REQUEST FOR BID # AA14-RH-4838

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>BIDS ARE REQUESTED TO PROVIDE THE CONTRACT: FROZEN PRODUCTS VENDING SERVICES PER THE ATTACHED SPECIFICATIONS OR APPROVED EQUAL FOR THE BID OPENING ON JULY 11, 2013 @ 1:00 P.M. EDST</td>
</tr>
<tr>
<td>Contract Term: date of the through December 31, 2018 with the option to renew for two (2) additional one-year terms.</td>
</tr>
</tbody>
</table>
| Required: Performance Bond for the duration of the contract  
Minimum Amount: $10,000.00                                                                       |

PLEASE DIRECT ANY QUESTIONS REGARDING THIS RFB TO: ROSEMARY A. HASSAY  @ procurement@admin.umass.edu

**IMPORTANT INFORMATION**

- It is the bidder’s responsibility to insure that their bid is received in its entirety by the University of Massachusetts, Procurement Department, 407 Goodell Building, 140 Hicks Way, Amherst, MA 01003-9334 By 1:00 PM on the bid opening date specified above. Bids received after the specified date/time or at a location other than what is listed in the RFB will be rejected and placed unopened in the bid file.
- Bids may be faxed provided that they are followed up by a hard copy with written signature within 5 days of the bid date. All faxed bids must be received by the Procurement fax by the date and time of the bid above. **No electronic bids will be accepted.**
- All prices are FOB Destination, delivery free of all charges to: University of Massachusetts Amherst at a location specified on a purchase order.
- Bidders must list their Taxpayer’s Identification Number here: ________________
- Bid may not be materially altered after the bids have been opened. Only the Director of Procurement can determine what a material alteration is.
- All prices must be submitted on a Net Basis. Unit price shall prevail in case of mathematical error. Payment: Net 30 Days
- Bids on items that differ from specifications will be rejected at the discretion of the Director of Procurement. Proprietary names are quoted for informational purposes only and are not meant to limit competition. The right is reserved to accept the bid deemed best for the University.
- Exceptions to any terms and conditions contained herein or in the bid specifications, must be noted by bidder in bid. The Director of Procurement reserves the right to reject any bid that does not conform to the specifications.

Your signature below signifies that your company complies with the RFB.

Vendor Name: ______________________________________________________________________________________

Address: ____________________________  City: __________________________ State: ______  ZIP: ________

Telephone: ______________  FAX: ______________  E-Mail Address: ______________________________

Name of Person Submitting Bid: ______________________________________________________________________

Authorized Signature: ______________________________________________________________________________

AA14-RH-4838 – Contract: Frozen Products Vending Services  Page 1
The Auxiliary Services Department at the University of Massachusetts Amherst is seeking bids from qualified bidders to provide the Contract: Frozen Products Vending Program per the following specifications or approved equal. The University is seeking to enter into a five-year agreement with a qualified Frozen Products Vending Service provider. The coin-operated frozen products vending contract for servicing the campus will run from the date of the award through December 31, 2018 with the option to renew for two (2) additional one-year terms. The following pages of specifications list pertinent data concerning the operation of the campus frozen products vending program.

The successful bidder will advise and work with the Auxiliary Services Department at the University throughout the contract term.

**General Information and Background:**

One of today’s leading centers of public higher education in the northeast, the University of Massachusetts Amherst was established in 1863 under the original Land Grant Act. Located in the historic Pioneer Valley of western Massachusetts, the 1,400 acre campus provides a rich cultural environment in a rural setting. In recent decades, it has achieved a growing reputation for excellence in an increasing number of disciplines, for the breadth of its academic offerings and for the expansion of its historic roles in education, research and public service.

The University is committed to educational excellence and improving the quality of life. The University has an ethical responsibility to reflect cultural sensibilities and maintain the highest moral standards. The University prides itself on the diversity of its student body and is committed to the principals of affirmative action, civility, equal opportunity, and the free exchange of ideas. The successful vendor must represent the University’s philosophy in its programming, staffing and operations.

Within its ten schools, colleges and faculties, the University offers Bachelor’s Degrees in 90 areas, Associate’s Degrees in 6, Master’s Degrees in 69, and Doctoral Degrees in 50. More than 90 percent of the 1,215 full-time faculty members hold the highest degree in their fields. There are approximately 27,000 students, make up of over 21,1800 undergraduates and 5,820 graduate students, plus more than 230 students at the Stockbridge School and 3,020 Continuing Education students. The University employs over 6,920 faculty, staff and graduate student employees.

Four other major colleges are within a 30-minute drive of the University campus. These include Amherst College, with an enrollment of 1,600 students; Hampshire College, with approximately 1,100 students; Mount Holyoke College, with a current enrollment of over 2,000 students; and Smith College with approximately 2,500 undergraduates.

The University of Massachusetts Amherst is a center for a wide array of events that bring nearly 447,500 people to its various venues. Last year, University Conference Services hosted conferences bringing nearly 29,000 people to the campus. The Athletics Department had attendance of approximately 232,000 at its curios athletic events. The Mullins Center, not including athletic events, brought 117,000 to the campus. The Fine Arts Center sponsors events that reach nearly 31,500 people annually.
Student Automatic Service is an entity of the University of Massachusetts and acts for, by and through it in all areas dealing with automatic merchandising equipment and related products.

This service will be available to all campus students, staff, faculty and visitors.

I. Scope of Work

The following requirements represent a minimum imposed by the University and these requirements, in no way, restrict the contractor from proposing additional or increased service.

Your bid proposal should be guided by the following considerations:

A. **The Agreement** (copy enclosed) must be carefully studied since it details many requirements that must be adhered to in order to make your bid valid. As stated in the Agreement, these specifications and your bid proposals become part of the Agreement.

B. The University has an exclusivity contract with Coca-Cola which prohibits the sale of any products that would complete with Coca-Cola products. The University reserves the right to limit products supplied in this agreement based on the Coca-Cola contract.

C. Note on the Fact sheet the sales price per category and the dollar volume produced for the last fiscal year. The dollar volume from Frozen Vending Services for FY’12 was = $14,016.05.

**Contractor’s Responsibilities:**

A. **Equipment Requirements:**

1. Contractor shall provide new or like new equipment comparable in style, color and model in order to provide standardization and uniformity or appearance.

   2. ADA compliant.

   3. All machines must be equipped with an electronic totaling device.

   4. All machines must accept coin and dollar bills.

   5. Upon request, the successful bidder may be required to utilize vandal-proof mechanisms in certain locations.

   6. The University operates a campus debit card program that utilizes the CBord CS Gold one card system. The requirements of this system are:

      a. ALL vending machines must function and be equipped with MDB CBord vending readers provided by the University. Questions pertaining to CBord Vending Readers should be directed to: Thomas J. Mahaney II, UCARD Office Manager at (413) 545-2692.

      b. Some of the readers will require new wiring depending upon the location of the machine. The University will be responsible for the wiring of the infrastructure and the vendor will be responsible for the wiring from the jacks to the machines. New machine locations and/or machine moves must be pre-approved by the University and will be based upon budget considerations.
c. The Vendor is responsible for the maintenance of all readers, including costs incurred by vandalism. The contractor will be charged a monthly rental fee that covers cost of repairs.

7. The vendor shall be required to remove all vending machines on or before the expiration of the contract. The successful bidder shall also be required to furnish proof of ability to provide acceptable equipment that is required and necessary to fulfill the terms of the Agreement.

8. In describing the vending machines you propose to use, state their adherence to the terms of the Agreement and include literature showing pictures, make, model and specifications.

9. The bidder must provide a minimum stocking schedule. Stocking on Friday is required. Frequent complaints about empty machines will be considered a violation of the contract and may lead to termination.

10. The successful bidder will be notified within fourteen (14) days after the bid opening, and contracts signed soon thereafter to become effective January 1, 2010 or upon award, whichever is later.

11. Commissions to be paid on a monthly basis to Student Automatic Services. Sales reports are required and sales must be reported by product type; location and by machine.

12. The actual number of vending machines in use at any given time may vary based on need as determined and mutually agreed to by the Vendor and Student Automatic Services. Machines will not be added or removed without consultation with Student Automatic Services.

13. The UNIVERSITY must approve the selling price for each year of the contract. Please propose your commission to Student Automatic Services for the (5) five-year contract and each of the (2) two-year potential extension. In addition to the commission paid to Student Automatic Services a fee will be deducted from UCard sales for all debit card transactions. This fee is currently 3% of gross UCard sales.

B. Equipment Service & Maintenance – The contractor is responsible for all repairs to vending machines and card readers – vandalism included. Contractor shall provide both preventative maintenance and general repairs to equipment provided. The contractor is also responsible for installing, removing, and programming CBord readers attached to their vending machines. The contractor will be assessed a monthly rental fee to cover card reader repairs and replacements. Currently this fee is $25/reader-month and will be deducted from the UCard gross sales revenue monthly.

C. Preventative Maintenance – Preventative Maintenance on each piece of equipment shall be conducted at least monthly and shall include a thorough check of the equipment and repair/replacement of any worn parts.

D. Response Time – Contractor must be able to respond to trouble calls placed by the University within twenty-four (24) hours of receipt of call.

E. Inoperable Machines – No machine shall remain inoperable for longer than three (3) business days after the initial response by the service technician. Contractor must be prepared to replace and such equipment to ensure continued service to the customer.

F. Card Readers - The University will provide all card readers for vending machines. The readers are the property of the UMass UCard Office. Vendors will be assessed a monthly rental fee (see B. Equipment Service & Maintenance).

G. Transaction Fee – The Contractor will be assessed a transaction fee against all sales made with the UCard. The current fee is 3%, but is reviewed on an annual basis. The vendor shall receive at least a six month advanced
notice of any transaction fee increase. UCard gross sales revenue will be reduced by the amount of the transaction fee prior to the transfer of funds to the Contractor.

**H. Equipment Status** – Contractor must have a method for marking equipment as usable or out-of-service. Contractor must also have a method to indicate when a machine is back in service after repairs are made.

**I. Service Reports** – At minimum, contractor must provide a repair ticket indicating equipment, location, date, time, nature of problem and corrective action to Student Automatic Services. The contractor shall provide a monthly service report to the Student Automatic Services indicating what repairs were provided during that month by equipment and location.

**J. Personnel** –

1. Contractor shall maintain a staff of trained personnel to ensure prompt, efficient service of equipment.

2. It shall be the responsibility of the contractor to provide a badge to be worn by all employees of the contractor at all times while working on campus. The badge shall display the employee’s photograph, employee’s name and the contractor’s company name.

3. Contractor’s employees should also wear a uniform shirt or t-shirt that readily identifies them as being associated with the contractor.

4. When the University adopts a policy concerning background checks for vendors, the successful vendor will be required to comply with the policy for any employees hired after the policy effective date.

**K. Cleaning** – The Contractor shall at all times keep in a clean, sanitary, neat and orderly condition the appearance of the vending machines. Regular cleaning of and immediately around, under and behind machines. Removing from the premises all cartons, trash, or refuse of any nature whatsoever which may accumulate and arise from the servicing of its machines. Trash disposal should not be made on University premises.

**L. Offensive Incidents** – The job site is a high traffic co-ed area. The contractor and his/her personnel are cautioned against creating interruptions, noise or offensive situations.

**M. Adjustment of Services** – Contractor shall maintain the required level of equipment. The University reserves the right to require that additional equipment be provided or that existing equipment be removed or relocated. The contractor shall be given sufficient advance notice (30-days) to be able to respond to this requirement. All provisions of this contract shall apply to any such increase.

**N. Liability** – Contractor is responsible for all damage done to any University property during the installation, operation, maintenance and/or removal of equipment. Clean-up and repair of all damage shall be accomplished at the contractor’s expense in a manner satisfactory to the University. The contractor shall return the premises, upon expiration or termination of any contract resulting from this RFB, to the University in the same condition that existed at the commencement of any contract resulting from this RFB less reasonable wear and tear.

**O. Audits** – Once annually, the University and contractor personnel using procedures agreeable to both parties shall conduct a joint audit of operations under this contract. Such access shall include on-site audits, review and copying of records. Student Automatic Services reserves the right to audit vending sales reconciliations at any time during the contract.

**P. Licenses and Permits** – Contractor shall provide all federal, state and local licenses and permits necessary at the time this contract is executed, covering the service the contractor provides at the University. The contractor shall
pay all excise and retail sales and other taxes imposed and all fees for permits, licenses, approvals and renewals thereof required with respect to the conduct of its operations/services.

**Q. Vandalism** – Contractor shall be responsible for repairing or replacing any equipment damaged at no fault of the University. In the event of excessive vandalism, the contractor shall not remove equipment without providing replacements and without the express permission of the University.

### 2. UNIVERSITY’S RESPONSIBILITIES

A. **Space** – The University will provide adequate space for the required Frozen Vending Machines.

B. **Access** – The University will provide adequate ingress and egress including a reasonable use of existing elevators, corridors, driveways and parking spaces.

C. **Utilities** – The University will provide all utilities and connections necessary for the Frozen Vending Machines. Power is limited to 208 amps at all residence hall locations.

D. **Precautions** – The University will take reasonable precautions to protect the contractor’s installed equipment from damage while on the University’s premises, but not be liable to the contractor for a pilferage or destruction of said machines.

E. **Site Requirements** – The University will provide trash receptacles, trash removal, janitorial and pest extermination services.

---

### II – Proposal Contents

So that the University can consider your proposal, submit as a minimum, the following information. Please identify your answers by following the numbering scheme below.

1. **Procedures, Marketing and Customer Service**

   A. Please submit procedures for reporting inoperable machines, repair/servicing schedules, response time to service calls and procedures for providing replacement equipment when units cannot be repaired on site.

   B. Please submit procedures to establish refund and to establish procedures to ensure timely collections and auditing, addressing accuracy, timeliness and ease of operation.

   C. Outline and provide samples of reports that the University will receive each month.

   D. Please submit procedures and methods for operating facilities and maintaining at lease current levels of service provided at the University.

   E. Please provide the manufacturer’s descriptive literature of each type of vending equipment to the provided under the contract. Describe the energy efficiency, customer features and safety features of this equipment. Include the length of time the contractor has been an Authorized Commercial representative of this particular equipment manufacturer.

2. **Contractor Qualifications, References and Relevant Experience**

   A. Company Name(s); Business Address; Business Phone Number.
B. Years in business: Include the number of years the contractor’s company has been in the vending machine business. (Include date and location of the company’s incorporation/organization)
State the location of your plant from which the University will be serviced.

C. Demonstrate the commitment and experience in debit card systems.

D. Form of Business: Describe the form of business under which the contractor operates (e.g. sole proprietor, partnership, or corporation).

E. Provide evidence that the contractor can meet minimum requirements for insurance as stated.

F. Give (3) three references and existing contracts with other institutions and companies of comparable size and characteristics to the University of Massachusetts at Amherst. The Student Automatic Service reserves the right to check references and existing operations at other such institutions and companies.

G. List all schools in the region served by the contractor currently using the same machines being proposed to the University in this proposal.

<table>
<thead>
<tr>
<th>Frozen Products Vending Service - Fact Sheet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current number of machines = 10 w/readers</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description of Product Sold</th>
<th>Current Selling Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chips Galore - 4.5 oz</td>
<td>$ 1.75</td>
</tr>
<tr>
<td>Wells, Cookie ‘n Cream Bar – 4.25 oz</td>
<td>$ 1.50</td>
</tr>
<tr>
<td>Dibs Snack Bags – 1.2 oz</td>
<td>$ 1.00</td>
</tr>
<tr>
<td>Snickers Bar – 2.0 oz</td>
<td>$ 1.25</td>
</tr>
<tr>
<td>Milkyway Bar – 3.0 oz.</td>
<td>$ 1.50</td>
</tr>
<tr>
<td>Nestle Drumstick – 4.6 oz.</td>
<td>$ 1.50</td>
</tr>
<tr>
<td>Nestle Crunch Bar – Loaded – 4.0 oz.</td>
<td>$ 1.50</td>
</tr>
<tr>
<td>Nestle Ice Cream Sandwich – 6.0 oz.</td>
<td>$ 1.25</td>
</tr>
<tr>
<td>Frozen Fruit Pomegranate – 4.0 oz.</td>
<td>$ 1.50</td>
</tr>
<tr>
<td>Big Dipper Cone – 4.3 oz.</td>
<td>$ 1.50</td>
</tr>
<tr>
<td>Nestle Strawberry Shortcake – 4.0 oz.</td>
<td>$ 1.50</td>
</tr>
</tbody>
</table>
Special Note: This is a listing of products that are currently vended. This product mix can be changed upon the review and approval of Meredith Schmidt; Director of Campus Center / Student Union.

Bidders can review this site and must be arranged by APPOINTMENT ONLY. Please contact Ms. Meredith Schmidt; Director of Campus Center/Student Union to arrange an appointment by phone: 413-577-8001 or via E-Mail: mschmidt@mail.aux.umass.edu.

Contractor Payments:

If the contractor fails to pay or deposit sums due to the University and does not make such payment or deposit within seven (7) business days after written notice from the University, the University may terminate any contract resulting from this RFB by fourteen (14) days’ notice in writing and the contract shall thereupon terminate without further action by the successful bidder.

Contractors Property:

All personal property, equipment and devices owned by the contractor and placed on the premises by the contractor shall be removed on or before the expiration of the contract. If the contractor shall fail to remove its property, the University may, at its option, as agent of the contractor and at the contractor’s risk and expense, move, relocate, or remove said property. The University will have a lien on all property, equipment and devices of the contractor on the University’s premises to the extent of all financial obligations owed to the University.

Proper Use of Vending Machines

The contractor agrees that all vending machines, devices, and services provided herein shall be available for use without restrictions of any sort to all persons employed at, attending or visiting the University of Massachusetts Amherst. In addition, the contractor agrees not to permit or suffer any noxious, offensive or illegal business, advertising, signs, trade or occupation to be carried on in said vending devices or operation, nor permit the same to be used or occupied for any immoral or illegal purpose.

Labor:

The contractor must comply with provisions of Executive Order 11246 as amended by Executive Order 11375 as supplemented by Department of Labor Regulation 41 CFR Part 60, the Copeland Anti-Kickback Act (18 USC 874) as supplemented in Department of Labor Regulation 29 CFR Part 3, the Beacon-Davis Act (40 USC 276a et. seq.), Sections 103 and 107 of the Contract Work Hours and Safety Standard Act (40 USC 327-330) as supplemented by Department of Labor Regulation 29 CFR Part 5, and the Clean Air Act of 1970 (42 USC 1857, et. seq.) to the extent that they are applicable.

Contract Term:

This contract shall commence from date of the award through December 31, 2018 with the option to renew for an additional two (2) one-year terms with the mutual agreement of both the UNIVERSITY and the awarded vendor. All terms and conditions shall remain the same for all option periods.

1st Renewal Term: January 1, 2019 through December 31, 2019
2nd Renewal Term: January 1, 2020 through December 31, 2020

Subject to the appropriation of funds, may the University extend this contract for two (2) additional one-year terms with all discounts, terms and conditions remaining the same. Initial your acceptance or denial of the contract renewal option below.
Yes, I agree with the contract renewal option on this RFB: _______________________

No, I choose not to do a contract renewal option on this RFB: ______________________

**Amendment:**

No amendment to this contract shall be effective unless it is signed by authorized representatives of both parties and complies with all other regulations and requirements by law.

**Entire Agreement:**

The eventual contract, when duly executed, shall represent the entire Agreement between the parties and shall supersede all prior Agreements and understandings written and oral. The contractor shall not assign or in any way transfer any interest in this contract without the prior written consent of the University, nor shall (s)he/it subcontract any services without the prior written approval of the University.

**Assignment and Delegation:**

The contractor shall not assign or in any way transfer any interest in this Contract without the prior written consent of the University, nor shall the contractor subcontract any service without the prior written approval of the University. Any purported assignment of rights or delegation of performance in violation of this Section is **VOID**.

**Performance Bond:**

The successful bidder agrees to provide a Performance Bond to the University of Massachusetts Amherst in the amount of $10,000.00 (Ten-thousand dollars) effective for the duration of the contract.

**Insurance and Liability:**

The awarded vendor shall purchase and maintain at its sole cost and expense throughout the term of this Agreement adequate insurance coverage necessary for the performance of the work under the Contract.

The University reserves the right to request and the successful vendor agrees to furnish a copy of each insurance policy and all endorsements thereto.

The University of Massachusetts, its trustees, officers, employees and the University of Massachusetts Building Authority will be listed as named insured on all policies.

Such insurance should include but not be limited to the following types and amounts of coverage:

a. The following minimum insurance coverage is required.

   i) Workers’ Compensation Insurance in compliance with applicable federal and state laws, including Employers Liability Insurance with limits of at least one million dollars ($1,000,000) per occurrence.

   ii) Automobile Liability Insurance covering owned, non-owned, and hired vehicles with combined limits for bodily injury and property damage of at least one million dollars ($1,000,000) per accident. The policy must be endorsed to include the University as an additional insured.

   iii) Commercial General Liability Insurance including products and completed operations liability, and contractual liability coverage specifically covering this Agreement, written on an occurrence form, with combined limits for bodily injury, personal injury, and property damage of at least one million dollars ($1,000,000) per occurrence and three million dollars ($3,000,000) per aggregate. The policy must be endorsed to include the University as an additional insured.
b. All insurance maintained by the Contractor pursuant to this Agreement shall be written by insurance companies licensed to do business in the Commonwealth of Massachusetts. If the Contractor determines that any such insurance needs to be placed with surplus lines carriers not licensed by the Commonwealth of Massachusetts, written permission from the University is required. All insurance companies to be used by the Contractor must have a Best’s Rating of not less than A- and be reasonably acceptable to the University.

c. If requested by the University in writing, the Contractor shall furnish certified copies of the aforementioned policies to the University’s designated representative.

d. All insurance maintained by the Contractor shall provide that insurance for the benefit of the University shall be primary and the University’s own insurance shall be non-contributing. The Contractor shall provide the University with certificates of insurance evidencing the above referenced insurance policies within ten (10) days of the execution of this Agreement.

e. The certificates shall contain an unequivocal provision that the University shall be given thirty (30) days prior written notice of cancellation, material change, or non-renewal of the coverage.

f. Contractor shall cause its subcontractors to purchase, carry, and maintain all insurance coverage and coverage limits that Section requires Contractor to have.

g. Contractor’s and/or Contractor’s subcontractor’s failure to provide or to continue in full force the insurance that this section requires shall be a material breach of this Agreement and may, at the sole determination of the University, result in termination of this Agreement for cause.

Cancellation for Cause:

Any purchase agreement or contract arising from this solicitation will be subject to cancellation by the University of Massachusetts upon written notice and without penalty to the University of Massachusetts if, in the opinion of the University of Massachusetts, the quality, delivery schedule, specifications, terms, conditions, and other service requirements are not maintained as originally stated and accepted by the vendor.

Termination of Contract:

a. Without Cause: This contract may be terminated without cause by either party by giving written notice to the other at least thirty (30) calendar days prior to the effective date of termination stated in the notice.

b. With Cause: The contract may be terminated, with cause, by either party, upon ninety (90) days written notice, one to the other.

The University reserves the right to cancel the contract at any time the vendors’ performance is, in the opinion of the University, deemed unsatisfactory. If the vendor breaches any material term or condition stated herein or fails to perform or fulfill any material obligation required by this Contract, the University may terminate this Contract by giving written notice to the vendor stating the circumstances of the breach at least seven (7) calendar days before the effective date of termination stated in the notice.

Notwithstanding the foregoing, the notice of termination provided by the University may state a period during which the alleged breach may be cured by the vendor. The successful vendor shall be given at least thirty (30) days to remedy the problems and an additional thirty (30) days termination notice if conditions do not meet the University’s approval. The cure shall be subject to the approval by the University. In the event of a breach by the vendor, the vendor may be subject to any and all applicable contract rights and remedies available to the University. Applicable statutory or regulatory penalties may also be imposed.

The University shall be obligated only to those services rendered and accepted prior to the date of Notice of Termination, less any liquidated damages that may be assessed to the successful vendor for non-performance.
Any purchase agreement or contract arising from this solicitation will be subject to cancellation by the University of Massachusetts upon written notice and without penalty to the University of Massachusetts if, in the opinion of the University of Massachusetts, the quality, delivery schedule, specifications, terms, conditions, and other service requirements are not maintained as originally stated and accepted by the vendor.

With the mutual agreement of both parties and upon receipt and acceptance of not less than thirty (30) days written notice, the contract may be terminated on an agreed date prior to the end of the contract period without penalty to either party.

**Termination:**

With the mutual agreement of both parties, and upon receipt and acceptance of not less than thirty (30) days written notice, the contract may be terminated on an agreed date prior to the end of the contract period without penalty to either party.

**Obligations in Event of Termination or Cancellation:**

1. Upon termination of this Contract, all finished or unfinished documents, data, studies and reports prepared by the Contractor pursuant to this Contract, shall become the property of the University.

2. Upon termination of this Contract, without cause, the University shall promptly pay the Contractor for all services performed to the effective date of termination, subject to offset of sums due the Contractor against sums owed by the Contractor to the University, and provided Contractor is not in default of this Contract and Contractor submits to the University a properly completed invoice, with supporting documentation covering such services, no later than thirty (30) calendar days after the effective date of termination.

**Financial Accounting:**

In the event of any termination of any contract resulting from this RFB, for any reason whatsoever, the rights of both parties to the financial accounting shall survive such termination.

**Damages and/or Defective Merchandise:**

The successful bidder will be required to replace at no charge to the University of Massachusetts (including freight and handling) any shipment in which defects or damages are discovered and/or merchandise is non-conforming to specifications, after the shipment has been received. The awarded vendor must address these defects or damage complaints within 7-working days of such complaints.

If the vendor fails to perform, provides non-conforming or damaged merchandise or the order is cancelled for cause, the University may be entitled to compensation by reimbursement or by other legal remedy liquidated damages including, but not limited to, the following:

1. The additional cost of services or goods bought elsewhere
2. Cost of repeating the bid or proposal procedure
3. Any expense incurred because of delay in service or delivery
4. Any other damages caused by or antecedent to a breach of contract by the vendor

**Order Placement:**

University Department will place orders with a University Purchase Orders or use of the University PROCard Credit Card.
**Payment:**

The University’s payment terms are net thirty (30) days from the date of receipt of contractor’s invoice, with late penalty interest assessable at rates established by the Commonwealth after 45 days in accordance with Massachusetts General Laws ch. 29 §29C and with Commonwealth regulation 815 C.M.R. 4.00.

Invoices submitted to the University by the successful bidder for services provided under the contract will be itemized and priced out by the successful bidder in accordance with the figures contained in the bidder’s response to this RFB. **Therefore, bids must be all inclusive. All payments shall be made in arrears, after services have been rendered to the satisfaction of the University.**

**Governing Law:**

This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

**Massachusetts Public Records Law / Public Information:**

All bids and related documents submitted in response to this RFB are subject to the Massachusetts Public Records Law, M.G.L. Chapter 66, and Section 10 and to M.G.L. Chapter 4, Section 7, Subsection 26, regarding public access to such documents. Statements in the bid response that are inconsistent with those statutes will be disregarded.

**Confidentiality / Privacy:**

Once the bids have opened they become public information. Proprietary data, properly identified by the vendor, will be held in strictest confidence where there is no violation of public disclosure laws in compliance with the Public Information Act. Vendors must mark or identify in their bid response, area that they request be held confidential and the University shall take all such requests under advisement but offers no guarantees that information will be considered as such.

The vendor shall comply with all applicable state and federal laws and regulations relating to confidentiality and privacy. In addition, in the performance of this Contract, the vendor may acquire or have access to “personal data” and become a “holder” of such personal data (as defined in Mass. General Laws Ch. 66A) or personal information (as defined in Mass. Gen. Laws Ch. 93H). Personal data and personal information shall be deemed to be “Personal Information”. The vendor shall implement feasible safeguards to restrict access and ensure the security, confidentiality and integrity of all Personal Information owned, controlled, stored or maintained by University and provided to or accessed by the vendor in the performance of services irrespective of the medium in which it is held. The vendor agrees that it shall inform each of its employees, servants or agents, having involvement with Personal Information of the laws and regulations relating to confidentiality and privacy.

**Publicity / Release of Information:**

The vendor shall not issue any press release, promotional or marketing materials or other public announcement regarding this Contract or the relationship between Parties without the University’s prior written consent. The content of any such press release, promotional or marketing materials, or other public announcement issued by the vendor shall be subject to the prior review and approval of the University.

**Certification:**

Contractor certifies under the pains and penalties of perjury that pursuant to Mass. Gen. Laws ch.62C, §49A, that the contractor has filed all state tax returns, paid all taxes and complied with all applicable laws relating to taxes; and that pursuant to Mass. Gen. Laws ch.151A, §19A(b), has complied with all laws of the Commonwealth relating to contributions and payment in lieu of contributions to the Employment Security System; and with all laws of the Commonwealth relating to Worker's Compensation, ch.152. Pursuant to federal law, contractor shall verify the immigration status of all workers assigned to the contract without engaging in unlawful discrimination; and contractor shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker.
**Independent Contractor Status:**

The contractor is an independent contractor and not an employee or agent of the University. No act or direction of the University shall be deemed to create an employer/employee or joint employer relationship. The University shall not be obligated under any contract, subcontract, or other commitment made by the contractor.

**Certification of Non-Collusion:**

Pursuant to Massachusetts General Law, Chapter 7, Section 22 (20), the bidder certifies under penalties of perjury that their bid is in all respects bonafide, fair and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

**Conflict of Interest:**

The vendor acknowledges that it may be subject to the Massachusetts Conflict of Interest statute, Massachusetts General Laws Ch. 268A and to that extent; the vendor agrees to comply with all requirements of the statute in the performance of this Contract.

**Compliance with Laws and Regulations:**

The contractor shall observe and obey all laws, ordinances, regulations, and rules of the Federal Government, the Commonwealth of Massachusetts, local municipalities, and the University of Massachusetts Amherst which may be applicable to its operation herein, and shall, at its own cost, obtain and maintain all permits and licenses necessary of and to its operation.

**Scheduling and Coordination:**

The Contractor shall keep himself fully informed of all existing and future State and Federal Laws, municipal ordinances and regulations in any manner affecting those engaged or employed in the work of this Contract.

The Contractor shall take all precautions for preventing injuries to persons and property in or about the work. The Contractor shall neither permit nor allow smoking where it creates a hazard nor the introduction or use of spirituous or intoxicating liquors upon or about the work embraced in this Contract or upon any grounds occupied by him.

**Safety and Health:**

Each General Contractor and subcontractor shall observe the following stipulations:

- Perform all work in accordance with the Federal and Massachusetts Department of Labor & Industries safety and health standards and guidelines and be responsible for providing healthful and safe work conditions.

- Refrain from creating any recognized safety or health hazard.

- Provide MATERIAL SAFETY DATA SHEETS for material used in the course of the work, when requested.

- Should the University deem that the Contractor is not abiding by the provisions of SAFETY AND HEALTH or that serious unsafe conditions exist that threaten the health, lives or safety of the University Community, an immediate suspension of operations may be ordered until such unsafe acts or conditions are corrected.

**Protection of Lives and Health:**

The vendor shall comply with all laws, ordinances, rules, orders and regulations; National, State or local laws, rules, orders, regulations and codes in the work under this contract.
The vendor shall comply with all Federal, State and local laws, ordinances, rules, orders, regulations and codes regarding the transporting, handling, removal and disposal of all regulated materials required for the work covered under this contract and shall be responsible for all associated fees and/or charges.

The vendor shall take all precautions for preventing injuries to persons and property in or about the work site. The vendor shall not permit smoking by employees in any State Building. The vendor shall not allow the use of intoxicating beverages upon or about the work site. The vendor shall not allow the use of non-prescription controlled substance drugs upon or about the work site.

The vendor will be responsible to the University for the acts and omissions of all persons directly or indirectly employed by him in connection with the work.

Should the University deem that the Contractor is not abiding by the provisions of this section or that a serious unsafe condition exists which threatens the health, lives, safety or property of the University community, an immediate suspension of operations may be ordered until such unsafe acts or conditions are corrected.

The vendors’ failure to comply with any of the requirements of this section shall be cause for immediate termination of this contract.

**Tobacco-Free – University of Massachusetts Amherst Policy:**

The University of Massachusetts Amherst shall prohibit tobacco use starting July 1, 2013.

For the purpose of this policy, “tobacco” refers to any and all tobacco products, whether inhaled or ingested, as well as electronic cigarettes. The use of tobacco products shall be prohibited everywhere on campus, inside buildings and throughout the grounds. This policy applies to everyone and anyone on campus, including staff, faculty, contractors and visitors.

a. The use of tobacco will be prohibited in all buildings and vehicles owned or leased by UMass Amherst, regardless of location.

b. The use of tobacco will also be prohibited on all University grounds and in any outdoor area controlled by the University. This includes all University land, parking lots and parking ramps, athletic fields, tennis courts and recreational areas.

c. The use of tobacco will be prohibited inside any vehicle located on University grounds.

d. When any person enters the grounds of the University, any smoking material shall be extinguished and disposed of in an appropriate receptacle at the perimeter of the grounds of the University.

**Affirmative Action, Equal Opportunity Employer:**

The University of Massachusetts is an Affirmative Action, Equal Opportunity Employer and as such prohibits discrimination on the basis of race, color, religion, creed, sex, age, marital status, national origin, mental or physical disability, political belief or affiliation, veteran status, sexual orientation, gender identity and expression, genetic information and any other class of individuals protected from discrimination under state or federal law in any aspect of the admission or treatment of students or in employment.

The successful vendor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap or sexual orientation. The vendor agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment including but not limited to: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; Section 504 of the Rehabilitation Act of 1973; the American with Disabilities Act of 1900; and the Massachusetts General Law, Chapter 151B.
Minority-Owned Business Enterprises (MBE) or Woman-Owned Business Enterprises (WBE):

Minority-Owned Business Enterprises (MBE) or Woman-Owned Business Enterprises (WBE) is strongly encouraged to submit proposals in response to the RFP. For the purposes of this RFP the term MBE or WBE shall mean a consultant who is certified as a minority business enterprise by the Massachusetts State Office of Minority and Women-Owned Business Assistance (SOMWBA), and who is still certified at the time the respondent’s qualifications are submitted.

All minority owned businesses are encouraged to apply for SOMWBA certification. For further information on SOMWBA qualifications, or access to SOMWBA vendor lists, contact the State Office of Minority and Women-Owned Business Assistance / Supplier Diversity Office (SDO) at (617)502-8831 or go to [http://www.somwba.state.ma.us](http://www.somwba.state.ma.us) or E-mail: [wsdo@state.umass.edu](mailto:wsdo@state.umass.edu) for more information.

Rehabilitation Compliance:

In accordance with Section 504 of the Rehabilitation Act of 1973 and the implementing regulations of that Federal Act (45 CFR 84), the University of Massachusetts / Amherst does not discriminate on the basis of handicap in admission or access to, or treatment of employment in the programs and activities which the University operates. Inquiries concerning compliance with the regulations stated in the Federal Act should be directed to the Chancellor’s Office; Whitmore Building; Amherst, MA 01003 Phone: 413-545-2004.

Recordkeeping, Audit and Inspection of Records:

The contractor shall maintain books, records and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of six (6) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. The Governor, the Secretary of Administration and Finance, the State Comptroller, the State Auditor, the Attorney General, the Federal grantor agency (if any), the University, or any of their duly authorized representatives or designees shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records, and other compilations of data of the contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review, and copying of records.

Political Activity Prohibited – Anti Boycott Warranty:

The contractor may not use any Contract funds and none of the services to be provided by the contractor may be used for any partisan political activity or to further the election or defeat of any candidate for public office. During the term of this Contract, neither the contractor nor any controlled group, within the meaning of §993 (a) (3) of the Internal Revenue Code, as amended, shall participate in or cooperate with any international boycott, as defined in §999(b) (3) and (4) of the Internal Revenue Code of 1986, as amended; nor shall either engage in conduct declared to be unlawful by Mass Gen. Laws Ch.151E §2.

Nuisances Prohibited:

The committing of any nuisance on the land of the Commonwealth and adjacent property shall be rigorously prohibited and adequate steps taken to prevent it.

Entering University Buildings:

The Contractor and his employees are prohibited from entering, using or being in any University building except for authorized business. Toilet facilities will be designated by the respective ordering department.
Parking Regulations and Use of Walkways:

All contractors’ vehicles and those of its employees working on those projects not involving contract limit lines shall be charged a fee for on-campus parking. On campus registration at the Parking Office shall be the responsibility of the Contractor. Unregistered vehicles not parked at a parking meter or in the Campus Center Garage are subject to a parking violation ticket and/or towing off-campus. Contractors are cautioned that parking regulations are strictly enforced by campus police. All costs, including fines and towing fees are the responsibility of the Contractor.

Vehicular traffic and parking on campus walkways, lawns and gardens is restricted. It shall be the responsibility of the Contractor(s) to request the proper permits from the Parking Office. Unauthorized vehicles will be ticketed and towed.

Choice of Law:

The laws of the Commonwealth of Massachusetts, without giving effect to its conflicts of law principles, govern all matters arising out of or relating to this Contract and all of the transactions it contemplates, including, without limitation, its validity, interpretation, construction, performance and enforcement. The contractor agrees to bring any federal or state legal proceedings arising under this Contract in which the Commonwealth or the University is a party, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any other legal rights of the Parties.

Indemnification of the University:

The contractor shall defend, indemnify, and hold harmless the Commonwealth, the University, its Trustees, Officers, servants, and employees from and against any and all claims, liability, losses, third party claims, damages, costs, or expenses (including attorneys’ and experts’ fees) arising out of or resulting from the performance of the services performed by the contractor, its agents, servants, employees, or subcontractors under this Contract, provided that any such claims, liability, losses, third party claims, damages, costs, or expenses are attributable to bodily injury, personal injury, pecuniary injury, damage to real or tangible personal property, resulting there- from and caused in whole or in part by any intentional or negligent acts or omissions of the contractor, its employees, servants, agents, or subcontractors. The foregoing express obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to the Commonwealth and/or the University that would otherwise exist. The University shall give the contractor prompt and timely notice of any claims, threatened or made, or any law suit instituted against it which could result in a claim for indemnification hereunder. The extent of this Contract of indemnification shall not be limited by any obligation or any term or condition of any insurance policy. The obligations set forth above shall survive the expiration or termination of this Contract.

Tax Exempt Status:

The University is exempt from federal excise, state, and local taxes; therefore, sales to the University are exempt from Massachusetts sales and use taxes. If the University should become subject to any such taxes during the term of this Contract, the University shall reimburse the contractor for any cost or expense incurred. Any other taxes imposed on the contractor on account of this Contract shall be borne solely by the contractor.

W-9:

The successful bidder will be required to provide an original signed W-9 form to the University if they are not already a recognized University vendor. A copy of this form can be accessed at: https://www.umass.edu/procurement/Fill-in_Forms/UMW9_Amh_fill-in.pdf.

Certification of Tax Status:

Pursuant to Massachusetts General Law, Chapter 62C, Section 49A, the bidder certifies under penalties of perjury that to the best of the bidder’s knowledge and belief, they have files all state tax returns and paid all state taxes required by law.
**Sustainability:**

The University of Massachusetts signed the President’s Climate commitment in 2007. See link for more information: [www.presidentsclimatecommitment.org](http://www.presidentsclimatecommitment.org) The University is committed to reducing the adverse environmental impact of our purchasing decisions; we are committed to buy goods and services from manufacturers and suppliers who share our environmental concern and commitment. We encourage proposals to include economical and environmentally friendly products and service options which serve to minimize waste, reduce excess packaging, recycle, reduce, reuse, prevent pollution and/or offer resource efficiency. It is our goal to maximize environmental responsibility on the UMass Campuses. Please propose details on how your company can support our initiative to provide sustainable products and services to our end-users.

- Describe the tools and resources that are available to our campuses.
- Describe what initiatives your company has implemented and is working on.
- Are green and recycled products clearly identified on your web ordering system so users can easily recognize them when ordering?

The University recommends that vendors use recycled paper and double-sided copying for production of all printed and photocopied documents.

**Data Security and Breach Notification:**

The vendor shall protect data and information provided by the University to Vendor (“University Data”) to commercially acceptable standards and no less rigorously than it protects its own confidential information.

The vendor shall develop, implement, maintain and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of University data.

The Vendor will not provide any University data to and sub-contractor or agent without the prior express written permission of the University or as otherwise provided under the agreement.

The Vendor shall retain any University data only as long as needed for the specified purposed and to securely dispose of any University data when there is no longer a business need to retain that data.

The Vendor agrees to notify the University immediately if any breach of the security, confidentiality or integrity of University data occurs; assist the University in any subsequent investigation and notification processes; and to otherwise comply with all applicable Massachusetts and federal laws and regulations regarding data security and breach notifications, such as M.G.L. c. 93H and Health Information Technology for Economic and Clinical Health Act (HITECH Act).

**PCI-DSS (Payment Card Industry-Data Security Standard):**

Treasurers Office required language:

Service Providers and third-party providers and the “UMASS merchant” represent and warrant to the other party that it is Payment Card Industry Data Security Standard (PCI-DSS) compliant and shall remain compliant during the term of the Agreement. In the case of a third-party application, the applications will be listed as PA DSS compliant at the time of implementation by the University. In either situation, should either party become non-compliant during the term, the non-compliant party shall promptly notify the other party of its non-compliance status. Both parties are responsible for the security of the cardholder data that is in such party’s control or possession, as mandated by PCI DSS in the performance of their individual and mutual responsibilities under this Agreement.

Service Providers must be listed on the Visa Global List of PCI DSS Validated Service Providers. Third-party applications Must be listed on the PCI Security Standards Council List of Validated Payment Applications (PA-DSS). Should the Service Provider or Third Party Application not be listed, a letter from a Qualified Security Assessor stating compliance must be submitted.
Receipt of RFB from a Source Other than Issuing Office – WARNING:

Prospective bidders who have received this document from a source other than the Issuing Office should be aware that all official documents, including amendments, are posted on the University of Massachusetts Amherst Procurement web-site at: http://www.umass.edu/procurement/bidsopen. Bidders assume complete responsibility for obtaining all amendments, and will be bound by the terms of all amendments, even in the event that they do not receive direct communications from the Issuing Office prior to the closing date. It is the vendor’s responsibility to check the University of Massachusetts Amherst Procurement web-site.

Future Expansion: University of Massachusetts:

The University of Massachusetts is consisted of five (5) campuses which include: Amherst, Boston, Dartmouth, Lowell and Worcester. The University may have other departments or campuses that would be interested in utilizing the services proposed under this RFB within the contract time frames as defined in the RFB.

If another department or campus wishes to utilize this option, that department or campus will issue a separate Purchase Order and a separate University Contract for Services to cover the desired services.

Bid Response:

All responses to this bid shall be made on the Bid Response Sheet or an exact facsimile thereof. Responses in a form which significantly deviate from the stated response parameters will not be reviewed and may be grounds for disqualification at the University’s sole discretion. An agent of the company with full authority to enter into Agreements and contracts on behalf of the company shall sign the certification.

The vendor may not materially alter its bid response after the bids have been opened. Only the Director of Procurement may deem what constitutes a material alteration to a bid.

If vendor takes exception to any of the contract terms and conditions contained herein, the vendor shall so note in its bid response, referencing the section and giving a complete explanation for the exception. Exceptions to the RFB may be grounds for rejection of the vendor’s bid at the sole discretion of the University.

Bid Evaluation and Invitation to Present:

A Selection Committee representing the University will review the bid offers and select the bid(s) whose product, pricing, services, availability and references have the most appeal to the University. Selected bidder(s) may be invited to a central designated location to make a formal presentation of their bid response to the Selection Committee in order to clarify any questions the committee may have.

Evaluation Criteria:

The award will be made to the contractor who, in the opinion of the Selection Committee, offers the best overall package. The evaluation will include, but not be limited to, the following (in rank of importance to the University – not that some may be of equal importance):

- Commission Rate
- Reliability of Vendor (Based upon references provided by the vendor)
- Quality of commodity being furnished
- Terms of Delivery
- Conformity with specifications

The bids will be evaluated based on a point system. The criteria and their assigned points will be placed in a sealed envelope in the bid file prior to the bid opening date and time, for use by the Selection Committee during the award process.
Submission of a Bid:

Submission of a bid indicates that the bidder has read, completely understands and agrees with this Request for Bid document. If the bidder takes exception to any of the contract terms and conditions contained herein, the bidder shall so note it as an exception in this Bid Response, referencing the section and item number and giving a complete explanation for the exception. The University reserves the right to use any such exception as grounds for rejection of the bid.

Bid Opening Time and Date:

Bidders shall deliver two (2) copies of their bid response in its entirety including all requested samples and/or supporting documentation as required in the bid specifications to the following address by July 11, 2013 at 1:00 pm, EDST at which time the bids will be opened and publicly read. Bids shall be clearly marked and addressed to:

| University of Massachusetts  |
| Procurement Department       |
| 407 Goodell Building; 140 Hicks Way |
| Amherst, MA  01003           |
| Fax 413-545-1643             |
| Attention:  RFB AA14-RH-4838 |

The University is not responsible for any expenses that may be incurred by any bidder to prepare or submit bids.

Each bidder is solely responsible for the accuracy and completeness of its bid. Errors or omissions may be grounds for rejection, or may be interpreted in favor of the University. The University will not increase the purchase order to the successful vendor for omissions or oversights not due to the fault of the University or its agents. All changes must be approved in writing.

It is the sole responsibility of the bidder to insure that its bid is delivered to the Procurement Department in its entirety by the due date and time. Late bids or bids delivered to an incorrect location will not be considered, and will be placed, unopened, in the bid file. Faxed bids will be accepted, provided the original is received within 5 working days after bid deadline submission date.

Only bids that are received by the bid opening date and time will be considered.

The UNIVERSITY reserves the right to reject any of all bids, wholly or in part and to make an award in a manner deemed by the Director of Procurement at the Amherst Campus to be in the University's best interest. T

The UNIVERSITY reserves the right to make a partial award for the services requested, or to make an award to more than one vendor.

If, at the time of the scheduled bid opening the University of Massachusetts Amherst is closed due to inclement weather or another unforeseeable event, the bid opening will be extended until 1:00 pm on the next normal business day. Bids will be accepted until that date and time.

No electronic bids will be accepted.
any samples and/or supporting documentation that is required in the bid specifications must be delivered at the time of bid opening.

All questions from prospective vendors regarding this Request for Bid shall be referred to the Purchasing Manager in the Procurement Department by email or fax only, June 28, 2013 at 2:00 PM.

No telephone calls will be entertained.

Inquiries received after the specified date and time will not be accepted. The University will E-Mail its response to all questions to all bidders of record by formal addendum July 2, 2013. The contact information for this individual is:

<table>
<thead>
<tr>
<th>University of Massachusetts Amherst</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rosemary A. Hassay, Purchasing Manager</td>
</tr>
<tr>
<td>Fax: (413) 545-1643</td>
</tr>
<tr>
<td>Email: <a href="mailto:procurement@admin.umass.edu">procurement@admin.umass.edu</a></td>
</tr>
</tbody>
</table>

The University will extend the due date by written addendum if such information significantly amends this request for bid or makes compliance with the original proposed due date impractical.

The University of Massachusetts is an Affirmative Action, Equal Opportunity Employer.
<table>
<thead>
<tr>
<th>Description of Product Sold</th>
<th>Recommended Selling Price</th>
<th>5-Years</th>
<th>Year-1</th>
<th>Year-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chips Galore - 4.5 oz</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wells, Cookie 'n Cream Bar – 4.25 oz</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dibs Snack Bags – 1.2 oz</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Snickers Bar – 2.0 oz</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Milkyway Bar – 3.0 oz.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nestle Drumstick – 4.6 oz.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nestle Crunch Bar – Loaded – 4.0 oz.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nestle Ice Cream Sandwich – 6.0 oz.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Frozen Fruit Pomengranate – 4.0 oz.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Big Dipper Cone – 4.3 oz.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nestle Strawberry Shortcake – 4.0 oz.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hot Pockets – 4.0 oz</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Indicate the amount you would contribute toward cost of installation of wiring: $_____________________________

Reminder: Be sure to attach equipment literature, service depot location, technician name and phone number and (3) references with this bid response.

Vendor Name: ____________________________________________________________________________

Address: __________________________ City: ______________________ State: ______ ZIP: ________

Telephone: ______________ FAX: ______________ E-Mail Address: ____________________________

Name of Person Submitting Bid: __________________________________________________________________

Authorized Signature: ________________________________________________________________________
List three (3) customers with similar requirements as those of the University of Massachusetts Amherst whom the University may contact for reference purposes, including the company name, contact person, telephone number, address and brief description of business done with the company within the past year. By submitting this information the vendor authorizes the University of Massachusetts Amherst to contact these clients for the purposes consistent with the review of this bid.

<table>
<thead>
<tr>
<th>Reference #1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company Name: ____________________________</td>
</tr>
<tr>
<td>Address: ______________________________________</td>
</tr>
<tr>
<td>Description of Services: ________________________</td>
</tr>
<tr>
<td>Contact:</td>
</tr>
<tr>
<td>Phone: _______________ Fax: _______________ E-Mail:</td>
</tr>
<tr>
<td>Contract Term: ____________________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Reference #2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company Name: ____________________________</td>
</tr>
<tr>
<td>Address: ______________________________________</td>
</tr>
<tr>
<td>Description of Services: ________________________</td>
</tr>
<tr>
<td>Contact:</td>
</tr>
<tr>
<td>Phone: _______________ Fax: _______________ E-Mail:</td>
</tr>
<tr>
<td>Contract Term: ____________________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Reference #3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company Name: ____________________________</td>
</tr>
<tr>
<td>Address: ______________________________________</td>
</tr>
<tr>
<td>Description of Services: ________________________</td>
</tr>
<tr>
<td>Contact:</td>
</tr>
<tr>
<td>Phone: _______________ Fax: _______________ E-Mail:</td>
</tr>
<tr>
<td>Contract Term: ____________________________</td>
</tr>
</tbody>
</table>

Your signature below signifies that your company complies with the RFB.

Vendor Name: ____________________________________________________________

Address: __________________________________________ City: __________ State: _____ ZIP: _______

Telephone: _______________ FAX: _______________ E-Mail Address: _______________

Name of Person Submitting Bid: _____________________________________________

Authorized Signature: ____________________________________________________

AA14-RH-4838 – Contract: Frozen Products Vending Services
AGREEMENT

This AGREEMENT, made and entered into this _______ day of __________, ________ by and between STUDENT AUTOMATIC SERVICE acting by, through and for the University of Massachusetts, Amherst, hereinafter called the CUSTOMER, and _________________________________________________ of _________________________________ hereinafter called the VENDOR.

WITNESSETH THAT:

Whereas, it is the desire of the parties hereto, to enter into an AGREEMENT providing revenue to the CUSTOMER through the granting of certain rights and privileges and the use of certain space to the VENDOR for the operation of vending machines; and

Whereas, invitations to bid on this concession having been properly advertised and made open to the public;

NOW THEREFORE, for and in consideration of the premises and mutual covenants hereinafter contained to be observed and performed, the parties hereto hereby formally covenant, agree and bind themselves for a term of _____________________, beginning on _____________, _________ as follows:

ARTICLE I

Paragraph Headings

The paragraph headings appearing herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this AGREEMENT.

ARTICLE II

Documents

Your bid and the specifications are incorporated by reference herein as fully and completely as if set forth at length in detail, and shall be binding upon the VENDOR, but the provisions of this AGREEMENT shall govern in any inconsistency between the documents.

ARTICLE III

Modifications

This AGREEMENT may not be changed, modified, discharged or extended except by written instrument duly executed by the parties hereto.

Vending price changes are not permitted during the first year of the contract. Price changes after the first year can only be made with written approval of the CUSTOMER. Price changes will only be considered if based on demonstrated increased operating cost, tax increases and manufacturer’s increase to VENDOR. Changes must be by mutual agreement of both parties.

All machines must be equipped with an electronic totaling device. All machines must have the ability to accept dollar bills. The VENDOR agrees to provide at their own expense, equipment necessary to function in the University-wide debit card program that utilizes the Blackboard (formerly AT&T/Harco) on-line system.

ARTICLE IV
Independence of Parties

It is understood and agreed that the VENDOR is and shall remain an independent contractor with respect to all services performed under this AGREEMENT and that neither the VENDOR nor any of its employees, agents or representatives are in any respect acting as co-partners, agents or employees of the CUSTOMER.

ARTICLE V
Save Harmless

The VENDOR does hereby agree to save harmless the University of Massachusetts, its trustees, officers, employees and agents from and against all claims, legal actions and liabilities, including but not limited to negotiated settlement of any of said claims, legal actions and liabilities, arising directly or indirectly out of the use of any of the vending machines which are the subject of the AGREEMENT where such use directly or indirectly causes or is alleged to have caused injury including but not limited to death to any party or causes or is alleged to have caused damage including but not limited to destruction of property of any party.

The VENDOR, in its own name as assured, shall secure and pay the premium or premiums on policies of insurance for the following minimum amounts of coverage:

Public Liability - $5,000,000 each occurrence; $5,000,000, aggregate limit

Property Damage - $100,000, each occurrence; $100,000, aggregate limit

Product Liability - $100,000,000, aggregate limit

Comprehensive Vehicle Liability - $500,000, each person; $1,000,000, each accident

Workmen’s Compensation Liability - $100,000, each occurrence

Each policy or policies shall cover all of the VENDOR’S operations hereunder; it is not thereby the intent of the above listing to limit the types of insurance required herein.

As to any insurance required by this AGREEMENT, a certified copy of each of the policies or a certificate or certificates of such insurance shall be delivered to the CUSTOMER within fifteen (15) days after written notification of the award of the bid. Each certificate or certificates of such insurance shall contain, as additional insured’s: “The University of Massachusetts, its trustees, officers, employees and agents.” Each certificate or instruments shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified, without giving thirty (30) days written notice thereof to the CUSTOMER. Failure to deliver such certificate shall nullify the bid award at the option of the CUSTOMER.

As determined necessary by the CUSTOMER, the VENDOR shall deliver to the CUSTOMER upon demand the original of any policy herein for review and upon completion of said review, said policy shall be returned to the VENDOR.

ARTICLE VI
Proper Use of Vending Machines

The VENDOR agrees that all vending machines, devices, and services provided by it herein shall be available for use without restrictions of any sort to all persons employed at, attending, or visiting the University of Massachusetts at Amherst. In addition, the VENDOR also agrees not to permit or suffer any noxious, offensive or illegal business, advertising, signs, trade, or occupation to be carried on in said vending devices or operation, nor permit the same to be used or occupied for any immoral or illegal purpose.
ARTICLE VII
Assignment

The VENDOR shall not assign, transfer, pledge, hypothecate, surrender, or otherwise encumber or dispose of this AGREEMENT, or any interest in any portion of same, without the formal written consent of the CUSTOMER.

ARTICLE VIII
General Description of the Concession; Locations and Machines

A. General

The VENDOR IS HEREBY GRANTED A NON-EXCLUSIVE right to operate vending machines on the campus of the University of Massachusetts at Amherst as described and set forth herein. Said vending machines and devices shall remain the sole and exclusive property of the VENDOR.

B. Location

All locations of the machines will be throughout the campus so designated by the CUSTOMER.

C. Operations

The locations to be used by the VENDOR, as designated by the CUSTOMER, shall be used only for purposes as may be approved by the CUSTOMER.

D. Machines and Facilities

1. Facilities

The CUSTOMER agrees to provide the VENDOR with such heat, water, electricity, and ventilation devices as are necessary to operate the vending machines and devices provided under this AGREEMENT. The VENDOR agrees that at no time will it permit its employees, agents, or servants to remove, alter, or make changes in any University of Massachusetts at Amherst equipment or premises without the express approval of the CUSTOMER.

It is further understood and agreed that the VENDOR shall be liable for the complete renovation of all or any part of the premises which may be damaged or destroyed by the acts or omissions of the VENDOR or its employees, officers, guests, or invitees. The VENDOR shall return the premises, upon expiration or termination of this AGREEMENT, to the CUSTOMER in the same condition that existed at the commencement of this AGREEMENT less reasonable wear and tear.

2. Vending Machines

must be in new or like-new condition, modular in appearance and similar in color, and have the capability of accepting dollar bills. The VENDOR agrees to utilize vandal-proof mechanisms in certain locations if so requested by the CUSTOMER. Machines will be subject to the approval of the CUSTOMER.

3. Products offered

must not compete with any existing University exclusivity contracts.

4. Shelf life of milk products shall be for a period of seven (7) days after pasteurization (this will include the seven day of pasteurization) at the processing plant with the date on the carton being the date of expiration.

5. The vendor of milk products shall submit, at least monthly, reports on the bacteriological quality of
all types of milk products sold in vending machines to the CUSTOMER, with these analyses being made in a laboratory licensed by the State Department of Public Health. The sample shall be tested by acceptable quality control procedures acceptable to the CUSTOMER on products taken from the processing plant and vending machines.

6. The VENDOR will comply with ADA (Americans With Disabilities Act) guidelines as interpreted by the University, to include, but not limited to Braille markings for price, selection, and instructions for vending machine use.

**ARTICLE IX**
Quality of Vendor’s Services

In conducting its business on the campus of the University of Massachusetts at Amherst under the terms of this AGREEMENT, the VENDOR, and its employees shall:

a) Furnish good, prompt, and efficient service, adequate to meet all reasonable demands hereof.

b) Do all things reasonably necessary or required by the CUSTOMER to maintain the highest standards of quality and management for the operation hereof.

c) Conduct its operation in an orderly manner so as not to annoy, disturb, or be offensive to the University of Massachusetts at Amherst, its students, employees or guests.

d) Furnish a supervisor or employee who will be available on call so that the CUSTOMER is assured of 24-hour service as required or needed.

e) Arrange that its employees, except its supervisors, managers, or officers, shall be attired in an easily identifiable uniform which shall be maintained at all times in a neat and clean condition.

NOTE: The CUSTOMER shall have the right to summarily dismiss and exclude from the campus of the University of Massachusetts at Amherst any of the VENDOR’S employees or agents, its vehicles or other personal property, including vending machines or devices, which in the CUSTOMER’S opinion, for any reason whatsoever, do not measure up to or meet its standards of behavior, service, appearance, or operation.

f) At all times keep in a clean, sanitary, neat and orderly condition and appearance the designated vending areas, including its equipment, fixtures and personal property thereon.

**SERVICE**

The VENDOR shall supply complete service, proper mechanical maintenance, and routine collection of money from machines and remission of commission checks, in accordance with this AGREEMENT.

The VENDOR will provide to the customer the following:

A. **Service Location Facilities**

1. Street address from which the VENDOR will service machines.
2. Service person’s name, address, and home phone number.

B. **Detailed Description of VENDOR’S Facilities**
1. Shop repair space.
2. Storage facilities, i.e., roominess, neatness, measures established to insure these.
3. Office area.

ARTICLE X
Health and Sanitation

It is expressly understood and agreed that the VENDOR:

A. Shall comply with all applicable health and sanitation laws, rules, and regulations of the Federal Government, the Commonwealth of Massachusetts, (including, but not limited to, the State “Sanitary Code” Article X), the University of Massachusetts at Amherst, the Town of Amherst, and the municipality which houses the VENDOR’S plant and facilities.

B. Will at all times keep in a clean, sanitary, neat and orderly condition the appearance of the vending areas, including its equipment, fixtures, and other personal property and give special attention to:

1. Cleaning the outside of machines as they are serviced.
2. Cleaning up any spillages and/or overflows caused by malfunctions and/or servicing.
3. Removing from the premises all cartons, trash, or refuse of any nature whatsoever, which may accumulate and arise from the servicing of its machines, and in particular, it is understood and agreed that all food and drink products of any nature which removed from machines by the VENDOR are not to be discarded in the waste receptacles located in the vending areas or other parts of the residence halls or buildings.
4. Performing routine cleaning procedures on the interior of vending machines and, during vacation periods, a major and detailed cleaning of all machines, both exterior and interior.

C. Will fully cooperate at all times with the CUSTOMER, its agents, and representatives, in the testing of its vending machines or devices and/or its products for the purpose of determining adherence to proper health and sanitation standards.

D. Does hereby authorize all Health and Sanitation agencies, public and private, local and state, to make available to the CUSTOMER at its request any and all information regarding the VENDOR’S Health and Sanitation reports and inspections.

E. The VENDOR hereby agrees that potentially hazardous food, as defined in Article X (Massachusetts State Sanitary Code) shall be removed from its machines after a period of 48 hours and shall be replaced with fresh, new products, and further, that said potentially hazardous food products shall be dated with a coding system of the VENDOR’S and the same made know to the CUSTOMER.

F. VENDOR shall submit to the CUSTOMER, a maintenance schedule and its service policy for all machines. Specify the cleaning and sanitizing products used.

G. VENDOR shall supply CUSTOMER with explanation of any dating codes used.
ARTICLE XI
Commissions, Reports, Records and Audits

A. The VENDOR shall pay monthly to the CUSTOMER a commission based upon gross sales made during the preceding calendar month; said commission shall be a percentage of the gross sales per product-item. In addition to the commission paid to SAS, an additional 3% fee will be deducted from UCard sales for all debit card transactions.

B. Commissions shall be calculated monthly and on/or before the fifteenth of each succeeding month and shall be remitted to the CUSTOMER by check made payable to University of Massachusetts, “Student Automatic Service” and mailed to:

Student Automatic Service
Campus Center (Business Office)
University of Massachusetts
Amherst, Massachusetts 01003

Said commission check shall be substantiated by a detailed statement showing the gross sales derived from each machine location (building) under this AGREEMENT.

C. All collections from such vending machines or devices shall be made by the VENDOR through its employees. The VENDOR agrees that its collection procedure shall be designed to guarantee the highest degree of accountability.

D. The VENDOR agrees that all accounts and records pertaining or related to its operation under the terms of this AGREEMENT shall be open to inspection during ordinary business hours by the CUSTOMER and/or its duly authorized representative.

E. The CUSTOMER reserves the right to be present at time of collections and be able to ascertain vending machine revenue.

F. The VENDOR shall, upon the CUSTOMER’S request, at the VENDOR’S own expense, arrange that an independent Certified Public Accountant submits to the CUSTOMER a report of its findings concerning the VENDOR’S records and accounts pertaining or related to its operation under the terms of this AGREEMENT.

G. The VENDOR agrees to pay to the CUSTOMER requested amounts for the purpose of paying prompt refunds of monies lost in its vending machines or devices.

H. All losses incurred in the operation of the vending services due to theft, fire, accident, or spoilage will be the responsibility of the VENDOR and the CUSTOMER will not be liable for such losses.

I. Internal Accounting Program

Describe in detail complete accounting procedures.

a. Service personnel accounting controls.
b. Methods of recording, checking and reporting sales.
   Forms used. (Including sample)
c. Include all regular accounting forms with detailed explanation of each and their general importance.
ARTICLE XII
Termination

A. This AGREEMENT may be terminated by either party at any time by giving to the other party thirty (30) days written notice of such termination. Such notice, wherever referred to under this Article XII, will be by registered U.S. mail.

B. Default in Operation
Should the VENDOR default in any of its undertakings herein, excluding the payment of monies, it is expressly understood and agreed that the CUSTOMER may, at its option, cancel and terminate this AGREEMENT by the giving of five (5) days written notice by registered mail to the last known address of the VENDOR.

C. Default in Payment
Should the VENDOR default in the payment of monies as described and required herein and fail to cure or correct such default after due notice from the CUSTOMER specifying such default, then in that event the CUSTOMER may, at its option and after the expiration of three (3) days from the giving of said notice, exclusive of Saturdays, Sundays and holidays, cancel and terminate the AGREEMENT by giving of notice of such termination. Such termination to be effective upon the mailing of said notice.

D. Saving Clause
It is expressly understood and agreed that the aforesaid is not intended to limit or cancel in any manner any other reason or reasons for termination of this AGREEMENT as may be contained elsewhere herein.

ARTICLE XIII
Removal of Property

It is expressly understood and agreed that all personal property placed on the premises by the VENDOR under the terms of this AGREEMENT shall be removed on/or before the expiration of this AGREEMENT.

If the VENDOR shall fail to remove its property upon the expiration or termination of this AGREEMENT, the CUSTOMER may, at its option, as agent of the VENDOR and at the VENDOR’S risk and expense, move, relocate, or remove said property to a public warehouse or retain the same in its possession, and a storage fee of Five Dollars ($5.00) a day per vending machine or device will constitute a lien against such properties until such storage fees are paid; and further, after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expense of the sale, second to any sums owed by the VENDOR. Any additional cost of removal, over the proceeds of sale, shall be paid by the VENDOR.

Anything to the contrary, notwithstanding in the AGREEMENT, upon termination or cancellation of this AGREEMENT, the CUSTOMER will have a lien on all property and equipment of the VENDOR situated in the CUSTOMER’S premises to the extent of all financial obligations owed to the CUSTOMER.

ARTICLE XIV
Performance and Security Bond

The VENDOR hereby agrees to provide a Performance Bond or security satisfactory to the CUSTOMER in the amount of Ten Thousand Dollars ($10,000.00) effective for the duration of this AGREEMENT.
ARTICLE XV
Laws, Ordinances, Rules, Regulations, and Licenses

The VENDOR shall observe and obey all the laws, ordinances, regulations, and rules of the Federal Government, the Commonwealth of Massachusetts, the Town of Amherst, and the University of Massachusetts at Amherst, which may be applicable to its operation herein, and shall, at its own cost, obtain and maintain all permits and licenses necessary of and to its operation. In addition, the parties hereto agree that this AGREEMENT is executed and shall be consummated in the Commonwealth of Massachusetts, and that the laws of the Commonwealth of Massachusetts apply and shall govern the parties.

ARTICLE XVI
Ability to Meet Requirements of Agreement

The VENDOR shall furnish to the CUSTOMER proof of its ability to provide acceptable equipment which is required and necessary to fulfill the terms of this AGREEMENT immediately after the bid is awarded.

ARTICLE XVII
Terms of Agreement

This AGREEMENT, unless sooner terminated as provided herein, shall become effective on ________________ and shall continue until ________________.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be duly executed on the day and year first above written.

VENDOR: ______________________________

Official Business Name

by ______________________________

Typed Name and Title

___________________________________

Signature

STUDENT AUTOMATIC SERVICE
Meredith E. Schmidt, Director
Student Union / Campus Services

by ______________________________

Typed Name and Title

___________________________________

Signature

Ken Toong, Director
Auxiliary Services

___________________________________

Signature

UNIVERSITY OF MASSACHUSETTS

 Typed Name and Title

___________________________________

Signature