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University Of Wisconsin Hospitals And Clinics Authority (UWHC)

STANDARD TERMS AND CONDITIONS

The legal name of the contracting entity is the "University of Wisconsin Hospitals and Clinics Authority" (UWHC), a public body corporate and politic created under the laws of the state of Wisconsin. Chapter 233 of Wisconsin Statutes grants UWHC the capacity to enter into contracts.

The other party entering into a contract with UWHC is sometimes referred to as "Contractor" in these standard terms and conditions.

1.0 ENTIRE AGREEMENT:

These Standard Terms and Conditions shall govern with respect to contracts with the University of Wisconsin Hospitals and Clinics Authority. They also shall apply to any contract or order awarded as a result of a Request for Bid/Proposal except where special requirements are stated elsewhere in the request. In such cases the special requirements shall apply. Further, the written contract and/or order with referenced parts, attachments and these standard terms and conditions shall constitute the entire Contract and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the UWHC. These Standard Terms and Conditions supersede conflicting terms in other parts of the Contract unless such terms are in a document signed by UWHC that amends by number sections of these Standard terms and Conditions. UWHC may create a Memorandum of Understanding (MOU) as part of the award process to clarify any award issues. UWHC reserves the right to condition the final approval of the contract on the inclusion of additional provisions.

2.0 PERFORMANCE TESTING/ACCEPTANCE - SUPPLIES/SERVICES/EQUIPMENT:

UWHC will have a minimum of 30 calendar days to verify if:

2.1 Goods/services comply with specifications and performance standards as outlined in the request or, in cases where there is no request, the purchase contract.

2.2 Items comply with specifications and performance standards as outlined in the request and reliably and consistently perform to standards over the 30-day period.

Substandard performance of items shall be corrected by vendor within thirty (30) days and correction of the shortcomings will be at the vendor's expense. If the item is corrected within thirty (30) days, a new 30-day testing period will be required. If items still do not perform to specifications, Contractor shall remove items and return any payments that may have been made.

Repeated problems during the performance testing period will result in return of items to Contractor for exchange or credit or refund at the option of UWHC. UWHC may terminate purchase of equipment under this Contract for repeated problems.

The Director of Procurement Services (or person designated in writing by such Director) is the only authorized personnel that can sign an acceptance of quality agreement. Such an agreement will not be signed until the specified acceptance test trial period of the equipment has occurred. Final payment will be made upon successful completion of installation, acceptance test, and equipment operation training. Warranty period of a minimum of one (1) year will begin following successful acceptance testing.

3.0 ASSIGNMENT:

No right or duty in whole or in part of the Contractor under any contract may be assigned or delegated without the prior written approval of UWHC.

4.0 PRODUCT/DEVICE SAFETY; ELECTRICAL SAFETY; RECALLS AND SAFETY ADVISORIES:

4.1 Electrical Safety: All equipment must meet the specifications listed in NFPA 99 Chapter 10 Patient-Care-Related Electrical Appliances. The equipment must pass inspection for safety, performance and compliance with manufacturers' specifications. A minimum of two operation and maintenance manuals must be provided for each piece of equipment delivered. The maintenance manual must include preventive maintenance instructions, calibrations instructions, parts list and schematic diagrams. All equipment will be delivered to the attention of Plant Engineering (D5/154) for safety inspections before use.

4.2 All product/device recall notices or safety advisories must be faxed or mailed immediately to the attention of the UWHC Safety Director [Fax 608-263-9830]. Removal of affected product/device must be approved by the UWHC Safety Director.

5.0 HAZARDOUS CHEMICALS; MERCURY AND LATEX COMPONENTS:

If any item(s) on an order(s) resulting from this Agreement is a hazardous chemical, as defined under 29CFR 1910, 1200, provide one (1) copy of a Material Safety Data Sheet to the source designated below. Additionally, all products must be labeled in accordance with the Hazardous Communications Standard Act 29 CFR S 1910.1200, to the extent applicable.

The central MSDS depository for UWHC is currently located on line at MSDSONLINE.com. MSDSONLINE.com has contractually defined authority by UWHC to maintain and have readily accessible copies of material safety data sheets for each hazardous chemical that UWHC maintains in the workplace.

MSDS distribution for UWHC should be forwarded to the UWHC Safety Dept. This would include newly purchased products as well as updated versions of MSDS. Our employees will be accessing all needed MSDS from MSDSONLINE.com. .

MSDSONLINE.com is not infringing on any rights of the vendors or supplies of UWHC in regards to the distribution of MSDS. MSDSONLINE.com is merely acting as the "designated representative" on behalf of UWHC.

The MSDSONLINE.com MSDS program is designed to help companies fully comply with MSDS requirements under OSHA's Employee Right to Know law. If you have questions, please contact the UWHC Safety Dept. at (608) 263-1512. We appreciate your assistance in increasing our level of compliance and protecting the safety of our employees and community

Any products to be provided by CONTRACTOR to UWHC under this contract must be mercury free. Any products provided under this contract that has direct patient contact have wording on all packaging that states whether the product is latex free or not.

6.0 INSURANCE:

If the contract is for services to or on behalf of UWHC or involves equipment installation or delivery, the Contractor shall maintain the liability coverage as listed below. Contractor shall provide an insurance certificate indicating coverage, counter-signed by an insurer licensed to do business in Wisconsin and with at least an A- rating, covering the services provided and items purchased or installed during the period of this contract. The insurance certificate is required to be presented to UWHC Procurement Services Department prior to providing services or items under this contract. If the coverage is provided by a claims-made policy, Contractor shall purchase coverage for claims that are made up to three years after termination after this Contract and an insurance certificate for such coverage must be presented to the UWHC Procurement Services Department prior to the expiration of the prior coverage.

6.1 Workers compensation insurance, as required by Wisconsin statute, for all employees engaged in the work under this agreement in Wisconsin. Workers compensation for all other employees engaged in work under this agreement elsewhere as required by applicable law.

6.2 General liability and property damage insurance against any claim(s) which might occur in carrying out this Contract. Minimum coverage must be \$1,000,000 per occurrence and \$3,000,000 aggregate. When vehicles are used to fulfill this Contract minimum coverage for bodily injury and property damage shall be \$1,000,000 per occurrence and \$3,000,000 aggregate. UWHC must be named as an additional insured.

6.3 If the contract involves providing health care or other professional services, professional liability insurance (or self-insurance approved by the Wisconsin Patient Compensation Fund) with a minimum coverage of \$1,000,000 per occurrence and \$3,000,000 aggregate per qualified health care provider and other professional providing services.

7.0 DISCLOSURE OF CONFLICT OF INTEREST:

If a UWHC employee (s. 19.42, Wis. Stats.), a member of an employee's immediate family, or any organization in which a employee or a member of the employee's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this contract is voidable unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the UWHC Legal Department.

8.0 NO USE OF UWHC EMPLOYEES:

The Contractor shall not employ any person or persons to provide services relating to this agreement who are employed by UWHC without the express written consent of the UWHC Legal Department.

9.0 NO CONTRACTUAL INDEMNITY:

All provisions that provide for hold harmless, indemnity or defense by UWHC are deleted. UWHC shall not have a contractual obligation under this Contract to hold harmless, indemnify or pay for the defense of Contractor or any other entity or individual.

10.0 ENDORSEMENTS OR REFERENCES:

UWHC does not endorse any product or service.

10.1 Any public announcement, news release or other disclosure of this procurement or of the relationship between the Contractor and UWHC must be approved in writing by UWHC Public Affairs.

10.2 Any questions regarding the public presentation of the relationship between the Contractor and UWHC should be directed to UWHC Public Affairs.

10.3 Use of Names and Logos: Nothing in this Contract shall be interpreted to permit either party to use the names or logos used by the other party without the other party's written consent. Nothing in this contract shall be construed to give such written consent.

11.0 THE JOINT COMMISSION HUMAN RESOURCES STANDARD:

The Joint Commission Human Resources standards HR.1.20 and HR.3.10 require demonstration of licensure and competency of staff providing services in the hospital. For each employee or contracted personnel, the following elements should be verified where applicable:

11.1 Education, experience, training and competence are appropriate and consistent with applicable legal and regulatory requirement and hospital policy.

11.2 The individual possesses a current license, certification, or registration as required by law, regulation or hospital policy.

11.3 The individual's competence to perform assigned duties is assessed, demonstrated, reassessed, and maintained.

Contractor shall assure that the persons it assigns or provides to UWHC have the qualifications and competence consistent with their assigned responsibilities.

12.0 NONDISCRIMINATION IN PROVIDING SERVICES; INTERPRETERS:

Contractor is responsible for providing qualified interpreters and translators, and for covering the costs associated therewith, to communicate with limited English proficient and hearing impaired clients. Contractor agrees to refrain from the use of family members or friends as language interpreters unless specifically requested by the consumer and after a qualified interpreter has been offered.

Contractor assures UWHC that it has policies and procedures in place to ensure compliance with:

12.1 Title III of the Americans with Disabilities Act (ADA)

12.2 Section 504 of the Rehabilitation Act of 1973

12.3 Title VI of the Civil Rights Act of 1964

12.4 Office for Civil Rights, HHS: Title VI of the Civil Rights Act of 1964; Policy Guidance on the Prohibition Against National Origin Discriminations As It Affects Persons With Limited English Proficiency (August 30, 2000)

13.0 CANCELLATION/TERMINATION:

UWHC reserves the right to cancel/terminate any contract(s) in whole or in part without penalty due to non-appropriation of funds or for failure of the Contractor to comply with terms, conditions and specifications of the contract. UWHC may elect to provide written notice to the Contractor and allow the Contractor to remedy any failure.

14.0 DELIVERY:

Contract prices shall be F.O.B. Destination, as designated by UWHC. Prices are to include all packing, transportation and insurance charges. Failure of the Contractor to adhere to delivery schedules as specified, or to promptly replace rejected materials, shall render the Contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include administrative costs.

15.0 PAYMENT TERMS AND INVOICING:

UWHC, unless agreed to otherwise, normally will pay properly submitted invoices within thirty (30) days of receipt, providing goods and/or services have been delivered, installed (if required), and accepted as specified.

If applicable, Contractor shall pay or shall arrange for payment of all employee wages, benefits, FICA tax, unemployment compensation, and worker's compensation for persons working under this contract; and Contractor agrees to indemnify UWHC against any claims arising from their non-payment. Any provision of the Contract that provides for UWHC to pay Contractor for any travel or out-of-pocket expenses shall be subject to the limitations and procedures specified in the UWHC travel policy 1.32.

15.1 Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct billing address for processing.

15.2 Improperly submitted invoices will be corrected or returned for correction prior to processing payment.

16.0 NEW AND DELETED PRODUCTS:

New products as announced by the manufacturer may be added to this contract at the discretion of UWHC. Contractor shall promptly notify UWHC of any new or discontinued products.

17.0 ELIGIBLE PURCHASERS:

The University of Wisconsin Medical Foundation, affiliated hospitals and clinics, UW campuses, State of Wisconsin Agencies and municipalities may purchase off this contract. Contractors shall provide products and services to these groups or agencies at the contract price, unless agreed to otherwise by both parties. This contract(s) shall not be construed as mandatory for affiliates or other agencies.

18.0 PARKING:

UWHC does not provide parking for the employees of Contractors. Contractors are encouraged to contact UW Parking and Transportation to determine if special arrangements for parking may be made.

19.0 APPLICABLE LAW AND EXCLUSIVE VENUE:

The contract shall be governed by the internal laws of the State of Wisconsin without reference to choice of laws principles. The Contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The Contractor agrees that any litigation for matters arising out of this contract will have exclusive venue in Dane County, Wisconsin, unless otherwise specifically agreed to in writing between the parties to this contract.

20.0 CONFIDENTIALITY AND OPEN RECORDS:

20.1 When a Contractor designates provided information as confidential it is understood that the information is provided to UWHC is considered confidential competitive or trade secret information by the submitter and that submitter would not provide UWHC access without UWHC's commitment to protect the information. UWHC is subject to Wisconsin open records law. Notwithstanding any other bid/proposal/contract provision, compliance with open records laws shall not be considered a violation. If UWHC receives an open records request for submitted information that UWHC believes must be disclosed under law, UWHC will send submitter written notice of the request before releasing the information, so that submitter has an opportunity promptly to litigate the disclosure. If UWHC's determination of exemption is challenged, UWHC will send submitter written notice of the challenge, so that submitter has an opportunity promptly to litigate the challenge. Notwithstanding any other bid/proposal/contract provision, UWHC is not compelled to litigate any open records disclosure issue.

20.2 Even when the Contractor does not designate information as confidential, UWHC reserves the right to the extent permitted by law not to disclose the information when UWHC determines that non-disclosure is justified.

20.3 Information contained in a bid/proposal, in a contract, or as work product under the contract, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented by the Contractor. All data, documentation, and innovations become the property of the UWHC.

21.0 DUAL EMPLOYMENT:

Section 16.417, Wis. Stats., prohibits an individual who is a UWHC employee or who is retained as a full time consultant by any state agency from being retained as an employee or consultant by a Contractor where the individual receives more than \$5,000.00 as compensation. This prohibition applies only to individuals and does not include corporations or partnerships.

22.0 TAXES:

UWHC is exempt from payment of all federal tax and Wisconsin state and local sales and use taxes on its purchases, except Wisconsin excise taxes and some federal fuel excise taxes for some uses as described below. Contractor shall not bill UWHC for any Wisconsin or federal taxes other than those specified in section 22.1. All sales under this contract are governed by sales in the state of Wisconsin.

22.1 UWHC is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, and tobacco products and the federal excise taxes on motor vehicle fuel and general aviation fuel, except for helicopter and other emergency vehicle use. When the

Contract provides for UWHC to pay out-of-pocket expenses, taxes paid by the Contractor as part of those permitted out-of-pocket expenses may be included in the bill to UWHC.

22.2 Unless otherwise exempt, Contractors performing construction and other activities are required to pay state sales or use tax on the cost of materials that the Contractor purchases. The contract price includes such taxes. If UWHC elects to purchase such materials directly, Contractor agrees to cooperate in facilitating such purchases.

23.0 VENDOR TAX DELINQUENCY:

Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the UWHC to the State of Wisconsin.

24.0 SCREENING OF PERSONS WORKING UNDER THE CONTRACT:

24.1 As the employer, Contractor reserves the right to have sole discretion in making all employment-related decisions for its employees, including but not limited to recruiting, hiring, and discharging. Contractor agrees to assign only employees who are qualified to perform the assigned work and meet the requirements of this contract. UWHC reserves the right to exclude and Contractor employees from UWHC facilities for poor attendance or performance, violation of UWHC rules, regulations or procedures, for conduct that disrupts the operation of the clinical site or endangers patients or others, or for not meeting the requirements of this Contract.

24.2 Contractor agrees that each employee assigned to a position involving direct patient contact with UWHC patients will complete the Wisconsin state caregiver "background information disclosure" form and Contractor will provide a copy to UWHC before the employee has direct patient contact with UWHC patients. For employees having such direct contact 60 days or more, Contractor agrees to complete the caregiver background check required by Wisconsin law within the time frame specified by law (see Wis. Stats. 50.065 and Wisconsin Administrative Code HFS 12) and CONTRACTOR will promptly provide a copy of the result of the check to UWHC. If such background check has not been completed within the required timeframe, the employee shall not be scheduled to provide a service involving direct patient contact with UWHC patients until such check has been completed and a copy is provided to UWHC. Any employee who discloses a conviction or exclusion on the BID form or who has a conviction or exclusion disclosed in the check shall not provide a service involving direct contact with UWHC patients until UWHC has provided written permission.

24.3 Contractor agrees to require its employees to complete a health examination prior to assignment to a position involving patient contact at UWHC. Written statements documenting the good health of the employee will include the following information and be provided to UWHC prior to assignment to the UWHC:

- (a) Negative TB skin test (PPD) within a year (or six months if specifically requested). (If there is a positive PPD history, a negative chest x-ray must be documented.)
- (b) Current immunization for Tetanus/Diphtheria. (Within 10 years)
- (c) Two documented doses MMR immunizations or documented immunity against measles, mumps and rubella.
- (d) Positive chicken pox history or documented immunity, if available.
- (e) Documentation of Hepatitis B vaccine or Signed Declination Statement.

24.4 If there is a legal requirement that individuals providing any of the services under this Contract be individually licensed, certified or registered, Contractor shall verify such license, certification or registration and provide UWHC with written evidence for each individual before permitting such individual to provide such services under this Contract.

24.5 Contractor shall verify that each individual providing clinical services under this Contract has the experience and training appropriate for his or her assigned responsibilities and consistent with legal and regulatory requirements and hospital policy. Contractor shall provide UWHC with evidence of such experience and training before permitting an individual to provide services under this Contract.

24.6 All reports and copies that are required to be provided to UWHC under this Contract shall be provided to the UWHC Procurement Services Department.

25.0 EXCLUSION OR CONVICTION:

Contractor warrants to UWHC that Contractor is (a) not excluded from participation in any federal health care program, as defined under 42 USC sec. 1320a-7b (f), or any form of state Medicaid program, (b) not excluded from contracting with any federal agency, and (c) has not been convicted of a criminal offense related to (i) the neglect or abuse of a patient or (ii) health care fraud. Contractor further warrants that it is not aware of any Contractor employee or other person providing services on behalf of Contractor under this Contract that is so excluded or convicted. Contractor agrees to notify UWHC of any such criminal conviction or any such exclusion within seven (7) days of Contractor first learning of it. UWHC shall have the right to immediately terminate this Contract upon notification that Contractor has been excluded or convicted or that any Contractor employee (or other person providing services on behalf of Contractor under this Contract) has been so excluded or convicted.

26.0 COMPLIANCE WITH LAW:

26.1 The Contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. All materials, equipment, and supplies provided to UWHC must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and OSHA Standards. The Contractor selling to UWHC the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws.

26.2 FALSE CLAIMS ACT AND OTHER DRA 6032 REQUIREMENTS. The Contractor acknowledges that UWHC is subject to DRA 6032 [42 USC 1396a (a) (68)] and that UWHC has adopted written policies for Contractors in accordance with that law. The UWHC False Claims Act (Whistleblowers) policy is posted in the "Vendor Information" section of www.uwhealth.org/vendor. The Contractor agrees to abide by this policy. If the Contractor is performing functions associated with the provision of health care items and services under a federal healthcare program (e.g. Medicare or Medicaid), the Contractor agrees to make the policy available to its employees involved in performing functions associated with the provision of Medicaid health care items and services for UWHC.

27.0 FEDERAL ACCESS TO RECORDS:

If this Contract is for acquisition of services with a cost or value of \$10,000 or more within any 12-month period, including contracts for both goods and services in which the services component is worth \$10,000 or more within any 12 month period, Contractor shall in accord with 42 C.F.R., Part 420, and 42 U.S.C. 1395x(v)(1)(I), permit the comptroller general of the United States, the United States Department of Health and Human Services, and their duly authorized representatives, access to the Contractor's books, documents and records until the expiration date of four (4) years after the services are furnished under the contract. Contractor shall include this provision in any of its subcontracts under this Contract.

28.0 PATENT INFRINGEMENT:

The Contractor herein guarantees that all goods were manufactured or produced in accordance with applicable federal labor laws; further, that the sale or use of the articles described herein will not infringe any United States patent. The Contractor covenants that it will, at its own expense, defend every suit which shall be brought against the UWHC or any employee, officer or agent, provided that such Contractor is promptly notified of such suit, and all papers therein are delivered to it for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit. No limit on liability of the Contractor shall apply to the obligation under this section.

29.0 AFFIRMATIVE ACTION AND NON DISCRIMINATION:

In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation, gender identity or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. Except with respect to sexual orientation, the Contractor further agrees to take affirmative action to ensure equal employment opportunities. Failure to comply with the conditions of this clause may result in the Contractors becoming declared an "ineligible" Contractor, termination of the contract, or withholding of payment. The Contractor agrees to post notices of non-discrimination in conspicuous places, available for employees and applicants for employment.

30.0 ANTITRUST ASSIGNMENT:

Contractor and UWHC recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the UWHC. Therefore, Contractor hereby assigns to UWHC any and all claims for such overcharges as to goods, materials, or services purchased in connection with this contract except as to overcharges which result from antitrust violations commencing after the price is established under this contract and which are not passed on to the UWHC under an escalation clause.

31.0 CONFIDENTIAL INFORMATION; HIPAA COMPLIANCE:

31.1 UWHC is required, as a health care provider under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations, to identify business partners who may have access to protected health information (PHI), and execute a business associate agreement with those business partners. The business associate agreement is intended to protect and maintain UWHC patients' rights and maintain confidential and secure any PHI. Nothing in this Contract

shall be construed to permit Contractor to have access to, retain or use any PHI of UWHCA unless a UWHCA-approved business associate agreement is in effect between Contractor and UWHCA or the UWHCA Privacy Officer has determined in writing that no business associate agreement is required, in which case access, retention and use shall be limited to the scope of such business associate agreement or written determination.

31.2 Individual employees of Contractor who are assigned to provide clinical services at UWHC may be permitted to have access to some UWHC confidential, proprietary business information as well as the individually identifiable information of UWHC patients (collectively known as “confidential information”). Individually identifiable information means any information that identifies a patient, including demographic, financial, and medical, that is created by a health care provider or health plan that relates to the past present or future condition, treatment, or payment of the individual. Individually identifiable information includes all patient identifiable information in any medium, including, but not limited to oral, written, hard copy, and electronic (whether retrieved on screen or contained on a computer disc).

31.3 Contractor warrants that its employees will hold all “confidential information” in strict confidence and that it shall be disclosed only as permitted by UWHC policies and procedures. Failure to maintain confidentiality can result in immediate termination of this Contract.

31.4 UWHC may provide access to its computerized electronic systems to employees of Contractor, but only as necessary to perform legitimate clinical operations on behalf of UWHC. Employees of Contractor approved for access to UWHC computerized electronic systems will be given individualized sign-on IDs and passwords upon signing a confidentiality agreement. Such access and passwords may be used only accordance with UWHC policies and procedures. Users must not share their passwords with anyone.

AFFIDAVIT AND SIGNATURE BLOCK:

I, the undersigned authorized agent for _____, in relations to this contract and under penalty of perjury, attest that neither I nor the Contractor have either directly or indirectly entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition, nor has any attempt been made to induce any other person or firm to take any action in restraint of free competition.

Further, I agree that the Contractor will comply with all terms, conditions and requirements of this contract.

Further, I affirm that, in the conduct of business awarded to my firm, my firm will comply with all applicable requirements of The Joint Commission during the term of the contract.

SIGNATURE: _____

PRINTED OR TYPED NAME: _____

TITLE: _____

DATE: _____