

**BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA
("University")**

UNIVERSITY OF MINNESOTA MORRIS

**REQUEST FOR PROPOSAL ("RFP") # 268-2008-0925
FOR
BIOMASS RECEIPT, STORAGE, AND DELIVERY (AGGREGATOR)**

Read Attachment Q of this document for details of the RFP process and general instructions.

Throughout this RFP, the company responding to this RFP will be referred to as "Respondent" or "you."

Submit Proposals in a sealed envelope or package with the Respondent's name and address, RFP number and RFP title clearly marked on the outside of each sealed envelope or package.

SUBMITTAL DATE AND TIME

THE UNIVERSITY MUST RECEIVE PROPOSALS NO LATER THAN:

October 09, 2008
Submittal Date

3:00PM per the time clock in Purchasing Services (Minnesota Time)
Time

The University will not consider late Proposals.

MAIL OR DELIVER

ONE signed ORIGINAL and THREE (3) paper copies of your Proposal to the below address. Also include a copy on CD with your paper copies of the proposal.

Purchasing Services
University of Minnesota
319 15th Avenue S.E.
400 Donhowe Building
Minneapolis, MN 55455

Do not submit copies to any other person or location.

CONTACT FOR RFP INQUIRIES

FM Purchasing Buyer: Dennis Moore
Purchasing Services
University of Minnesota
319 15th Avenue S.E.
400 Donhowe Building
Minneapolis, MN 55455
E-Mail: moore791@umn.edu

The person designated above is the only contact for all inquiries regarding any aspect of this RFP and its requirements. DO NOT CONTACT ANY OTHER UNIVERSITY EMPLOYEE, REPRESENTATIVE, OR STUDENT REGARDING THIS RFP UNLESS SPECIFICALLY INDICATED OTHERWISE IN THIS RFP OR INSTRUCTED TO DO SO IN WRITING BY THE PERSON DESIGNATED ABOVE.

<u>TENTATIVE SCHEDULE OF EVENTS</u>	<u>DATE</u>
RFP Issued	September 25, 2008
Pre-Proposal Meeting/Site Visit (See Section 1.5 for location / time)	September 25, 2008 at 1:00PM or 7:00PM
Questions to Purchasing Services moore791@umn.edu or 612-626-2870	October 3, 2008 at 3:00PM
Proposals Due	October 09, 2008 at 3:00PM
Presentations/Negotiations	To Be Determined
Date of Award	October 31, 2008

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2.0 Structure and Content of Respondent Proposal.....

ATTACHMENTS

Respondent's Proposal must consist of completion or acknowledgment of the following checked Attachments. Unchecked Attachments are intentionally omitted.

- ATTACHMENT A – RESPONDENT’S PROPOSAL – SIGNATURE / CERTIFICATION FORM
- ATTACHMENT B – RESPONDENT’S PROFILE AND EXECUTIVE SUMMARY
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- ATTACHMENT J – RESPONDENT’S COMMUNITY ECONOMIC DEVELOPMENT (CED) PLAN
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1.0 BACKGROUND/SCOPE OF WORK-PROJECT SUMMARY/EVALUATION CRITERIA/TIME PERIOD OF CONTRACT/PRE-PROPOSAL MEETING

1.1 BACKGROUND

The University of Minnesota Morris is currently using a new gasification facility at the Morris (UMM) campus. The reactor will convert corn stalks and other residual materials into a syngas, similar to natural gas, that can be burned to produce clean energy to generate heat (and cooling in the near future) for the campus. The facility will serve as a platform for UMM's research partners to identify trade-offs and opportunities surrounding gasifying other agricultural residues.

The University is in need of a party that can receive, store, and deliver bulk shipments of biomass to the Biomass Gasification Facility, which is undergoing startup and commissioning at this time.

1.2 SCOPE OF WORK – PROJECT SUMMARY

See Section D – Description of Services for more details.

1.3 EVALUATION CRITERIA

The selected Respondent will be the Respondent whose Proposal is the most advantageous to the University. The University is not bound to accept the lowest priced Proposal if that Proposal is not in the best interests of the University as determined by the University in its sole discretion. Proposals will be evaluated on the following criteria:

10% Respondent Profile and Executive Summary (Attachment B)

35% Degree to which Respondent's proposal assures fulfillment of the Description of Services, to include but not limited to, receipt of bulk biomass, storage facility requirements as determined by UMM including distance from Biomass Facility, ability to deliver biomass to UMM in a timely manner, material handling equipment, and record keeping abilities. (Attachment D).

35% Cost to provide required services. (Attachment F)

10% Terms and Conditions – Measured by acceptance or exception to the University of Minnesota's Terms and Conditions (Attachment G)

10% Degree to which Respondent's references meet UMM approval (Attachment K)

100% Total

1.4 TIME PERIOD OF CONTRACT

The selected Respondent shall commence Work on December 1, 2008 and complete Work by November 30, 2009.

1.5 PRE-PROPOSAL MEETING AND/OR SITE VISIT

The pre-Proposal meeting and/or site visit is: Check one or both as applicable.

mandatory optional none If "none" is checked, delete the remainder of this section.

LOCATION:

West Central Research and Outreach Center
46352 State Highway 329
Morris, MN 56267

1:00 – 3:00PM or 7:00 – 9:00PM (Minnesota Time)

- Provide by e-mail to the University the names of those who will attend from your company. RSVP e-mail: moore791@umn.edu
- If pre-Proposal meeting and/or site visit is mandatory, the University **will not** consider Proposals from Respondents not represented at the pre-Proposal meeting and/or site visit.

2.0 STRUCTURE AND CONTENT OF RESPONDENT'S PROPOSAL

Prepare your response to this RFP in the format and sequence specified in this RFP, including all of the relevant Attachments (see table of contents for list of Attachments). Respond specifically to each question posed. Do not simply make a general reference to an attachment or brochure. Failure to comply could result in the University rejecting the Proposal in its sole discretion. Catalogs or brochures about the Respondent's products or services may be included as an addendum to the Proposal, but not in place of specific responses to an item on the Attachments.

SIGNATURE AND CERTIFICATION FORM

The undersigned has carefully examined all instructions, requirements, specifications, terms and conditions of this RFP; understands all instructions, requirements, specifications, terms and conditions of this RFP; and hereby offers to furnish the Work and/or Goods, as applicable, at the prices quoted in Respondent's Proposal, and in accordance with the requirements, specifications, terms and conditions of this RFP.

The Respondent also certifies:

1. Its Proposal is a valid, firm, and irrevocable offer which the University may accept within a minimum of sixty (60) days from the Submittal Date and Time shown on the Title Page of this, and that its Proposal, if accepted, shall remain valid for the life of the contract.
2. It is a reputable company regularly engaged in providing Goods and/or Work necessary to meet requirements, specifications, terms and conditions of the RFP.
3. It has the necessary experience, knowledge, abilities, skills, capacity and resources to satisfactorily perform the requirements, specifications, terms and conditions of the RFP.
4. It is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
5. All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. The Respondent acknowledges that the University will rely on such statements, information and representations in selecting the successful Proposal.
6. It is not currently debarred or suspended from doing business with the Federal government, the state of Minnesota, any other state in the United States, or any of their respective agencies.
7. It shall be bound by all statements, representations, warranties, and guarantees made in its Proposal, including but not limited to, representations as to price, performance, and financial terms.
8. It acknowledges that submission of a Proposal indicates the Respondent's acceptance of the evaluation process described in the RFP and the Respondent's recognition that some subjective judgments may be made by the University as part of the evaluation in its sole discretion.
9. It understands and agrees that the University will not treat any information, document, or materials submitted by Respondent as confidential unless the Respondent strictly adheres to the procedures set forth in Number 12 of Attachment Q and that such information, documents, or materials not conforming to Number 12 of Attachment Q will be made available for immediate public inspection and copying upon completion of the RFP process. Respondent further agrees that the University may disregard confidentiality notices on fax coversheets and email headers/footers as well as copyright designations that accompany or are contained on material or documents submitted as part of Respondent's Proposal, it being understood and agreed that all material and documents not conforming to the procedures set forth in Number 12 of Attachment Q will be made available for immediate public inspection and copying upon completion of the RFP process.

Respondent Name:					
Street Address:					
City:		State:		Zip:	
Phone:		Fax:		E-Mail:	

I certify that I am a duly authorized representative of the Respondent listed above. The University is hereby authorized to request from any individual or company any information it deems necessary to verify any information provided by Respondent in its Proposal and to determine the capacity and responsibility of Respondent as a prospective contractor with the University.

Signature:		
	(Must be signed in full in ink by an officer of your company) (See Attachment G)	
Name:		(please type or print)
Title:		(please type or print)
	Date:	

ATTACHMENT B

RESPONDENT PROFILE AND EXECUTIVE SUMMARY

Company Profile – Attach additional pages if necessary.

1. Legal name of the Respondent: _____
2. Address of office which will fulfill this contract: _____
3. Federal ID number: _____
4. Number of years in business related to RFP: _____
5. Type of Operation: Individual: ____ Partnership: ____ Corporation: ____ Government: ____ Other: ____
6. Total number of employees: ____ Number of employees to be dedicated to fulfillment of this contract: ____
7. Company-wide Annual Sales Volume: \$ _____

Financial Stability & Capacity to Perform

8. Respondent will provide a copy of its financial statements for the past two (2) years, if requested by the University.
9. Is Respondent currently for sale or involved in any transaction to expand or to become acquired by another business entity?
If yes, please describe thoroughly, including, but not limited to, Yes No
parties' expansion or acquisition plans and timing.

10. Provide any details of all past or pending litigation or government agency action filed or claims against Respondent that could affect Respondent's performance under a contract with the University.

11. Is Respondent currently in default, or do you foresee going into default, beyond applicable cure periods on any loan agreement or financing agreement with any bank, financial institute, or other entity?
If yes, specify date(s), details, circumstances, and prospects for resolution Yes No

12. Does any current relationship whether a relative, business associate, capital funding agreement or any other such kinship, exist between Respondent Yes No If yes, please explain relationship and any University employee?

13. Are there any circumstances impacting Respondent that could affect Respondent's ability to perform under any award made through RFP process? Yes No

DESCRIPTION OF SERVICES

Background: The University of Minnesota Morris is in need of a party that can regularly deliver biomass to the Biomass Gasification Facility. The facility is designed to use a number of different agricultural residues and other plant derived biomass sources as a feedstock for heat generation. The facility will use approximately 8,000-10,000 tons of biomass during its initial season. During typical operations, between 10 and 30 tons of biomass will be needed daily. The responsible party will receive bulk shipments of biomass from producers, store it at a site it controls, and deliver it as needed to the University of Minnesota Morris Biomass Gasification Facility. Equipment to conduct delivery operations will be provided solely by the responsible party. Detailed record keeping is an essential operation of the receiving and delivery mission.

Option 1: Receiving, Storage, and Delivery Only

Awarded party will establish a storage facility with capabilities to receive contracted lots of biomass from producers. All material received will be documented for number of bales/volume of shipment, quality, and net tonnage. Daily, UMM staff will be contacted to arrange shipment of each day's allocation of biomass. Biomass will be hauled from the contracted parties' storage facility to the UMM gasification plant. Trailer(s) will be spotted at the UMM for unloading by UMM staff.

Option 2: Receiving, Storage, Delivery, and Fuel Feedstock Feeding

Same as above option 1 except that each day's initial shipment will be unloaded from trailer(s) by awardees representative onto the gasification feeding system. This would be done using awardees equipment.

Compensation: Specific terms for remuneration should be included in the proposal by respondent. Suggested payment is based on a per ton basis. Response to RFP's pricing should be on Attachment F.

Note: Parties interested in providing this service must comply with all city, state, and federal guidelines. Parties must also be properly licensed and insured for all activities specified in the proposal.

Equipment List: Please list below all equipment you intend to use to complete the work for this project. Be as detailed as possible with model numbers, capacity, and year of manufacture.

The aggregator will supply all equipment for the activities they will be performing. Note: Vendors performing other services for the University that require equipment be used and left on/near campus may use that equipment for both services/contracts.

Biomass Storage Site

The site furnished by the bio-fuels aggregator must meet several criteria related to access, storage capacity, and safety.

1. Storage Site Size- The site shall be sized sufficiently so that all biomass is accessible and equipment has adequate space to maneuver.
2. Fire Protection- Materials shall be stored to reduce risk of uncontrollable fire, with piles spaced widely and allow for access by local fire departments should a fire or emergency occur. Note: Vendor must have sufficient insurance to cover loss of on-site biomass materials.
3. Access- The site must have year round accessibility and be open to transport biomass in all but the most extreme weather periods when flooding or snowfall limit access.
4. Location- the storage site should be within 5 miles of the University of Minnesota, Morris campus.

5. Drainage- The storage site should have good drainage and not be located in an area prone to standing water, so that the biomass material can quickly dry after precipitation.

Access and Assistance with research

The vendor shall assist the University in research activities related to biomass logistics. This includes providing University staff with data on labor, equipment, time requirements and costs for handling biomass.

The University of Minnesota, Morris must have access to the site to perform moisture testing, inventory assessment, and quality control work.

Biomass Quality Control

The vendor is asked to alert the University's representative, Joel Tallaksen, or his designee, when biomass is delivered so that any significant problems with the quality of the biomass delivered can be dealt with. The University's Joel Tallaksen will be responsible for conducting quality control analysis.

Acceptance hours/season

While vendor personnel are not expected to remain on site continuously during typical business hours (9:00 am to 5:00 pm Monday through Friday), the storage site shall have a regular window of at minimum 8 hours per weekday for delivery. The Vendor will arrange to have staff present when deliveries are coordinated with producers.

Record Keeping

The vendor will keep accurate records of all material received from biomass producers and material delivered to the University. The location of received deliveries will be mapped so that a given delivery/lot of specific biomass can be delivered to the University when it is required.

PRICING

Respondent will enumerate in detail all aspects of pricing on this page. It is suggested that payment is based on a per ton basis.

Please list any additional charges that could be billed to the University of Minnesota, Morris and when/why these charges could be added to the cost of biomass purchased. The University of Minnesota, Morris will not pay for items not included in this list.

Optional Services

1. The University would like vendors to include optional costs for grinding/processing biomass with equipment provided at University expense.
2. The cost of loading materials into the biomass gasification facility feed bunker in addition to delivering them to the site should be included as a separate option.

AWARD TERMS AND CONDITIONS

ANY AWARD MADE AS A RESULT OF THIS RFP PROCESS WILL BE GOVERNED BY THE TERMS AND CONDITIONS CONTAINED IN THIS DOCUMENT.

If you take exception or wish to propose an addition or deviation to any term or condition in this document, do so clearly and conspicuously in your Proposal by referencing the specific section number of the term or condition and by describing the exception, addition, or deviation and proposing alternative language. To facilitate your response, you may also use the "Track Changes" feature of MS Word to submit a redlined version indicating proposed changes to the University of Minnesota terms and conditions included in this Attachment G. Do not propose to substitute your own standard terms and conditions.

If you do not clearly and conspicuously take an exception or propose an additions or deviations to a specific term or condition, you will be bound by the University's terms and conditions attached in this Attachment G in the event an award is made to you.

The University reserves the right in each instance to (1) accept any Proposal with deviations, additions, or exceptions; (2) negotiate deviations, additions, or exceptions; or (3) reject a proposal with deviations, additions, or exceptions the University deems unacceptable at its option and in its sole discretion.

Note: In the University's terms and conditions attached in this Attachment G, the Phrase "Purchase Order" shall refer to the award made pursuant to this RFP process, including the specifications and requirements of the RFP and the representations of Respondent (including but not limited to, representations as to price, specifications, performance, and financial terms). The term "Seller" shall refer to the Respondent receiving an award under this RFP Process.

Indicate by initialing:

_____ No exceptions or deviations to the Award Terms & Conditions have been made.

OR

_____ An Exception or Proposed deviation to the Award Terms & Conditions has been made per the instructions above.

Version 1 – General Terms and Conditions of Purchase (Used for Goods & Standard Services)
[\(Microsoft Word Format\)](#)

Note: Hold down "Control" button and click on "Microsoft Word Format" to view Terms and Conditions.

REFERENCES

Provide a customer reference list of at least three (3) organizations with which Respondent currently has contracts and/or has previously provided a similar quantity of goods and/or a similar scope of services within the past five (5) years. The reference list is to include:

Company name _____
Contact person _____
Telephone number _____
E-mail address _____
Project description _____
Length of business relationship _____
Other relevant information _____

Company name _____
Contact person _____
Telephone number _____
E-mail address _____
Project description _____
Length of business relationship _____
Other relevant information _____

Company name _____
Contact person _____
Telephone number _____
E-mail address _____
Project description _____
Length of business relationship _____
Other relevant information _____

The University reserves the right to consider other references or Respondent's documented past performance at the University.

Provide Bank Reference Below:

Bank Name _____
Contact _____
Title _____
Phone Number _____

CERTIFICATE OF INSURANCE

The successful Respondent must provide, before award of the contract, a Certificate of Insurance evidencing coverage indicated in the Award Terms & Conditions ([Attachment G](#)), naming the "Regents of the University of Minnesota" as additional insured, and agreeing to give the University not less than 30 days notice of any cancellation, expiration, or material change.

The successful Respondent further agrees to provide to Purchasing Services prior to policy expiration a revised insurance certificate as evidence of renewals of coverage.

RFP PROCESS AND GENERAL INSTRUCTIONS

Carefully read the information contained in this RFP and submit a complete response to all requirements, specifications, and questions as directed.

1. QUESTIONS AND INQUIRIES

Fax or e-mail questions about the RFP to the Contact for RFP Inquiries by the date noted in the Tentative Schedule of Events. Respondents also may bring questions to any scheduled pre-Proposal meeting; but such questions may not be answered at that time. The University prefers that Respondents submit questions in advance of any pre-Proposal meeting in order to facilitate appropriate responses.

Responses to questions which involve an interpretation or change to this RFP will be issued in writing by University Purchasing Services by addenda and mailed to all parties the University has recorded as having received a copy of the RFP. All such addenda issued prior to the Submittal Date and Time shall be considered part of the RFP.

Companies receiving this RFP other than directly from Purchasing Services must notify the Contact for RFP Inquiries and provide a name, street address and e-mail address in order to receive any addendum.

Only additional information provided by formal written addenda shall be binding. Oral and other interpretations or clarifications, including those occurring at pre-Proposal meetings, site visits, tours, etc., are not binding.

2. ISSUANCE OF RFP AND AWARD PROCESS

After the public opening, an award may be made on the basis of the Proposals submitted, without discussion, clarification or modification, or on the basis of negotiation with any or all of the Respondents. Therefore, make sure your Proposal contains your best offer.

Issuance of this RFP does not require the University to award or contract. The University reserves the right to reject any or all Proposals, wholly or in part; to waive any technicalities, informalities, or irregularities in any Proposal at its sole option and discretion. The University reserves the right to request clarification or additional information. The University reserves the right to award a contract in whole or in part, to award multiple contracts to multiple Respondents, to re-solicit for Proposals or to temporarily or permanently abandon the procurement. If the University awards a contract, it will award the contract to the Respondent or Respondents who's Proposal(s) is (are) the most advantageous to the University as determined by the University in the exercise of its sole discretion.

After a notification of award has been sent to the selected Respondent(s), letters will be sent to all other Respondents notifying them of the outcome of the RFP process and that the Proposal file is public and available for review in Purchasing Services, subject to the University's Records and Information Management policies and procedures.

3. PROPOSAL SUBMISSION

3.1 NUMBER AND DESCRIPTION OF ORIGINAL AND COPIES

Mail or deliver the number of Proposal sets specified on the Title Page to Purchasing Services. All documents should be 8 1/2" x 11". Bind copies in a manner that facilitates

easy handling and reading by the Evaluation Committee. The original and the copies must read exactly the same.

Include with the Proposal a table of contents that includes page number references. The table of contents should be in sufficient detail to facilitate easy reference to the sections of the Proposal as well as separate supplemental information.

3.2 LATE SUBMISSION

The University will not consider Proposals received by the University after the Submittal Date and Time indicated on the Title Page **WILL NOT** be considered. The Respondent assumes the risk of delivery. Postmarking by the Submittal Date and Time shall not substitute for actual receipt of the Proposal by the University.

3.3 RESPONDENT'S PROPOSAL - SIGNATURE AND CERTIFICATION FORM

Have the Respondent's Proposal - Signature and Certification Form (Attachment A) signed by an authorized representative of your company. Include this signed document with the original Proposal and a copy of it with each copy of the Proposal.

4. OWNERSHIP OF PROPOSAL

All materials submitted in response to this request become the property of the University and may become a part of any resulting contract. Award or rejection of a Proposal does not affect this right.

5. RELEASE OF CLAIMS, LIABILITY AND PREPARATION EXPENSES

Under no circumstances shall the University be responsible for any Proposal preparation expenses, submission costs, or any other expenses, costs or damages, of whatever nature incurred as a result of Respondent's participation in this RFP process. Respondent understands and agrees that it submits its Proposal at its own risk and expense and releases the University from any claim for damages or other liability arising out of the RFP and award process.

6. PUBLIC PROPOSAL OPENING AND VIEWING

The University will open the responses at the Submittal Date and Time. Respondents may attend the Proposal opening. Only the names of the Respondents shall be made public at the opening. After the award has been, notification of the outcome of the RFP process will be sent to all Respondents, and Proposals may be viewed publicly in Purchasing Services subject to the University's Records & Information Management policies and procedures.

7. DURATION OF RESPONDENT'S PROPOSAL

The Proposal constitutes a firm offer by the Respondent that shall remain open and irrevocable for the period specified on the Respondent's Proposal - Signature and Certification Form (Attachment A).

8. ERRORS IN PROPOSALS

The University shall not be liable for any errors in Respondent's Proposal. Except during negotiations initiated by the University, no modifications to a Proposal shall be accepted after the Submittal Date and Time. You must ensure that all information, including pricing, is correct and complete.

You are responsible for all errors and omissions contained in your proposal; so the University may reject a proposal based on its erroneous or omitted information, even if the correct or complete information was available to the University elsewhere. Similarly, the University may accept your Proposal based on the erroneous or omitted information, and you will be bound by the information as it appears in the Proposal, even if the correct or complete information was available to the University elsewhere.

9. WITHDRAWING PROPOSALS

You may withdraw your Proposal at any time prior to the Submittal Date and Time by submitting a written request to the Contact for RFP Inquiries. The written request must be signed by an authorized representative of the Respondent. The Respondent may submit another Proposal at any time prior to the Submittal Date and Time. No Proposal may be withdrawn after the Submittal Date and Time without approval by the University. Such approval shall be based on Respondent's submittal, in writing, of a reason acceptable to the University in its sole discretion.

10. ADDENDUM

The University reserves the right to issue one or more addenda to the RFP at any time for any reason.

11. ORAL PRESENTATIONS/SITE VISITS

One or more Respondents may be required to do an oral presentation and/or allow the University to visit the Respondent's site. Each Respondent should be prepared to discuss and substantiate any area of its Proposal, its own qualifications for the Goods and/or Work, and any other area of interest relative to its Proposal.

12. RESPONSES SUBJECT TO PUBLIC DISCLOSURE

University considers all information, documentation and other materials (collectively, "Materials" or "Items") submitted in response to this RFP to be non-confidential and/or non-proprietary, and subject to public disclosure and copying after a contract is awarded. By submitting a Proposal, Respondent agrees to release the University from any liability resulting from University's disclosure of such information.

If submitting information in response to this RFP that you believe to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minnesota-Statute Section 13.37 (MGDPA), you must follow these instructions.

- (1) Clearly and conspicuously mark any Materials you believe to contain trade secret information;
- (2) Enclose such Materials in a separate envelope, which, itself, is clearly and conspicuously marked "Confidential"; and
- (3) Include in the envelope an opinion for each document indicating the legal basis for regarding it as trade secret under the MGDPA.

Respondent also agrees to defend any action seeking release of the Materials believed to be trade secret, and indemnify and hold harmless the University, its regents, agents and employees ("Releases"), from any judgments or damages awarded against the Releases in favor of the party requesting the Materials and any and all costs connected with that defense. Additionally, Respondent understands and agrees that in the event a request is made under the MGDPA, the University will notify Respondent of such request but under no circumstances shall the University be required to commence or defend any action to prevent the disclosure or copying of any Materials, including Materials which the Respondent believes to be trade secret or confidential.

13. RESPONSIBLE RESPONDENTS

The University reserves the right to award contracts only to responsible Respondents, defined as companies that demonstrate the financial ability, resources, skills, capability, willingness, and business integrity necessary to perform under the contract. The University's determination of whether a Respondent is a responsible Respondent is at the University's sole discretion.

14. NOTIFICATION OF AWARD

If the University awards a contract as a result of this RFP process, the University will deliver to the selected Respondent a notice of award.

The resulting contract shall consist of:

- (1) the terms, conditions, specifications and requirements of this RFP and its attachments,
- (2) any addenda issued by the University pursuant to this RFP,
- (3) all representations (including but not limited to, representations as to price, specifications, performance, and financial terms) made by the Respondent in its Proposal and during any videotaped presentations or demonstrations for the benefit of the University,
- (4) any mutually agreed upon written modifications to the terms, conditions, specifications, and requirements to this RFP or to the Proposal.

15. TESTING AND SAMPLES

The University reserves the right to request a demonstration of, or to test, any or all Goods and/or Work proposed in response to this RFP. If Respondent fails to provide such demonstration or fails to provide such Goods and/or Work for testing, the Respondent's Proposal may be rejected by the University in its sole discretion. The Respondent warrants that if awarded a contract the Goods and/or Work delivered under such contract shall meet or exceed the quality of the Goods and/or Work demonstrated or tested. Samples of the quoted products, when requested, must be furnished free of charge and in a timely manner. If not destroyed by testing and if practical, samples may be returned at the Respondent's request and expense following contract award. Respondent should not submit unsolicited samples.

16. SUBCONTRACTING

Unless otherwise agreed to in writing by the University, the selected Respondent is responsible for performance of any subcontractors.

Use of subcontractors in the performance of the contract is subject to University consent.

The selected Respondent must ensure that any subcontractors abide by all terms and conditions of the contract.

Request For Proposal # 268-2008-XXXX

1. Seller's Acceptance of Terms, Choice of Law, Forum Selection and Amendment. These terms and conditions, terms and conditions on the face of this Purchase Order, and plans, specifications or other documents attached or incorporated by reference on the face of this Purchase Order are University's offer to Seller and shall constitute the entire agreement between University and Seller. University hereby objects to and rejects any different or additional terms (including any general terms Seller may have included in any document attached to or incorporated on the face of this Purchase Order) suggested before or after issuance of this Purchase Order. Any performance hereunder will be deemed an acceptance of these terms and conditions. Handwritten changes on this document shall be ignored and have no legal effect unless initialed by both parties. This Purchase Order shall be construed under Minnesota law (without regard for choice of law considerations) and the policies and procedures of the University, as amended from time to time. Any action arising out of this Purchase Order shall be heard by a state court in Minnesota. For this purpose, Seller specifically consents to jurisdiction in Minnesota. No amendments to this Purchase Order shall be effective unless in writing and signed by both parties. If this Purchase Order was made pursuant to a Request for Proposal ("RFP") or Request for Bid ("RFB"), the following order of precedence shall apply: (1) this Purchase Order and its Exhibits, (2) University's RFP or RFB, and (3) Seller's Response to University's RFP or RFB. As used herein, "Seller" includes Seller's employees, officers, directors, agents, and sub-contractors. "University" includes University's employees, officers, directors, regents, students, agents, and contractors.

2. Warranty. Seller represents that all goods and services provided under this Purchase Order (i) are new and unused (unless otherwise specified or agreed to in writing by University) and free from defects in material and workmanship; (ii) are of the quality, size and dimensions ordered; (iii) comply with all warranties and representations expressed by Seller in any advertisement, correspondence, response to University RFP or RFB, or other document provided to University; (iv) comply with all applicable laws, codes and regulations (including any published by any national or statewide association or groups); and (v) are not restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties,. If any warranty is breached, Seller will correct such breach at Seller's sole expense, pay all direct damages suffered by University, and defend and indemnify University, from any claim asserted by any person resulting in whole or in part from such breach. No warranty shall be waived by acceptance of goods or services or payment.

3. Inspections and Improper Delivery. University shall have a reasonable time (but not less than thirty [30] days) after receipt to inspect and test any goods or services provided under this Purchase Order and reject any or all items that are nonconforming or defective. Goods or services rejected or supplies in excess of quantities ordered may be returned to Seller at Seller's expense. University reserves the right to refuse any goods or services and to cancel all or any part of this Purchase Order if Seller fails to deliver all or any part of the goods or services in accordance with these terms and conditions. Failure by University to inspect and test the goods or services shall not relieve Seller of such responsibility. Any acceptance by University shall not be deemed a waiver or settlement of any defect or nonconformity in such goods or services.

4. Assignment. Neither party may assign any rights or obligations of this Purchase Order without prior written consent of the other. In the event of any assignment, Seller shall remain responsible for its performance and that of any assignee under this Purchase Order. This Purchase Order shall be binding upon Seller, and its successors and assigns, if any. Any assignment attempted to be made in violation of this Purchase Order shall be void. Notwithstanding any notice of assignment, University's tender of payment to the Seller, or to any person reasonably believed to be entitled to payment, shall satisfy University's obligation to pay, and in no event shall University be obligated to pay twice or be liable for any damages due to failure to pay the correct party.

5. Taxes. University is exempt from paying Minnesota sales and use taxes. Except as provided in Minnesota Statute, Section 297A.70, Subd. 2, Seller shall not charge University for such taxes.

6. Risk of Loss. Risk of loss of any goods provided under this Purchase Order shall pass to University upon University's actual receipt and acceptance. Seller assumes full responsibility for packing, crating, marking, transporting and liability for loss or damage in transit, notwithstanding any agreement in this Purchase Order by University to pay freight, express, or other transportation charges.

7. Use of University Name or Logo. Seller will not use the name, logo, or any other marks (including, but not limited to, colors and music) owned by or associated with University or the name of any representative of University without the written permission of University's Office of General Counsel and Office of Institutional Relations in each instance.

8. Terms of Payment. University will make payment within thirty (30) days receipt of an invoice for goods delivered or services rendered pursuant to this Purchase Order. University may withhold payment in whole or in part for goods or services found by University to be defective, untimely, unsatisfactory, or otherwise not conforming to this Purchase Order.

9. Termination. University may terminate this Purchase Order in whole or in part for its sole Convenience. Upon notice of such termination, Seller shall immediately stop all work including shipment of goods under this Purchase Order and cause its suppliers and/or subcontractors to cease their work for this Purchase Order. Sellers shall be paid a reasonable termination charge calculated on a pro rata or other equitable basis determined by University for services or goods satisfactorily performed or provided. In no event shall Seller be paid for work performed or costs incurred after receipt of notice of termination, or for costs incurred by suppliers or subcontractors which reasonably could have been avoided. University may terminate this Purchase Order in whole or in part for Cause upon seven (7) days written notice if Seller fails to comply with any material term or condition of this Purchase Order. Late delivery of goods or services or delivery of goods or services that are defective or do not conform to this Purchase Order shall, without limitation, be causes for termination. In the event of termination for cause, University will not be liable for damages. Seller shall pay University for all losses, damages; and expenses, including, without limitation, excess cost of reprocurring similar goods or services; shipping charges for items University may at its option return to Seller, including items already delivered, but for which University no longer has any use because of Seller's default; and amounts paid by University for any items University has received but returns to Seller. If a determination is made that University

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improperly terminated this Purchase Order for Cause, then such termination shall be deemed to have been for University's Convenience.

10. Independent Contractor. EACH PARTY SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE OR AGENT OF THE OTHER. NO EMPLOYEE OR AGENT OF ONE PARTY SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE OTHER. EACH PARTY SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING, INCLUDING ALL FEDERAL AND STATE INCOME TAX ON ANY MONIES PAID PURSUANT TO THIS PURCHASE ORDER. EACH PARTY ACKNOWLEDGES THAT IT AND ITS EMPLOYEES ARE NOT ENTITLED TO TAX WITHHOLDING, WORKER'S COMPENSATION, UNEMPLOYMENT COMPENSATION, OR ANY EMPLOYEE BENEFITS, STATUTORY OR OTHERWISE FROM THE OTHER. NEITHER PARTY MAY BIND THE OTHER IN ANY WAY EXCEPT AS EXPRESSLY SET FORTH HEREIN. EACH PARTY SHALL BE SOLELY RESPONSIBLE FOR ITS ACTS AND OMISSIONS.

11. Non-Waiver. No waiver by any party of any default or nonperformance shall be deemed a waiver of any subsequent default or nonperformance.

12. Audit and Retention of Books and Records. University shall have the right to inspect and copy such books, records, and documents in any medium and all accounting procedures and practices of Seller, its agents, and subcontractors to verify Seller's performance and all expenses submitted pursuant to the terms of this Purchase Order. Seller shall make such items available for inspection during normal business hours at Seller's place of business. All such items shall be retained by Seller during the term of this Purchase Order and for a period of three (3) years after the delivery of the goods and/or services. Any items relating to a claim arising out of the performance of this Purchase Order shall be retained by Seller, its agents and subcontractors, if any, until the claim has been resolved.

13. Limitation on University Liability. IN NO EVENT SHALL UNIVERSITY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, LOST PROFITS OR LIKE EXPECTANCY DAMAGES ARISING OUT OF THIS PURCHASE ORDER EVEN IF ADVISED OF THE POSSIBILITY OF SUCH. University's total obligation under this Purchase Order is set forth in the "total amount" field on the face of this Purchase Order.

14. Changes. University may at any time by a written notice change the drawings, designs, specifications, materials, packaging, and the time and place of delivery and/or completion of the goods and services to be provided under this Purchase Order. Promptly upon receipt of the details of any such change, Seller shall either advise that the change will not affect its costs, or furnish: (i) a breakdown of estimated cost and changes in the compensation attributable thereto, and (ii) a statement of any necessary changes in the time of completion. Seller's failure to advise University in writing within ten (10) days of the effect of any change shall constitute Seller's consent to conform to the change without increase in the amount to be paid by University or the time of completion.

15. Confidentiality. Seller will keep confidential and safeguard the security of any information it receives during the course of its performance, relating to personal, financial, or other non-public data of University, and will comply with all state and federal laws relating to data privacy and security, including, without limitation, the Minnesota Government Data Practices Act, Minnesota Statute, Chapter 13; the Gramm-Leach-Bliley Act and § 314.4(d) of the FTC Safeguard Rule, 16 C.F.R. §314 (the "FTC Rule"), for all "customer information," as that term is defined in §314.2(b) of the FTC Rule; the Health Insurance Portability and Accountability Act (HIPAA); Family Educational Rights and Privacy Act (FERPA); and the Payment Card Industry Security Standards Council requirements for all of its Network Components, Applications, and Servers. Seller shall also require each of its subcontractors providing goods or services hereunder to maintain such data security. Seller shall assist and cooperate in University's efforts to ensure and confirm Seller's compliance with the terms of this section, including, without limitation, (i) permitting University or its representatives to inspect on Seller's premises Seller's business records, procedures, rules and practices pertinent to the aforementioned "safeguards"; (ii) making available to University or its representatives employees or representatives of Seller who have authority to maintain or are knowledgeable of such "safeguard"; and (iii) respond in a timely manner and fully to the PCI DSS Annual Self Assessment Questionnaire or any other documentation demonstrating compliance sent to it by University. Seller shall promptly notify University, in writing, of each instance of (i) unauthorized access or attempted unauthorized access to or use of protected information that could result in substantial harm or inconvenience to the owner of the information or University or (ii) unauthorized disclosure, misuse, alteration, destruction or other compromise of the protected information. Within thirty (30) days of the termination or expiration of this Purchase Order, Seller shall destroy and shall cause each of its agents to destroy all records, electronic or otherwise, in its or its agent's possession that contain such protected information and shall deliver to University a written certification of the destruction. Seller shall indemnify and defend and hold University harmless from any and all claims, demands, suits, actions, liabilities and expenses (including reasonable attorneys' and investigative fees) arising out of an act or omission by Seller or its agents and contractors that results in (i) a person having access to or use of customer information in violation of law or this Purchase Order; or (ii) the misuse, alteration, destruction or material alteration of protected information in violation of law or this Purchase Order. Seller shall reimburse University for its direct damages (e.g., costs to reconstruct lost or altered information) arising out of an act or omission by Seller or its agents and contractors that results in (i) a person having access to or use of customer information in violation of law or this Purchase Order; or (ii) the misuse, alteration, destruction or material alteration of customer information in violation of law or this Purchase Order.

16. Insurance. Unless more specific insurance provisions are attached, the following shall apply. At all times during its performance under this Purchase Order, Seller shall obtain and keep in force comprehensive commercial general liability insurance, including coverage for death, bodily or personal injury, property damage, including products, premises and

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operations, advertising, competed operations, independent contractor, liability assumed under an insured contract, pollution liability (if requested by University), and automobile coverage's, with limits of not less than \$2,000,000 each claim and \$1,000,000 each occurrence. Such insurance will be primary, non-contributory, written on a claims-made basis, and waive subrogation. In addition, if Seller is professionally certified by an applicable state authority, Seller will have professional liability insurance coverage. All certificates evidencing such insurance, shall be provided to University upon request, shall name the Regents of the University of Minnesota as an additional insured, and shall provide for notification to University within at least thirty (30) days prior to expiration or cancellation of such insurance. Seller represents that it has worker's compensation insurance to the extent required by law and agrees to furnish proof of such insurance to University upon request.

17. Indemnification. Seller agrees to release, defend, indemnify and hold harmless University, from all liability, injuries, claims, damages or loss, including costs, expenses and attorneys' fees, arising from or relating to, (i) Seller's negligent acts and omissions, (ii) Seller's breach of any of its obligations under this Purchase Order, and (iii) the presence of any Hazardous Substance supplied by or introduced onto University property by Seller, knowingly or unknowingly. The foregoing shall not apply to the extent such liability, injuries, claims, damages, or loss was caused by the intentional, willful, or wanton acts of University.

18. Environmental Compliance. "Hazardous Substance" means any substance regulated by any federal, state, local or other governmental statute, regulation, law or ordinance for protection of human health, natural resources and/or the environment now or hereafter in effect, and as amended, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Resource Conservation and Recovery Act ("RCRA"), the Toxic Substances Control Act ("TSCA"), the Minnesota Environmental Response and Liability Act ("MERLA"), and Minn. Statute, Section 116.70-.74 regarding chlorofluorocarbon. Seller shall comply with all Environmental Laws. Seller shall notify University in writing at the "Ship To" address on the face of this Purchase Order of every article ordered or supplied under this Purchase Order or stored or used by Seller on University property that contains Hazardous Substances or substances for which the law requires a Material Safety Data Sheet. Such notification shall be given prior to the shipment or introduction of such substances onto University Property and shall include, at a minimum, information regarding the substance including but not limited to, Material Safety Data Sheets. University shall at all times have the right to inspect any Hazardous Substances introduced onto or intended to be introduced onto University property by Seller. In addition, if this Purchase Order is in excess of \$100,000, Seller shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency ("EPA").

19. Copeland "Anti-Kickback" Act. If this Purchase Order is for goods or services for building construction or repair in the amount of \$2,000 or more, Seller agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276(c)) as supplemented by Department of Labor regulations (29 CFR part 3, "*Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States*"), and Seller shall not induce, by any means, any person to give up any part of the compensation to which such person is otherwise entitled. The Act imposes criminal penalties and provides for civil penalties of twice the amount of the kickback for each violation and up to \$10,000 for each occurrence. By accepting this Purchase Order, Seller (i) certifies that it has not paid kickbacks directly or indirectly to University for the purpose of obtaining this or any other University Purchase Order, and (ii) agrees to cooperate fully with any investigation involving a possible violation of the Act; and (iii) agrees to report any suspected violations of the Act to University's Director of Audits. Seller also certifies that it has provided no fees, gifts, gratuities, compensation, or anything of value in violation of Minnesota Statute, Section 15.43.

20. Davis-Bacon Act. If this Purchase Order is for goods or services for building construction or repair in the amount of \$2,000 or more, Seller agrees to comply with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "*Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction*"), and pay wages to laborers and mechanics at a rate not less than the minimum wages specified in wage determinations made by the Secretary of Labor and that such wages be paid not less than once a week.

21. Contract Work Hours and Safety Standards Act. If this Purchase Order is for goods or services for building construction or repair in the amount of at least two thousand five hundred dollars (\$2,500) if only one trade or occupation is required to complete the Work, or the contract sum is at least twenty-five thousand dollars (\$25,000) if more than one trade or occupation is required to complete the Work, Seller agrees to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5), and compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours; that work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one-and-one-half (1-1/2) times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week; and that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

22. Prevailing Wage Rates on Project Work Site. If this Purchase Order is for goods or services for building construction or repair in the amount of at least two thousand dollars (\$2,500) if only one trade or occupation is required to complete the Work, or at least twenty-five thousand dollars (\$25,000) if more than one trade or occupation is required to complete the Work, then, in accordance with Regents policy, Seller, subcontractors at all tiers, agents, and other persons doing or contracting to do all or a part of the Work (hereinafter "Firms") shall pay laborers, workers and mechanics performing work directly on a Project work site at least the Prevailing Wage Rate applicable to their respective class of labor in the county in which the Project is located. Firms

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shall pay laborers, workers and mechanics performing work directly on a Project work site at least one and one-half (1 ½) times the hourly basic rate of pay for all hours worked in excess of the Prevailing Hours of Labor applicable to their respective class of labor in the county in which the Project is located. Seller is responsible for compliance by all Firms. "Prevailing Wage Rate" means the hourly basic rate of pay determined by the Minnesota Department of Labor and Industry ("Department") published annually as the Department's Wage Rate Determination Schedules plus contributions for health and welfare benefits, vacation benefits, pension benefits, and any other economic benefits paid to the largest number of workers engaged in the same class of labor in the county in which the Project is located. "Prevailing Hours of Labor" refers to the number of hours of labor per day and per week determined to be prevailing for a class of labor by the Department for the county where the Project is located. Holiday hours, vacation time, and sick leave are not counted in figuring overtime hours. Seller shall post and maintain a copy of the current Prevailing Wage Rate Schedules and Prevailing Hours of Labor for all classes of labor at the Project site in a conspicuous place accessible to all employees. At University's request, Firms shall furnish to University purchasing representative who issues the "Notice to Proceed" to the Seller ("Contract Agent") copies of certified payroll records (U.S. Department of Labor form WH-347) for all laborers, workers, and mechanics performing the Work at the Project site. The records shall be submitted to the Contract Agent within seven (7) business days of the date of the request. If the request covers future pay periods, or is ongoing in nature, the records shall be submitted to the Contract Agent within seven (7) business days of the last day of each pay period covered by the request. Whenever possible, the records should be submitted in electronic format, as a .pdf file. University will retain copies of the certified payroll records and make them available to the Department and Industry at its request. If University becomes aware that Seller or Firms are not paying Prevailing Wage Rates or paying time and one-half (1 ½) rates for hours exceeding Prevailing Hours of Labor, it will consider such non-compliance a material breach of contract. Seller may cure the breach by immediately commencing payment or causing immediate commencement of payment at Prevailing Wage Rates and/or commencing payment or causing commencement of payment for hours worked in excess of Prevailing Hours of Work at one and one-half (1 ½) the basic rate, and promptly making restitution to laborers, workers, and mechanics who have been underpaid. In addition to other damages to which University may be entitled to on account of breach of contract, Seller shall immediately pay University the total amount of the underpayment of wages plus five percent (5%). The parties agree that these damages are not a penalty but are specified so University may reimburse the underpaid employees in connection with taking over and completing the Project. Seller shall hold University harmless and indemnify University from all loss, cost or expense arising out of Seller's or Firms' failure to pay Prevailing Wage Rates or to pay one and one-half (1 ½) times the basic rate for hours worked in excess of Prevailing Hours of Labor.

23. Rights of the Federal Government to Inventions Made Under a Contract or Agreement. To the extent this Purchase Order involves the performance of experimental, developmental, or research work, the rights of the Federal Government and University to any resulting inventions shall be determined in accordance with 37 CFR part 401, "*Rights to Inventions made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements*," and any implementing regulations issued by the awarding agency.

24. Byrd Anti-Lobbying Amendment. To the extent this Purchase Order is in excess of \$100,000, Seller certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Seller shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Seller shall insure compliance with 31 U.S.C. 1352 by all subcontractors utilized by Seller.

25. Affirmative Action, Equal Employment Opportunity, and Targeted Group Business. University is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, sex, age, marital status, disability, public assistance status, veteran status, or sexual orientation and is committed to transacting business only with firms who follow these practices. Seller must apply every good faith effort to ensure implementation of this policy in their practices of employment, upgrade, demotion or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Seller will maintain non-segregated facilities for their employees and not allow its employees to perform services at any segregated facilities under its control. Seller shall also develop and have on file for each of its establishments, written Affirmative Action Plans, as may be required by the rules and regulations of the Secretary of Labor. Additionally, this Purchase Order is subject to the requirements of and Seller agrees to comply with (i) Executive Order 11246, "*Equal Employment Opportunity*," as amended by Executive Order 11375, "*Amending Executive Order 11246 Relation to Equal Employment Opportunity*" and as supplemented by regulations at 41 CFR part 60, "*Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor*"; (ii) Public Laws 92-540 and 93-508, Executive Order 11701, and the regulations of the Secretary of Labor (41 CFR Part 60-250) in promoting employment opportunities for disabled and Vietnam veterans; (iii) Section 503 of the Rehabilitation Act of 1973, Public Laws 93-112 and 93-516, Executive Order 11758 and the regulations of the Secretary of Labor (41 CFR Part 60-471) in promoting affirmative action in Employment of the Handicapped; (iv) Public Law 95-507 in promoting the policy that small business concerns owned and controlled by socially and economically disadvantaged shall have maximum practicable opportunity to participate in University's bidding process; and (v) Minnesota Statutes, Chapter 363 in promoting the equal rights and non-discrimination of persons based on race, color, creed, religion, sex, age, marital status, disability, public assistance status, veteran status or sexual orientation. University's Targeted Group Business Policy and Affirmative Action Policy are incorporated into this Purchase Order by reference and Seller agrees to comply with such policies. If applicable, Seller certifies that it has received a certificate of compliance from the Minnesota Commissioner of Human Rights for its affirmative action plan. By accepting this Purchase Order, Seller certifies that it complies with all applicable federal and state laws as well as University policies related to non-discrimination, equal employment opportunity, and affirmative action.

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26. Debarment and Suspension. Seller represents that it is not currently debarred or suspended or listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, "*Department and Suspension*". Seller shall notify University if it becomes debarred or suspended during the term of this Purchase Order. University may immediately terminate this Purchase Order in the event of such termination or suspension and Seller shall be responsible for any costs incurred by University in connection therewith.

27. Compliance with Laws. Seller certifies that all goods or services furnished under this Purchase Order shall comply with all applicable federal, state, and local laws and regulations, regardless of whether such laws and regulations are specifically set forth in this Purchase Order. If Seller has been notified by University that the goods or services provided are being procured with federal funds, the federal requirements set forth in Exhibit A shall be incorporated into this Purchase Order and Seller shall adhere to such additional requirements. If federal funds are not being used, Seller will not receive Exhibit A.

28. Anti-Trust Violations. Seller recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the buyer. Therefore, Seller hereby assigns to University, as the buyer of goods and services under this Purchase Order, any and all claims for such overcharges as to goods and services purchased in connection with this Purchase Order.

29. Notices/Administration. Except as otherwise provided in this Purchase Order, all notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile or electronic mail (provided such delivery is confirmed), or by a recognized overnight courier service or by United States mail, first-class, certified or registered, postage prepaid, return receipt requested, to the other party at its address set forth on the face of this Purchase Order.

30. Acknowledgement. In accepting this Purchase Order, Seller certifies (1) that the taxpayer I.D. number provided to University is correct and (2) that it is not subject to backup withholding because (a) it is exempt from such withholding, (b) it has not been notified by the IRS that it is subject to backup withholding as a failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding. Seller must cross out and initial item (2) and notify University in writing at Purchasing Services, 1300 South Second Street, Suite 560, Minneapolis, MN 55454-1082, if Seller has been notified by the IRS that it is currently subject to backup withholding because of under-reporting interest or dividends on its tax return.

31. University Order Number. Seller agrees to place University Order Number shown in the "Order Nbr." field on the face of this Purchase Order on all packages, invoices, packing slips, notices, and correspondence related to this Purchase Order.

32. FOB Terms. Except as otherwise indicated on the face of this Purchase Order, FOB Terms shall be FOB Destination/Seller to Pay Shipping and Freight. If the face of this Purchase Order indicates that FOB is Origin, Seller will insure shipment for its full value, prepay freight and add to invoice.

33. "Most Favored Customer" Provision. If Seller has negotiated terms or conditions for the sale of goods or services to another customer of Seller which University deems more favorable than those contained herein, University may request and shall be afforded the opportunity to purchase those goods or services on the same terms and conditions as Seller has negotiated to provide a third party under reasonably similar circumstances.

34. Cash Discount Period. The cash discount or other similar prompt payment discount period available to University by Seller shall commence on the later of (i) University's receipt of all goods and services under this Purchase Order or (2) University's receipt of Seller's invoice.

35. Fund Availability; Federal Funds Contingency. Financial obligations of University, which are payable after the current fiscal year, are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If this Purchase Order is funded in whole or in part with federal funds, University's payment obligations are subject to and contingent upon the continuing availability of federal funds for the purposes of this Purchase Order.

36. Severability. If any provision of this Purchase Order is invalid or unenforceable, the remainder of the provisions, or the application of such provision to persons other than those as to which it is held invalid or unenforceable, shall not be affected and the remainder of the provisions shall be valid and enforceable to the fullest extent permitted by law.

37. Assurance. If at any time University in good faith determines that it is insecure with respect to Seller's ability or intent to fully perform, then Seller will provide University with written assurance fully satisfactory to University of Seller's ability and intent to fully perform. Such assurance shall be provided within the time and in the manner specified by University. Seller immediately shall notify University of any circumstance that may cause Seller to fail to fully perform. Upon University's good faith determination that Seller cannot or will not perform, then University may deem this contract to be breached by Seller and may reprocure from other sources.

38. Bankruptcy. If Seller institutes or has instituted against it a case under the United States Bankruptcy Code, within fourteen (14) days of receipt of a written request, Seller, its trustee or other successor, shall furnish University adequate assurance of its ability to perform all material obligations of the Purchase Order. Within sixty (60) days of the institution of the bankruptcy filing, Seller shall petition to assume or reject this Purchase Order. Seller shall diligently prosecute said petition. If Seller fails to do so, University shall be entitled to petition the court to reject this Purchase Order and shall be entitled to all remedies for breach including damages, right to cure and right to cover.

39. Survivability. All of the terms and conditions of this Purchase Order shall survive the delivery of goods, the provision of services, and the expiration or termination of this Purchase Order.

Information Required

Vendor Authorization Form and Substitute W9

As of July 2008, the University of Minnesota has converted to a new financial system. To take full advantage of the additional functionality, we need to obtain the most current information for your organization regarding purchases, payments and tax information. To continue doing business with the University, and not experience a delay in payment, all vendors are required to submit an updated Vendor Authorization and Substitute W9 form.

Please complete **and sign** the attached form and return **all** pages. Responses should be returned to the department contact listed on the top of the form. If your company does business with the University under multiple Tax ID's please complete a separate form for each Tax ID.

Thank you for your prompt attention to this request. If you have any questions about completing this form, please contact the department listed on the top of the form or email your questions to disbsvcs@umn.edu.

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<input type="checkbox"/> New Vendor	<input type="checkbox"/> Vendor Change	Vendor #	
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Department Instructions: Please have the vendor complete/ sign the authorization form and return the form to you for review. Fax the completed/signed form to Disbursement Services at 612-624-9562. Allow 3-5 days for notification of vendor number.

Return form to University Department:		Return with your RFP response.	
		Date	
Department Requester's Name	Dennis Moore	Department Name	FM Purchasing
DeptID		Email Address	Moore791@umn.edu
Phone #	612-626-2830	Fax #	
Department Street Address	319 15 th Avenue S E, Minneapolis, MN 55455		

Addresses

Purchase Order Mailing Address (Required)

Vendor Name				
Address Line 1				
Address Line 2				
City		State		ZIP
Purchase Order Primary Contact		Phone #		
Fax #		Email		

Purchase Order Dispatch Method (The University of Minnesota preferred dispatch method for Purchase Orders is Email)

<input type="checkbox"/> Email to		<input type="checkbox"/> Fax to	
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Remit To (address to send payment) Same as Purchase Order Address

Vendor Name (if different from above)				
Address Line 1				
Address Line 2				
City		State		ZIP

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Remit to Primary Contact		Phone #	
Remit to Fax #		Email	

1099 Reporting (address to send 1099) **Same as Purchase Order Address**
 Same as Remit Address

Vendor name (if different from above)					
Address Line 1					
Address Line 2					
City		State		ZIP	

Certified Target Group Business Section (For WMDBE Businesses Only)

The University tracks expenditures with businesses owned and operated by women, minority and disabled persons (Targeted Businesses). Business that are CERTIFIED as women, minority or disabled owned business should complete this section to ensure accurate record keeping. To meet the University's definition of Targeted Businesses, a vendor must be CERTIFIED by at least one of the following 5 University-recognized Targeted Business Certification Agencies listed below. For additional information regarding this section or to register with the University visit http://www.ced.umn.edu/Vendor_Prof_Req.html

- Minnesota Minority Supplier Development Council (MMSDC)
- National Minority Supplier Development Council (NMSDC)
- Small Business Administration (SBA) - Central Contract Registry (CCR)
- CERT Program (Only MBE and WBE certifications recognized)
- State of Minnesota Department of Administration

Check all that apply

Type of Minority (please check if applicable) **Not Applicable**

<input type="checkbox"/> African American/Black	<input type="checkbox"/> Asian American	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Minority Institution
<input type="checkbox"/> Alaskan Native	<input type="checkbox"/> Asian Indian	<input type="checkbox"/> Educational Institution	<input type="checkbox"/> Native American Tribe
<input type="checkbox"/> American Indian/Native American	<input type="checkbox"/> Asian Pacific	<input type="checkbox"/> Historically Black College/University	<input type="checkbox"/> Other (list)

Applicable Certifications (please check if applicable) **Not Applicable**

<input type="checkbox"/> Woman Owned	<input type="checkbox"/> Disabled Owned	<input type="checkbox"/> HUBZone	<input type="checkbox"/> Service Disabled Owned (VOSB)
<input type="checkbox"/> Other Veteran Owned Small	<input type="checkbox"/> Federal (SBA) Small	<input type="checkbox"/> Minnesota State Small	<input type="checkbox"/> Minority Owned
<input type="checkbox"/> Small Disadvantaged Business	<input type="checkbox"/> 8(a) Small Business		

Business Size

Businesses should refer to Small Business Administration (SBA) size definitions. The definition varies by industry and can be found at:

<http://www.sba.gov/services/contractingopportunities/sizestandardsttopics/summarywhatis/index.html>

<input type="checkbox"/> Small Business and registered in CCR	<input type="checkbox"/> Large Business
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Vendor Information and Tax Identification Number

Vendor Name used by IRS				
Business Name if different from Above or DBA (Doing business As) Name				
Record tax identification number below in the appropriate box. The TIN provided must match the name used by the IRS for tax purposes to avoid backup withholding. For individuals this is your Social Security number (SSN). For other entities this is your Employer Identification Number (EIN). For Non-Resident Aliens enter your IRS Taxpayer Identification Number (ITIN). IF you have applied for a US Tin write" applied for" in the appropriate box.				
<input type="checkbox"/> TIN/EIN #		<input type="checkbox"/> SSN #		
<input type="checkbox"/> ITIN #		<input type="checkbox"/> No SS#/TIN#		
Type of business				
<input type="checkbox"/> Corporation	<input type="checkbox"/> Partnership	<input type="checkbox"/> Individual/Sole Proprietor	<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> Exempt from Backup withholding
<input type="checkbox"/> Non Profit/501(c) Entity	<input type="checkbox"/> Government Entity	<input type="checkbox"/> US Agent of Foreign Person/Entity	<input type="checkbox"/> Foreign Nonresident Individual	<input type="checkbox"/> Foreign Entity (other than individual)
Type of Purchase or Payment				
<input type="checkbox"/> Goods	<input type="checkbox"/> Services	<input type="checkbox"/> Auditor	<input type="checkbox"/> Attorney	
<input type="checkbox"/> Performer	<input type="checkbox"/> Speaker/Lecturer	<input type="checkbox"/> Consultant	<input type="checkbox"/> Royalties	
Do you provide Medical Services		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<input type="checkbox"/> Other	Describe services			
Location where services will be provided				

Certification by Vendor

As a nonresident alien, I certify that all information provided in this document is correct.

-----OR-----

As a U.S. person or resident alien, I certify that all information provided in this document is correct. In addition, under penalties of perjury I certify that:

- The number on this form in the Vendor Information and Tax Identification Number section above is the correct taxpayer identification number (or I am waiting for a number to be issued to me) and
- I am not subject to backup withholding because: a) I am exempt from backup withholding, or b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. Person (including a U.S. resident alien)

You must cross out item 2 above if the IRS has notified you that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.

Signature	Date

The IRS does not require your consent to any provision of this document other than the certifications required to avoid