



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

# Solicitation

NUMBER
VNF1027

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
TARA LYLE 304-558-2544

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Valerie Vitale  
 Inside Sales Account Manager  
 ABTG  
 1400 Busch Parkway  
 Buffalo Grove, IL 60089

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DIVISION OF VETERANS AFFAIRS  
 VETERANS NURSING FACILITY  
 ONE FREEDOMS WAY  
 CLARKSBURG, WV  
 26301 304-627-2415

DATE PRINTED
03/21/2013
BID OPENING DATE:
04/10/2013

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	EA		271-88	27,250. <sup>00</sup>	27,250. <sup>00</sup>
PHARMACEUTICAL SPECIALTY EQUIPMENT						
<p>THE WEST VIRGINIA PURCHASING DIVISION FOR THE AGENCY, WV VETERANS NURSING FACILITY, IS SOLICITING BIDS TO PROVIDE ONE (1) PHARMACY SEMI-AUTOMATED ORAL SOLID PACKING AND BAR-CODING SYSTEM AND OTHER RELATED ACCESSORIES, PER THE ATTACHED SPECIFICATIONS.</p> <p>ATTACHMENTS INCLUDE:</p> <ol style="list-style-type: none"> <li>1. INSTRUCTIONS TO VENDORS SUBMITTING BIDS</li> <li>2. GENERAL TERMS AND CONDITIONS</li> <li>3. VNF1027 SPECIFICATIONS</li> <li>4. CERTIFICATION AND SIGNATURE PAGE</li> <li>5. WV96A - AGREEMENT ADDENDUM FOR SOFTWARE</li> <li>6. PURCHASING AFFIDAVIT</li> <li>7. RESIDENT VENDOR PREFERENCE (RVP) FORM</li> </ol>						
***** THIS IS THE END OF RFQ					VNF1027 ***** TOTAL:	27,250. <sup>00</sup>
<p>04/10/13 09:38:01 AM          West Virginia Purchasing Division</p>						

SIGNATURE <i>Valerie Vitale</i>	TELEPHONE 888-537-3102 x5857	DATE 4-8-2013
TITLE <i>Account Manager</i>	FEIN 363932047	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO SOLICITATION, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

**Schedule A**

**Customer Name** The West Virginia Veterans Nursing Facility  
**Customer Address** One Freedom Way Street Address  
 Clarksburg, WV 26301

**ABTG Account Executive**  
 Name Valerie Vitale  
 Phone 888-537-3102 x5857  
 E-Mail vvitale@abtg.com

As proposed, the System consists of the following components and pricing:

Proposal Date 4/4/13

Qty	Product Code	Pouch Packaging Solutions	Price per Unit	Extended Price	Year 2+ Support
1	UP500	FastPak™ Tabletop	24,750.00	24,750.00	0.00
1	UP500INS	Implementation Fees - FastPak™ Tabletop	1,500.00	1,500.00	0.00
<b>Qty</b>	<b>Product Code</b>	<b>Annual Software Support and License Fee</b>	<b>Price per Unit</b>	<b>Extended Price</b>	<b>Year 2+ Support</b>
1	2M3006TT	Annual Software Support and License Fee - FastPak™ TableTop	1,000.00	1,000.00	1,000.00
<b>Qty</b>	<b>Product Code</b>	<b>Annual Equipment Support</b>	<b>Price per Unit</b>	<b>Extended Price</b>	<b>Year 2+ Support</b>
1	SV-TT-BS	Equipment Support - FastPak™ TableTop - Basic Service, 8 am to 5 pm Local Time, Monday to Friday	0.00	0.00	2,314.00
<b>Total Purchase Price</b>				<b>Totals</b>	<b>Year 2+ Support</b>
Pouch Packaging Solutions				26,250.00	0.00
Total Price before Annual Support and License Fees				US\$ 26,250.00	0.00
Annual Software Support and License Fee				1,000.00	1,000.00
Annual Equipment Support				0.00	2,314.00
<b>Total Purchase Price</b>				<b>US\$ 27,250.00</b>	<b>3,314.00</b>

<i>Customer Savings</i>	<i>List Price for above Products and Service</i>	35,500.00
	<i>Total Discount from List Price</i>	(8,250.00)

**Payment Terms**

**Pouch Packaging Solutions, Vial Filling Solutions and Telepharmacy Solutions**  
 33% due upon effective date of contract  
 33% due upon delivery of equipment (payable on net 30 day terms)  
 34% due the earlier of receipt of Installation Notice or 90 days subsequent to delivery of equipment (payable on net 30 day terms)

**Consumables and Parts**  
 100% due upon shipment (payment terms net 30 days from invoice date)

**Annual Software Support and License Fee**  
 100% due the earlier of receipt of Installation Notice or 90 days subsequent to delivery of equipment (payable on net 30 day terms) and annually in advance thereafter.

**Annual Equipment Support**  
 100% due annually in advance (payable on net 30 day terms) with first annual payment billed upon expiration of equipment warranty

**Equipment Warranty**

12 months starting the earlier of Customer's receipt of Installation Notice or 90 days subsequent to delivery of equipment.  
 Level of support during warranty period shall be consistent with level of support selected for second year service agreement.  
 If no second year service contract is signed, level of support during warranty period shall be Basic Support with on-site support available 8 am to 5 pm local time, Monday through Friday.

### Additional Terms

All quotes contained herein are per AutoMed Technologies, Inc. /Commercial. Quotes are firm for 90 days and are specified in US\$ dollars. Shipping to the contiguous 48 states and Canada is included unless otherwise indicated. Applicable taxes are not included in total price.

The Company shall conduct a credit review of the customer from time to time as deemed appropriate. The Company reserves the right to either cancel this contract or change the payment terms should the Customer's credit history not be acceptable to the ABTG Credit Department or the Company's lending partners.

Implementation and Interface fees are applicable to services provided during regular business hours (8 am - 5 pm, Customer's local time, Monday through Friday with Holidays excluded). Additional fees will be charged for implementation and interface consulting services provided outside regular business hours.

Annual Software Support and License Fees are payable to the Company as long as the Customer uses the software. Should the Customer curtail use of the software, the Customer must give written notice prior to the annual support renewal date to cancel the annual support contract created by this document. Annual Software Support and Licenses Fees is for software in this schedule and excludes any annual software support and licenses fees for other Company software or equipment previously acquired by the Customer unless otherwise indicated.

Unless otherwise indicated, Annual Equipment Support only includes equipment support on the equipment purchased in this schedule and excludes support fees for other Company equipment previously acquired by the Customer including equipment upgraded in this schedule.

Equipment that requires special handling or delivery (including, but not limited to, a forklift or other special equipment) during installation will be charged separately. Any facility construction and/or modification required to accommodate the equipment and software are the responsibility of the Customer and excluded from the net purchase price of this product.

Equipment shipping charges and associate travel expenses to Hawaii, Alaska and locations outside the contiguous 48 US states and Canada are not included in the Total Purchase Price. Actual equipment shipping and associate travel expenses for these locations will be billed to the Customer when incurred and payable net 30 days from invoice date.

Pricing Tool Version: V8-6/30/13



1400 Busch Parkway  
Buffalo Grove, IL 60089  
888.537.3102 Fax: 847.215.1960

## QUOTE FOR OPTIONAL, ON-SITE FASTPAK TABLETOP TRAINING

Veterans Nursing Facility  
One Freedom way  
Clarksburg, WV 26301  
Attn: Tara Lyle

DATE: 4-8-2013

TYPE OF TRAINING	LOCATION OF TRAINING	COST
2 DAYS FASTPAK TABLETOP TRAINING	CUSTOMER FACILITY	\$ 2,000.00 Per day
Includes: Trainer's travel and lodging expenses, training time and any training materials.		
	TOTAL COST:	\$ 4,000.00

Terms are net 30 days.

Purchase Order # \_\_\_\_\_ Date \_\_\_\_\_

Authorization Signature \_\_\_\_\_



*Valerie Vitale*  
Inside Sales Account Manager  
ABTG  
1400 Busch Parkway  
Buffalo Grove, IL 60089  
P: (888) 537-3102 x 5857  
F: (847) 215-1960

\*Please Note My New E-mail Address\*

[vvitale@abtg.com](mailto:vvitale@abtg.com)

**INSTRUCTIONS TO VENDORS SUBMITTING BIDS**

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.
2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

A pre-bid meeting will not be held prior to bid opening.

A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

A **MANDATORY PRE-BID** meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required

information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

- 4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline:

Submit Questions to:

Fax:

Email:

- 5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

- 6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The bid delivery address is:

Department of Administration, Purchasing Division  
 2019 Washington Street East  
 P.O. Box 50130,  
 Charleston, WV 25305-0130

The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

SEALED BID  
 BUYER: Tara Lyle  
 SOLICITATION NO.: VNF 1027  
 BID OPENING DATE: 4-10-2013  
 BID OPENING TIME: 1:30 PM  
 FAX NUMBER: 304 558 4115

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus  convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE:     Technical  
                    Cost

- 7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

Bid Opening Date and Time:

Bid Opening Location: Department of Administration, Purchasing Division  
 2019 Washington Street East  
 P.O. Box 50130,  
 Charleston, WV 25305-0130

- 8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.
- 9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

**GENERAL TERMS AND CONDITIONS:**

1. **CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
  
2. **DEFINITIONS:** As used in this Solicitation / Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation / Contract.
  - 2.1 "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
  - 2.2 "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods and services requested in the Solicitation.
  - 2.3 "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.
  - 2.4 "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.
  - 2.5 "Purchase Order" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the successful bidder and Contract holder.
  - 2.6 "Solicitation" means the official solicitation published by the Purchasing Division and identified by number on the first page thereof.
  - 2.7 "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
  - 2.8 "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.



3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

**Term Contract**

**Initial Contract Term:** This Contract becomes effective on

and extends for a period of  year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal must be submitted to the Purchasing Division Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to  successive one (1) year periods. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

**Reasonable Time Extension:** At the sole discretion of the Purchasing Division Director, and with approval from the Attorney General's office (Attorney General approval is as to form only), this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Division Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Division Director 30 days written notice. Automatic extension of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases, but Attorney General approval may be required.

- Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within  days.
- One Time Purchase:** The term of this Contract shall run from the issuance of the Purchase Order until all of the goods contracted for have been delivered, but in no event shall this Contract extend for more than one fiscal year.
- Other:** See attached.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Purchase Order will be considered notice to proceed
5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.
- Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.
- Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.
- Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
- One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.
6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.
7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.
8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.
- BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

[ ] **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of "see attached". The performance bond must be issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

[ ] **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be issued and delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable.

[ ] **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

[ ] **WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.

[ ] **INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award:

[ ] **Commercial General Liability Insurance:** "see attached" or more.

[ ] **Builders Risk Insurance:** builders risk – all risk insurance in an amount equal to 100% of the amount of the Contract.

[ ] "see attached"

[ ]

[ ]

[ ]

[ ]

The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

[ ] **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

[ ]	
[ ]	
[ ]	
[ ]	

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

**9. LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

**10. ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

**11. EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or

other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. **LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount

	for	

This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

13. **ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.
14. **REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee if applicable.
15. **COMMUNICATION LIMITATIONS:** In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.
16. **FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.
17. **PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To."
18. **UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.
19. **DELIVERY:** All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification.
20. **INTEREST:** Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.
21. **PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Resident Vendor Certification form has been attached hereto to allow Vendor to apply for the preference. Vendor's

failure to submit the Resident Vendor Certification form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.

22. **SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid on or after July 1, 2012, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to submission of its bid to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.
23. **TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
24. **CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2.
25. **WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.
26. **TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
27. **APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.
28. **COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.
29. **PREVAILING WAGE:** On any contract for the construction of a public improvement, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at <http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx>. Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage

requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.

- 30. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.
- 31. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.**
- 32. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 33. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
- 34. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.
- 35. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
- 36. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 37. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

- 38. HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at <http://www.state.wv.us/admin/purchase/vrc/hipaa.html> and is hereby made part of the agreement provided that the Agency meets the definition of a Covered entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the Vendor. Additionally, the HIPAA Privacy, Security, Enforcement & Breach Notification Final Omnibus Rule was published on January 25, 2013. It may be viewed online at <http://www.gpo.gov/fdsys/pkg/FR-2013-01-25/pdf/2013-01073.pdf>. Any organization, that qualifies as the Agency's Business Associate, is expected to be in compliance with this Final Rule. For those Business Associates entering into contracts with a HIPAA Covered State Agency between January 25, 2013 and the release of the 2013 WV State Agency Business Associate Agreement, or September 23, 2013 (whichever is earlier), be advised that you will be required to comply with the 2013 WV State Agency Business Associate Agreement. For those Business Associates with contracts with a HIPAA Covered State Agency executed prior to January 25, 2013, be advised that upon renewal or modification, you will be required to comply with the 2013 WV State Agency Business Associate Agreement no later than September 22, 2014.
- 39. CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.
- 40. DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.



- 41. LICENSING:** In accordance with West Virginia Code of State Rules §148-1-6.1.7, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.
- 42. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Purchase Order from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.
- 43. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid for the same material, supplies, equipment or services; (2) that its bid is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this RFQ in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

- 44. PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

- 45. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting,

supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, *etc.* and the filing of all necessary documents, forms and returns pertinent to all of the foregoing. Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 46. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 47. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.
- 48. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 49. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

**50. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

- Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.
- Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at [purchasing.requisitions@wv.gov](mailto:purchasing.requisitions@wv.gov).

**51. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

**52. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or

such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.

The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

- a. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
- b. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

**53. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

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**SPECIFICATIONS**

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of WV Veterans Nursing Facility to establish a contract for the one time purchase of one (1) pharmacy semi-automated oral solid packing and bar-coding system.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1 **“Contract Item”** means pharmacy semi-automated oral solid packing and bar-coding system.
  - 2.2 **“Pricing Page”** means the pages upon which Vendor should list its proposed price for the Contract Items in the manner requested. The Pricing Page is either included on the last page of this RFQ or attached hereto as Exhibit A.
  - 2.3 **“RFQ”** means the official request for quotation published by the Purchasing Division and identified as VNF1027.
3. **GENERAL REQUIREMENTS:**
  - 3.1 **Mandatory Contract Item Requirements:** Contract Item must meet or exceed the mandatory requirements listed below.
    - 3.1.1 Pharmacy semi-automated oral solid packing and bar-coding system
      - 3.1.1.1 Item must package 80 or more bar-coded packages per minute.
      - 3.1.1.2 Item must horizontally feed medication versus a vertical feed.
      - 3.1.1.3 Item must fit a work area of 2 ft. x 3ft.
      - 3.1.1.4 Item must be a table- top unit.
      - 3.1.1.5 Components required:
        - a. Windows computer with keyboard and mouse
        - b. Touch screen monitor
        - c. Bar-code scanner
        - d. UPS for computer
        - e. Software that incorporates bar-code scanning of medication bulk bottles and images of medications being packed to ensure accuracy of the unit does packaging.
        - f. Auto feed device for bulk medications

- g. Supplies for packaging (1.5" packing), ink, and printing label supplies. USP Class A Packaging material, available in variety of colors for light sensitive medications.

**3.1.1.6** Company will deliver and install product and provide training to staff.

3.1.1.7 All travel and any other expenses required for the performance of this contract shall be the responsibility of the Vendor.

3.1.1.8 Warranty Services shall be equal to or better than the following specifications:

- a. Emergency maintenance and support services will be provided by telephone, at no charge, 24 hours per day, (7) seven days per week. The company will use commercially reasonable efforts to respond by telephone or modem to emergency calls for service in less than one (1) hour after notification.
- b. The company or its designee will respond on-site to service calls, via next available mode of commercial transportation, in the event phone service and trained service technicians cannot resolve the problem remotely. For on-site service during regular business hours 8:00 am – 4:00 pm, customers local time, Monday through Friday (excluding holidays), there will be no charge. All on-site service provided at any other time, will be provided by the company at the company's then preferred rates. Vendor should note charges on the pricing page. All travel and any other expenses required for the performance of this contract shall be the responsibility of the Vendor.
- c. The company will use reasonable efforts to correct verifiable and reproducible error or problems that materially and adversely interfere with customer's use of the system within a reasonable period of time upon the company becoming aware of the error or problem. The company may provide a correction to an error or problem

by means of a “temporary fix” consisting of programming or a working around in which case company shall endeavor diligently to provide a permanent solution as soon as commercially practicable.

- d. Materials for repairs under warranty will be furnished by the company at no additional charge on an exchange basis.

#### **4. CONTRACT AWARD:**

**4.1 Contract Award:** The Contract is intended to provide Agencies with a purchase price for the Contract Items. The Contract shall be awarded to the Vendor that provides the Contract Items meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

**4.2 Pricing Page:** Vendor should complete the Pricing Page by providing a model/brand name, unit price, extended price and a total cost for the items. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor’s bid being disqualified.

Notwithstanding the foregoing, the Purchasing Division may correct errors as it deems appropriate. Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation.

#### **5. PAYMENT:**

**5.1 Payment:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

**6. DELIVERY AND RETURN:**

- 6.1 Shipment and Delivery:** Vendor shall ship the Contract Items immediately after being awarded this Contract and receiving a purchase order or notice to proceed. Vendor shall deliver the Contract Items within 30 working days after receiving a purchase order or notice to proceed. Contract Items must be delivered to Agency at WV Veterans Nursing Facility located at One Freedom Way Clarksburg, WV 26301.
- 6.2 Late Delivery:** The Agency placing the order under this Contract must be notified in writing if the shipment of the Contract Items will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the Contract, and/or obtaining the Contract Items from a third party.
- Any Agency seeking to obtain the Contract Items from a third party under this provision must first obtain approval of the Purchasing Division.
- 6.3 Delivery Payment/Risk of Loss:** Vendor shall deliver the Contract Items F.O.B. destination to the Agency's location.
- 6.4 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.
- 6.5 Return Due to Agency Error:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.



VNF1027 - WV Veterans Nursing Facility

Pricing Page

Item #	Description	Model No. and Brand Name	Quantity	Unit Price	Extended Price
3.1.1	Semi-automated oral solid packing and bar-coding system (this amount shall include all of the software, hardware, warranty, training and any other items that are necessary and will be used for this project). Vendors should supply an itemized list of these items included in this amount.		1 ea	\$ 27,250.00	\$ 27,250.00
	Failure to use this form may result in disqualification			TOTAL COST:	\$ 27,250.00
	Bidder / Vendor Information:				* Training Optional
	Name: AutoMed Technologies DBA Amerisource Bergen Technologies Group				"see attached"
	Address: 1400 Busch Pkwy				
	Buffalo Grove IL 60089				
	Phone#: 844-537-3102 x5857				
	Fax #: 847-215-1960				
	FEIN:				
	Email Address: V.vitale@ABTG.com				
	Authorized Signaure: Valerie Vitale				

CERTIFICATION AND SIGNATURE PAGE

By signing below, I certify that I have reviewed this Solicitation in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid or proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

Automed dba Amerisourcebergen Technology Group

(Company)



(Authorized Signature)

Patrick R. Stewart

V.P. Sales

(Representative Name, Title)

847.808.260

(Phone Number)

847.215.1962

(Fax Number)

4.5.13

(Date)

WV-96A  
Rev. 12/12

AGREEMENT ADDENDUM FOR SOFTWARE

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any provision requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Fees for software licenses, subscriptions, or maintenance are payable annually in advance. Payment for services will be in arrears.
6. **INTEREST** - Any provision for interest or charges on late payments is deleted. The Agency has no statutory authority to pay interest or late fees.
7. **NO WAIVER** - Any language in the agreement requiring the Agency to waive any rights, claims or defenses is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **FEES OR COSTS** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision in the agreement limiting the Vendor's liability for direct damages is hereby deleted. Vendor's liability under the agreement shall not exceed three times the total value of the agreement. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination. In such event, Agency will not be entitled to a refund of any software license, subscription or maintenance fees paid.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to purchase insurance for Vendor's property is deleted. The State of West Virginia is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** - Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

ACCEPTED BY:

STATE OF WEST VIRGINIA

Spending Unit: \_\_\_\_\_

Signed: \_\_\_\_\_

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

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

VENDOR

Company Name: AutoMed Technologies, DBA Bergen Amerisource

Signed: [Signature] Technologies

Title: J.P. Sales Group

Date: 4.5.13

MEMORANDUM OF INSURANCE					DATE 30-Apr-2012	
<p>This Memorandum is issued as a matter of information only to authorized viewers for their internal use only and confers no rights upon any viewer of this Memorandum. This Memorandum does not amend, extend or alter the coverage described below. This Memorandum may only be copied, printed and distributed within an authorized viewer and may only be used and viewed by an authorized viewer for its internal use. Any other use, duplication or distribution of this Memorandum without the consent of Marsh is prohibited. "Authorized viewer" shall mean an entity or person which is authorized by the insured named herein to access this Memorandum via <a href="http://www.marsh.com/moi?client=0132">http://www.marsh.com/moi?client=0132</a>. The information contained herein is as of the date referred to above. Marsh shall be under no obligation to update such information.</p>						
<b>PRODUCER</b> Marsh USA Inc. dba Marsh Risk & Insurance Services ("Marsh")			<b>COMPANIES AFFORDING COVERAGE</b>			
<b>INSURED</b> AmerisourceBergen Corporation and its subsidiary corporations and any formed or acquired entity in which AmerisourceBergen Corporation has majority interest 1300 Morris Drive Suite 100 Chesterbrook, Pennsylvania 19087 United States			co.A Ace Property & Casualty Ins. Co.			
			co.B Ace American Ins. Co.			
			co.C Illinois Union Ins. Co.			
			co.D Axis Insurance Co.			
<b>COVERAGES</b>						
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS MEMORANDUM MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS IN USD UNLESS OTHERWISE INDICATED	
	GENERAL LIABILITY	see Excess Policy below for Limits	01-May-2012	01-May-2013	GENERAL AGGREGATE	
					PRODUCTS - COMP/OP AGG	
					PERSONAL AND ADV INJURY	
					EACH OCCURRENCE	
					FIRE DAMAGE (ANY ONE FIRE)	
					MED EXP (ANY ONE PERSON)	
B	AUTOMOBILE LIABILITY ANY AUTO HIRED AUTOS NON-OWNED AUTOS Self-insured for Physical Damage	ISA H08696287	01-May-2012	01-May-2013	COMBINED SINGLE LIMIT	USD 5,000,000
					BODILY INJURY (PER PERSON)	
					BODILY INJURY (PER ACCIDENT)	
					PROPERTY DAMAGE	
A A	EXCESS LIABILITY UMBRELLA FORM	XOO G27041188	01-May-2012	01-May-2013	EACH OCCURRENCE	USD 10,000,000
					AGGREGATE	USD 10,000,000
	GARAGE LIABILITY				AUTO ONLY (PER	

					ACCIDENT)	
					OTHER THAN AUTO ONLY:	
					EACH ACCIDENT	
					AGGREGATE	
	WORKERS COMPENSATION / EMPLOYERS LIABILITY				WORKERS COMP LIMITS	
					EL EACH ACCIDENT	
					EL DISEASE - POLICY LIMIT	
					EL DISEASE - EACH EMPLOYEE	
C	MEDICAL PROFESSIONAL LIABILITY - CLAIMS MADE FORM	XFL G21820325 005 (USD 1,000,000 SIR)	01-May-2012	01-May-2013	EACH CLAIM / AGGREGATE	USD 19,000,000 / USD 19,000,000
D	TECHNOLOGY/PROFESSIONAL ERRORS & OMISSIONS	MNN759871/01/2012	01-May-2012	01-May-2013	EACH WRONGFUL ACT / GENERAL TOTAL LIMIT	USD 10,000,000 / USD 10,000,000 / \$2,500,000 SIR
<p>The Memorandum of Insurance serves solely to list insurance policies, limits and dates of coverage. Any modifications hereto are not authorized.</p>						

<b>MEMORANDUM OF INSURANCE</b>		DATE 30-Apr-2012
<p>This Memorandum is issued as a matter of information only to authorized viewers for their internal use only and confers no rights upon any viewer of this Memorandum. This Memorandum does not amend, extend or alter the coverage described below. This Memorandum may only be copied, printed and distributed within an authorized viewer and may only be used and viewed by an authorized viewer for its internal use. Any other use, duplication or distribution of this Memorandum without the consent of Marsh is prohibited. "Authorized viewer" shall mean an entity or person which is authorized by the insured named herein to access this Memorandum via <a href="http://www.marsh.com/moi?client=0132">http://www.marsh.com/moi?client=0132</a>. The information contained herein is as of the date referred to above. Marsh shall be under no obligation to update such information.</p>		
<b>PRODUCER</b> Marsh USA Inc. dba Marsh Risk & Insurance Services ("Marsh")	<b>INSURED</b> AmerisourceBergen Corporation and its subsidiary corporations and any formed or acquired entity in which AmerisourceBergen Corporation has majority interest 1300 Morris Drive Suite 100 Chesterbrook, Pennsylvania 19087 United States	
<b>ADDITIONAL INFORMATION</b> General Liability, including Products Liability, is written through the Umbrella Excess program which has a \$1,000,000 SIR for General Liability and a \$5,000,000 SIR for Products.		

Any person or organization to which the Named Insured is obligated by virtue of a written contract to name such person or organization as an additional "insured", but only with respect to operations performed by or obligations required of the Named Insured to or for the additional "insured" under the terms of such written contract. A person or organization qualifying as an additional "insured" under this endorsement is an additional "insured" only for "occurrences" that first take place after the execution of the written contract.

Furthermore, to the extent required by contract, this policy will respond excess to and without contribution from any valid and collectable liability insurance covering such additional "insured" for the "occurrence."

Policy cancellation provision is not less than 30 days except 10 days for non-payment of premium.

The Memorandum of Insurance serves solely to list insurance policies, limits and dates of coverage. Any modifications hereto are not authorized.

[Click here](#) for a printer-friendly version of this document.

PHS DRAFT  
05-18-2012

WV STATE GOVERNMENT

HIPAA BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum ("Addendum") is made a part of the Agreement ("Agreement") by and between the State of West Virginia ("Agency"), and Pharmacy Healthcare Solutions, Ltd. as a Business Associate ("Associate"), and is effective on the date of execution of a binding Agreement with the Agency;

Whereas, the Associate performs certain services on behalf of or for the Agency pursuant to the underlying Agreement that requires the exchange of information including Protected Health Information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act") found in Title XIII of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5), and various implementing regulations, including, as defined below, the Privacy Rule, Security rule and Breach Notification Rule. The Agency is a "Covered Entity" as that term is defined in HIPAA, and the parties to the underlying Agreement are entering into this Addendum to establish the responsibilities of both parties regarding Protected Health Information and to bring the underlying Agreement into compliance with HIPAA;

Whereas, it is desirable, in order to further the continued efficient operations of Agency to disclose to its Associate certain information which may contain PHI; and

Whereas, it is the desire of both parties that the confidentiality of the PHI disclosed hereunder be maintained and treated in accordance with all applicable laws relating to confidentiality, including the Privacy Rule, the Security Rule, the HITECH Act and its associated regulations, and the parties do agree to at all times treat the PHI and interpret this Addendum consistent with that desire.

NOW THEREFORE: the parties agree that in consideration of the mutual promises herein, in the Agreement, and of the exchange of PHI hereunder that:

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy Rule and Security Rule, and the HITECH Act.

a. **Breach** shall mean the acquisition, access, use or disclosure of Protected Health Information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.

b. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.

c. **Breach Notification Rule** shall mean the interim final rule related to Breach notification for Unsecured PHI at 45 CFR Parts 160 and 164.

d. **Electronic Health Records** shall mean electronic records of health-related information on an Individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

e. **Electronic Protected Health Information or ePHI** means electronic Protected Health Information within the meaning of 45 CFR § 160.103, limited to the information created, received, maintained or transmitted by Associate from or on behalf of Agency.

f. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and Part 164, Subparts A and E, as amended.

g. **Personal Health Records** shall mean electronic records of identifiable health information on an Individual that can be drawn from multiple sources and that is managed, shared and controlled by or primarily for the Individual.

h. **Protected Health Information or PHI** shall have the meaning given to such term in 45 CFR § 164.103, limited to the information created, received, maintained or transmitted by Associate from or on behalf of Agency.

i. **Security Incident** shall have the meaning given to such phrase in 45 CFR § 164.304.

j. **Security Rule** means the Standards for Protection of Electronic Protected Health Information found at 45 CFR Part 164, Subparts A and C. The application of Security provisions Sections 164.308; 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations shall apply to Associate of Agency in the same manner that such sections apply to the Agency.

k. **Unsecured PHI** is information that is not protected through the use of a technology or methodology specified by the Secretary in the guidance issued under Section 13402(h)(2) of the HITECH Act.

## 2. **PHI Disclosures; Permitted Uses.**

a. **PHI Described.** PHI disclosed by the Agency to the Associate, PHI created by the Associate on behalf of the Agency, and PHI received by the Associate from a third party on behalf of the Agency may be disclosed under this Addendum. The PHI disclosed under this Addendum is limited to the minimum necessary to complete the tasks, or to provide the services, associated with the terms of the original Agreement.

b. **Purposes.** Except as otherwise limited in this Addendum, Associate may use or disclose the PHI on behalf of, or to provide services to, Agency for the purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original Agreement, if such use or disclosure of the PHI would not violate the Privacy Rule or the Security Rule if done by Agency. In addition, Associate may use and disclose, consistent with 45 CFR § 164.504(e)(4), the PHI in its possession if necessary (i) for its proper management and administration and/or (ii) to carry out any present or future legal responsibilities of Associate provided that such uses are permitted under state and federal confidentiality laws.



**c. Additional Activities.** In addition to using and disclosing the PHI to perform the services and the purposes enumerated in Section 2.b., Associate may:

(i) If the Agreement is for data aggregation services, Associate may, consistent with 45 CFR § 164.504(e)(2)(i)(B), aggregate the PHI in its possession with the PHI of other covered entities that Associate has in its possession through its capacity as a Business Associate to said other Covered Entities provided that the purpose of such aggregation is to provide Agency with data analyses relating to the Health Care Operations of Agency. Under no circumstances may Associate disclose PHI to another entity, including a Covered Entity, absent the explicit authorization of Agency.

(ii) De-identify any and all PHI provided that the de-identification conforms to the requirements of 45 CFR § 164.514(b). Pursuant to 45 CFR § 164.502(d)(2), de-identified information does not constitute PHI and is not subject to the terms of this Addendum.

(iii) Use and/or disclose PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR § 164.502(j)(1).

### **3. Obligations of Associate.**

**a. Stated Purposes Only.** The PHI may not be used by the Associate for any purpose other than stated in this Addendum or as permitted or Required by Law.

**b. Limited Disclosure.** The PHI is confidential and will not be disclosed by the Associate other than as stated in this Addendum or as permitted or Required by Law. Associate will refrain from receiving any remuneration in exchange for any Individual's PHI, unless Agency gives written approval, and the exchange is pursuant to a valid authorization (that includes a specification of whether the PHI can be further exchanged for remuneration by the entity receiving PHI of that Individual), or satisfies one of the exceptions enumerated in Section 13405(e)(2) of the HITECH Act. Associate will refrain from marketing activities that would violate HIPAA, specifically Section 13406 of the HITECH Act.

**c. Compliance With Law.** The Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to, the Privacy Rule and the Security Rule.

**d. Mitigation.** Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the PHI by Associate in violation of the requirements of this Addendum.

**e. Reporting Unauthorized Use/Disclosure of PHI.** Associate agrees to report to Agency, in writing, any use and/or disclosure of the PHI that is not permitted or required by this Addendum of which Associate becomes aware within fifteen (15) days of Associate becoming aware of such unauthorized use and/or disclosure. Notification shall be provided to the Agency contract manager at [www.state.wv.us/admin/purchase/vrc/agencyli.html](http://www.state.wv.us/admin/purchase/vrc/agencyli.html).

**f. Support of Individual Rights.**

(i) **Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying within fifteen (15) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.

(ii) **Amendment of PHI.** Within fifteen (15) days of receipt of a request from Agency for an amendment of the PHI or a record about an Individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.

(iii) **Accounting Rights.** Within fifteen (15) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.528 and consistent with Section 13405 of the HITECH Act. The parties agree that Associate shall not maintain Electronic Health Records or Personal Health Records for or on behalf of Agency. As such, Associate has no obligation to document disclosures that are exempt from the accounting requirement under 45 CFR § 164.528(1)(i)-(ix), and Agency agrees not to include Associate on any list Agency produces pursuant to Section 13405(c)(3) of the HITECH Act. However, for disclosures which require an accounting, Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §§ 164.528 and 164.316. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure. At a minimum, such documentation shall include:

- the date of disclosure;
- the name of the entity or person who received the PHI, and if known, the address of the entity or person;
- a brief description of the PHI disclosed; and
- a brief statement of purposes of the disclosure that reasonably informs the Individual of the basis for the disclosure, or a copy of the Individual's authorization, or a copy of the written request for disclosure.

(iv) **Request for Restriction.** Under the direction of the Agency, abide by any Individual's request to restrict the disclosure of PHI consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR § 164.522.

**g. Agents, Subcontractors Compliance.** The Associate will ensure that any of its agents, including any subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder.

**h. Amendments.** The Associate shall make available to the specific Individual to whom it applies any PHI; make such PHI available for amendment; and make available the PHI required to provide an accounting of disclosures, all to the extent required by 45 CFR §§ 164.524, 164.526, and 164.528 respectively.

**i. Federal Access.** The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504.

**j. Security.** With regard to the use and/or disclosure of ePHI, Associate agrees to do the following.

**(i) Safeguards.** Associate shall implement Administrative, Physical and Technical safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of the ePHI that it creates, receives, maintains or transmits for or on behalf of Agency pursuant to this Addendum. Also, pursuant to the HITECH Act, 45 CFR §§ 164.308, 164.310, 164.312, and 164.316, which relate to security of ePHI, shall apply to Associate in the same manner that such sections apply to Agency. The additional requirements of the HITECH Act that relate to security of ePHI and that are made applicable with respect to covered entities shall also be applicable to Associate.

**(ii) Reporting of Security Incidents.** Associate shall report to Agency any Security Incident of which it becomes aware that involves the Confidentiality, Integrity or Availability of the ePHI that it creates, receives, maintains or transmits for or on behalf of Agency; provided however, that trivial attempts to penetrate Associate's networks or systems that occur on a daily basis, such as scans, "pings" or other unsuccessful attempts to penetrate such computer networks or systems, will not be reported. Separate from the requirements related to Security Incident reporting, Associate shall also make the reports to Agency as set forth below in Section 3.j.(iii), related to a Breach of Unsecured PHI.

**(iii) Notification of Breach.** To the extent Associate accesses, maintains, retains, modifies, records, stores, destroys or otherwise holds, uses or discloses Unsecured PHI, it will, following the discovery of a Breach of such information, notify Agency within five (5) days of such Breach. Notification shall be provided to the Agency contract manager at [www.state.wv.us/admin/purchase/vrc/agencyli.html](http://www.state.wv.us/admin/purchase/vrc/agencyli.html) and, unless otherwise directed by the Agency in writing, the Office of Technology at <mailto:incident@wv.gov>. Any notice pursuant to this section will include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Associate, to have been accessed, acquired or disclosed during such Breach. Associate will also provide Agency other available information that Agency is required to include in its notification to the Individual.

#### **4. Agency Obligations**

**a. Notice of Privacy Practices.** Upon request of Associate, Agency shall provide Associate with its notice of privacy practices that Agency produces in accordance with

45 CFR § 164.520. If Agency subsequently revises the notice, Agency shall provide a copy of the revised notice to Associate.

**b. Notice of Restrictions.** Agency shall notify Associate of any restriction to the use or disclosure of PHI to which Agency has agreed in accordance with 45 CFR § 164.522, and Agency shall inform Associate of the termination of any such restriction, and the effect that such termination shall have, if any, upon Associate's use and/or disclosure of such PHI.

**c. Change by Individual.** Agency shall provide Associate with any changes in, or revocation of, permission by an Individual to use and/or disclose PHI, if such changes affect Associate's permitted or required uses and/or disclosures.

**d. Impermissible Request.** Agency shall not request Associate to use and/or disclose PHI in any manner that would not be permissible if done by Agency.

**e. Minimum Use.** If Agency requests PHI be disclosed by Associate on Agency's behalf, Agency will limit its request to the "minimum necessary" PHI required to fulfill the purpose of Agency's use and/or disclosure of such PHI.

**f. Breach Notification.** If Agency determines that a notice of Breach is required under 45 CFR §§ 164.404, 164.406, or 164.408, Agency shall provide Associate a copy of the proposed notice. Agency shall not release such notice without Associate's approval, which shall not be unreasonably withheld.

## **5. Addendum Administration.**

**a. Duties at Termination.** Upon any termination of the underlying Agreement, if feasible, the Associate shall return or destroy all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents and subcontractors to assist the Agency with any HIPAA required accounting of disclosures survives the termination of the underlying Agreement.

**b. Termination for Cause.** Agency may terminate the underlying Agreement if at any time it determines that the Associate has violated a material term of the Agreement or this Addendum. Agency may, at its sole discretion, upon providing written notice to Associate of the existence of an alleged material breach, allow Associate a reasonable period of time to cure the material breach before termination. Failure to cure the material breach shall be grounds for immediate termination of this Addendum and the Agreement by Agency.

**c. Termination by Associate.** Associate shall have the same rights and options related to termination as set forth in Section 5.b. above with respect to Agency.

d. **Survival.** The respective rights and obligations of Associate under this Addendum shall survive the termination of the underlying Agreement.

6. **General Provisions/Ownership of PHI.**

a. **Retention of Ownership.** Ownership of the PHI resides with the Agency and is to be returned on demand or destroyed at the Agency's option.

b. **Secondary PHI.** Any data or PHI generated from the PHI disclosed hereunder which would permit identification of an Individual must be held confidential and is also the property of Agency.

c. **Electronic Transmission.** Except as permitted by law or this Addendum, the PHI or any data generated from the PHI which would permit identification of an Individual must not be transmitted to another party by electronic or other means for additional uses not authorized by this Addendum or to another contractor, or allied agency, or affiliate without prior written approval of Agency.

d. **No Sales.** Reports or data containing the PHI may not be sold without Agency's or the affected Individual's written consent.

e. **No Third-Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Agency, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

f. **Interpretation.** The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The interpretation of this Addendum shall be made under the laws of the state of West Virginia.

g. **Amendment.** The parties agree that to the extent necessary to comply with applicable law they will agree to further amend this Addendum.

h. **Additional Terms and Conditions.** Additional discretionary terms may be included in the release order or change order process.

Return by Noon on 5-28-12

Req. No.  
VNF 1019

# REQUEST FOR QUOTATIONS

THIS IS NOT AN ORDER

Date  
4-13-12

Acct. No.

Bid To Be Delivered To:  
 Sherri Reed, Business Manager  
 One Freedoms Way  
 Clarksburg WV 26301

Vendor

- Amerisource Bergen  
Attention: Valerie Vitale

Address

- 1400 Bush Parkway  
Buffalo Grove IL 60089

Telephone Number

- ( ) 1-1-888-537-3102 (P) 1-847-215-1980 (F)

Goods/Services To Be Shipped To:

Delivery Requirements	FEIN	Terms	Delivery Date	F.O.B.
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Item Number	Quantity	Description	Unit Price	Amount
		Please see the attached sheet for bid details.		

TOTAL \$

**GENERAL TERMS AND CONDITIONS:** By signing this quotation, Vendor certifies that it has reviewed the attached Terms and Conditions, fully understand them, and agrees to be bound by their provisions.

\_\_\_\_\_  
 Vendor - Authorized Representative

\_\_\_\_\_  
 Signature of Authorized Representative

## Request for Taxpayer Identification Number and Certification

Give Form to the  
 requester. Do not  
 send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) <b>AUTOMED TECHNOLOGIES, INC.</b>	
	Business name/disregarded entity name, if different from above <b>AMERISOURCEBERGEN TECHNOLOGY GROUP</b>	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶ _____	
	Address (number, street, and apt. or suite no.) <b>1400BUSCH PARKWAY</b>	Requester's name and address (optional)
City, state, and ZIP code <b>BUFFALO GROVE, IL 60089</b>		
List account number(s) here (optional)		

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number									
Employer identification number									
3	6	-	3	9	3	2	0	4	7

**Part II Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶ <i>John T. Swartz VP Finance</i>	Date ▶ <i>4/26/12</i>
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

# State of West Virginia VENDOR PREFERENCE CERTIFICATE

Certification and application\* is hereby made for Preference in accordance with *West Virginia Code*, §5A-3-37. (Does not apply to construction contracts). *West Virginia Code*, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the *West Virginia Code*. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

- 1. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,  
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,  
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,
- 2. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
- 3. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
- 4. **Application is made for 5% resident vendor preference for the reason checked:**  
 Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
- 5. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
- 6. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.
- 7. **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with *West Virginia Code* §5A-3-59 and *West Virginia Code of State Rules*.**  
 Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (*West Virginia Code*, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder:           n/a                                Signed:           n/a            
Date: \_\_\_\_\_                                      Title: \_\_\_\_\_