contractor who shall forward it to the contracting agency. No contract with a subcontractor shall be entered into by any contractor unless the subcontractor first provides proof of valid business registrations.

The contractor shall provide written notice to all subcontractors that they are required to submit a copy of their business registration to the contractor. The contractor shall maintain a list of the names of any subcontractors and their current addresses, updated as necessary during the course of the contract performance. The contractor shall submit to the contracting agency a copy of the list of subcontractors, updated as necessary during the course of performance of the contract. The contractor shall submit a complete and accurate list of the subcontractors to the contracting agency before a request for final payment is made to the using agency.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Vice President of the Division of Taxation in the Department of Treasury the use tax due pursuant to the “Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State.

#### **1.4.13 Deficit Reduction Act**

The University of Medicine and Dentistry (UMDNJ) is committed to the prevention and detection of any fraud, waste, and abuse within the University related to all health care programs, including Federal and State programs.

To this end, UMDNJ maintains a vigorous compliance program geared in part to educating our community on the range of fraud and abuse laws, including the importance of submitting accurate claims and reports to the Federal and State governments. Our policies prohibit the knowing submission of a false claim for payment in relation to any health care program, including a Federal or State funded health care program. Such a submission is a violation of Federal and State law and can result in significant administrative and civil penalties under the Federal and State False Claims Acts.

To assist UMDNJ in meeting its legal and ethical obligations, any employee, contractor or agent who is aware of the preparation or submission of a false claim or report or reasonably suspects any other potential fraud, waste, or abuse in relation to a Federal or State funded health care program is required to report such information to his or her supervisor and UMDNJ’s Office of Ethics and Compliance. Any employee of UMDNJ who in good faith reports such information will be protected against retaliation for coming forward with such information both under UMDNJ’s internal compliance policies and procedures and United States and New Jersey law.

As an organization, UMDNJ obligates itself to investigate any such information swiftly and thoroughly through its internal compliance programs and mechanisms. Nonetheless, if an employee, contractor or agent believes that the organization’s response is deficient and unresponsive, the employee shall bring these concerns to UMDNJ’s Office of Ethics and Compliance. If such follow-up still does not trigger an investigation, after a reasonable period of time, the employee, contractor or agent has the ability to bring his/her concerns to the appropriate government agency under the relevant Federal and/or State laws.

This information shall be provided to all UMDNJ employees and all contractors and agents of UMDNJ.

#### **1.4.14 Merger provision for future/amended contracts**

Vendor acknowledges that the “New Jersey Medical and Health Sciences Education Restructuring Act” (P.L. 2012, c. 45, hereinafter, the “Act”) will, if implemented as currently enumerated on July 1, 2013, change the structure of the University of Medicine and Dentistry of New Jersey (“UMDNJ”). The Act specifies that all of the schools, institutes, and centers of UMDNJ (each, a “Unit”) – other than the School of Osteopathic Medicine (“SOM”), and

University Hospital in Newark (“UH”) – will be transferred to and become part of Rutgers, The State University of New Jersey (“Rutgers”) as of July 1, 2013. The School of Osteopathic Medicine will be transferred to and become part of Rowan University (“Rowan”). University Hospital will be separately incorporated. Rutgers, Rowan and University Hospital are defined as “Successor Organizations”. Accordingly, and notwithstanding any other provision of this contract and RFP to the contrary, if the scope of work to be carried out by Vendor under this contract relates to all of UMDNJ or to more than one Unit of UMDNJ, such scope of work and contract for the scope of work for each Unit will be assigned, as of and after the dissolution of UMDNJ on or around July 1, 2013 and assuming the Act is implemented, to the Successor Organizations of those Units of UMDNJ. Any language in this contract that expressly relates to UMDNJ as a whole, or infers that the contract relates to services for UMDNJ as a whole, will as of the dissolution of UMDNJ, be deemed to mean those Units being transferred to Rutgers, Rowan or University Hospital, as applicable. Vendor acknowledges that upon the dissolution of UMDNJ this contract may be bifurcated or trifurcated among Rutgers, Rowan, and/or University Hospital (as applicable) and that the applicable Successor Organizations will each have a separate contract with Vendor as a result. UMDNJ and/or Rutgers, Rowan, or University Hospital will provide the appropriate contact information to whom Vendor shall send all notices and inquires under this contract after the dissolution of UMDNJ. In the event neither Rutgers, Rowan, University Hospital nor UMDNJ provides any such contact information, Vendor is directed to use the existing contact information. Neither Rowan, Rutgers nor University Hospital will be responsible for payment of the services provided by Vendor to the Successor Organizations.

In the event the scope of Vendor’s services under this contract relates to Units of UMDNJ that are being transferred to Rutgers, and also to Units of UMDNJ that are not being transferred to Rutgers, the contract will survive, as described above, but each Successor Organization reserves the right to reestablish the price that will be paid to Vendor on account of performing this contract. Vendor expressly acknowledges and agrees that the scope of work under this contract may be reduced because certain, existing UMDNJ Units may no longer be covered by this contract after the dissolution of UMDNJ. The price paid by each Successor Organization will be reduced in relative proportion to the decrease in services, if any, and Vendor expressly accepts this provision and acknowledges the possibility of a price reduction on account of the merger specified by the Act.

Vendor further expressly acknowledges and accepts that after the dissolution of UMDNJ, nothing in this contract will relate to units of the Successor Organizations that are not, on the effective date of this contract, currently Units of UMDNJ. In other words, the merger contemplated by the Act will not *increase* the scope of Vendor’s services under this contract – unless a Successor Organization and Vendor expressly amend this contract (by mutually acceptable amendment signed by both parties) to expand the Vendor’s scope of services.

## 2.0 DEFINITIONS

The following definitions shall be part of any contract awarded or order placed as a result of this RFP:

“Addendum” – Written clarification or revision to this RFP issued by UMDNJ, Purchasing Services.

“Amendment” – A change in scope of work to be performed by the contractor. An amendment is not effective until it is signed by the Vice President for Finance and Treasurer.

“Bidder” – An individual or business entity submitting a bid in response to this RFP.

“Contract” – This RFP, any addendum to this RFP, and the bidder’s proposal submitted in response to this RFP and UMDNJ’s Contract Term Sheet.

“Contractor” – The contractor is the bidder awarded a contract.

“Evaluation Committee” – A committee established to review and evaluate bid proposals submitted in response to this RFP and to recommend a contract award to the Vice President of Supply Chain Management.

“HIPAA or HITECH Act” – Health Insurance Portability and Accountability Act of 1996, 1996 (**“HIPAA”**), the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009) (the **“HITECH Act”**), and regulations promulgated by the U.S. Department of Health and Human Services (the **“HHS”**) (hereinafter the **“HIPAA Regulations”** and the **“HITECH Regulations,”** respectively) and/or applicable state and/or local laws and regulations..

“Loaded Hourly Rates” - All inclusive rates for each project requested.

“May” – Denotes that which is permissible, not mandatory.

“Project” – The undertaking of services that are the subject of this RFP.

“Request for Proposal (RFP)” – This document, which establishes the bidding and contract requirements and solicits proposals to meet the purchase needs as identified herein.

“Shall” or “Must” or “Will”– Denotes that which is a mandatory requirement. Failure to meet a mandatory requirement will result in the rejection of a bid proposal as materially non-responsive.

“Should” – Denotes that which is recommended, not mandatory.

“Subtasks” – Detailed activities that comprise the actual performance of a task.

“Task” – A discrete unit of work to be performed.

“UMDNJ” – The University of Medicine and Dentistry of New Jersey, or otherwise referred to as the “University.”

“Vice President” – The Vice President of Supply Chain Management; the contracting officer for UMDNJ.

## **2.1 Contracts Specific Definitions**

“Department” - Department of Pediatrics, Division of Pediatrics-Cardiology of the Robert Wood Johnson Medical School, on the New Brunswick Campus.

“ECG” - A record of the waves that relates to the electrical impulses produced at each beat of the heart.

“Holter Monitor” A cardiac monitoring device invented by Norman J. Holter.

“Inventory” – The twenty (20) 24-hour Holter monitors will be kept in reserve at all time at the Robert Wood Johnson Department of Pediatrics, Division of Pediatrics-Cardiology on the New Brunswick Campus.

“Pediatrics” – To deal with the development and care of infants and children.

“Thirty (30) Day Event Monitors” - Is a small monitor that is worn by the patient for 30 days. The monitor does not continuously record the heart’s electrical activity. Rather, monitor need to be started when patient feels symptoms.

“Twenty-Four (24) Hour Monitors”- Are worn by the patient usually for 24-hours that continuously records the patient’s EKG during usual daily activity.

### 3.0 SCOPE OF WORK

The Contractor must provide all of the expertise, personnel and other resources necessary for the Electrographic monitoring for twenty-four (24) hour by continuance original ECG waveform recording and storage, with visual superimposition scanning and reporting. This equipment and services will be utilized by the Department of Pediatrics, Division of Pediatrics-Cardiology of the Robert Wood Johnson Medical School, on the New Brunswick Campus (Department). All initial equipment for the implementation of the system will be provided at no cost to the university.

The Contractor's cost proposal of Holter Monitoring Service must be all-inclusive. The cost proposal must include all direct and indirect costs, including those associated with, but not limited to monitoring and reporting service, installation, training, upgrades (if any) and delivery of equipment, shipping (FOB destination) and all requirements indicated in section 3.0.

**Beneath each specification is a line stating "we have read and shall fulfill all of the requirements of section" \_\_\_\_, The bidder must indicate by putting a check mark in the box marked \_\_Y (Yes) or \_\_N (No).**

**If any requirements cannot be fulfilled please explain why in section 7.4. The bidder must recognize that the inability to fulfill a required specification is likely to result in the proposal being deemed non-compliant and therefore disqualified from evaluation.**

**Past usage of the holter's cardiac monitors at the Department does not guarantee future usage.**

### **3.1 General 24 Hour Monitoring**

3.1.1 The Contractor must provide twenty-four (24) hour Holter monitors, accessories and services for the Department.

3.1.2 The Holter monitoring devices must be Philips DigiTrak XT (model 3100A) or an approved equal as determined by the Department.

3.1.3 The Contractor must provide twenty-four (24) hour Holter monitoring services Monday through Saturday.

3.1.4 The Contractor must provide Philips Digi Trak XT Docking Station or approved equal for transmittal via computer to vendor for twenty-four (24) hour reading of Holter monitors results and activity.

3.1.5 The Contractor must provide Philips Digi Trak XT software program or approved equal that can be downloaded and transferred to the Department.

3.1.6 The Contractor must provide and install the computer software to transmit and receive monitoring reports in the Department.

3.1.7 The Contractor must provide training and instructions at no extra cost to the Department.

3.1.8 The Contractor must provide at a minimum 50 Start-Up Kits/month at no additional cost. The Department may request the vendor to provide additional kits on an as-needed basis. Bidder must complete section 7.12

#### **3.1.8.1 Each Kit must include at minimum the following items**

- Batteries (AAA) Kit Packets
- Signed Privacy Notice
- Monitoring Electrode with Foam Tape
- Patient Diary
- Accessories

3.1.9 The Contractor must provide monthly billing of all patients which will include the procedure or service performed, the date of the procedure or services, patient name, patient record number and patient account number for the Department.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS OF SECTION 3.1 \_\_\_\_\_Y (Yes) \_\_\_\_\_N (No).**

### **3.2 General Requirements for 30 Day Event**

3.2.1 The Contractor must provide thirty (30) day event monitors as needed.

3.2.2 The Contractor must provide thirty (30) day event monitor services twenty-four (24) hours per day (7) days per week.

3.2.3 The Contractor must ship thirty (30) day event monitors directly to the patient once authorization is obtained. Patient sends event monitor directly back to the vendor at the end of monitoring period.

3.2.4 The Contractor must provide monthly billing of all patients which will include the procedure or service performed, the date of the procedure or services, patient name, patient record number and patient account number for the Department.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS OF SECTION 3.2**  
**\_\_\_\_\_Y (Yes) \_\_\_\_\_N (No).**

### **3.3 Monitoring Services and Reporting 24-Hour**

3.3.1 The Contractor must provide the monitoring services to all the patients that require twenty-four (24) hour Holter monitors at the Department.

3.3.2 The Contractor must, upon completion of twenty-four (24) hour Holter study, evaluate data and report findings to ordering physician.

- Patients with 24-hour Holter monitors will return the monitors back to the Department where the nurse will attach the monitor to the docking station and the data will be transmitted to the vendor.

3.3.3 The Contractor must notify the Department within three (3) hours of any abnormal findings.

3.3.4 The Contractor must provide reliable, efficient, timely and concise services for the Department.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS OF SECTION 3.3**  
**\_\_\_\_\_Y (Yes) \_\_\_\_\_N (No).**

### **3.4 Monitoring Services and Reporting 30 Day Event**

3.4.1 The Contractor must, upon completion of thirty (30) day Holter study, evaluate data and report findings to ordering physician.

- Patients reporting events during thirty (30) day Holter study will report data via telephone to contractor where the data will be evaluated and report of findings will be provided to ordering physician within a three (3) hour period to the Department.

3.4.2 The Contractor must notify the Department within three (3) hours of any abnormal findings.

3.4.3 The Contractor must provide reliable, efficient, timely and concise services for the Department.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS OF SECTION 3.4**  
**\_\_\_\_Y (Yes) \_\_\_\_N (No).**

### **3.5 Inventory of 24-Hour Monitors**

3.5.1 The Contractor must keep a total of Twenty (20) functional monitoring units and accessories in inventory at all time in the Department.

3.5.2 The Contractor must replace damaged or non-functional equipment and accessories within twenty-four (24) hours of being notified by the Department.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS OF SECTION 3.5**  
**\_\_\_\_Y (Yes) \_\_\_\_N (No).**

### **3.6 Vendor Technical Support 24-Hour/or 30 Day Event**

3.6.1 The Contractor must provide a service line to the patients for technical support, twenty-four (24) hours per day (7) days per week.

3.6.2 The Contractor must provide technical and informational support for all of the monitoring devices and accessories twenty-four (24) hours per day (7) days per week to the Department.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS OF SECTION 3.6**  
**\_\_\_\_Y (Yes) \_\_\_\_N (No).**

### **3.7 Shipping**

3.7.1 Twenty-four (24) Hour Monitors: Damaged or non-functional Holter monitor shall be shipped back to the vendor by the department. The vendor will ship replacement directly to the department at no charge within 24 hours of being notified by the department.

3.7.2 Thirty (30) Day Event Monitors: The vendor will directly ship to patient once authorization is obtained with pre-paid return-ship package included. Patient shall send the event monitor directly back to the vendor at the end of the monitoring period at no cost.

3.7.3 All shipments of Start-up Kits, replacement of damaged/non-functional Holter Monitors, and accessories to the department must be made "F.O.B. Destination". The Contractor shall assume all costs, liability, insurance and responsibility for the delivery of products. UMDNJ will not pay for the shipping of returned damaged or non-functional products.

**WE HAVE READ AND SHALL FULFILL THE REQUIREMENTS OF SECTION 3.7**

**\_\_\_\_\_Y (Yes) \_\_\_\_\_N (No).**

## **4.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS**

### **4.1 Contract Term and Extension Option**

#### **4.1.1 Contract Term**

The contract will be awarded for three (3) years, commencing from the date of award. If delays in the bid process result in an adjustment of the anticipated contract effective date, the bidder agrees to accept a contract for the full term of the contract.

#### **4.1.2 Contract Extension Option**

This contract may be extended for two (2) one (1) year option periods. Any extension of this contract under this provision will be put into effect by mutual agreement between the University and the Contractor, with written notification being provided to the Contractor by the University. The original terms and conditions will remain in effect for any extension period. Unless otherwise noted in this RFP (or any Addendum thereto), pricing for each optional year is to remain the same as the final year of the original contract term.

### **4.2 Contract Transition**

In the event services end by either contract expiration or termination, it shall be incumbent upon the Contractor to continue services, if requested by the Vice President, until new services can be completely operational. The Contractor acknowledges its responsibility to cooperate fully with the replacement Contractor and UMDNJ to ensure a smooth and timely transition to the replacement Contractor. Such transitional period shall not extend more than ninety (90) days beyond the expiration date of the contract, or any extension thereof. The Contractor will be reimbursed for services during the transitional period at the rate in effect when the transitional period clause is invoked by UMDNJ.

### **4.3 Precedence of the University's Standard Terms and Conditions**

The contract resulting from this procurement shall consist of the following documents:

- This RFP, which hereby incorporates UMDNJ's Standard Terms and Conditions
- Any addendum to this RFP
- The Contractor's Bid Proposal
- UMDNJ's Contract Term Sheet.

**In the event of a conflict between the provisions of this RFP, including any addendum to this RFP, and the bidder's proposal, the RFP and/or the addendum shall govern.**

#### 4.4 **Departure From Bid Specifications or Terms and Conditions**

Notwithstanding the forgoing, a bidder's proposal may be deemed **NON-COMPLIANT AND BE REJECTED** and/or be found **non-responsive** if the change is a material departure from the bid specifications or the terms and conditions of this RFP. A material departure occurs when the change increases the likelihood that the waiver from compliance with the RFP is capable of giving the appearance of corruption or favoritism, or encouraging excessive spending or is likely to affect the amount or price of the bid or to influence any potential bidder to refrain from bidding or is capable of affecting the ability of the University to make a bid comparison, or is unacceptable to the University. The determination of material departure shall be in the sole discretion of the University.

#### 4.5 **Insurance**

The Contractor shall assume all responsibility for its actions and those of anyone else working for it while engaged in any activity connected with this contract. The Contractor shall carry sufficient insurance to protect it and UMDNJ from any property damage or bodily injury claims arising out of the contracted work. Evidence of current insurance coverage shall be provided in the form of a Certificate of Insurance, which shall be submitted no later than ten (10) days after receipt of notice of intent to award contract. The Certificate of Insurance should include the solicitation identification number and title of the solicitation. No contract will be issued to the successful bidder until such time as the Contractor has supplied UMDNJ with a Certificate of Insurance verifying the above-indicated coverage. The Contractor is not authorized to begin service until UMDNJ is in receipt of said certificate.

Liability insurance must remain in effect for the duration of the contract, including any extensions, and for ninety (90) days following termination of all work

In order to prevent any unnecessary delay, bidders may submit evidence of required insurance with their bid.

The insurance to be provided by the Contractor shall be as follows:

- **Commercial General Liability Insurance** - including contractual liability endorsement, subject to primary limits of coverage of not less than \$1,000,000 per occurrence/\$1,000,000 annual aggregate. If applicable, XCU coverage may be required;
- **Automobile Liability Insurance** – covering owned, non-owned and hired vehicles with not less than \$1,000,000 for bodily injury and property damage;
- **Excess Liability Insurance** - subject to an additional limit of liability of not less than \$1,000,000 per occurrence/\$1,000,000 aggregate excess of the primary policy;
- **Workers' Compensation Insurance** - statutory coverage and including employers liability coverage of not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate;

- **Additional Insured** - UMDNJ to be named as additional insured ATIMA with respect to Commercial General, Automobile and Excess Liability Insurance provided by contractor pursuant to this proposal/contract;

- **Errors and Omissions Liability insurance** - with limits of \$1million/\$1million; UMDNJ to be named as additional insured ATIMA with respect to services provided by contractor pursuant to this proposal contract. If applicable, this insurance may be required.

**-UMDNJ is to be named as certificate holder with respect to all afore-mentioned insurance coverages.**

**- All Insurance coverages shall remain in effect throughout the course of the contract. Contractor shall be responsible for any and all future claims, litigation, damages, liabilities, whatsoever, which may arise as a result of Contractor's performance of services pursuant to this contractual agreement.**

All required commercial general liability insurance and any required pollution liability insurance coverage shall be maintained throughout the course of the project. Failure to maintain said insurance coverage shall be deemed sufficient cause to immediately terminate the contract without having to show additional cause. **A Certificate of Insurance must be provided to the UMDNJ Contract Administrator for each year of the contract award.**

Further, said liability insurance coverages shall be subject to an extended reporting period of not less than six years following the completion of the contract/project and, also, shall include completed operations coverage for a period of not less than six years following the completion of the project /contract.

#### 4.6 **Contract Amendment**

Any changes or modifications to the terms of the contract shall only be valid when they have been reduced to writing and executed by the Contractor and the Vice President.

#### 4.7 **Contractor Responsibilities**

The Contractor shall have sole responsibility for the complete effort specified in the contract. Payment will be made only to the Contractor. The Contractor shall have sole responsibility for all payments due any subcontractor.

The Contractor is responsible for the professional quality, technical accuracy and timely completion and submission of all deliverables, services or commodities required to be provided under the contract. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its deliverables and other services.

The approval of deliverables furnished under this contract shall not in any way relieve the Contractor of responsibility for the technical adequacy of its work. The review, approval,

acceptance or payment for any of the services shall not be construed as a waiver of any rights that UMDNJ may have arising out of the Contractor's performance of this contract.

#### **4.8 Substitution of Staff**

If it becomes necessary for the Contractor to substitute any management, supervisory or key personnel, the Contractor will identify the substitute personnel and the work to be performed.

The Contractor must provide detailed justification documenting the necessity for the substitution. Résumés must be submitted evidencing that the individual(s) proposed as substitution(s) have qualifications and experience equal to or better than the individual(s) originally proposed or currently assigned.

The Contractor shall forward a request to substitute staff to the Vice President, through the University's Project Manager, for consideration and approval. No substitute personnel are authorized to begin work until the Contractor has received written approval to proceed from the Vice President, through the University's Project Manager.

#### **4.9 Substitution or Addition of Subcontractor(s)**

If it becomes necessary for the Contractor to substitute and/or add a subcontractor, the Contractor will identify the proposed new subcontractor and the work to be performed. The Contractor must provide detailed justification documenting the necessity for the substitution or addition.

The Contractor must provide detailed résumés of the proposed subcontractor's management, supervisory and other key personnel that demonstrate knowledge ability and experience relevant to that part of the work, which the subcontractor is to undertake.

In the event a subcontractor is proposed as a substitution, the proposed subcontractor must equal or exceed the qualifications and experience of the subcontractor being replaced. In the event the subcontractor is proposed as an addition, the proposed subcontractor's qualifications and experience must equal or exceed that of a similar subcontractor proposed by the Contractor in its bid proposal.

The Contractor shall forward a request to substitute/add a subcontractor to the Vice President, through the University's Project Manager, for consideration and approval. No substitution or addition of a subcontractor is authorized until the Contractor has received written approval to proceed from the Vice President, through the University's Project Manager.

#### 4.10 **Ownership of Material**

All data, technical information, materials gathered, oriented, developed, prepared, used or obtained in the performance of the contract, including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under this contract shall be and remain the property of UMDNJ and shall be delivered to UMDNJ upon 30 day's notice by UMDNJ.

With respect to software computer programs and/or source codes developed for UMDNJ, the work shall be considered "work for hire," i.e., UMDNJ, not the Contractor or subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed.

#### 4.11 **Data Confidentiality**

All financial, statistical, personnel and/or technical data supplied by UMDNJ to the Contractor are confidential. The Contractor is required to use reasonable care to protect the confidentiality of such data. Any use, sale or offering of this data in any form by the Contractor, or any individual or entity in the Contractor's charge or employ, will be considered a violation of this contract and may result in contract termination and the Contractor's suspension or debarment from UMDNJ contracting. In addition, such conduct may be reported to the State Attorney General for possible criminal prosecution.

#### 4.12 **News Releases**

The Contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this contract without prior written consent of the Vice President.

#### 4.13 **Advertising**

The Contractor shall not use UMDNJ's name, logos, images, or any data or results arising from this contract as a part of any commercial advertising without first obtaining the prior written consent of the Vice President.

#### 4.14 **License and Permits**

The Contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this contract. The Contractor shall supply UMDNJ with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to the contract award. All costs associated with any such licenses, permits and authorizations shall have been included by the Contractor in its bid proposal.

#### 4.15 **Claim and Remedies**

##### 4.15.1 **Claims**

The following shall govern claims made by the Contractor regarding contract award rescission, contract interpretation, Contractor performance and/or suspension or termination.

Final decisions concerning all disputes relating to contract award rescission, contract interpretation Contractor performance and/or reduction, suspension or termination are to be made in a manner consistent with N.J.A.C. 17:12-1.1, et seq. The Vice President's final decision shall be deemed a final agency action reviewable by the Superior Court of New Jersey, Appellate Division.

All claims asserted against UMDNJ by the Contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

However, any claim against UMDNJ relating to a final decision by the Vice President regarding contract award rescission, contract interpretation, Contractor performance and/or contract reduction, suspension or termination shall not accrue, and the time period for performing any act required by N.J.S.A. 59:8-8 or 59:13-5 shall not commence, until a decision is rendered by the Superior Court of New Jersey, Appellate Division (or by the Supreme Court of New Jersey, if appealed) that such final decision by the Vice President was improper.

##### 4.15.2 **Remedies**

Nothing in the contract shall be construed to be a waiver by UMDNJ of any warranty, expressed or implied, or any remedy at law or equity, except as specifically and expressly stated in writing executed by the Vice President.

#### 4.16 **Form of Compensation and Payment**

UMDNJ's payment terms are Net 45 days.

The Contractor must submit invoices to UMDNJ with supporting documentation evidencing that work for which payment is sought has been satisfactorily completed. Invoices must reference the contract or purchase order number and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheet. When applicable, invoices should reference the appropriate RFP price sheet line number from the Contractor's bid proposal. All invoices must be approved by UMDNJ before payment will be authorized.

Invoices must also be submitted for any special projects, additional work or other items properly authorized and satisfactorily completed under the contract. Invoices shall be submitted according to the payment schedule agreed upon when the work was authorized and approved. Payment can only be made for work when it has received all required written approvals and has been satisfactorily completed.

#### 4.17 **Additional Work and/or Special Projects**

The Contractor shall not begin performing any additional work or special projects without first obtaining written approval from the Vice President, Supply Chain Management.

In the event that the need for additional work and/or a special project arises, UMDNJ will submit such a request to the Contractor in writing. The Contractor must present a written proposal to perform the additional work/special project to UMDNJ. The proposal should provide justification for the necessity of the additional work/special project. The relationship between the additional work/special project being requested and the work required by the Contractor under the base contract must be clearly established by the Contractor in its proposal for performing the additional work/special project. The Contractor's written proposal must provide a detailed description of the work to be performed, broken down by task and subtask. The proposal should contain details on the level of effort, including hours, labor categories, etc., necessary to complete the additional work.

The written proposal must detail the cost necessary to complete the additional work in a manner consistent with the contract. The written cost proposal must be based upon the hourly rates, unit costs or other cost elements submitted by the Contractor in the Contractor's original bid proposal submitted in response to this RFP. Whenever possible, the cost proposal should be a firm, fixed cost to perform the required work. The firm fixed price should specifically reference and be tied directly to costs submitted by the Contractor in its original bid proposal. A payment schedule, tied to successful completion of tasks and subtasks, must be included.

Upon receipt of the Contractor's written proposal, it shall be forwarded to the Vice President for written approval. Complete documentation from the using agency, confirming the need for the additional work/special project, must be submitted.

No additional work and/or special project may commence without the Vice President's written approval. In the event the Contractor proceeds with additional work and/or special projects without the written approval of the Vice President, it shall be at the Contractor's sole risk. UMDNJ shall be under no obligation to pay for work done without the Vice President's written approval.

#### 4.18 **Option to Reduce Scope of Work**

UMDNJ has the option, in its sole discretion, to reduce the scope of work for any task or subtask called for under this contract. In such an event, the Vice President shall provide advanced, written notice to the Contractor.

Upon receipt of such written notice, the Contractor will submit, within five (5) working days to the Vice President, an itemization of the work effort already completed by task or subtasks. The Contractor shall be compensated for such work effort according to the applicable portions of its cost proposal.

#### 4.19 **Suspension of Work**

The Vice President may, for valid reason, issue a stop order directing the Contractor to suspend work under the contract for a specific time. The Contractor shall be paid until the effective date of the stop order. The Contractor shall resume work upon the date specified in the stop order or upon such other date as the Vice President may thereafter direct in writing. The period of suspension shall be deemed added to the Contractor's approved schedule of performance. The Vice President and the Contractor shall negotiate an equitable adjustment, if any, to the contract price.

#### 4.20 **Change in Law**

Whenever an unforeseen change in applicable law or regulation affects the services that are the subject of this contract, the Contractor shall advise the Vice President in writing and include in such written transmittal any estimated increase or decrease in the cost of its performance of the services as a result of such change in law or regulation. The Vice President and the Contractor shall negotiate an equitable adjustment, if any, to the contract price.

#### 4.21 **Performance Bond**

No performance bond is required under this contract.

#### 4.22 **Late Delivery and Liquidated Damages**

Not applicable under this contract.

#### 4.23 **Retainage**

Not applicable under this contract.

#### 4.24 **Small Business Subcontractor Utilization Plan**

Not applicable under this contract.

#### 4.25 **Requirements of PL 2005, Chapter 51/ Executive Order 117 Vendor Certification and Disclosure of Political Contributions.**

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Public Law 2005, c.51, was signed into law on March 22, 2005. On September 24, 2008, Governor Corzine issued Executive Order 117, which is designed to enhance New Jersey's efforts to protect the integrity of procurement decisions and increase the public's confidence in procurement. The Executive Order builds upon the provisions of Chapter 51.

Pursuant to the requirements of Public Law 2005, c.51, and Executive Order 117, all bidders must submit the Two-Year Chapter 51/Executive Order 177 Vendor Certification and Disclosure of Political Contributions with their bid proposal. See Section 9 of this RFP for the certification form. The form and instructions for completion of the form may be found at [http://.umdnj.edu/purchweb/employees/employ36\\_forms\\_policies.htm](http://.umdnj.edu/purchweb/employees/employ36_forms_policies.htm) .

#### **4.25.1 State Treasurer Review**

The State Treasurer or his designee shall review the Disclosures submitted pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended awardee, prior to award, or during the term of the contract, by the Contractor. If the State Treasurer determines that any contribution or action by the Contractor constitutes a breach of contract that poses a conflict of interest in the awarding of the contract under this solicitation the State Treasurer shall disqualify the Business Entity from award of such contract.

#### **4.26 New Jersey Election Law Enforcement Commission Requirement**

The Contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c.271, section 3) if the Contractor receives in excess of \$50,000 from a public entity in a calendar year. It is the Contractor's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

#### **4.27 Federal and State Laws and Regulations Regarding Healthcare**

The University is committed to compliance with all federal and state regulations regarding healthcare, including but not limited to licensing, Stark and anti-kickback laws, Medicare and Medicaid regulations. All services provided under this bid and the contract award under this bid must comply with all applicable laws. In addition, if a violation comes to the attention of either party, or any changes in the laws or regulations occurs which make the bid or contract entered into between the parties as a result of the bid, to be in violation of any applicable law, then the agreement shall be amended to address the violation or to comply with the change, or terminated if amending will not resolve the violation. The University shall have the option to amend the contract resulting from the RFP in order to comply with all applicable local, State and Federal laws, rules and regulations.

## 5.0 **PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS**

### 5.1 **General**

The bidder must follow instructions contained in this RFP and in the bid cover sheet in preparing and submitting its bid proposal. The bidder is advised to read thoroughly and to follow all instructions.

The information required to be submitted in response to this RFP has been determined to be essential in the bid evaluation and contract award process. Any qualifying statements made by the bidder to the RFP's requirements could result in a determination that the bidder's proposal is materially non-responsive. Each bidder is given wide latitude in the degree of detail it elects to offer or the extent to which plans, designs, systems, processes and procedures are revealed. Each bidder is cautioned, however, that insufficient detail may result in a determination that the bid proposal is materially non-responsive or, in the alternative, may result in a low technical score being given to the bid proposal.

The bidder is instructed to clearly identify any requirement of this RFP that the bidder cannot satisfy.

### 5.2 **Proposal Delivery and Identification**

In order to be considered a bid proposal must arrive at the Department of Purchasing Services in accordance with the instructions on the RFP cover sheet. Bidders submitting proposals are cautioned to allow adequate delivery time to ensure timely delivery of proposals. UMDNJ regulations mandate that late proposals are ineligible for consideration. **The exterior of all bid proposal packages must be labeled with the Request for Proposal identification number, final bid opening date and the buyer's name.**

### 5.3 **Number of Bid Proposal Copies**

**Each bidder must submit one (1) complete original bid proposal, clearly marked as the "ORIGINAL" bid proposal in hard copy format and one (1) in electronic format, such as compact disc (CD).** Each bidder should also submit five (5) full, complete and exact copies of the original. The copies required are necessary in the evaluation of the bid. It is suggested that the bidder make and retain a complete copy of its bid proposal.

### 5.4 **Proposal Form and Content**

The proposal should follow the format indicated in the following Sections of this RFP. The bidder should limit their response to one volume, if at all possible, with that volume divided into four (4) sections as indicated below.

## 5.5 **Section 1 – Forms**

### 5.5.1 **Ownership Disclosure Form**

The bidder must complete the attached Ownership Disclosure Form. A complete Ownership Disclosure Form must be received prior to, or accompanying, the bid. Failure to do so will preclude the award of a contract.

### 5.5.2 **MacBride Principles Certification**

The bidder should complete the attached MacBride Principles Certification evidencing compliance with the MacBride Principles. Failure to do so may result in the award of the contract to another bidder.

### 5.5.3 **Affirmative Action**

The intended awardee must submit a copy of a New Jersey Certificate of Employee Information, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Intended awardee(s) not in possession of either a New Jersey Certificate of Employee Information or a Federal Letter of Approval must complete the 29 Affirmative Action Employee Information Report (AA-302) located on the web at [http://www.nj.gov/treasury/purchase/forms/AA\\_%20Supplement.pdf](http://www.nj.gov/treasury/purchase/forms/AA_%20Supplement.pdf). The requirement is a precondition of entering into a valid and binding contract.

### 5.5.4 **Set-Aside Contracts**

Not applicable under this contract.

### 5.5.5 **Bid Bond**

Not applicable for this contract.

### 5.5.6 **Business Associate Agreement**

The bidder should complete the attached Business Associate Agreement, involving the access to protected health information that is considered protected pursuant to federal, state and/or local laws and regulations in accordance with the privacy requirements of the “HIPAA” – Health Insurance Portability and Accountability Act of 1996. The requirement is a precondition of entering into a valid and binding contract.

### 5.5.7 **Business Registration Notice**

In accordance with N.J.S.A. 52:32-44(b), a bidder and its named subcontractors must have a valid Business Registration Certificate (“BRC”) issued by the Department of Treasury, Division of Revenue prior to the award of a contract. To facilitate the proposal evaluation and contract award process, the bidder should submit a copy of its valid BRC and those of any named subcontractors with its proposal.

Any bidder, inclusive of any named subcontractors, who does not have a valid business registration at the time of the proposal submission opening or whose BRC was revoked prior to the submission of the proposal should proceed immediately to register its business or seek reinstatement of a revoked BRC. Bidders are cautioned that it may require a significant amount of time to secure the re-instatement of a revoked BRC. The process can require actions by both the Division of Revenue and the Division of Taxation. For this reason, a bidder’s early attention to this requirement is highly recommended. The bidder and its named subcontractors may register with the Division of Revenue, obtain a copy of an existing BRC or obtain information necessary to seek re-instatement of a revoked BRC online at

<http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

A bidder otherwise identified by the Purchasing Services as a responsive and responsible bidder, inclusive of any named subcontractors, but that was not business registered at the time of submission of its proposal must be so registered and in possession of a valid BRC by a deadline to be specified in writing by the Purchasing Services. A bidder who fails to comply with this requirement by the deadline specified by the Purchasing Services will be deemed ineligible for contract award. Under any circumstance, the Purchasing Services will rely upon information available from computerized systems maintained by the State as a basis to verify independently compliance with the requirement for business registration.

### 5.5.8 **Requirements of PL 2005, Chapter 51/ Executive Order 117 Vendor Certification and Disclosure of Political Contributions**

Pursuant to the requirements of Public Law 2005, c.51, and Executive Order 117, all bidders must submit the Two-Year Chapter 51/Executive Order 177 Vendor Certification and Disclosure of Political Contributions with their bid proposal. See Section 9 of this RFP for the certification form. Instructions for completion of the form may be found at:

[http://www.umdny.edu/purchweb/employees/employ36\\_forms\\_policies.htm](http://www.umdny.edu/purchweb/employees/employ36_forms_policies.htm) .

### 5.6 **Section 2 – Technical Proposal**

In this Section, the bidder shall describe its approach and plans for accomplishing the work outlined in the Scope of Work Section, i.e., Section 3.0. The bidder must set forth its understanding of the requirements of this RFP and its ability to successfully complete the contract. This section of the proposal should contain at least the following information:

#### 5.6.1 **Management Overview**

Bidder must complete section 7.2.1

Please submit separately.

The bidder shall set forth its overall technical approach and plans to meet the requirements of the RFP in a narrative format. This narrative should convince UMDNJ that the bidder understands the objectives that the contract is intended to meet, the nature of the required work and the level of effort necessary to successfully complete the contract. The narrative should convince UMDNJ that the bidder's general approach and plans to undertake and complete the contract are appropriate to the tasks and subtasks involved.

Mere reiterations of RFP tasks and subtasks are strongly discouraged, as they do not provide insight into the bidder's ability to complete the contract. The bidder's response to this Section should be designed to convince UMDNJ that the bidder's detailed plans and approach proposed to complete the Scope of Work are realistic, attainable and appropriate and that the bidder's proposal will lead to successful contract completion.

#### 5.6.2 **Contract Management**

Bidder must complete section 7.3

Please submit separately

The bidder should describe its specific plans to manage, control and supervise the contract to ensure satisfactory contract completion according to the required schedule. The plan should include the bidder's approach to communicate with UMDNJ, including, but not limited to, status meetings, status reports, etc.

#### 5.6.3 **Contract Schedule**

Bidder must complete section 7.3.1

Please submit separately

The bidder should include a contract schedule. If key dates are a part of this RFP, the bidder's schedule should incorporate such key dates and should identify the completion date for each task and sub-task required by the Scope of Work. Such schedule should also identify the associated deliverable items(s) to be submitted as evidence of completion of each task and/or subtask. The bidder should identify the contract scheduling and control methodology to be used and should provide the rationale for choosing such methodology.

#### 5.6.4 **Implementation Plan**

Bidder must complete section 7.1.1

Please submit separately

It is essential that UMDNJ move forward quickly to have the contract in place. Therefore, the bidder must include as part of its proposal an implementation plan, beginning with the date of notification of contract award after short period of evaluation. Such implementation plan should include the following elements:

5.6.4.1 A detailed timetable for the implementation period. The timetable should be designed to demonstrate how the bidder will have all services available within the time frame indicated in the RFP.

5.6.4.2 The bidder's plan for the deployment and use of management, supervisory or other key personnel during the implementation period. The plan should show all management, supervisory and key personnel that will be assigned to manage, supervise and monitor the bidder's implementation of the contract within the period specified.

NOTE: The bidder should clearly identify management, supervisory or other key staff that will be assigned only during the implementation period.

5.6.4.3 The bidder's plan for recruitment of staff required to provide all services required by the RFP on the contract start date at the end of the implementation period. The bidder should submit a plan for the purchase and distribution of equipment, inventory, supplies, materials, etc., that will be required to fully implement the contract required start date.

5.6.4.4 The bidder should submit plan for the use of subcontractor(s), if any, on this contract. Emphasis should be on how any subcontractor identified will be involved in the implementation plan.

#### 5.6.5 **Budget**

Bidder must complete section 7.11

Please submit separately

The bidder should submit the budget it has developed for providing the services required by this RFP. *This information will be used for evaluation purposes only*, and is intended to provide the University with an additional perspective on how the bidder will allocate financial resources in undertaking the work required by this RFP.

#### 5.6.6 **Potential Problems**

Bidder must complete section 7.5

Please submit separately

The bidder should set forth a summary of any and all problems that the bidder anticipates during the term of the contract. For each problem identified, the bidder should provide its proposed solution.

#### 5.7 **Section 3 – Organizational Support and Experience**

Bidder must complete section 7.3.2

Please submit separately

The bidder should include information relating to its organization, personnel, and experience, including, but not limited to, references, together with contact names and telephone numbers,

evidencing the bidder's qualifications and capabilities to perform the services required by this RFP.

**5.7.1 Location**

Bidder must complete section 7.6.

Please submit separately

The bidder should include the location of the bidder's office that will be responsible for managing the contract. The bidder should include the telephone number and name of the individual to contact.

**5.7.2 Organizational Chart (Contract Specific)**

Bidder must complete section 7.7

Please submit separately

The bidder should include a contract organizational chart, with names showing management, supervisory and other key personnel (including subcontractor's management, supervisory or other key personnel) to be assigned to the contract. The chart should include the labor category and title of each such individual

**5.7.3 Staff Assigned to this Contract**

Bidder must complete Section 7.1.2 and 7.1.3

The bidder shall provide the number and qualifications of management, supervisory and other staff proposed by the bidder to provide the \_\_\_\_\_ Services including the number of hours and shifts each person will be assigned.

Provide the bidder's plan for implementation and use of on-site supervisory staff during the gear-up, transitional period and duration of the contract. This plan should show all personnel that will be assigned to manage supervise and monitor your firm's transition to the new contract.

**5.7.4 Experience of Bidder on Contracts of Similar Size and Scope**

Bidder must complete section 7.8

The bidder should provide a comprehensive listing of current contracts of similar size and scope that it has successfully completed, as evidence of the bidder's ability to successfully complete the services required by this RFP. Emphasis should be placed on contracts that are similar in size and scope to those required by this RFP. A description of all such contracts should include and should show how such contracts relate to the ability of the firm to complete the services required by this RFP. For each such contract, the bidder should provide the name and telephone number of a contact person for the other contract party. Beginning and ending dates should also be given for each contract.

#### **5.7.5 Financial Capability of the Bidder**

Bidder must complete section 7.11

The bidder should provide proof of its financial capabilities to undertake and successfully complete the contract. A certified financial statement for the most recent fiscal year and current bank reference(s) are acceptable. If a bidder chooses not to include this information with its bid, this information may be requested from the bidder during the evaluation process. If the bidder is requested to submit this information during the evaluation process, the bidder will be required to submit it, and failure to do so will be cause for finding the bid non-responsive.

#### **5.7.6 Subcontractor(s)**

Bidder must complete section 7.10

5.7.7.1 Should the bidder propose to utilize a subcontractor(s) to fulfill any of its obligations, the bidder shall be responsible for the subcontractor's(s): (a) performance; (b) compliance with all of the terms and conditions of the contract; and, (c) compliance with the requirements of all applicable laws.

5.7.7.2 The bidder should provide detailed description of services to be provided by each subcontractor, referencing the applicable Section or subsection of this RFP.

5.7.7.3 The bidder should provide detailed résumés for each subcontractor's management supervisory and other key personnel that demonstrate knowledge, ability and experience relevant to that part of the work, which the subcontractor is designated to perform.

5.7.7.4 The bidder should provide documented experience demonstrating that each subcontractor has successfully performed work on contracts of a similar size and scope to the work that the subcontractor is designated to perform in the bidder's proposal.

#### **5.8 Section 4 – Cost Proposal**

5.8.1 Bidders must submit their cost proposal in accordance with the Price Sheet(s) included in this RFP as Section 8.0.

Failure to submit all information required will result in your bid being considered non-responsive. Each bidder is requested to hold its prices firm for a minimum of one hundred twenty (120) days so that an award can be made.

5.8.2 Each bidder should also provide a comprehensive listing of all labor categories that may be used to perform additional work and/or special projects or according to the additional work and/or special project clause(s) of this RFP. Loaded hourly rates are to be submitted for all labor categories that the bidder anticipates may be required to perform additional work and/or special projects.

Failure to include a labor category along with a loaded hourly rate will exclude that category from eligibility to perform additional work and/or special projects under the contract resulting from this RFP. Each bidder may submit labor categories for additional work that are not included in the base proposal to perform the Scope of Work required by this RFP.

Each bidder may also submit any additional price or cost information that the bidder feels may be required to perform any additional work and/or special projects required by this RFP.

ONLY price and costing information provided by the bidder in its original bid proposal submitted in response to this RFP may later be used for additional work and/or special projects to be paid against the contract resulting from this RFP.

## 6.0 **PROPOSAL EVALUATION AND CONTRACT AWARD**

### 6.1 **Proposal Evaluation Committee**

Proposals may be evaluated by an Evaluation Committee composed of members of affected departments together with representative(s) from the Department of Purchasing Services. Representatives from other governmental agencies may also serve on the Evaluation Committee. On occasion, the Evaluation Committee may choose to make use of the expertise of an outside consultant in an advisory role.

### 6.2 **Oral Presentation and/or Clarification of Bids**

A bidder may be required to give an oral presentation to the Evaluation Committee concerning its bid proposal. The Evaluation Committee may also require a bidder to submit written responses to questions regarding its bid.

The purpose of such communication with a bidder, either through an oral presentation or a letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its bid. The original bid, as submitted, however, cannot be supplemented, changed, or corrected in any way during the evaluation process. No comments regarding other bids are permitted. Bidders may not attend presentations made by their competitors.

It is within the Evaluation Committee's discretion whether to require a bidder to give an oral presentation or require a bidder to submit written responses to questions regarding its bid. Action by the Evaluation Committee in this regard should not be construed to imply acceptance or rejection of a bid. The Purchasing Services' buyer is the sole point of contact regarding any request for an oral presentation or written clarification.

### 6.3 **Evaluation Criteria**

The following evaluation criteria categories, not necessarily listed in order of significance, will be used to evaluate bid proposals received in response to this RFP. The evaluation criteria categories may be used to develop more detailed evaluation criteria to be used in the evaluation process.

6.3.1 The bidder's general approach and plans to provide the twenty-four (24) hour Holter monitors and thirty (30) day event monitors plus equipment and accessories as required by this RFP.

6.3.2 The bidder's detailed approach and plans to perform the services required by the Scope of Work Section of this RFP.

6.3.3 The bidder's ability to provide twenty-four (24) hour and thirty (30) day event monitoring services.

| As required in section 3.1 and 3.2

6.3.4 The bidder's documented experience in successfully providing monitoring and reporting services of a similar size and scope of those required by this RFP.

As required in section 5.7.4

6.3.5 The qualifications and experience of the bidder's management, supervisory or other key personnel assigned to this contract, for providing monitoring equipment and providing monitoring services with emphasis on documented experience in performing services of similar size and scope to those required by this RFP.

6.3.6 The bidder's cost proposal.

#### 6.4 **University's Right to Consider Additional Information**

6.4.1 The Vice President may obtain any information determined to be appropriate regarding the ability of the bidder to supply and/or render the service required by this RFP.

6.4.2 The Vice President may consider such other factors that, in the opinion of the Vice President, are important in evaluating the bidder's proposal and awarding contracts as determined to be in the best interest of the University.

6.4.3. The University reserves the right to request all bidders to explain the method used to arrive at any or all cost or pricing figures.

6.4.4 When making the contract award decision, the University may consider evidence of formal or other complaints against any bidder(s) by the University for contracts held in the past or present by the bidder.

6.4.5 The University reserves the right to check the bidder's financial capacity and ability to successfully undertake and provide the services required by this RFP by any means deemed appropriate.

6.4.6 The University reserves the right to conduct site inspections of any facility(s) serviced by the bidder(s) to assist in judging the bidder's ability to provide the services required by this RFP. This applies to all facilities services by the bidder or any sub-contractor to the bidder. This right extends to all facilities of which the University is aware, or about which it becomes aware, that the bidder is servicing, whether or not the facility is listed in the bidder's proposal.

## 6.5 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

After evaluating bid proposals, the evaluation committee may enter into negotiations with each bidder in the competitive range, unless there are too many highly rated proposals to evaluate efficiently. In this situation, UMDNJ may limit the competitive range to the number of proposals that will permit efficient competition among the most highly rated proposals. The primary purpose of negotiations is to maximize UMDNJ's ability to get the best value, based on the requirements and evaluation criteria set forth in the RFP. Negotiations may involve the identification of significant proposal weaknesses, ambiguities and other deficiencies that could limit a bidder's award potential, including payments. More rounds of negotiations may be held with one bidder in the competitive range than with another. Negotiations will be structured to safeguard information and ensure that all bidders in the competitive range are treated fairly. When the evaluation committee determines to conclude negotiations, all bidders in the competitive range will be so notified and advised of the time and place for submission of best and final offers. The best and final offer can modify any aspect of the bid proposal, provided mandatory RFP requirements are satisfied and further provided that the revised payment proposal is not higher than the original payment proposal. Any revised payment proposal that is not equal to or higher in payment than the original payment proposal will be rejected as non-responsive.

Evaluation of the best and final offers will be on the basis of payment and the evaluation criteria set forth in the RFP. If, after review of the best and final offers, clarification is required, it may be sought from the bidders. If further negotiation is desired after evaluation of the revised proposals, it will be followed by another BAFO opportunity. UMDNJ reserves the right to reassess the competitive range before proceeding with a subsequent round of negotiations and BAFO submissions and to remove from the competitive range any proposal that is no longer considered to be a leading contender for award. After evaluation of the final BAFO submissions, the evaluation committee will recommend to the Vice President for award the responsible bidder(s) whose bid proposal(s), conforming to the RFP, is most advantageous to UMDNJ, payment and other factors considered. The Vice President may accept, reject or modify the recommendation of the Evaluation Committee. The Vice President may negotiate further increases in payment with the selected bidder.

**Negotiations will only be conducted in those circumstances where they are deemed by UMDNJ to be in UMDNJ's best interests and to maximize the UMDNJ's ability to get the best value. Therefore, bidders are advised to submit their best technical and payment proposals in response to this RFP, because the UMDNJ may, after evaluation, make a contract award based on the content of these initial submissions, without further negotiation with any bidder.**

All contacts, records of initial evaluations, any correspondence with bidders related to any request for clarification, negotiation or BAFO, any revised technical and/or payment proposals, the Evaluation Committee Report and the Award Recommendation, will remain confidential until a Notice of Intent to Award a contract is issued.

## 6.6 **Contract Award**

The contract shall be awarded with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to UMDNJ, price and other factors considered. Any or all bids may be rejected when the Vice President determines that it is in the public interest to do so.

## 6.7 **Bidder's Right to Challenge a Contract Award**

Except in cases of emergency, bidders have the right to protest a proposed contract award.

A bidder's protest must be submitted to the buyer of record with a copy to the Vice President of Supply Chain Management ("Vice President") within ten (10) days of receipt of notice to the bidder that it did not receive a contract award for its submitted bid proposal or notice that an award had been made to another bidder. The protest period may be shortened by the Vice President of Supply Chain Management. If the protest period is shortened or a protest period is not authorized due to emergency, all bidders will receive notice of the shortened protest period or emergency in the notice sent to bidder on the award of the contract.

Notices of contract award under this section may be faxed, e-mailed, sent by regular mail or by any other means, excluding telephonic communication, conducive to transmitting the notice. If notice is sent by regular mail, the recipient is deemed to have received the notice three (3) days after mailing.

If a bidder files a protest to a contract award under this section, the bidder must set forth in writing with specificity the basis of the protest. At the time of the protest filing, the bidder must also submit all documentation supporting the basis of the protest. Failure to comply with these requirements may lead to rejection of the protest and UMDNJ award of the contract.

The protest will be reviewed and addressed with reasonable promptness. If deemed necessary by Vice President, a hearing may be held on the merits of the protest. In all cases, the Vice President will notify the bidder of the final determination on the protest.

## 7.0 **BIDDER'S INFORMATION**

The bidder should fully complete and submit the following "Bidder's Information" to as part of your bid response. Failure to satisfactorily complete and submit the "Bidder's Information" may result in a determination that your bid is non-responsive, resulting in rejection of your bid.

## 7.1 **Bidder's Gear-up and Transition Plan**

All bidders, including any present or incumbent contractor(s) should submit a detailed gear-up and transition plan with their bid proposal. The plan should be designed to show the University that the bidder would be able to establish complete and satisfactory contract operation on the contract beginning date.

The bidder should show how they plan to make an orderly and efficient transition from the current contract to complete and satisfactory delivery of all services required by the new contract. The Gear-Up and Transition Plan should provide for an orderly and efficient start-up.

The Gear-Up and Transition Plan should be submitted with the proposal using the following sheets. The plan should address, at a minimum, how the following issues will be handled:

#### **7.1.1 Gear-Up and Transition Timetable**

As Required In Section 5.6.4

Provide the bidder's gear-up and transitional plan. The plan should include a detailed timetable for gear-up and transition. The timetable should convince the University that the new contract will be operational on the contract beginning date required. For evaluation purposes only, bidders should use a contract award date after a short period of evaluation.

#### **7.1.2 Staff Assigned to Contract**

As Required In Section 5.7.3

The bidder shall provide the number and qualifications of management, supervisory and other staff proposed by the bidder to provide the \_\_\_\_\_ Services including the number of hours and shifts each person will be assigned.

#### **7.1.3 Supervisory Personnel**

As required In Section 5.7.3

Provide the bidder's plan for implementation and use of on-site supervisory staff during the gear-up, transitional period and duration of the contract. This plan should show all personnel that will be assigned to manage supervise and monitor your firm's transition to the new contract.

### **7.2 Bidder's Management Information**

#### **7.2.1 Management Overview**

As Required In Section 5.6.1

The bidder shall provide a narrative of the general approach and plans to provide the services required in the Scope of Work section of the RFP.

### **7.3 Contract Management**

As Required In Section 5.6.2

The bidder should describe its specific plans to manage, control and supervise the contract to ensure satisfactory contract completion according to the required schedule. The plan should include the bidder's approach to communicate with UMDNJ, including, but not limited to, status meetings, status reports, etc.

### **7.3.1 Contract Schedule**

As Required In Section 5.6.3

The bidder should include a contract schedule. If key dates are a part of this RFP, the bidder's schedule should incorporate such key dates and should identify the completion date for each task and sub-task required by the Scope of Work. Such schedule should also identify the associated deliverable items(s) to be submitted as evidence of completion of each task and/or subtask.

### **7.3.2 Section 3 – Organizational Support and Experience**

Bidder must complete section 5.7

Please submit separately

The bidder should include information relating to its organization, personnel, and experience, including, but not limited to, references, together with contact names and telephone numbers, evidencing the bidder's qualifications and capabilities to perform the services required by this RFP.

**7.4 DOES YOUR SUBMISSION MEET ALL OF THE SPECIFICATIONS THAT ARE IN SECTION 3.0 OF THIS RFP? IF NOT, PLEASE WRITE IN THE SECTION LISTED ANY SPECIFICATION FOR WHICH A “NO” ANSWER IS GIVEN AND PROVIDES AN EXPLANATION AND ALTERNATIVE.**

**Section 3.0**

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**Section 3.1**

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**Section 3.2**

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**Section 3.3**

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**Section 3.4**

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**Section 3.5**

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**Section 3.6**

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**Section 3.7**

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(MAKE ADDITIONAL COPIES OF THIS SHEET, IF NECESSARY)

## **7.5     Listing of Potential Problems**

As Required In Section 5.6.6

The bidder should include a summary of any areas it anticipates encountering in implementing or providing the services or other work elements as detailed in the Scope of Work of this RFP. The bidder should list problems, which the bidder, in its judgment, feels may become problems. It is important for the bidder to convince the University of its understanding of, and ability to solve, these problem areas.

1. List Potential Problem.
2. Show in a brief narrative that you understand the cause and substance of the potential problem. Be specific.
3. Give a specific recommendation on how to address and solve the problem.

## **7.6     Contact Information**

As Required In Section 5.7.1

7.6.1 The bidder should include the location of the bidder's office that will be responsible for managing the contract. The bidder should include Name of the individual to contact, telephone and fax number and e-mail address.

7.6.2 The bidder should list the name of the individual that may be contacted at all times if service or information is required from the contractor by the University.

7.6.3 The bidder should list the name, address and telephone number of the insurance firm from which it intends to purchase the insurance required for this contract, and a person to contact at this firm. Name of individual at the insurance company, telephone and fax number and e-mail address that the University may contact to verify this information:

## **7.7     Project Organization Chart**

As Required In Section 5.7.2

The bidder should provide, using this page, an organizational chart showing the bidder's organization for this term contract alone. The term contract organization chart should show the bidder's management and on-site supervisor(s) assigned directly to this contract. Show individuals with their names and titles. If subcontractors are proposed, show the subcontractor's management and supervisory personnel with name and titles.

### **7.8 References of Firm**

As Required In Section 5.7.4

The bidder should provide a list of current references that clearly demonstrate the bidder's proven capabilities in performing services on contracts of similar size and scope to those required by this RFP.

Emphasis should be placed on contracts that are similar in size and scope to those required by this RFP. A description of all such contracts should include and should show how such contracts relate to the ability of the firm to complete the services required by this RFP. For each such contract, the bidder should provide the contact person's name, title, phone number, e-mail address, and address. Beginning and ending dates should also be given for each contract.

### **7.9 Listing of all Contracts Lost in Last Three (3) Years**

The bidder should provide a complete list of all contracts the bidder has lost or has had terminated during the last three (3) years, along with the reason why each one was lost or terminated. Include the name of a contact person and phone number for each contract lost or terminated.

### **7.10 Subcontractor Data Information**

As Required In Section 5.7.6

If the bidder is proposing to use subcontractors, the bidder must provide the subcontractor's name, address, contact person, telephone number and e-mail address with your bid submission. Also, include the work that will be performed by the subcontractor, list previous experience in performing similar services to those required by this RFP. Provide references for the subcontractor including contact person, telephone number and e-mail address.

### **7.11 Bidder's Financial Capacity**

As Required In Section 5.6.5 and 5.7.5

The bidder should provide proof of the firm's financial capacity and capabilities to undertake and successfully provide services required under this contract. A financial statement for the most recent fiscal year or bank reference is acceptable. The University reserves the right to check and evaluate the firm's financial capacity and capability by any means deemed appropriate. The submission of this information with the bid is desired by the University, but is not mandatory.

However, if a bidder chooses not to include this information with its bid, this information may be requested from the bidder during the evaluation process. If the bidder is requested to submit this information during the evaluation process, the bidder will be required to submit it, and failure to do so will be cause for finding the bid non-responsive. Attach information to this form.

## **7.12 Start-Up Kits**

As Required In Section 3.1.8.1

The bidder must submit all contents included in the start-up kits.

## **8.0 PRICE SHEET AND SUPPORTING DETAIL**

Proposal # P13-033

All-Inclusive pricing for the Holter Monitoring Service shall include all direct and indirect cost, including those associated with, but not limited to, provision of all necessary equipment, installation, monitoring and reporting services, training, upgrades (if any) and delivery of equipment, shipping and all other requirements indicated in Section 3.0.

8.1 Twenty-Four (24) hour Monitoring and Reporting Services per patient per month as required in Section 3.0

\$\_\_\_\_\_ per patient per month.

8.2 Thirty (30) day Monitoring and Reporting Services per patient per month as required in Section 3.0

\$\_\_\_\_\_ per patient per month.

All shipping must be FOB destination.

## 9.0 **REQUIRED FORMS**

9.1 The following forms shall be submitted with bidder's proposal:

- Completed RFP Cover Sheet
- Ownership Disclosure Form-attached
- Terms and Conditions – attached

9.2 The following forms are required before Contract award and may be submitted with bidder's proposal:

- Certificate of Employee Information Report  
[http://www.umdnj.edu/purchweb/words\\_download/Form%20AA%20\\_302%20.pdf](http://www.umdnj.edu/purchweb/words_download/Form%20AA%20_302%20.pdf)  
[http://www.umdnj.edu/purchweb/words\\_download/AA302\\_instructions.pdf](http://www.umdnj.edu/purchweb/words_download/AA302_instructions.pdf)
- Business Associate Agreement-attached
- Two-Year Chapter 51 / Executive Order 117 Vendor Certification and Disclosure of Political Contributions Form  
[http://www.umdnj.edu/purchweb/vendors/vendor\\_06\\_E0134.htm](http://www.umdnj.edu/purchweb/vendors/vendor_06_E0134.htm)
- Certificate of Liability Insurance
- MacBride Principle Certification – attached
- Business Registration Certificate (BRC)- The bidder **must** be registered before opening date - <http://www.state.nj.us/treasury/revenue/busregcert.shtml>
- W-9 Form – <http://www.irs.gov/pub/irs-pdf/fw9.pdf>

## **OWNERSHIP DISCLOSURE FORM**

**Name of Firm:** \_\_\_\_\_

INSTRUCTIONS: Provide below the names, home addresses, dates of birth, offices held and any ownership interest of all officers of the firm named above. If addition space is necessary, provide on an attached sheet.

| Name  | Home Address | Date of Birth | Office Held | Ownership Interest |
|-------|--------------|---------------|-------------|--------------------|
| _____ | _____        | _____         | _____       | _____              |

INSTRUCTIONS: Provide below the names, home addresses, dates of birth, and ownership interest of all individuals not listed above, and any partnerships, corporations and any other owner having a 10% or greater interest in the firm named above. If a listed owner is a corporation or partnership, provide below the same information for the holders of 10% or more interest in that corporation or partnership. If additional space is necessary, provide that information on any attached sheet. If there are no owners with 10% or more interest in your firm, enter "None" below. Complete the certification at the bottom of this form. If this form has previously been submitted to the UMDNJ, Purchasing Department in connection with another bid, indicate changes, if any, where appropriate, and complete the certification below.

| Name  | Home Address | Date of Birth | Office Held | Ownership Interest |
|-------|--------------|---------------|-------------|--------------------|
| _____ | _____        | _____         | _____       | _____              |

### COMPLETE ALL QUESTIONS BELOW

Within the past five years has another company or corporation had a 10% or greater interest in the firm identified above? (If yes complete and attach a separate disclosure form reflecting previous ownership interests.) Yes \_\_\_\_\_ No \_\_\_\_\_

Has any person listed in this form or its attachments ever been arrested, charged, indicted, plead guilty or been convicted in a criminal or disorderly persons matter by the State of New Jersey, any other Political subdivision state or the U.S. Government? (If yes, attach a detailed explanation for each instance.) Yes \_\_\_\_\_ No \_\_\_\_\_

Has any person or entity listed in this form or its attachments ever been excluded suspended, debarred or otherwise declared ineligible by any agency of government from bidding or Contracting to provide services, labor, material or supplies? (If yes, attach a detailed explanation for each instance.) Yes \_\_\_\_\_ No \_\_\_\_\_

Are there now any criminal matters, suspension or debarment proceedings pending in which the firm and/or its officers and/or managers are involved? (If yes, attach a detailed explanation for each instance.) Yes \_\_\_\_\_ No \_\_\_\_\_

Has any federal, state or local license, permit or other similar authorization, necessary to perform the work applied for herein and held or applied for by any person or entity listed in this form, been suspended or revoked, or been the subject of any pending proceedings specifically seeking or litigating the issue of suspension or revocation? (If yes to any part of this question, attach a detailed explanation for each instance.) Yes \_\_\_\_\_ No \_\_\_\_\_

CERTIFICATION: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing or any changes to the answers or information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and that the State at its option, may declare any contract(s) resulting from this certification void and unenforceable.

I, being duly authorized, certify that the information supplied above, including all attached pages, is complete and correct to the best of my knowledge. I certify that all of the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment. (Print or Type)

|             |                 |
|-------------|-----------------|
| Date: _____ | _____ Signature |
|             | _____ Name      |
|             | _____ Title     |

FEIN # \_\_\_\_\_

*Request for Proposal: (RFP # P13-033) Provision of Cardiac Holter and Event Monitors with Accessories and Monitoring Services*

**NOTICE TO ALL BIDDERS**  
**REQUIREMENT TO PROVIDE A CERTIFICATION**  
**IN COMPLIANCE WITH MACBRIDE PRINCIPLES**  
**AND NORTHERN IRELAND ACT OF 1989**

Pursuant to Public Law 1995, c.134, a responsible bidder selected, after public bidding, by the Director of the Division of Purchase and Property, pursuant to N.J.S.A. 52:34-12, or the Director of the Division of Building and Construction, pursuant to N.J.S.A. 52:32-2, must complete the certification below by checking one of the two representations listed and signing where indicated. If a bidder who would otherwise be awarded a purchase, contract or agreement does not complete the certification, then the Directors may determine, in accordance with applicable law and rules, that it is in the best interest of the State to award the purchase, contract or agreement to another bidder who has completed the certification and has submitted a bid within five (5) percent of the most advantageous bid. If the Directors find contractors to be in violation of the principles which are the subject of this law, they shall take such action as may be appropriate and provided for by law, rule or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I certify, pursuant to N.J.S.A. 52:34-12-2, that the entity for which I am authorized to bid:

\_\_\_\_\_ has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein through the operation of offices, plants, factories or similar facilities, either directly or indirectly through intermediaries, subsidiaries or affiliated companies over which it maintains effective control; or

\_\_\_\_\_ will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.8 and in conformance with the United Kingdom's Fair Employment 9Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

\_\_\_\_\_  
Signature of Bidder

Dated: \_\_\_\_\_

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Title

This Business Associate Agreement  
Is Related To and a Part of the Following  
Underlying Agreement:  
P13-033 Provide Cardiac Monitoring Equipment  
and Services  
Effective Date of Underlying Agreement: \_\_\_\_\_  
School/Unit: \_\_\_\_\_  
Vendor: \_\_\_\_\_

## **Business Associate Agreement**

This Business Associate Agreement ("BAA") is entered into between The University of Medicine and Dentistry of New Jersey - Human Resource Department ("UMDNJ"), a body corporate and politic of the State of New Jersey having its principal administrative offices at 65 Bergen Street, Newark, New Jersey 07107 (hereinafter referred to as "**Covered Entity**") and

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[**Name and Address of Contracting Party**] (hereinafter referred to as "**Business Associate**") (the "**Covered Entity**" and "**Business Associate**" hereinafter collectively referred to as the "**Parties**"). Any conflict between the terms of this BAA and the Underlying Agreement between the Parties shall be governed by the terms of this BAA.

WHE REAS, in connection with the Underlying Agreement the Business Associate provides services to Covered Entity and Covered Entity discloses to Business Associate certain Protected Health Information that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009) (the "**HITECH Act**"), and regulations promulgated by the U.S. Department of Health and Human Services (the "**HHS**") (hereinafter the "**HIPAA Regulations**" and the "**HITECH Regulations**," respectively) and/or applicable state and/or local laws and regulations; and

WHEREAS, for good and lawful consideration and with acknowledgment of the mutual promises, set forth in the Underlying Agreement and herein, the Parties, intending to be legally bound, hereby agree as follows:

### **I. Definitions<sup>1</sup>**

A. **Breach** means the unauthorized acquisition, access, use, or disclosure of protected health information ("PHI") which compromises the security or privacy of such information in violation of HIPAA, the HITECH Act, the HIPAA Regulations, and/or the

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<sup>1</sup> An expanded definition of the following terms as well as the definition of other relevant terms are available on UMDNJ's website at <http://www.umdj.edu/purchweb/vendors/index.htm> . Terms used in this Business Associate Agreement but not otherwise defined shall have the meaning ascribed to those terms in HIPAA, the HITECH Act, and any current and future regulations promulgated under HIPAA and/or the HITECH Act. See 45 C.F.R. 160.103, 164.402 and 164.501.

HITECH Regulations, except where a good faith belief exists that unauthorized persons to whom such information is disclosed would not reasonably have been able to retain such information. The term “**Breach**” does not include:

1. Any unintentional acquisition, access, or use of PHI by an employee or person acting under the authority of a Covered Entity or Business Associate if:
  - a. Such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or person, respectively, with the Covered Entity or Business Associate; and
  - b. Does not result in further unauthorized use or disclosure; or
2. Any inadvertent disclosure by a person who is otherwise authorized to access PHI at a Covered Entity or Business Associate to another, similarly authorized person at the same Covered Entity, Business Associate or organized health care arrangement in which the Covered Entity participates and such information received as a result of such disclosure is not further used or disclosed in an impermissible manner.

B. **Business Associate** means a service provider that receives PHI from, or creates or maintains PHI on behalf of, a Covered Entity including, but not limited to, claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefits management, practice management, reprising, transcription, legal, actuarial, accounting, consulting, data aggregation, administrative, accreditation or financial services, and vendors that offer personal health records to patients as part of a Covered Entity's electronic health record, where the service or function involves the use or disclosure of individually identifiable health information from the Covered Entity or from another Business Associate of the Covered Entity. A Business Associate excludes, among others, employees of Covered Entities.

C. **Covered Entities** include (i) health care providers that transmit patient health information electronically in connection with a covered transaction, (ii) health plans (including employer-sponsored employee welfare benefit plans and self-insured employer-offered health plans), and (iii) health care clearinghouses.

D. **Data Aggregation** means, with respect to PHI created or received by a Business Associate, the combining of PHI received by a Business Associate in its capacity as a Business Associate for more than one Covered Entity to permit data analyses that relate to the health care operations of the respective Covered Entities.

E. **Designated Record Set** means any grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a Covered Entity that is (i) medical records and billing records about individuals, and/or (ii) enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health

plan, used, in whole or in part, by or for the Covered Entity, to make decisions about individuals.

F. **Electronic Protected Health Information (“Electronic PHI”)** means PHI that is transmitted by or maintained in electronic media.

G. **Individual** means the person who is the subject of PHI and includes a person who qualifies as a personal representative (45 C.F.R. 164.502(g)).

H. **Protected Health Information (“PHI”)** means physical and/or mental health and demographic information collected from an individual and created or received by a Covered Entity and/or Business Associate that identifies or could reasonably identify an individual (*i.e.*, is “individually identifiable”) and is held or transmitted in any form including electronic media. PHI excludes educational records and employment records held by a Covered Entity as an employer (45 C.F.R. 164.501).

I. **Required By Law** means that Covered Entities may use and disclose PHI without individual authorization as required by law (including by statute, regulation, or court orders) in accordance with the requirements in 45 C.F.R. 164.512(c), (e) or (f).

J. **Unsecured PHI** means PHI not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of technology or methodology specified by the Secretary of HHS.

## II. **Permitted Uses and Disclosures of PHI by Business Associate**

A. Except as otherwise limited in this BAA, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such uses and/or further disclosures (i) do not violate the requirements of HIPAA’s Business Associate contract standard at 45 C.F.R. 164.504(e)(1) and/or the HITECH Act, if done by the Covered Entity, (ii) are the minimum necessary PHI to accomplish the intended purpose, or (iii) are Required By Law.

B. Except as otherwise limited in this BAA, Business Associate may use or disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of Business Associate, provided, however, that any such uses or disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that (i) the PHI will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and (ii) the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.

C. Except as otherwise limited in this BAA, Business Associate may use PHI to provide Data Aggregation services to Covered Entity (42 C.F.R. 164.504(e)(2)(i)(B)).

D. Business Associate may use PHI to report violations of law to appropriate federal and state authorities as permitted under HIPAA and/or other federal and state laws. (45 C.F.R. 164.502(j) (1)).

### III. **Duties and Obligations of Business Associate Related to PHI**

A. Business Associate shall not use or disclose PHI other than as permitted or required by the Underlying Agreement, this BAA, and/or as Required By Law. Business Associate shall immediately notify Covered Entity of any use or disclosure of PHI in violation of this BAA.

B. Business Associate shall use and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of PHI and/or Electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.

C. Business Associate shall notify, in writing, the Covered Entity when the Business Associate discovers a Breach of Unsecured PHI. A Breach is deemed to have been discovered by a Business Associate as of the first day on which Business Associate (by its employee, officer, or other agent) knows or would have known of such Breach by exercising reasonable diligence. Business Associate's notification to Covered Entity (i.e., UMDNJ) shall:

1. Be made to the Covered Entity without unreasonable delay and in no event later than ten (10) days following the discovery of a breach, except in the case of a Business Associate that is an agent of the Covered Entity, in which case the Business Associate must provide the Covered Entity with immediate notification of the breach, except where law enforcement officials determine that a notification would impede a criminal investigation or cause damage to national security. Unless the language in the underlying agreement between the parties indicates that a Business Associate is an independent contractor, then the Business Associate shall be considered an agent of UMDNJ for purposes of breach notification.

2. To the extent possible, provide the identity of each Individual whose Unsecured PHI was, or is reasonably believed to have been, Breached, and any other information that the Covered Entity is required to include in the notice to affected Individuals under 45 C.F.R. 164.404(c), either at the time of notice of Breach to the Covered Entity or as promptly thereafter as information becomes available. Include information in substantially the same form as the "Notification To the Covered Entity About A Breach of Unsecured Protected Health Information" available to Business Associates at UMDNJ's website at [http://www.umdj.edu/hipaaweb/BN/NOTICATION\\_TO\\_THE\\_COVERED\\_ENTITY.pdf](http://www.umdj.edu/hipaaweb/BN/NOTICATION_TO_THE_COVERED_ENTITY.pdf).

D. Business Associate is subject to the same legal requirements to cure, terminate or report violations to the Secretary of HHS under the same duty and in the same manner as Covered Entity.

E. Business Associate shall mitigate, to the extent practicable, any harmful effect known to it resulting from an unauthorized use or disclosure of PHI or Breach of Unsecured PHI.

F. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides PHI (i) received from, or (ii) created or received by Business Associate on behalf of, a Covered Entity agrees, in writing, to the same restrictions and conditions that apply through this BAA to Business Associate with respect to such PHI.

G. Business Associate (i) shall provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI and, (ii) to the extent applicable, shall provide access for inspection and copying of PHI in a Designated Record Set at reasonable times at the request of Covered Entity or, as directed by Covered Entity, to an Individual (45 C.F.R. 164.524). If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act. (42 U.S.C. §17935(e)).

H. Business Associate shall, upon request with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI provided to it by Covered Entity.

I. Business Associate agrees to use, disclose and request (i) only the minimum necessary PHI, as defined by law, and (ii) to the extent practicable, only the limited data set of PHI excluding direct identifiers, as defined in 45 C.F.R. 164.514(e)(2).

J. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI (45 C.F.R. 164.528). Should a Covered Entity or an Individual request an accounting of disclosures of PHI pursuant to 45 C.F.R. 164.528, Business Associate agrees to promptly provide Covered Entity with information in a format and manner sufficient to respond no later than sixty (60) days after receipt of such request, subject to specific statutory exceptions.

K. Business Associate shall make its internal practices, books and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity, available to Covered Entity at the request of Covered Entity, or the Secretary of HHS, for purposes of the Secretary determining Covered Entity's compliance with HIPAA and/or the HITECH Act in the time, manner and place designated by the Covered Entity and/or the Secretary.

L. To the extent applicable, Business Associate shall make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to, no later than sixty (60) days after receipt of such request from a Covered Entity or Individual.

M. Business Associate agrees to abide by the limitations on marketing communications to Individuals regarding the purchase and use of products or services set forth in the HITECH Act and the HITECH Regulations.

N. Business Associate agrees and acknowledges that the administrative rules governing, and the civil and criminal penalties for violating, HIPAA, the HITECH Act, the HIPAA Regulations and the HITECH Regulations, apply to it in the same manner as they apply to Covered Entity, as more fully set forth at UMDNJ's website at <http://www.umdnl.edu/complweb/policies/index.htm>.

#### IV. **Term and Termination**

A. **Term.** The term of this BAA shall be effective as of the effective date of the Underlying Agreement and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions of this Section IV.

B. **Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

1. Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this BAA and the Underlying Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
2. Immediately terminate this BAA and/or the Underlying Agreement if Business Associate has breached a material term of this BAA and cure is not possible; or
3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary of HHS.

#### C. **Effect of Termination.**

1. (a) Except as provided in paragraph C.2 of this Section, upon termination of this BAA, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of PHI.

(b) Except as provided in paragraph C.2 of this Section, if Covered Entity, in its sole discretion, requires that Business Associate destroy any or all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, either due to the termination of this BAA or otherwise, Business Associate shall certify, in writing, to Covered Entity that the PHI has been destroyed and rendered indecipherable, pursuant to HIPAA and the

HITECH Act. This provision also shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible within thirty (30) calendar days of such request. In such case, Business Associate shall extend the protections of this BAA to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. This provision also shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

3. Should the Business Associate make a disclosure of PHI in violation of this BAA, Covered Entity shall have the right to immediately terminate any contract, other than this BAA, then in force between the Parties, including the Underlying Agreement.

4. The provisions of this Section IV.C, shall survive the termination of this BAA and the Underlying Agreement for any reason.

#### **V. Remedies In Event of Breach**

A. Business Associate agrees and acknowledges that irreparable harm will result to Covered Entity, and to its business, in the event of breach by Business Associate of any covenants, duties, obligations and assurances in this BAA and further agrees that remedy at law for any such breach shall be inadequate and that damages resulting there from are not susceptible to being measured in monetary terms. In the event of any such breach or threatened breach by Business Associate, Covered Entity shall be entitled to (i) immediately enjoin and restrain Business Associate from any continuing violations and (ii) reimbursement for reasonable attorneys' fees, costs and expenses incurred as a proximate result of the breach. The remedies in this Section V shall be in addition to any action for damages and/or other remedy available to Covered Entity for such breach.

B. Business Associate shall indemnify and hold Covered Entity, its directors, officers, employees and agents harmless from any and all liabilities, damages, reasonable attorneys' fees, costs and expenses incurred by Covered Entity as a result of a breach of this BAA caused by Business Associate's actions or inactions and/or those of its employees and agents.

C. Business Associate agrees and acknowledges that the provisions of this BAA shall be strictly construed.

#### **VI. Miscellaneous**

A. **Independent Contractor.** None of the provisions of this BAA and/or the Underlying Agreement are intended to create nor shall be deemed or construed to have created any relationship between the Parties other than that of independent entities contracting with each other unless otherwise explicitly stated in this BAA or the Underlying Agreement.

**B. Detrimental Reliance By Covered Entity.** Business Associate agrees and acknowledges that its covenants, duties, obligations and assurances herein shall be detrimentally relied upon by Covered Entity in choosing to commence or continue a business relationship with Business Associate. Covered Entity shall not be liable to Business Associate for any claim, loss, or damage relating to Business Associate's use or disclosure of any information received from Covered Entity or from any other source.

**C. Regulatory References.** Any reference herein to law means the law as in effect or as amended.

**D. Construction.** The BAA shall be construed broadly and any ambiguity shall be resolved in favor of a meaning that complies and is consistent with applicable law.

**E. Severability.** In the event that any provision of this BAA violates any applicable statute, ordinance or rule of law in any jurisdiction that governs this BAA, such provision shall be ineffective to the extent of such violation without invalidating any other provision of this BAA.

**F. Authority.** The signatories below have the right and authority to execute this BAA for their respective entities and no further approvals are necessary to create a binding agreement.

**G. Covered Entity's Notices To Business Associate.** Covered Entity's Notices to Business Associate are available on UMDNJ's website at [http://www.umdj.edu/hipaaweb/privacy/privacy\\_NPPUMDNJ03.htm](http://www.umdj.edu/hipaaweb/privacy/privacy_NPPUMDNJ03.htm). Such Notices include, but are not limited to, (i) any limitations in the Covered Entity's Notices of Privacy Practices that may affect the Business Associate, (ii) any changes in, or revocation of, permission by an Individual to use or disclose PHI, or (iii) any restriction in the use or disclosure of PHI that Covered Entity has agreed to.

**H. Compliance With State Law.** Business Associate agrees and acknowledges that as the holder of individually identifiable health information it is subject to New Jersey law. In the event of any conflict between federal health care laws and New Jersey law, the Business Associate shall comply with the more restrictive provision.

**I. Conflict Among Contracts.** Should there be conflict between the terms of this BAA and any other contract between the Parties (either previous or subsequent to the date of this BAA), the terms of this BAA shall control unless the Parties, in a subsequent writing, specifically otherwise provide.

**J. Modification.** This BAA may only be modified by a writing signed by the Parties. The Parties agree to take such action subsequent to this BAA as necessary to amend the BAA from time to time as necessary for the Parties to comply with the requirements of any applicable law.

**K. Notices to Parties.** Any notice required under this BAA to be given shall be made in writing to:

**To The Covered Entity:**

School/Unit/Department:

Address:

Telephone:

E-Mail:

**To The Business Associate:**

Name/Title:\_\_\_\_\_

Address:

Telephone:

E-Mail:

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement the day and year first written below.

By: UNIVERSITY OF MEDICINE  
AND DENTISTRY OF NEW JERSEY  
[COVERED ENTITY]

By: [BUSINESS ASSOCIATE]

Approved: \_\_\_\_\_

Approved: \_\_\_\_\_

Title: Denise Mulkern  
Senior Vice President for Finance

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

### **UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY** **STANDARD TERMS AND CONDITIONS**

#### **Section A: Terms and Conditions Governing All Contracts**

##### **1.0 REFERENCE TO LAWS**

The statutes, laws or codes cited are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

##### **1.1 Compliance – Laws**

The Contractor must comply with all local, state, and federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.

##### **1.2 Compliance – State Laws**

It is agreed and understood that any orders placed shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey.

This contract is subject to the New Jersey Contractual Liability Act N.J.S.A. 59:13-1, et seq. and the New Jersey Tort Claims Act N.J.S.A. 59: 1-1, et seq.

##### **1.3 Compliance – Codes**

The Contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building Code, OSHA and all applicable codes for this requirement. The Contractor will be responsible for securing and paying all necessary permits, where applicable.

##### **1.4 Compliance Obligations**

Each party certifies that it shall not violate the federal anti-kickback statute, set forth at 42 U.S.C. §1320a-7b(b) ("Anti-Kickback Statute"), or the federal "Stark Law," set forth at 42 U.S.C. § 1395nn ("Stark Law"), with respect to the performance of its obligations under this Agreement.

Contractor has received a copy of UMDNJ's Code of Conduct and UMDNJ's Stark Law and Anti-Kickback Statute Policies and Procedures. UMDNJ's Code of Conduct is available at <http://www.umdny.edu/complweb/code/conduct.pdf>. UMDNJ's Stark Law and Anti-Kickback Statute Policies and Procedures are available at the following web addresses: [http://www.umdny.edu/oppmweb/university\\_policies/ethics\\_compliance/PDF/00-01-15-60\\_05.pdf](http://www.umdny.edu/oppmweb/university_policies/ethics_compliance/PDF/00-01-15-60_05.pdf); [http://www.umdny.edu/oppmweb/university\\_policies/ethics\\_compliance/PDF/00-01-15-60\\_10.pdf](http://www.umdny.edu/oppmweb/university_policies/ethics_compliance/PDF/00-01-15-60_10.pdf); and,

[http://www.umdny.edu/oppmweb/university\\_policies/ethics\\_compliance/PDF/00-01-15-60\\_15.pdf](http://www.umdny.edu/oppmweb/university_policies/ethics_compliance/PDF/00-01-15-60_15.pdf).

Each party shall ensure that its individuals providing service under the agreement who meet the definition of "Covered Persons" (as such term is defined in the "Corporate Integrity Agreement between the Office of Inspector General of the Department of Health and Human Services and the University of Medicine and Dentistry of New Jersey" available at <http://www.umdny.edu/presweb/president/UMDNJ-CIA.pdf>) shall comply with UMDNJ's Compliance Program, including the training related to the Anti-Kickback Statute and the Stark Law.

#### 1.5 Anti-Discrimination

The Contractor or Subcontractor agrees to comply with the laws and regulations pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., the Civil Rights Act of 1964, Title VII, 42 U.S.C.A. S200e et seq., the Age Discrimination in Employment Act, 29 U.S.C.A. S621 et seq., the Americans with Disabilities Act, 42 U.S.C.A. S12101 et seq., and all other laws guaranteeing equal employment.

#### 1.6 The Worker and Community Right to Know Act

The provisions of N.J.S.A. 34:5A-1 et seq. which requires the labeling of all containers of hazardous substances is applicable to this contract. Therefore, all goods offered for purchase to UMDNJ must be labeled by the Contractor in compliance with the provisions of the Act.

#### 1.7 Notice to All State Vendors of Set-Off for State Tax

Please be advised that pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction project to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set-off so much of that payment as shall be necessary to satisfy the indebtedness. The amount of the set-off shall not allow for the deduction of any expense or other deduction which might be attributable to the taxpayer, partner, or shareholder subject to set-off under this Act.

The Director of the Division of Taxation shall give notice of the set-off to the taxpayer, partner or shareholder and provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established under N.J.S.A. 54:49-18. No request for conference, protest, or subsequent appeal to the Tax Court from any protest shall stay the collection of the indebtedness. Interest that may be payable by the State pursuant to N.J.S.A. 52:32-32 et seq.) to the taxpayer shall be stayed.

## 1.8 Corporate Authority

All New Jersey corporations must obtain a Certificate of Incorporation from the Department of the Treasury, Division of Revenue, prior to conducting business in the State of New Jersey.

## 1.9 Prevailing Wage Act

The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.26 et seq. is hereby made part of every contract entered into on behalf of UMDNJ through the Department of Purchasing Services, except those contracts which are not within the contemplation of the Act. The contractor guarantees that neither it nor any subcontractors it might employ to perform work covered by this proposal has been suspended or debarred by the Commissioner, Department of Labor, for violation of the provisions of the Prevailing Wage Act.

## 1.10 Ownership Disclosure

All contractors are required to submit an Ownership Disclosure Form. Refer to N.J.S.A. 52:25-24.2.

## 1.4.14 Merger provision for future/amended contracts

Vendor acknowledges that the “New Jersey Medical and Health Sciences Education Restructuring Act” (P.L. 2012, c. 45, hereinafter, the “Act”) will, if implemented as currently enumerated on July 1, 2013, change the structure of the University of Medicine and Dentistry of New Jersey (“UMDNJ”). The Act specifies that all of the schools, institutes, and centers of UMDNJ (each, a “Unit”) – other than the School of Osteopathic Medicine (“SOM”), and University Hospital in Newark (“UH”) – will be transferred to and become part of Rutgers, The State University of New Jersey (“Rutgers”) as of July 1, 2013. The School of Osteopathic Medicine will be transferred to and become part of Rowan University (“Rowan”). University Hospital will be separately incorporated. Rutgers, Rowan and University Hospital are defined as “Successor Organizations”. Accordingly, and notwithstanding any other provision of this contract and RFP to the contrary, if the scope of work to be carried out by Vendor under this contract relates to all of UMDNJ or to more than one Unit of UMDNJ, such scope of work and contract for the scope of work for each Unit will be assigned, as of and after the dissolution of UMDNJ on or around July 1, 2013 and assuming the Act is implemented, to the Successor Organizations of those Units of UMDNJ. Any language in this contract that expressly relates to UMDNJ as a whole, or infers that the contract relates to services for UMDNJ as a whole, will as of the dissolution of UMDNJ, be deemed to mean those Units being transferred to Rutgers, Rowan or University Hospital, as applicable. Vendor acknowledges that upon the dissolution of UMDNJ this contract may be bifurcated or trifurcated among Rutgers, Rowan, and/or University Hospital (as applicable) and that the applicable Successor Organizations will each have a separate contract with Vendor as a result.

UMDNJ and/or Rutgers, Rowan, or University Hospital will provide the appropriate contact information to whom Vendor shall send all notices and inquires under this contract after the dissolution of UMDNJ. In the event neither Rutgers, Rowan, University Hospital nor UMDNJ provides any such contact information, Vendor is directed to use the existing contact information. Neither Rowan, Rutgers nor University Hospital will be responsible for payment of the services provided by Vendor to the Successor Organizations.

In the event the scope of Vendor's services under this contract relates to Units of UMDNJ that are being transferred to Rutgers, and also to Units of UMDNJ that are not being transferred to Rutgers, the contract will survive, as described above, but each Successor Organization reserves the right to reestablish the price that will be paid to Vendor on account of performing this contract. Vendor expressly acknowledges and agrees that the scope of work under this contract may be reduced because certain, existing UMDNJ Units may no longer be covered by this contract after the dissolution of UMDNJ. The price paid by each Successor Organization will be reduced in relative proportion to the decrease in services, if any, and Vendor expressly accepts this provision and acknowledges the possibility of a price reduction on account of the merger specified by the Act.

Vendor further expressly acknowledges and accepts that after the dissolution of UMDNJ, nothing in this contract will relate to units of the Successor Organizations that are not, on the effective date of this contract, currently Units of UMDNJ. In other words, the merger contemplated by the Act will not *increase* the scope of Vendor's services under this contract – unless a Successor Organization and Vendor expressly amend this contract (by mutually acceptable amendment signed by both parties) to expand the Vendor's

## **2.0 PRECEDENCE OF STANDARD TERMS AND CONDITIONS**

All of UMDNJ's terms and conditions will become a part of any contract(s) or order(s) awarded as a result of the solicitation document, whether stated in part, in summary, or by reference. In the event the contractor's terms and conditions conflict with UMDNJ's, UMDNJ's terms and conditions will prevail, unless the contractor is notified in writing of UMDNJ's acceptance of the contractor's terms and conditions.

## **3.0 INDEPENDENT STATUS OF CONTRACTOR**

If awarded a contract or purchase agreement, the Contractor's status shall be that of an independent principal and not as an employee of UMDNJ.

### **3.1 Subcontracting or Assignment**

The contract may not be subcontracted or assigned by the Contractor, in whole or in part, without the prior written consent of the Vice President of Supply Chain Management. Such consent, if granted, shall not relieve the Contractor of any of its responsibility under the contract. Nothing contained in

the specifications shall be construed as creating any contractual relationship between any subcontractor and UMDNJ.

### 3.2 Mergers and Acquisitions

If the Contractor shall merge with, or be acquired by, another firm, the following documents must be submitted to the Vice President of Supply Chain Management:

- (a) Corporate resolutions prepared by the awarded Contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; and,
- (b) Vendor Federal Employer Identification Number.

The documents must be submitted within thirty (30) days of completion of the merger or acquisition. Failure to do so may result in termination of contract pursuant to the provisions of these Standard Terms and Conditions.

If the Contractor's partnership or corporation shall dissolve, the Vice President of Supply Chain Management must be so notified. All responsible parties of the dissolved partnership or corporation must submit to the Vice President in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment will be made until all parties to the dissolved partnership or corporation submit the required documents to the Vice President.

## 4.0 LIABILITIES

### 4.1 Liability – Copyright

The Contractor shall hold and save UMDNJ, its officers, agents, servants and employees, harmless from liability of any nature or kind for, or on account of, the use of any copyrighted or uncopyrighted compositions, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

### 4.2 Indemnification

The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless UMDNJ and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and cost and expenses in connection therewith on account of the loss of life, property, or injury or damage to the person, body of property of any person or persons whatsoever including UMDNJ, its agents, servants or employees, which shall arise from or result directly or indirectly from the services and/or materials supplied under this contract and all fines, penalties and loss incurred, for or by the reason of the violation of any city or borough ordinance, regulation or laws of the State of New Jersey, or the United States, while said work is in progress. This indemnification obligation is not limited by, but is in addition to the insurance obligations contained in this agreement. This agreement shall be subject to all the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and all other laws applicable to the parties involved.

### 4.3 Insurance

The Contractor shall assume all responsibility for its actions and those of anyone else working for it while engaged in any activity connected with this contract. The Contractor shall carry sufficient insurance to protect it and UMDNJ from any property damage or bodily injury claims arising out of the contracted work. Evidence of current insurance coverage shall be provided in the form of a Certificate of Insurance, which shall be submitted no later than ten (10) days after receipt of notice of intent to award contract. The Certificate of Insurance should include the solicitation identification number and title of the solicitation.

In order to prevent any unnecessary delay, bidders may submit evidence of required insurance with their bid.

The insurance to be provided by the Contractor shall be as follows:

- **Commercial General Liability Insurance** - including contractual liability endorsement, subject to primary limits of coverage of not less than \$1,000,000 per occurrence/\$1,000,000 annual aggregate. If applicable, XCU coverage may be required;
- **Automobile Liability Insurance** – covering owned, non-owned and hired vehicles with not less than \$1,000,000 for bodily injury and property damage;
- **Excess Liability Insurance** - subject to an additional limit of liability of not less than \$1,000,000 per occurrence/\$1,000,000 aggregate excess of the primary policy;
- **Workers' Compensation Insurance** - statutory coverage and including employers liability coverage of not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate;
- **Additional Insured** - UMDNJ to be named as additional insured ATIMA with respect to Commercial General, Automobile and Excess Liability Insurance provided by contractor pursuant to this proposal/contract;
- **Errors and Omissions Liability insurance** - with limits of \$1million/\$1million; UMDNJ to be named as additional insured ATIMA with respect to services provided by contractor pursuant to this proposal contract. If applicable, this insurance may be required.
- All insurers affording coverage are to be licensed to conduct the business of insurance within the State of New Jersey and to be rated not less than A- by Bests Insurance Rating Service.
- **UMDNJ is to be named as certificate holder with respect to all afore-mentioned insurance coverages.**
- **Liability Insurance MUST remain in effect for the duration of the Contract, including any extensions, and for ninety (90) days following termination of all work.**

No contract will be issued to the successful bidder until such time as the Contractor has supplied UMDNJ with a Certificate of Insurance verifying the above-indicated coverage. The Contractor is not authorized to begin service until UMDNJ is in receipt of said certificate.

## **5.0 CONTRACT TERMS**

### **5.1 Termination of Contract**

#### **5.1.1 Change of Circumstances**

Where circumstances and/or the needs of UMDNJ significantly change, or the contract is otherwise deemed no longer to be in the public interest, the Vice President of Supply Chain Management may terminate a contract entered into as a result of the solicitation document, upon no less than 30 day's notice to the Contractor with an opportunity to respond.

In the event of such termination, the Contractor shall furnish to UMDNJ, free of charge, such reports as may be required.

#### **5.1.2 For Cause**

Where a Contractor fails to perform or comply with a contract, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the Vice President of Supply Chain Management may terminate the contract upon 10 day's notice to the Contractor with an opportunity to respond.

Where a Contractor continues to perform a contract poorly as demonstrated by formal complaints, late delivery, poor performance of service, short-shipping, etc., so that the Vice President of Supply Chain Management is repeatedly required to use the complaints procedure in N.J.A.C. 17:12 4.2 et seq. the Vice President may terminate the contract upon ten (10) day's notice to the Contractor with an opportunity to respond.

In cases of emergency the Vice President of Supply Chain Management may shorten the time periods of notification and may dispense with an opportunity to respond.

In the event of termination under this section, the Contractor will be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

### **5.2 Warranty of Title**

The Contractor warrants good title to all materials, supplies, and equipment covered by this contract and agrees to deliver same free from any claim, liens, or charges, and agrees further that neither he nor any other person, firm or corporation shall have any right to lien upon said materials, supplies and equipment.

### 5.3 Title and Risk of Loss

Unless this contract specifically provides for earlier passage of title and/or risk of loss, title to supplies covered by this contract shall pass to the UMDNJ upon formal acceptance, regardless of when or where UMDNJ takes physical possession.

The risk of loss or damage to supplies which so fail to conform to the contract as to give a right of rejection shall remain with the Contractor until cured or until accepted by UMDNJ.

### 5.4 Increased or Decreased Quantity

UMDNJ may increase or decrease the quantity of supplies called for herein at the unit price specified in the Contractor's response proposal.

### 5.5 Tax Exempt Status

UMDNJ is tax exempt. N.J.S.A. 54:32b-1, et. seq., exempts the material listed in this solicitation document from New Jersey State Sales or Use Taxes.

### 5.6 Payment Terms

UMDNJ will issue payment for goods and services within forty-five (45) days of the receipt and acceptance of goods and services by the using department, whichever is later. Vendors shall not submit an invoice to Accounts Payable until the vendor receives a Purchase Order from UMDNJ for the goods and services. Vendors shall also not date an invoice that is before the date the Purchase Order is issued by UMDNJ.

Vendors may propose a discount for payments made before the 45 day period. UMDNJ may exercise the discretion to take advantage of such early payment terms.

#### 5.6.1 Availability of Funds

UMDNJ's obligation to pay the Contractor is contingent upon the availability of appropriate funds from which payment for contract purposes can be made. No legal liability in the part of UMDNJ for payment of any money shall arise unless funds are made available each fiscal year to UMDNJ by the State Legislature.

### 5.7 Discounts

In connection with any discount offered, time will be computed from date of delivery and acceptance at the UMDNJ destination.

## 5.8 Performance Security

If performance security is required, the Contractor shall furnish performance security in such amount on any award of a term contract line item purchase, see N.J.A.C. 17:12-2.5. The security shall be irrevocable; binding the Contractor to provide faithful performance of the contract, and shall be in the amount listed in the solicitation document, payable to the Treasurer, UMDNJ. Acceptable forms of performance security are as follows:

(a) A properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey; or, \_ (b) A certified or cashier's check drawn to the order of the Treasurer, UMDNJ; or, \_ (c) An irrevocable letter of credit drawn naming the Treasurer, UMDNJ as beneficiary, issued by a federally-insured financial institution.

The performance security must be submitted to UMDNJ within thirty (30) days of the effective date of the contract award and cover the period of the contract and any extensions thereof. Failure to submit performance security may result in cancellation of the contract for cause, pursuant to the provisions of these standard terms and conditions, as well as non-payment for work performed.

## 5.9 Performance Guarantee of Contractor

The Contractor hereby certifies that:

5.9.1 The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

5.9.2 All equipment supplied to UMDNJ and operated by electrical current is UL listed where applicable.

5.9.3 All new machines are to be guaranteed as fully operational for the period stated in the solicitation document from time of written acceptance by UMDNJ. The Contractor will render prompt service without charge, regardless of geographic location.

5.9.4 Sufficient quantities of parts necessary for proper service to equipment will be maintained at distribution points and service headquarters.

5.9.5 Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a forty-eight (48) hour period or within the time accepted as industry practice.

5.9.6 During the warranty period, the Contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract.

5.9.7 All services rendered to UMDNJ shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by UMDNJ is rendered.

#### 5.10 Delivery Guarantees

Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the solicitation document.

The Contractor shall be responsible for the delivery of material in first class condition to UMDNJ under this contract, and in accordance with good commercial practice.

Items delivered must be strictly in accordance with the solicitation document.

Mere acceptance of delivery shall not constitute acceptance on behalf of UMDNJ.

In the event delivery goods or services is not made within the number of days stipulated or under the schedule defined in the solicitation document, UMDNJ reserves the right to obtain the material or service from any available source, with the difference in price, if any, to be paid by the Contractor for its failure to meet its contractual commitments.

#### 5.11 Maintenance of Records

The Contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment. Such records shall be made available to UMDNJ upon request for purposes of conducting an audit or for ascertaining information regarding dollar volume or number of transactions.

#### 5.12 Auditing

UMDNJ reserves the right to audit, or cause to be audited, the Contractor's books and accounts pertaining to UMDNJ at any time during the term of the contract and for five (5) years thereafter.

#### 5.13 Contractor Reporting

UMDNJ may request the Contractor to report, from time to time, on the number and nature of purchasing transactions being handled under this contract. This information may include, but is not limited to, the number of items purchased, the dollar value of items purchased, etc.

#### 5.14 Computation of Time

Time, if stated as a number of days, will include weekends and holidays.

#### 5.15 Warranty of Supplies

5.15.1 Notwithstanding inspection and acceptance by the UMDNJ of supplies under the contract or any provision of this contract concerning the conclusiveness of any provision of this contract that at time of delivery:

\_ (a) All supplies furnished under this contract will be free from defects in material or workmanship and will conform with the specifications and all other requirements of this contract; and,

\_ (b) The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of such supplies will conform with the requirements of this contract.

5.15.2 Upon written notice of any breach of warranty, UMDNJ may either:

\_ (a) By written notice require the prompt correction or replacement of any supplies or part thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this contract; or

\_ (b) Retain such supplies, whereupon the contract price thereof shall be reduced by an amount equitable under the circumstances and the Contractor shall promptly make appropriate repayment.

5.15.3 If the contract provides for inspection of supplies by sampling procedures, UMDNJ may, at its option, determine the quantity of supplies or parts thereof which are subject to this paragraph in accordance with such sampling procedures.

5.15.4 When return, correction or replacement is required, UMDNJ shall return the supplies and transportation charges and responsibility for such supplies while in transit shall be borne by the Contractor.

5.15.5 If the Contractor fails or refuses to correct or replace the non-conforming supplies within a period of ten (10 days) (or such longer period as UMDNJ may authorize in writing) after receipt of notice from UMDNJ specifying such failure or refusal, UMDNJ may, by contract or otherwise, correct or replace them with similar supplies and charge to the Contractor the cost occasioned to UMDNJ thereby. In addition, if the Contractor fails to furnish timely disposition instructions, UMDNJ may dispose of the non-conforming supplies for the Contractor's account in a reasonable manner, in which case UMDNJ is entitled to reimbursement from the Contractor or from the proceeds for the reasonable expenses of the care and disposition of the non-conforming supplies, as well as for excess costs incurred or to be incurred.

5.15.6 Any supplies or parts thereof corrected or furnished in replacement pursuant to this clause shall also be subject to all the provisions of this clause to the extent as supplies initially delivered.

5.15.7 The word "supplies" as used herein includes related services.

5.15.8 The rights and remedies of UMDNJ provided in this clause are in addition to and do not limit any rights afforded to UMDNJ by any other clause of the contract.

5.15.9 Failure to agree upon any determination to be made under this clause shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

#### 5.16 Material and Workmanship

Unless otherwise specifically provided in this contract, all equipment, material, and articles covered by this contract are to be new and of the most suitable grade for the purpose intended. The Contractor shall number all other identifying data and information respecting the performance, capacity, nature, and rating of the machinery and mechanical and other equipment, which the

Contractor contemplates incorporating in the work. When required by this contract or when called for by UMDNJ, the Contractor shall furnish for approval by UMDNJ full information concerning the material or articles (including, but not limited to, items such as Material Safety Data (MSD) sheets), which the Contractor contemplates incorporating in the work. No materials will be accepted unless MSD's have been provided and the containers are labeled according to OSHA 29CFR 1910, 1200 and the New Jersey Right to Know Law. When so directed, samples shall be submitted for approval, and this shall be done at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection.

#### 5.17 Inspection and Tests

All supplies shall be subject to inspection and test by UMDNJ.

#### 5.18 Price Fluctuation During Contract

Unless otherwise noted by UMDNJ, all prices quoted shall be firm through issuance of a contract or purchase order and shall not be subject to increase during the period of the contract. In the event of a manufacturer's or Contractor's price decreases during the contract period, UMDNJ shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Vice President of Supply Chain Management must be notified in writing of any price reduction within five (5) days of the effective date.

Failure to report price reductions will result in cancellation of contract for cause, pursuant to the provisions of these Standard Terms and Conditions.

#### 5.19 Delivery Costs

All shipments must be made "F.O.B. Destination." Regardless of the method of quoting shipments, the Contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to UMDNJ.

"F.O.B. Destination" does not cover "spotting, but does include delivery on the receiving platform at any destination within UMDNJ, unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the Contractor's convenience when a single shipment is ordered. The weights and measures of UMDNJ shall govern.

### **6.0 STANDARDS PROHIBITING CONFLICTS OF INTEREST**

No bidder or contractor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fees commission, compensation, gift, gratuity, or other thing of value of any kind to any UMDNJ officer or employee as defined by N.J.S.A. 52:13D-13b. with which such bidder or contractor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13013i., of any such UMDNJ officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:130-13g.

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any UMDNJ officer or employee from any bidder or contractor shall be reported in writing forthwith by the bidder or contractor to the Attorney General and the New Jersey Executive Commission on Ethical Standards.

No bidder or contractor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such bidder or contractor to, any UMDNJ officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to UMDNJ or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:130-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the UMDNJ officer or employee or upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

No bidder or contractor shall influence, or attempt to influence or cause to be influenced, any UMDNJ officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

No bidder or contractor shall cause or influence, or attempt to cause or influence, any UMDNJ officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the bidder or contractor or any other person, bidder, contractor or corporation.

The provisions cited above shall not be construed to prohibit a UMDNJ officer or employee from receiving gifts from or contracting with bidder or contractor under the same terms and conditions as are offered or made available to members of the general public, subject to any guidelines promulgated by the New Jersey Executive Commission on Ethical Standards. UMDNJ reserves the right to take any or all of the following actions upon bidder's or contractor's violation of any of the foregoing provisions:

- \_ (a) Immediate termination of this or any contract between UMDNJ, the bidder or contractor;
- \_ (b) Disqualification of bidder or contractor from any future contracts, bids or requests for bid; and,
- \_ (c) Any other action, at law or in equity.

## **Section B: Terms and Conditions Governing Bids and Proposals**

### **1.0 APPLICABILITY OF STANDARD TERMS AND CONDITIONS**

Unless the bidder is specifically instructed otherwise in the solicitation document (i.e., Request for Proposal (RFP), or Invitation for Bids (IFB)), the following terms and conditions will apply to all contracts or purchase agreements made with the University of Medicine and Dentistry of New Jersey (UMDNJ). These terms are in addition to the terms and conditions set forth in the solicitation document and should be read in conjunction with same unless the solicitation document specifically indicates otherwise. If a bidder proposes changes or modifications or takes exception to any UMDNJ's terms and conditions, the bidder must so state specifically in writing in the bid proposal.

Any proposed change, modification, or exception in UMDNJ's terms and conditions by a bidder will be a factor in the determination of an award of a contractor purchase agreement.

## **2.0 STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS**

### **2.1 Corporate Authority**

All New Jersey corporations must obtain a Certificate of Incorporation from the Department of the Treasury, Division of Revenue, prior to conducting business in the State of New Jersey.

If a bidder receiving a notice of intent to award is the proposed contract awardee and such bidder is a corporation incorporated in a state other than New Jersey, such bidder must provide either a copy of its Certificate of Authority to do business in New Jersey, issued by the New Jersey Department of the Treasury, Division of Revenue, or evidence of its application to the Division of Revenue for such Certificate of Authority, within seven (7) days of the notice of intent to award.

If a bidder awarded a contract or purchase agreement is an individual not residing in this state or a partnership organized under the laws of another state, then the bidder shall execute a power of attorney designating the State Treasurer as its true and lawful attorney to receive process in any civil actions which may arise out of the performance of this contract or agreement. This appointment of the State Treasurer shall be irrevocable and binding upon the bidder, its heirs, executors, administrators, successors or assigns. Within ten (10) days of receipt of this process, the Treasurer shall forward same to the bidder at the address designated herein.

## **3.0 PROPOSALS TERMS**

### **3.1 Contract Amount**

The estimated amount of the contract(s), when stated in the solicitation document, shall not be construed as either the maximum or minimum amount which UMDNJ shall be obliged to order as the result of this solicitation document or any contract entered into as a result of this solicitation document.

### **3.2 Vice President's Right of Final Bid Acceptance**

The contract shall be awarded to that responsible bidder whose bid, conforming to the solicitation document, will be most advantageous to UMDNJ, price and other factors considered. Awards will not be based on any discounts offered by the bidder. The Vice President reserves the right to reject any or all bids, or to award in whole or in part if deemed to be in the best interest of UMDNJ to do so.

### **3.3 Causes for Automatic Rejection of Bids**

Bids may be automatically rejected for the following reasons:

#### **3.3.1 No signature on at least one copy of the bid;**

3.3.2 Bid not received on or before the scheduled time, date specified, and place designated on the bid request form (or as amended during the procurement process via addendum);

3.3.3 Failure to attend a mandatory pre-bid conference and/or mandatory site inspection;

3.3.4 Failure to initial a price alteration. If a unit price in the bid has been altered, the bidder's initials must appear adjacent to the alteration. Examples of alterations include, but are not limited to, cross-outs and erasures, with re-entered prices. If the alteration has not been so initialed, that particular item only in the bid will be automatically rejected, except as follows: If the extended price is correct and does not contain alterations, it shall be considered the bid price. If the extended total price does not contain alterations and the altered unit price is not initialed, the extended total price is considered as the bid price. In the event of an automatic rejection of a price (or prices), when the bid contains multiple items, the remainder of the bid will be evaluated;

3.3.5 If information essential to a bid evaluation, including, but not limited to, price, terms, and product description is submitted in pencil;

3.3.6 Failure to comply with Ownership Disclosure requirements promulgated pursuant to N.J.S.A. 52:2524.2.

3.4 UMDNJ's Right to Inspect Bidder's Facilities UMDNJ reserves the right to inspect the bidder's establishment before making an award, for the purposes of ascertaining whether the bidder has the necessary facilities for performing the contract.

### 3.5 UMDNJ's Right to Request Further Information

The Director of Purchasing Services reserves the right to request all information which may assist in making a contract award, including factors necessary to evaluate the bidder's financial ability.

Further, the Director of Purchasing Services reserves the right to request a bidder to explain in detail how the bid price was determined. Section 952 of the Omnibus Reconciliation Act of 1980 (P.L. 96-499) requires that providers include in contracts for services a provision allowing the Federal Government to have access to all documents and records that are needed to verify the Contractor's cost, if the value of the contract over 12 months is at least \$10,000.

### 3.6 Brand Name Specification

When a specification requires a particular manufacturer or brand, it indicates the quality and characteristics of the item being specified. Failure on the part of the bidder to confirm its provision of the manufacturer and/or brand specified shall be construed by UMDNJ to mean that the bidder will furnish the brand as specified. In instances where manufacturer or brand are specified, the bidder may offer the brand specified, or may offer an "equal" item, provided that the item is similar to the specified brand in all essential characteristics in terms of quality and functionality.

3.7 Samples UMDNJ reserves the right to require the bidder/Contractor to submit samples for approval. UMDNJ shall be the sole judge as to whether said materials meet its requirements. All literature and/or samples submitted in connection with this bid shall become the property of UMDNJ.

When "Samples Required" is indicated in a solicitation document, it shall be understood that all bidders shall furnish and deliver samples for each item where specified.

Sample(s) shall be delivered to UMDNJ at the time of bid submission.

Sample(s) delivered shall be tagged indicating the name of the bidder, the UMDNJ bid number, bid item number and complete description of item.

Failure to submit samples required may disqualify a bid.

### 3.8 Corrections

Erasures or other changes in bids must be explained or otherwise noted over signature of bidder.

### 3.9 Bid Security

#### 3.9.1 Bid Security

If bid security is required, such security must be submitted with the bid in the amount listed in the solicitation document, see N.J.A.C. 17:12-2.4. Acceptable forms of bid security are as follows:

- (a) A properly executed individual bid bond issued by an insurance or security company authorized to do business in the State of New Jersey; or,
- (b) A certified or cashier's check drawn to the order of UMDNJ; or,
- (c) An irrevocable letter of credit drawn naming the Treasurer, UMDNJ as beneficiary issued by a federally-insured financial institution.

UMDNJ will hold all bid security during the evaluation process. As soon as is practicable after completion of the evaluation, UMDNJ will:

- (a) Issue an award notice for those offers accepted by UMDNJ; and,
- (b) Return all bond securities to those who have not been issued an award notice.

All bid security from Contractors who have been issued an award notice shall be held until the successful execution of all required contractual documents and bonds (performance bond, insurance, etc.). If the Contractor fails to execute the required contractual documents and bonds within thirty (30) calendar days after receipt of award notice, the Contractor may be found in default and the contract terminated by UMDNJ. In case of default, UMDNJ reserves all rights, inclusive of, but not limited to, the right to purchase material and/or to complete the required work in accordance with the New Jersey Administrative Code and to recover any actual excess costs from the Contractor. Collection against the bid security shall be one of the measures available toward the recovery of any excess costs.

### 3.10 Complaints

Where a bidder has a history of performance problems as demonstrated by formal complaints and/or contract cancellations for cause pursuant these Standard Terms and Conditions, a bidder may be bypassed for this award. See N.J.A.C. 17:12 –2.8.

### 3.11 Subcontracting or Assignment

In the event the bidder proposes to subcontract for the services to be performed under the terms of the contract award it shall state so in its bid and attach for approval a list of said subcontractors and an itemization of the products and/or services to be supplied by them.

Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and UMDNJ.

## **4.0 TERMS RELATING TO PRICE QUOTATION**

### 4.1 Delivery Costs

Unless otherwise noted in the solicitation document, all prices for items in bid proposals are to be submitted “F.O.B. Destination.” Proposals submitted other than “F.O.B. Destination” may not be considered. Regardless of the method of quoting shipments, the Contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to UMDNJ.

“F.O.B. Destination” does not cover “spotting,” but does include delivery on the receiving platform at any destination within UMDNJ, unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the Contractor’s convenience when a single shipment is ordered. The weights and measures of UMDNJ shall govern.

### 4.2 C.O.D. Terms

C.O.D. terms are not acceptable as part of a bid proposal and will be cause for rejection of a bid.

Name of Firm: \_\_\_\_\_

Accepted by: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **AFFIRMATIVE ACTION DOCUMENTATION**

Dear Vendor:

As a State Agency, New Jersey State Regulations N.J.A.C. 17:27 requires us to obtain documentation regarding our vendors' "Affirmative Action" status. In order for us to be in compliance and do business with your company for the procurement of goods and services, it will be necessary for you to provide only one of the following documents with your bid/proposal response.

1. A State of New Jersey "Certificate of Employee Information Report Approval," or
2. A Form AA/302 Affirmative Action Employee Information Report, or
3. A Federal letter of approval from the Department of Labor.

Please understand the importance of this request. Although you may have already submitted this information, our files must be updated annually with current employment statistics. Your noncompliance of this request may result in suspension of any future business with your company.

Sincerely,

Purchasing Services