


<b>Purchase Order</b>	 <b>Marshall University</b> Office of Purchasing One John Marshall Drive Huntington WV, 25755-4100 Direct all inquires regarding this order to: (304)	<b>Purchase Order #</b> MU21UNIFORMS_A
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TO:	Vendor Code:	Ship to:	THIS ORDER IS SUBJECT TO THE GENERAL TERMS AND CONDITIONS AS SET FORTH HEREIN
Varsity Brands Holdings Co., Inc. BSN Sports, LLC PO Box 660176 Dallas, TX 75266		Room #	WVFIMS Account #:
FEIN: 472460272	PH:		

P.O. Date	FY	Buyer	Ship Via	F.O.B	Terms	Contract #
9/30/2020	21	CS				MU21UNIFORMS_A

		<p><u>CONTRACT ACCEPTANCE</u></p> <p>On behalf of the Governing Board, MARSHALL UNIVERSITY hereby accepts the quotation of <u>BSN</u></p> <p>for Uniform Rental Services</p> <p>signed by <u>Ruben Agustin</u></p> <p>Title <u>Bid Manager/Asst. Secretary</u></p> <p>on <u>July 17, 2020</u></p> <p>Approved as to form this _____ day of _____, _____ West Virginia Attorney General</p> <p>By: _____ Chief Counsel</p> <p>Effective: October 1, 2020 - September 30, 2021 (4) Optional Renewals</p> <p style="text-align: center; font-size: small;">THIS ORDER IS EXEMPT FROM ALL SALES TAX LIMIT EACH INVOICE TO A SINGLE PURCHASE ORDER NUMBER</p>	
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Line No.	Fund	Org.	Account	Encumber Amount		Total:	Open
1.	various	various	70343	Open End			
2.							
3.							
4.							

Mail Original Invoice and 1 Copy to: Marshall University Accounts Payable One John Marshall Drive Huntington, WV 25755-4500	 _____ Authorized Signature	_____ Date
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<b>BSN Sports Cost Sheet</b>		
<b>Item #</b>	<b>Sizes</b>	<b>Unit Price</b>
<b>Men's Carhartt B13, Loose Fit Work Jean or Equal: Dark Blue Stonewashed</b>		
1	Size 28	\$33.00
2	Size 30	\$33.00
3	Size 32	\$33.00
4	Size 34	\$33.00
5	Size 36	\$33.00
6	Size 38	\$33.00
7	Size 40	\$33.00
8	Size 42	\$33.00
9	Size 44	\$33.00
10	Size 46	\$33.00
11	Size 48	\$33.00
12	Size 50	\$33.00
13	Size 58	\$33.00
<b>Men's Carhartt B17, Relaxed Tapered Jean or Equal: Dark Blue Stonewashed</b>		
14	Size 28	\$29.00
15	Size 30	\$29.00
16	Size 32	\$29.00
17	Size 34	\$29.00
18	Size 36	\$29.00
19	Size 38	\$29.00
20	Size 40	\$29.00
21	Size 42	\$29.00
22	Size 44	\$29.00
23	Size 46	\$29.00
24	Size 48	\$29.00
25	Size 50	\$29.00
26	Size 58	\$29.00
<b>Men's Polo Shirt (Regular) Port Authority Silk Touch, K500 or Equal, with embroidered (3 color max) Marshall University Logo</b>		
27	Size S	\$11.33
28	Size M	\$11.33
29	Size L	\$11.33
30	Size XL	\$11.33
31	Size 2XL	\$11.33
32	Size 3XL	\$11.33
33	Size 4XL	\$11.33
34	Size 5XL	\$11.33
35	Size 6XL	\$11.33
<b>Men's Polo Shirt (Big &amp; Tall) Port Authority Silk Touch, TLK500 or Equal with embroidered (3 color max) Marshall University Logo</b>		
36	Size LT	\$14.29
37	Size XLT	\$14.29

<b>BSN Sports Cost Sheet</b>		
<b>Item #</b>	<b>Sizes</b>	<b>Unit Price</b>
38	Size 2XLT	\$14.29
39	Size 3XLT	\$14.29
40	Size 4XLT	\$14.29
41	Size 5XLT	\$14.29
42	Size 6XLT	\$14.29
<b>Women's Polo Shirt Port Authority Silk Touch, L500 or Equal with embroidered (3 color max) Marshall University Logo</b>		
43	Size S	\$13.50
44	Size M	\$13.50
45	Size L	\$13.50
46	Size XL	\$13.50
47	Size 2XL	\$13.50
48	Size 3XL	\$13.50
49	Size 4XL	\$13.50
<b>Women's Insulated Coveralls Carhartt Wildwood # 103382</b>		
50	Size 32	\$92.33
51	Size 34	\$92.33
52	Size 36	\$92.33
53	Size 38	\$92.33
54	Size 40	\$92.33
55	Size 42	\$92.33
56	Size 44	\$92.33
57	Size 46	\$92.33
58	Size 48	\$92.33
59	Size 50	\$92.33
60	Size 52	\$92.33
<b>Women's Non-Insulated Bibs Crawford Double-Front Bib Overall # 102438 or Equal</b>		
61	Size XS Short	\$92.33
62	Size XS Tall	\$92.33
63	Size S Short	\$92.33
64	Size S Tall	\$92.33
65	Size M Short	\$92.33
66	Size M Tall	\$92.33
67	Size L Short	\$92.33
68	Size L Tall	\$92.33
69	Size XL Short	\$92.33
70	Size XL Tall	\$92.33
71	Size 2XL Short	\$92.33
72	Size 2XL Tall	\$92.33

1. **SCOPE:** The Vendor will provide uniforms to the Physical Plant and Memorial Student Center. Vendor shall provide Department with the Contract Items on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as issued within the original bid.
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" or "Contract Items"** means the list of items identified on the cost sheet.
  - 2.2 **"Color(s) of Contract Items"** the Vendor is expected to offer the color bid for the life of the contract, including any optional renewal period. In the event a color is discontinued and no longer available for production, the vendor shall provide the Department with written notice sixty (60) days in advance of discontinuance. Color substitution will be at the Department's discretion and will require issuance of an approved change order. No price increase will be allowed for color substitution.

### 3. GENERAL REQUIREMENTS:

- 3.1 **Contract Items and Mandatory Requirements:** Vendor shall provide the Department with the Contract Items on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as issued within the bid. (See attachment A)
  - 3.1.1 The color should be available through the life of the contract. However, the Agency may approve a color substitution by change order if the color submitted with the bid is discontinued and no longer available for distribution.
  - 3.1.2 The Marshall University Physical Plant Office will furnish successful vendor with PC format computerized files on cdrom in Adobe Illustrator CS3, .ipg, .tif or press-ready pdf format. All necessary fonts and artwork will also be included. A sample will be provided to vendor to show proper layout.
- 3.2 **Alterations**
  - 3.2.1 Standard alterations must be done by the vendor at no additional change.
  - 3.2.2 Standard alterations must include sleeve length and pant length.
- 3.3 **Ordering:** Vendor shall accept orders through regular mail, facsimile, e-mail, or any other written form of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor can accept

on-line orders, it should include in its response a brief description of how Departments may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Department orders on-line.

**3.3.1 Order Form:** Successful vendor will use a Physical Plant and Memorial Student Center approved order form.

**3.4 Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract.

**3.5 Reports:** Vendor shall provide quarterly reports and annual summaries to the Department showing the Department's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.

**3.6 Third Party:** Any Department seeking to obtain items from a third party under this provision must first obtain approval of the Office of Purchasing.

#### **4. DELIVERY AND RETURN:**

**4.1 Delivery Time:** Vendor shall deliver standard orders within twenty (20) working days after orders are received. Vendor shall deliver emergency orders within ten (10) working day(s) after orders are received. Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met.

**4.2 Delivery Locations:** Vendor will be required to deliver orders to the following location:

**4.2.1 Marshall University Physical Plant**

327 20<sup>th</sup> Street  
Physical Plant  
Huntington, WV  
25755  
Phone: 304-696-6681

**4.2.2 Marshall University Memorial Student Center**

1680 5th Ave  
Huntington, WV 25755  
Phone Number: 304-696-2528

**4.3 Late Delivery:** The Department placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could

cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

**4.4 Delivery Payment/Risk of Loss:** Standard order delivery shall be F.O.B. destination to the Department's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Department separately for such delivery. The Department will pay delivery charges on all emergency orders provided that Vendor invoices those delivery costs as a separate charge with the original freight bill attached to the invoice.

**4.5 Return of Unacceptable Items:** If the Department 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 Department to arrange for the return and reimburse Department for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Department with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Vendor's location. The returned product shall either be replaced, or the Department shall receive a full credit or refund for the purchase price, at the Department's discretion.

**4.6 Return Due to Department Error:** Items ordered in error by the Department will be returned for credit within thirty (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 five (5) % of the total invoiced value of the returned items.

## **5. VENDOR DEFAULT:**

**5.1** The following shall be considered a vendor default under this Contract.

**5.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.

**5.1.2** Failure to comply with other specifications and requirements contained herein.

**5.1.3** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

**5.1.4** Failure to remedy deficient performance upon request.

**5.2** The following remedies shall be available to Department upon default.

**5.2.1** Immediate cancellation of the Contract.

**5.2.2** Immediate cancellation of one or more release orders issued under this Contract.

**5.2.3** Any other remedies available in law or equity.

**5.3 Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contacts:**

**Bill Gillispie, CMAA, CIC**

Sales Professional

**Email:** [wgillispie@bsnsports.com](mailto:wgillispie@bsnsports.com)

**Telephone Number:** cell – (304) 488-9130 office – (740) 374-0902

Fax Number: (800) 921-2515

And

**Ruben Agustin**

Bid Manager

**Email:** [ragustin@bsnsports.com](mailto:ragustin@bsnsports.com)

**Telephone Number:** cell – (909) 618-5506 office – (800) 959-1844 ext. 90009

Fax Number: (800) 921-2515

## **Attachment A** **Uniform Specifications**

### **Men's Carhartt B13, Loose Fit Work Jean or Equal**

Fabric must be pre-shrunk 100% cotton; Fabric weight must be a minimum of 12 ounces; must have multiple tool pockets with a minimum of six (6) pockets; Color: Dark Blue Stonewashed.

### **Men's Carhartt B17, Relaxed Fit Tapered Jean or Equal.**

Fabric must be pre-shrunk 100% cotton/denim; Fabric weight must be a minimum of 15 ounces; Must have a minimum of five (5) pockets; Color: Dark Blue Stonewashed.

### **Men's Polo Shirt (Regular) Port Authority Silk Touch, K500 or Equal**

Fabric must be a 65% Polyester / 35% Cotton Blend; Must be embroidered (3-color maximum) with Marshall University logo; Color: All vendors must supply grey and black shirts and at least one of the following shades of green (Kelly Green, Forest Green, or Irish Green).

### **Men's Polo Shirt (Big and Tall) Port Authority Silk Touch, TLK500 or Equal.**

Fabric must be a 65% Polyester / 35% Cotton Blend; Must be embroidered (3-color maximum) with Marshall University logo; Color: All vendors must supply grey and black shirts and at least one of the following shades of green (Kelly Green, Forest Green, or Irish Green).

### **Women's Polo Shirt Port Authority Silk Touch, L500 or Equal**

Fabric must be a 65% Polyester / 35% Cotton Blend; Must be embroidered (3-color maximum) with Marshall University logo; Color: All vendors must supply grey and black shirts and at least one of the following shades of green (Kelly Green, Forest Green, or Irish Green).

### **Women's Insulated Coveralls Carhartt Wildwood #103382 or Equal.**

Fabric must be 100% Cotton with a Nylon Quilted Lining and Polyester Insulation; Color: Black, Green or Brown.

### **Women's Non-Insulated Bibs Crawford Double-Front Bib Overall #102438 or Equal.**

Fabric must be a Cotton/Spandex Blend 3.1.19.2 Color: Brown or Black.



## MARSHALL UNIVERSITY

# GENERAL TERMS AND CONDITIONS

**1. CONTRACTUAL AGREEMENT:** Issuance of an Award Document constitutes acceptance of this contract (the Contract) made by and between Marshall University (University or Marshall) and the Vendor. Vendor's signature to the Contract signifies Vendor's agreement to be bound by and accept the terms and conditions contained in the Contract. Therefore, the parties agree that the following contractual terms and conditions are dominant over any competing terms made a part of the Contract. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THESE GENERAL TERMS AND CONDITIONS, THESE GENERAL TERMS AND CONDITIONS SHALL CONTROL**

**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, if applicable, included with the Solicitation/Contract.

**2.1 "Award Document"** means the document that identifies the Vendor as the Contract holder when signed by the Vendor and Marshall University's Office of Purchasing and, when necessary, approved as to form by the Attorney General.

**2.2 "Bid" or "Proposal"** means the Vendor's verbal bid or written bid provided in response to a solicitation by the University.

**2.3 "Board"** means the Governing Board of Marshall University.

**2.4 "Buyer"** means an individual designated by a Chief Procurement Officer to perform designated purchasing and acquisition functions as authorized by the Chief Procurement Officer.

**2.5 "Chief Procurement Officer"** means the individual designated by the President of Marshall University to manage, oversee and direct the purchasing and acquisition of supplies, equipment, services, and printing for the University.

**2.6 "Contract"** means the binding agreement that is entered between the University and the Vendor to provide requested goods and/or services requested in the Solicitation.

**2.7 "Governing Board"** means the Marshall University Board of Governors as provided for in the West Virginia state code.

**2.8 "Higher Education Institution"** means an institution as defined by Sections 401(f), (g) and (h) of the federal Higher Education Facilities Act of 1963, as amended.

**2.9 "Office of Purchasing"** means the section within Marshall University headed by the Chief Procurement Officer and its personnel.

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**2.10 "Purchasing Card" or "P-Card"** means The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.

**2.11 "Responsible Bidder" and "Responsible Vendor"** mean a person and/or vendor who have the capability in all respects to perform contract requirements, and the integrity and reliability which will assure good faith performance.

**2.12 "Responsive Bidder" and "Responsive Vendor"** mean a person and/or a vendor who has submitted a bid which conforms in all material respects to the invitation to bid.

**2.13 "Solicitation"** means the notice of an opportunity to supply the University with goods and services.

**2.14 "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, departments or divisions as context requires.

**2.15 "University"** means Marshall University or Marshall.

**2.16 "Vendor" or "Vendors"** means any entity providing either a verbal or written 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.

**2.17 "Will", "Shall" and "Must"** identifies a mandatory item or requirement that concludes the duty, obligation or requirement imposed is mandatory, as opposed to being directory or permissive.

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

**Term Contract**

**Initial Contract Term:** The Contract becomes effective on award  
\_\_\_\_\_ and extends for a period of one (1) \_\_\_\_\_ year(s).

**Renewal Term:** The Contract may be renewed upon the mutual written consent of the University and the Vendor. Any request for renewal should be submitted to the University 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 the Contract is limited to four (4) \_\_\_\_\_ successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed forty-eight (48) \_\_\_\_\_ months in total. Automatic renewal of the Contract is prohibited.

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Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period form term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.

- Alternate Renewal Term** – This contract may be renewed for \_\_\_\_\_ successive \_\_\_\_\_ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor and Agency.
- Fixed Period Contract:** The Contract becomes effective upon Vendor’s receipt of the notice to proceed and must be completed within\_\_\_\_\_.
- Fixed Period Contract with Renewals:** The Contract becomes effective upon Vendor’s receipt of the notice to proceed and part of the Contract must be completed within\_\_\_\_\_days. Upon completion, the Vendor agrees that maintenance, monitoring, or warranty services will be provided for \_\_\_\_\_ successive one-year periods or multiple periods of less than one year provided that the multiple renewal periods do not exceed \_months in total.
- One-Time Purchase:** The term of the Contract shall run from the issuance of the Award Document until all the goods contracted for have been delivered, but in no event, will the Contract extend for more than one fiscal year.
- Other:** See attached.

**4. NOTICE TO PROCEED:** Vendor shall begin performance of the Contract immediately upon receiving notice to proceed unless otherwise instructed by the University. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

**5. QUANTITIES:** The quantities required under the Contract shall be determined in accordance with the category that has been identified as applicable to the Contract below.

**Open End Contract:** Quantities stated in the solicitation are approximations only, based on estimates supplied by the University. It is understood and agreed that the Contract shall cover the quantities 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.

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- 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:** The 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 the Contract without an appropriate change order approved by the Vendor, University, and/or when necessary, the Attorney General's office.

**6. EMERGENCY PURCHASES:** The Chief Procurement Officer may suspend the use of a university wide mandatory contract (the University's Office of Purchasing has created standard specifications that are establish University wide contracts for commonly used commodities and services that are needed on a repetitive basis), or the competitive bidding process to allow a Department to purchase goods or services in the open market if 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, provided that a required University emergency purchase with another vendor does not cause a breach of contract.

**7. REQUIRED DOCUMENTS:** All the items checked below must be provided to the University by the Vendor as specified below.

- BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid 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 100% of the contract. The performance bond must be received by the Marshall University Office of Purchasing Office prior to Contract award.
- 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 received by the Marshall University Office of Purchasing Office prior to Contract award.
- MAINTENANCE BOND:** The successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and received by the Marshall University Office of Purchasing Office prior to Contract award.
- LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the University.
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**INSERT ADDITIONAL CONDITIONS BELOW:**

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications prior to Contract award regardless whether that requirement is listed above.

**8. INSURANCE:** The Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. Subsequent to contract award, and prior to the insurance expiration date, Vendor shall provide the University with proof that the insurance mandated herein has been continued. Vendor must also provide with immediate notice of any changes in its insurance policies mandated herein, including but not limited to, policy cancelation, policy reduction, or change in insurers. The insurance coverages identified below must be maintained throughout the life of the contract. The Vendor shall also furnish proof of any additional insurance requirements prior to the Contract award regardless of whether that insurance requirement is listed in this section.

Any provisions requiring the University to maintain any type of insurance for either of its or the Vendors benefit is deleted.

Vendor must maintain:

**Commercial General Liability Insurance** in at least an amount of: \_\_\_\_\_ per occurrence and an aggregate of \_\_\_\_\_.

**Automobile Liability Insurance** in at least an amount of: \_\_\_\_\_ per occurrence and an aggregate of \_\_\_\_\_.

**Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: \_\_\_\_\_ per occurrence and an aggregate of \_\_\_\_\_.

**Commercial Crime and Third-Party Fidelity Insurance** in an amount of: \_\_\_\_\_ per occurrence and an aggregate of \_\_\_\_\_.

**Cyber Liability Insurance** in an amount of: \_\_\_\_\_ per occurrence and an aggregate of \_\_\_\_\_. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in performance of the Contract and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

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**Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.  
\_\_\_\_\_ per occurrence and an aggregate of \_\_\_\_\_.

**9. WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

**10. LIQUIDATED DAMAGES:** This clause shall in no way be considered exclusive and shall not limit the University's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

\_\_\_\_\_ for \_\_\_\_\_

**Liquidated Damages Contained in the Specifications**

**11. ACCEPTANCE:** Vendor's signature on the certification and signature page, constitutes an offer to the University that cannot be unilaterally withdrawn, signifies that the product or service proposed by Vendor meets the mandatory requirements for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions unless otherwise indicated.

**12. STATUTE OF LIMITATIONS** - Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.

**13. PRICING/BEST PRICE GUARANTEE:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation by the University. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the University and invoice at the lower of the contract price or the publicly advertised sale price.

**14. PAYMENT IN ARREARS:** Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

**15. PAYMENT METHODS:** The Vendor must accept payment by electronic funds transfer or P-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 P-Card or by electronic funds transfer as payment for all goods and services for the reason(s) stated below:

\_\_\_\_\_

\_\_\_\_\_

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**16. ADDITIONAL FEES:** Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract. Any references contained in the Contract, Vendor's bid, or in any American Institute of Architects documents obligating the University to pay to compensate Vendor, in whole or in part, for lost profit, pay a termination fee, pay liquidated damages if the Contract is terminated early, seeking to accelerate payments in the event of Contract termination, default, or non-funding, costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is hereby deleted. Any language imposing and interest or charges due to late payment is deleted.

**17. FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.

**18. RISK SHIFTING:** Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.

**19. LIMITING LIABILITY:** Any language limiting the Vendor's liability for direct damages is deleted.

**20. TAXES:** The Vendor shall pay any applicable sales, use, personal property or other taxes arising out of the Contract and the transactions contemplated hereby. The University is exempt from federal and state taxes and will not pay or reimburse such taxes. The University will, upon request, provide a tax-exempt certificate to confirm its tax-exempt status.

**21. FISCAL YEAR FUNDING:** The Contract shall continue for the term stated herein, contingent upon funds being appropriated by the WV Legislature or otherwise being made available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the University may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

**22. CANCELLATION/RIGHT TO TERMINATE:** The University reserves the right to cancel/terminate the 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 University may also cancel any purchase or Contract upon thirty (30) days written notice to the Vendor. In the event of early cancellation, the University agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are delete that seek to require the State to (1) compensate Vendor, in whole or in part, for loss profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

In the event that a vendor fails to honor any contractual term or condition, the Chief Procurement Officer may cancel the contract and re-award the contract to the next lowest responsible and responsive bidder in accordance with the Marshall University Board of Governors Policy No. FA-9 Purchasing Policy, section 7.4.1

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Any language seeking to accelerate payments in the event of Contract termination, default or non-funding is hereby deleted.

**23. RIGHT OF FIRST REFUSAL** Any language seeking to give the Vendor a Right of First Refusal is hereby deleted.

**24. DISPUTES** – Any language binding the University to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the University shall be brought in the West Virginia Legislative Claims Commission. Other causes of action must be brought in the West Virginia Court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

**25. TIME:** Time is of the essence with regard to all matters of time and performance in the Contract.

**26. DELIVERY** -All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.

**27. APPLICABLE LAW:** The 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, W. Va. Code or Marshall University Board of Governors Policy No. FA-9 Purchasing Policy is void and of no effect. Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia

**28. COMPLIANCE WITH GOVERNING LAWS:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances. Vendor shall notify all subcontractors providing commodities or services related to this Contract that, as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances.

**29. ARBITRATION:** Any references made to arbitration contained in the Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to the Contract are hereby deleted, void, and of no effect.

**30. MODIFICATIONS:** Notwithstanding anything contained in the Contract to the contrary, no modification of the Contract shall be binding without mutual written consent of the University, and the Vendor.

**31. AMENDMENTS** - The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

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**32. NO WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of the 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.

Any provisions requiring the University to waive any rights, claims or defenses is hereby deleted.

**33. SUBSEQUENT FORMS:** The terms and conditions contained in the Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the University 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 the Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the University and any other government or office that may be required to approve such assignments.

The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.

**35. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by the Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the University; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

**36. UNIVERSITY EMPLOYEES:** University employees are not permitted to utilize the Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

**37. PRIVACY, SECURITY, AND 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 University, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the University's policies, procedures, and rules.

**Proposals are NOT to be marked as confidential or proprietary** Any Provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W.Va. Code §29B-1-1, et. seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the University's sole discretion. The University shall not be liable in any way for disclosure of any such records

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Any provisions regarding confidentiality of or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.

**38. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of W. Va. Code §18B-5-4 and the Freedom of Information Act in W.Va. Code Chapter 29B.

**DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL,  
CONTAINING A TRADE SECRET(S), OR IS OTHERWISE NOT SUBJECT TO  
PUBLIC DISCLOSURE.**

Submission of any bid, proposal, or other document to the Marshall University Office of Purchasing constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document.

**39. LICENSING:** 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 University 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 University or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the University to verify that the Vendor is licensed and in good standing with the above entities.

**40. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting an Award Document from Marshall University, the Vendor agrees to convey, sell, assign, or transfer to the University 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 Marshall University. Such assignment shall be made and become effective at the time the University tenders the initial payment to Vendor.

**41. THIRD-PARTY SOFTWARE:** If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.

**42. RIGHT TO REPOSSESSION NOTICE:** Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.

**43. VENDOR CERTIFICATIONS:** By signing its bid or entering into the Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that the Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity

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that could be considered a violation of law; and (4) that it has reviewed the Contract in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid or offer 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 University. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer 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 the all State agencies as required.

**44. VENDOR RELATIONSHIP:** The relationship of the Vendor to the University shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by the 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 University 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 University 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.

**45. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the University, 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.

**46. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code §18B-5-5 and §5A-3-18 the University is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Marshall University Office of Purchasing affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

**47. WEST VIRGINIA DRUG-FREE WORKPLACE CONFORMANCE AFFIDAVIT** West Virginia Alcohol and Drug-Free Workplace Act requires public improvement contractors to have and implement a drug-free workplace policy that requires drug and alcohol testing. This act is applicable to any construction, reconstruction, improvement, enlargement, painting, decorating or repair of any public improvement let to contract for which the value of contract is over \$100,000. No public authority may award a public improvement contract which is to be let to bid to a contractor unless the terms of the contract require the

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contractor and its subcontractors to implement and maintain a written drug-free workplace policy and the contractor and its subcontractors provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free workplace policy.

**48. DISCLOSURE OF INTERESTED PARTIES** A state agency may not enter into a contract, or a series of related contracts, that has/have an actual or estimated value of \$1,000,000 or more until the business entity submits to the contracting state agency a Disclosure of Interested Parties to the applicable contract.

**49. CONFLICT OF INTEREST:** Vendor, its officers, members, or employees shall not presently have or acquire an 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 University.

**50. MARSHALL UNIVERSITY'S INFORMATION TECHNOLOGY SERVICES AND SUPPORT DEPARTMENT (IT) FEES:** If a vendor requires services through the Marshall University's IT Department, they must reimburse the University at the IT Rate Schedule which is located at: <https://www.marshall.edu/it/rates/>.

**51. PUBLICITY:** Vendor shall not, in any way or in any form, publicize or advertise the fact that Vendor is supplying goods or services to the University without the express written consent of the Marshall University Communications Department. Requests should be sent to [ucomm@marshall.edu](mailto:ucomm@marshall.edu).

**52. UNIVERSITY MARKS:** Vendor shall not, in any way or in any form use the University's trademarks or other intellectual property without the express written consent of the Marshall University Communications Department. Requests should be sent to [ucomm@marshall.edu](mailto:ucomm@marshall.edu).

**53. INTELLECTUAL PROPERTY:** The University will own all rights, title and interest in any and all intellectual property rights created in the performance or otherwise arising out of the agreement, and Vendor will execute any assignments of other documents necessary for the University to perfect such rights, provided that, for research collaboration pursuant to subcontracts under sponsored research agreements, intellectual property rights will be governed by the terms of the grant or contract to the University to the extent such intellectual property terms to apply to subcontractors.

**54. FERPA:** Vendor agrees to abide by the Family Education Rights and Privacy Act of 1974 ("FERPA). To the extent that Vendor receives personally identifiable information from education records as defined in (FERPA), Vendor agrees to abide by the limitations on re-disclosure set forth in which states that the officers, employees and agents of a party that receives education record information from Marshall may use the information, but only for the purposes for which the disclosure was made.

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**55. REPORTS:** Vendor shall provide the University with the following reports identified by a checked box below:

- Such reports as the University may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by University, etc.
- Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by University.

**56. PREFERENCE FOR THE USE OF DOMESTIC STEEL PRODUCTS IN STATE CONTRACT PROJECTS:** Pursuant to W.Va. Code §5A-3-56, (a)(1) Except when authorized pursuant to the provisions of subsection (b) of this section, 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 (2):

(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 any materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after the effective date of this section 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 of such operations, from steel made by the open hearth, basic oxygen, electric furnace, bessemer or other steel making process.

(b) Notwithstanding any provision of subsection (a) of this section to the contrary, the Director of the West Virginia Department of Administration, Purchasing Division ("Director of the Purchasing Division") may, in writing, authorize the use of foreign steel products if:

(1) The cost for each contract item used does not exceed one tenth of one percent of the total contract cost or \$2,500, whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

(2) 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.

**57. PREFERENCE FOR DOMESTIC ALUMINUM, GLASS AND STEEL PRODUCTS:**

In Accordance with W. Va. Code § 5-19-1 et seq.,

(a) Every state spending unit, as defined in chapter five-a, shall require that every contract or subcontract 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 contain a provision that, if any aluminum, glass or steel products are to be supplied in the performance of the contract, or subcontract, only domestic aluminum, glass or steel products shall be supplied unless the spending officer, as defined in chapter five-a, determines, in writing, after the receipt of offers or bids, that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest or that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements: Provided,

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That this article applies to any public works contract awarded in an amount more than \$50,000, and with regard to steel only, this article applies to any public works contract awarded in an amount more than \$50,000 or requiring 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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**DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to the Contract.**

**RUBEN AGUSTIN, Bid Manager/Asst. Secretary/BILL GILLISPIE, Outside Sales Pro**

(Name, Title)

**RUBEN AGUSTIN, Bid Manager/Asst. Secretary/BILL GILLISPIE, Outside Sales Professional**

(Printed Name and Title)

**P. O. BOX 78268, CORONA, CA 92877-0142/2167-E STATE ROUTE 821, BLDG. #5, MARIETTA, OH 45750**

(Address)

**800 959 1844 X90009/304 488 9130**

**800 921 2515**

(Phone Number)

(Fax Number)

**ragustin@bsnsports.com/ wgillispie@bsnsports.com**

(Email Address)

**CERTIFICATION AND SIGNATURE:** By signing below, or submitting documentation through BONFIRE, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to Marshall University that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the Vendor in a contractual relationship; and that to the best of my knowledge, the Vendor will properly register with the WV Purchasing Division and Marshall University.

**BSN SPORTS, LLC**

(Company)

(Authorized Signature)

**RUBEN AGUSTIN, Bid Manager/Asst. Secretary**

(Printed Name and Title of Authorized Representative)

**JULY 17, 2020**

(Date)

**800 959 1844 X90009**

(Phone Number)

**800 921 2515**

(Fax Number)

December 2, 2019

Marshall University General Terms and Conditions

**BSN SPORTS  
PO BOX 78268  
CORONA, CA 92877-0142**

STATE OF WEST VIRGINIA  
Purchasing Division

# PURCHASING AFFIDAVIT

**CONSTRUCTION CONTRACTS:** Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

**ALL CONTRACTS:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

**"Debt"** means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"Related party"** means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: BSN SPORTS, LLC

Authorized Signature: \_\_\_\_\_ Date: OCTOBER 22, 2020

State of TEXAS

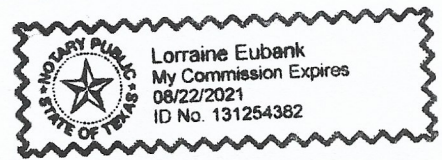
County of DALLAS, to-wit: \_\_\_\_\_

Taken, subscribed, and sworn to before me this 22 day of OCTOBER, 2020.


My Commission expires August 22, 2021.

**AFFIX SEAL HERE**

**NOTARY PUBLIC** Lorraine Eubank





<b>Request for Proposal</b>		<b>Marshall University</b> MU21UNIFORMS_A Page 25 of 26 <b>Office of Purchasing</b> One John Marshall Drive Huntington, WV 25755-4100 Direct all inquiries regarding this order to: (304) 696-2599	<b>Proposal #</b>  MU21UNIFORMS
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**Vendor** \_\_\_\_\_ **Phone:** \_\_\_\_\_ **For Information Contact:**  
 Angela White Negley 304-696-2599  
[Negley4@marshall.edu](mailto:Negley4@marshall.edu) and [purchasing@marshall.edu](mailto:purchasing@marshall.edu)

**FEIN/SSN:** \_\_\_\_\_

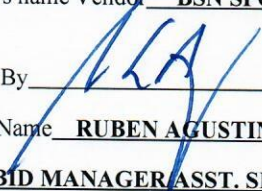
Sealed requests for proposals furnishing services described below will be received by the Institution. TO RECEIVE CONSIDERATION FOR AWARD, UNLESS OTHERWISE NOTED, THE PROPOSAL WILL BE SUBMITTED IN BONFIRE ON OR BEFORE THE DATE AND TIME SHOWN FOR THE PROPOSAL OPENING. The Institution reserves the right to accept or reject proposals separately or as a whole, to reject any or all proposals, to waive informalities or irregularities and to contract as the best interests of the Institution may require. PROPOSALS ARE SUBJECT TO THE GENERAL TERMS AND CONDITIONS AS SET FORTH HEREIN.

<b>DATE</b> 7/9/20	MANDATORY PRE-BID MEETING N/A	DEPARTMENT REQUISITION NO. MU21UNIFORMS	<b>Bids Open:</b> 7/23/20 at 3:00p.m., LPTT. Broadcast via Zoom at the following link: <a href="https://marshall.zoom.us/j/96634236249">https://marshall.zoom.us/j/96634236249</a>	<b>BIDDER MUST ENTER DELIVERY DATE FOR EACH ITEM BID</b>
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Item #	Quantity	Description	Unit Price	Extended Price
		<b><u>REQUEST FOR BIDS</u></b>		
		Marshall University on behalf of the Governing Board, is soliciting bids from qualified companies to establish an open-end contract for uniforms for the University's Physical Plant and Memorial Student Center Staff.  <b>Project Name:</b> MU21UNIFORMS  <b>Deadline for Technical Questions:</b> Wednesday, July 15, 2020, by 9:00 a.m., LPT  <b>Bid Opening Time and Date:</b> Thursday, July 23, 2020, at 3:00 p.m., LPT via Zoom at the following link: <a href="https://marshall.zoom.us/j/96634236249">https://marshall.zoom.us/j/96634236249</a>		
		<b>Total</b>		

To the Purchasing Department,  
 In compliance with the above, the undersigned offers and agrees, if this offer is accepted within \_\_\_\_\_ calendar days (30 calendar days unless a different period is inserted by the purchaser) from the bid open date, specified above, to furnish any or all items upon which prices are offered, at the price set opposite each item, delivered at the designated point(s), within the time specified.

Bidder guarantees shipment from \_\_\_\_\_  
DALLAS, TX within 30 days  
 FOB DESTINATION After receipt of order at address shown  
 Terms NET 30 DAYS

Bidder's name Vendor BSN SPORTS, LLC  
 Signed By   
 Typed Name RUBEN AGUSTIN  
 Title BID MANAGER/ASST. SECRETARY  
 Street Address P. O. BOX 78268  
 City/State/Zip CORONA, CA 92877-0142  
 Date JULY 17, 2020 Phone 800 959 1844 X90009  
 Fein 47-2460272

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: MU21UNIFORMS**

**(If Applicable)** Physical Plant and Memorial Student Center

Open-End Uniform Contract

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specifications, etc.

Addendum Numbers Received:

*(Check the box next to each addendum received)*

- |   |  |
|---|--|
| <input type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7  |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any University personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

BSN SPORTS, LLC  
Company

  
Authorized Signature

7-17-2020  
Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.