TO: Nebraska Book Company  
h.d.a. Validis Resources  
4700 S. 15th Street  
Lincoln, NE 68512  
PHONE: 828/337.1870 FAX: 402/421.0549  
FEIN/SSN: 47-0549819 NBC/ 36-3309518 VR

Ship to:  
MCTC  
917 Third Avenue, Suite 201  
Huntington, WV 25701

THIS ORDER IS SUBJECT TO THE  
GENERAL TERMS AND CONDITIONS  
AS PRESENTED ON PAGE TWO  
THEREOF AND AS SET FORTH  
HEREIN

WVFIMS Account#  
VARIOUS

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**Contract Acceptance**

Issuance of contract in agreement with all terms, conditions,  
requirements and/or specifications as provided within the issued  
RFP MCTCBK2009 for bookstore operations servicing both on-  
campus and off-campus students, faculty and staff.

On behalf of the Institutional Board of Governors, MCTC hereby  
Accepts the proposal of:  

VALIDIS RESOURCES, a division of NEBRASKA BOOK COMPANY

SIGNED BY: John Callahan  
TITLE: VP Campus Relations  
ON: May 26, 2009

APPROVED AS TO FORM THIS 23rd DAY OF JUNE, 2009

ATTORNEY GENERAL  
BY: [Signature]

THIS ORDER IS EXEMPT FROM ALL SALES TAX.  
LIMIT EACH INVOICE TO A SINGLE PURCHASE ORDER NUMBER.

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Mail Original Invoice and 1 Copy to:  
MCTC Accounts Payable  
P.O. Box 1539  
Huntington, WV 25716-1539

[Signature]  
6/2/09  
Date

Authorized Signature
REQUEST FOR PROPOSAL

MCTC BOOKSTORE
RFP: MCTCBK2009

May 4, 2009

OFFICE OF BUSINESS SERVICES
P.O. BOX 1539
HUNTINGTON, WV 25716-1539
identified in the Schedule of Events, Section 1.16. All inquiries of specification clarification must be addressed to:

Herbert J. Karlet, Vice President/CFO  
Office of Business Services  
P.O. Box 1539  
Huntington, WV 25716-1539  
Fax: (304) 696.3013  
Email: karlet@marshall.edu

The vendor, or anyone on the vendor’s behalf, is not permitted to make any contact whatsoever with any member of the evaluation committee. Violation may result in rejection of the bid. The “College” buyer named above is the sole contact for any and all inquiries after this RFP has been released.

1.5. Vendor Registration

Vendors participating in this process should complete and file a **Vendor Registration and Disclosure Statement** (Form WV-1 - Exhibit B) and remit the registration fee. Vendor is not required to be a registered vendor in order to submit a proposal, but the **successful bidder must** register and pay the fee prior to the award of an actual purchase order or contract.

1.6. Oral Statements and Commitments

Vendor must clearly understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor’s representatives and any “College” personnel is not binding. Only the information issued in writing and added to the Request for Proposal specifications file by an official written addendum are binding.

1.7. Economy of Preparation

Proposals should be prepared simply and economically, providing a straightforward, concise description of Vendor’s abilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.

1.8. Labeling of RFP Sections

The sections within this RFP contain instructions governing how the Vendor’s proposal is to be arranged, submitted and to identify the material to be included therein.

1.8.1. Mandatory Requirements

Any specification or statement containing the word “must”, “shall”, or “will” are mandatory. Section 3 contains mandatory deliverables required upon contract execution. By signing and submitting a response to this RFP, the vendor agrees to all mandatory deliverables described herein. Section 4 describes RFP response requirements, which may be mandatory. The vendor is required to meet all mandatory requirements in order to be eligible for consideration and to continue in the evaluation process. Failure to meet or agree to mandatory items shall result in disqualification of the Vendor’s proposal and the evaluation process will be terminated for that vendor. Decisions regarding compliance with any mandatory requirement shall be at the sole discretion of the “College”.

Page 2 of 16
and cost plus (5) convenience copies to the following physical location by 12:00 p.m., Noon (EST), June 1, 2009:

Marshall Community & Technical College
Office of Business Services
917 Third Avenue, Pullman Center
Suite 201
Huntington, WV 25701

1.9.4. Best Value Purchasing Standard Format

All Requests for Proposals should follow the standard format defined by the Office of Business Services. This format addresses required areas and enables the “College” to modify the background and scope of work to meet its needs.

1.9.4.1. Evaluation Criteria

All evaluation criteria must be clearly defined in the specifications section and based on a 100 point total score. Based on a 100 point total, cost/commission shall represent a minimum of 20 of the 100 total points in the criteria.

1.9.4.2. Proposal Format and Content

Proposals shall be requested and received in two distinct parts: Technical and Cost. The cost portion shall be sealed in a separate envelope and will not be opened initially.

1.9.4.3. Technical Bid Opening

The Office of Business Services will open only the technical proposals on the date and time specified in the Request for Proposal. The Office of Business Services representative will read aloud the names of those who responded to the solicitation. The “College” Buyer will confirm that the original packages contain a separately sealed cost proposal prior to providing the courtesy copies to the agency to begin the evaluation process.

1.9.4.4. Technical Evaluation

The pre-selected, approved evaluation committee will review the technical proposals, deduct appropriate points for deficiencies and make a final written consensus recommendation to the “College” Buyer. If the Buyer approves the committee’s recommendation, the technical evaluation will be forwarded to an internal review committee within the Office of Business Services.

1.9.4.5. Cost Bid Opening

Upon approval of the technical evaluation from the internal review committee, the Office of Business Services shall schedule a time and date to publicly open and read aloud the cost proposals. The “College” and the vendors shall be notified of this date.

1.9.4.6. Cost Evaluation and Resident Vendor Preference

The evaluation committee will review the cost proposals, assign appropriate points and make a final consensus recommendation to the Office of Business Services. In accordance with West Virginia Code §5A-3-37 (Exhibit A.4), the Office of Business
1.14. Price Quotations

The price(s) quoted in the bidder's proposal will not be subject to any increase and will be considered firm for the life of the contract unless specific provisions have been provided for adjustment in the original contract.

1.15. Public Record

1.15.1. Submissions are Public Record.

All documents submitted to the Office of Business Services related to purchase orders or contracts are considered public records. All bids, proposals or offers submitted by bidders shall become public information and are available for inspection during normal official business hours in the Office of Business Services after the bid opening.

1.15.2. Written Release of Information.

All public information may be released with or without a Freedom of Information request, however, only a written request will be acted upon with duplications fees paid in advance. Duplication fees shall apply to all requests for copies of any document. Currently the fees are $0.50/page, or a minimum of $10.00 per request which ever is greater.

1.15.3. Risk of Disclosure.

The only exemptions to disclosure of information are listed in West Virginia Code §29B-1-4 (Exhibit A.5). Primarily, only trade secrets, as submitted by a bidder, are exempt to public disclosure. The submission of any information to the Office of Business Services by a vendor puts the risk of disclosure on the vendor. The “College” does not guarantee non-disclosure of any information to the public.

1.16. Schedule of Events

Release of the RFP ............................................................................. May 6, 2009
Vendor’s Written Questions Submission Deadline ........................................... May 14, 2009
Response to Questions ................................................................................ May 19, 2009
Bid Opening Date ..................................................................................... June 1, 2009
Oral Presentation ........................................................................................ TBD, if requested.
Contract Award .......................................................................................... June 12, 2009

1.17. Purchasing Affidavit

West Virginia Code §5A-3-10a (Exhibit A.1) requires that all bidders submit an affidavit regarding any debt owed to the “College”. The affidavit must be signed and submitted prior to award. It is preferred that the affidavit be submitted with the proposal.

1.18. General Terms and Conditions

By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this RFP.
Vendor shall be responsible for selecting, supervising and compensating any and all individuals employed pursuant to the terms of this RFP and resulting contract. Neither the Vendor, nor any employees or contractors of the vendor, shall be deemed to be employees of the “College” for any purposes 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, and licensing fees, etc. and the filing of all necessary documents, forms and returns pertinent to all of the foregoing.

Vendor shall hold harmless the “College”, and shall provide the State and the “College” 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.

The Vendor shall not assign, convey, transfer or delegate any of its responsibilities and obligations under this contract to any person, corporation, partnership, association or entity without expressed written consent of the “College”.

1.18.5. Indemnification

The Vendor agrees to indemnify, defend and hold harmless the State and the “College”, 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 laws.


After the successful Vendor is selected, a formal contract document will be executed between the “College” and the Vendor. In addition, the RFP and the Vendor’s response will be included as part of the contract by reference. The order of precedence is the contract, the RFP and the Vendor’s proposal in response to the RFP.

1.18.7. Governing Law

This contract shall be governed by the laws of the State of West Virginia. The Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws and regulations, Federal, State and Local Government.

1.18.8. Compliance with Laws and Regulations

The vendor shall procure all necessary permits and licenses to comply with all applicable laws, Federal, State or municipal, along with all regulations, and ordinances of any regulating body.
contained in the notice, within the time period contained in the notice, the “College” shall issue the Vendor an order to cease and desist any and all work immediately. The “College” shall be obligated only for services rendered and accepted prior to the date of the notice of termination.

The contract may also be terminated by the “College” with thirty (30) days prior notice.

1.18.13. Changes

If changes to the original contract become necessary, a formal contract change order will be negotiated by the State, the “College” and the Vendor, to address changes to the terms and conditions, costs of work included under the contract. An approved contract change order is defined as one approved by the Office of Business Services and approved as to form by the West Virginia Attorney General’s Office, encumbered and placed in the U.S. Mail prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the payment provision or the scope of the work. Such changes may be necessitated by new and amended Federal and State regulations and requirements.

As soon as possible after receipt of a written change request from the “College”, but in no event more than thirty (30) days thereafter, the Vendor shall determine if there is an impact on price with the change requested and provide the “College” a written statement to identifying any price impact on the contract or to state that there is no impact. In the event that price will be impacted by the change, the Vendor shall provide a description of the price increase or decrease involved in implementing the requested change.

**NO CHANGE SHALL BE IMPLEMENTED BY THE VENDOR UNTIL SUCH TIME AS THE VENDOR RECEIVES AN APPROVED WRITTEN CHANGE ORDER.**

1.18.14. Record Retention (Access & Confidentiality)

Vendor shall comply with all applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by Vendor. The Vendor shall maintain such records a minimum of five (5) years and make available all records to “College” personnel at Vendor’s location during normal business hours upon written request by the “College” within 10 days after receipt of the request.

Vendor shall have access to private and confidential data maintained by the “College” to the extent required for Vendor to carry out the duties and responsibilities defined in this contract. Vendor agrees to maintain confidentiality and security of the data made available and shall indemnify and hold harmless the State and the “College” against any and all claims brought by any party attributed to actions of breach of confidentiality by the Vendor, subcontractors or individuals permitted access by Vendor.

**PART 2 OPERATING ENVIRONMENT**

2.1. Location

The “College” is located on the Huntington campus of Marshall University, One John
- Become involved in the academic, cultural, and social environment of the "College", taking advantage of opportunities to offer special merchandise and other assistance based upon ongoing and unique activities of the "College".

- Participate, jointly with the "College", in Bookstore Advisory Boards which will be composed of the bookstore manager, "College" administrators, faculty and students, for the purpose of reviewing operations, policies, procedures, and performance, The Advisory Board will meet twice per semester.

The successful bidder will be required to countersign state form WV96 and WV 48 (Exhibit C.1 – C.2).

PART 3 PROCUREMENT SPECIFICATIONS AND DELIVERABLES

3.1. General Requirements

- Mobile On-Site Bookstore Operation during designated peak periods.
- 24/7 Electronic Accessible Bookstore Operation

3.2. Scope of Work

The purpose of the project is to provide to the "College" a mobile and electronically accessible outlet for bookstore services for both on-campus and off-campus students. Given the "College" is currently located on the Huntington campus of Marshall University and limited on space, the project would provide a mobile bookstore services during peak periods for which students of the "College" would be able to purchase textbooks and study guides, stickers and decals, lab supplies, clothing, book bags, blue books, scantron sheets, general school supplies, and any other merchandise deemed advantageous to the "College" students. After the "College" has acquired a permanent location yielding space availability for a full-time, on-site bookstore and enrollment continues to increase, the "College" may consider, upon mutual agreement between the Vendor and the "College" to renegotiate existing contract to accommodate such need.

Additionally, as technology advances and the "College" continues to expand its offerings of a wide range of electronic courses, the project would provide for a convenient, 24/7 bookstore support outlet that would meet the needs of the "College" and its' student community.

The selected vendor will be able to use Cabell Hall room 114 (See Exhibit C for room dimensions) during peak periods to store and sell textbooks and supplies. This room provides access to electrical outlets and internet access via wireless router.

In order to achieve the goals of the College's Bookstore program, the contractor shall adopt the following objectives in managing the Bookstore:

- Provide a full range of merchandise and services expected from a quality academic Bookstore to the "College" community;
Compensation, Contractor’s License, compliance related materials, etc.)

3.3.2. Informational Updates

The successful bidder will provide with due diligence informational updates to “College” faculty members regarding new additions or information regarding when old editions will no longer be available.

PART 4 PROPOSAL FORMAT AND RESPONSE REQUIREMENTS

4.1. Vendor’s Proposal Format

The proposal should be formatted in the same order, providing the information listed below:

- **Title page** - Should state the RFP Subject and number, the name of the Vendor, Vendor’s business address, telephone number, name of authorized contact person to speak on behalf of the Vendor, dated and signed.

- **Table of Contents** - Clearly identify the material by section and page number.

- **Section I – Background and History** (Describe the company’s background and experience in performing services requested. Provide an organization chart, staffing data, length of operation since establishment, operating policies that would have either a direct and/or indirect affect on this service. Provide a list of at least two (2) references in higher education or other similar background where such services have been provided. References should include organization name, contact name, title, telephone and if available email address.)

- **Section II – Financial Feasibility/Sustainability** (Brief description of the financial status of the company. Provide, as an attachment, the most recent audited annual financial statement or provide a URL where this information can be accessed. Provide, if applicable, intent for engagement in merger, acquisition, or business reorganization that may directly and/or indirectly affect relationship with the “College”. Provide financial ratios that prove financial feasibility/sustainability – i.e., gross profit margin, debt-to-equity ratio, etc.)

- **Section III – Quality Assurance** (Description of policy and procedures for quality assurance, including customer service standards and reviews, conflict resolution, employee training programs, public relations, personal check policy, credit cards accepted, refund policy, how customers are assisted to ensure proper communication/information and any other information not listed above that will document quality assurance.)

- **Section IV – Service** (Description of vendor’s ability to provide sufficient and timely delivery of all textbooks and course packs required and recommended by the faculty of the “College”. Provide a schedule, which will be deemed agreed to by the “College” upon award of contract, to insure that reasonable efforts are taken by “College” faculty and/or staff to notify bookstore management in a timely manner of textbook, supplies, and material requests for purposes of availability by demand. The service section of the RFP should also include the procedures and policies in force regarding price competitiveness, obtaining
Each cost proposal will be scored by use of the following formula for all vendors who attained the Minimum acceptable score:

Commission of Proposal being evaluated
------------------------------------------ X 20 = Price Score
Highest commission of all proposals

4.4. Minimum Acceptable Score

Vendors must score a minimum of 70% of the total technical points possible. The technical points are listed in Section 4.3 of the RFP. The minimum qualifying score on the technical portion is 56 points. All vendors not attaining the minimum acceptable score (MAS) shall be disqualified and removed from further consideration.

The “College” will select the successful vendor’s proposal based on best value purchasing which is not necessarily the vendor with the lowest price. Cost is considered but is not the sole determining factor for award. The “College” does reserve the right to accept or reject any or all of the proposals, in whole or in part, without prejudice, if to do so is felt to be in the best interests of the “College”.

Vendor’s failure to provide complete and accurate information may be considered grounds for disqualification. The “College” reserves the right, if necessary, to ask vendors for additional information to clarify their proposals.

4.5. Cost Proposal Format/Bid Sheets

The Cost Proposal shall be on a separate page and submitted independently from the technical proposal. The Cost Proposal shall detail the commission rates and provide a benefit analysis for both on-site and on-line sales.
APPLICABLE EXCERPTS FROM WV STATE CODE

[Exhibit A]
§5A-3-10b. Best value procurement.

(a) The director may utilize best value procurement to enter into a contract when he or she determines in writing that it is advantageous to the state.

(b) A solicitation for bids under best value procurement shall be made in the same manner as provided in section ten of this article.

(c) Best value procurement awards shall be based on criteria set forth in the solicitation including, but not limited to, price, the total cost of acquiring, operating, maintaining and supporting a commodity or service over its projected lifetime, the evaluated technical merit of the bidder's bid or proposal, the bidder's past performance, and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the business objectives set forth in the solicitation.

(d) The award must be made to the highest scoring responsive and responsible bidder whose bid is determined, in writing, to be most advantageous to the state, taking into consideration all evaluation factors set forth in the best value solicitation.

(e) The director may not use best value procurement to enter into government construction contracts, including, but not limited to, those set forth in article twenty-two, chapter five of this code.
§5A-3-37. Preference for resident vendors; preference for vendors employing state residents; preference for veteran residents; exceptions.

(a) Other provisions of this article notwithstanding, effective the first day of July, one thousand nine hundred ninety, through the thirtieth day of June, one thousand nine hundred ninety-four, in any instance involving the purchase of construction services for the construction, repair or improvement of any buildings or portions thereof, where the total aggregate cost thereof, whether one or a series of contracts are awarded in completing the project, is estimated by the director to exceed the sum of fifty thousand dollars and where the director or any state department is required under the provisions of this article to make the purchase, construction, repair or improvement upon competitive bids, the successful bid shall be determined as provided in this section. Effective beginning the first day of July, one thousand nine hundred ninety-two, in any instance that a purchase of commodities or printing by the director or by a state department is required under the provisions of this article to be made upon competitive bids, the successful bid shall be determined as provided in this section. The Secretary of the Department of Revenue shall promulgate any rules necessary to: (i) Determine that vendors have met the residence requirements described in this section; (ii) establish the procedure for vendors to certify the residency requirements at the time of submitting their bids; (iii) establish a procedure to audit bids which make a claim for preference permitted by this section and to reject noncomplying bids; and (iv) otherwise accomplish the objectives of this section. In prescribing the rules, the secretary shall use a strict construction of the residence requirements set forth in this section. For purposes of this section, a successful bid shall be determined and accepted as follows:

(1) From an individual resident vendor who has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted or from a partnership, association, corporation resident vendor, or from a corporation 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 four years immediately preceding the date on which the bid is submitted, if the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than two and one-half percent of the latter bid, and if the vendor has made written claim for the preference at the time the bid was submitted: Provided, That for purposes of this subdivision, any partnership, association or corporation resident vendor of this state, which does not meet the requirements of this subdivision solely because of the continuous four-year residence requirement, shall be considered to meet the requirement if at least eighty percent of the ownership interest of the resident vendor is held by another individual, partnership, association or corporation resident vendor who otherwise meets the requirements of this subdivision, including the continuous four-year residency requirement: Provided, however, That the Secretary of the Department of Revenue shall promulgate rules relating to attribution of ownership among several resident vendors for purposes of determining the eighty percent ownership requirement; or

(2) From a resident vendor, 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 and the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than two and one-half percent of the latter bid, and if the vendor has certified the residency requirements of this subdivision and made written claim for the preference, at the time the bid was submitted; or

(3) From a nonresident vendor, which employs a minimum of one hundred state residents or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principle place of business within West Virginia and which employs a minimum of one hundred state residents, 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 or the vendor's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and
§29B-1-4. Exemptions.

(a) The following categories of information are specifically exempt from disclosure under the provisions of this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance: Provided, That nothing in this article shall be construed as precluding an individual from inspecting or copying his or her own personal, medical or similar file;

(3) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination;

(4) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage such record, archive, document or manuscript;

(7) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by any public body;

(9) Records assembled, prepared or maintained to prevent, mitigate or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law enforcement and other agencies within the Department of Military Affairs and Public Safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to

(a) Each governing board may establish and operate a bookstore at the institutions under its jurisdiction to sell books, stationery and other school and office supplies generally carried in college bookstores.

(b) The prices to be charged may not be less than the prices fixed by any fair trade agreements and shall, in all cases, include in addition to the purchase price paid by the bookstore, a sufficient handling charge to cover all expenses incurred for personal and other services, supplies and equipment, storage and other operating expenses.

(c) Each governing board shall ensure that bookstores operated at institutions under its jurisdiction minimize the costs to students of purchasing textbooks. The governing board may:

1. Require the repurchase and resale of textbooks on an institutional or a statewide basis; and

2. Provide for the use of certain basic textbooks for a reasonable number of years.

(d) The Legislature recognizes that in two thousand four, the Congress of the United States commissioned the United States Government Accountability Office to study the high prices of college textbooks. Upon completion of the study, the Legislative Oversight Commission on Education Accountability shall obtain the results and any related reports produced by the Office.

(e) An employee of a governing board:

1. May not:

   (A) Receive a payment, loan, subscription, advance, deposit of money, service, benefit or thing of value, present or promised, as an inducement for requiring students to purchase a specific textbook for coursework or instruction; or

   (B) Require for any course a textbook that includes his or her own writing or work if the textbook incorporates either detachable worksheets or workbook-style pages intended to be written on or removed from the textbook. This provision does not prohibit an employee from requiring as a supplement to a textbook any workbook or similar material which is published independently from the textbook; and

2. May receive:

   (A) Sample copies, instructor's copies and instructional material which are not to be sold; and

   (B) Royalties or other compensation from sales of textbooks that include the employee's own writing or work.

(f) A governing board shall provide to students a listing of textbooks required or assigned for any course offered at the institution.

1. The listing shall be prominently posted:

   (A) In a central location at the institution;

   (B) In any campus bookstore; and

   (C) On the institution's website.
Dear Vendor:

Before a vendor is eligible to sell goods and/or services to the State of West Virginia, the West Virginia Code (§5A-3-12) requires all vendors to have on file with the West Virginia Purchasing Division a completed Vendor Registration and Disclosure Statement.

All vendors wishing to participate in the competitive bid process and receive purchase orders from the State of West Virginia exceeding one thousand dollars ($1,000) are required to complete the Vendor Registration and Disclosure Statement (WV-1 form) and pay a $125.00 annual fee. Payment of the annual fee includes access to the West Virginia Purchasing Bulletin, in which purchases expected to exceed twenty-five thousand dollars ($25,000) are advertised.

Please complete this form in its ENTIRETY and return it with a check or money order made payable to the STATE OF WEST VIRGINIA in the amount of $125.00. Incomplete forms will not be processed and will be returned to the vendor. Please send completed form and payment to:

Purchasing Division
Vendor Registration
2019 Washington Street East
P.O. Box 50130
Charleston, WV 25305-0130

Pages 1 and 2 which consist of information related to vendor organizational structure must be completed. Whenever a change occurs in the information submitted as required, such change shall be reported immediately in the same manner as required in the original disclosure affidavit (WV Code §5A-3-12). If you have any questions concerning the Vendor Registration and Disclosure Statement, please call the Purchasing Division at (304) 558-2311.

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### PLEASE TYPE OR CLEARLY PRINT ALL INFORMATION

*To Be Completed by the Vendor and Returned to the West Virginia Purchasing Division*

1. Legal Name of Company/Individual
   
   Bidding Address
   
   City/State/Zip
   
   Contact Person
   
   Telephone Number FAX Number

2. Vendor Classified As:

   - [ ] Individual/ Sole Proprietor
   - [ ] Partnership
   - [ ] Limited Liability Company (LLC)
   - [ ] Non-Profit Organization
   - [ ] Corporation
   - [ ] Governmental Entity
   - [ ] Estate/Trust
   - [ ] Other (Explain)

3. If you have a Federal Employer's Identification Number enter it. All partnerships, corporations, or companies with employees must have an FEIN.

   [ ]

   For individuals with no FEIN, enter Social Security Number.

   [ ]

4. By providing the following information, I represent that this enterprise is a small business as defined by the Code of Federal Regulations, Title 13, Part 121, as appended - which contains detailed industry definitions and related procedures - and/or the characteristics of the enterprise's control, operation and/or ownership are accurately reflected in the information provided. Check all that apply.

   - [ ] Disabled Small Business Ownership [1]
   - [ ] Minority Small Business Ownership [2]
   - [ ] Small Business Ownership [3]
   - [ ] Veteran Small Business Ownership [4]
   - [ ] Woman Small Business Ownership [5]

   *The information gathered in question 4 is for data collection efforts only.*

EXHIBIT B.1
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<tr>
<th>CLASS</th>
<th>DESCRIPTION</th>
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<th>DESCRIPTION</th>
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<td>FIRE PROTECTION EQUIPMENT &amp; SUPPLIES</td>
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<td>FORMS, CONTINUOUS: COMP. PAPER, LABELS &amp; FOLDERS</td>
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<td>CLEANING COMPOSITIONS, DETERGENTS (PREPACKAGED)</td>
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<td>CLINICAL LABORATORY REAGENTS &amp; TESTS</td>
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<td>FURNITURE, OFFICE</td>
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<td>CLOCKS, TIMERS, WATCHES, &amp; EQUIPMENT</td>
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<td>GERMIcides, HEALTHcare</td>
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<td>CONCRETE &amp; METAL CULVERTS, PILINGS, PIPE, SUPPLIES</td>
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<td>GLASS &amp; GLAZING SUPPLIES</td>
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<td>HARDWARE &amp; RELATED ITEMS</td>
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<td>COOLERS, DRINKING WATER (WATER FOUNTAINS)</td>
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<td>CRAFTS, GENERAL</td>
<td>745</td>
<td>HIGHWAY BUILDING MATERIALS, ASPHALT</td>
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</table>
AGREEMENT

I, __________________________________________ agree to perform the following service(s) for Marshall Community & Technical College at __________________________________________

(Location)

(Detailed description of services to be performed)

Date(s) of Service: From: ___________________ To: ___________________

The rate of pay for labor shall be __________ per __________ not to exceed $ __________ for the entire term of the contract. The rate of pay for repairs and/or new acquisitions shall be at cost.

NOTE: Any anticipated travel must be incorporated into the vendor’s fee. No travel will be reimbursed by the State and is the sole responsibility of the vendor. The following certification must be completed and signed if the vendor is a full-time employee of the State of West Virginia.

Please check the appropriate box below:

☐ I am not currently a full-time employee of the State of West Virginia;

☐ I am currently a full-time employee of the State of West Virginia (complete certification below)

It is hereby certified that the service(s) to be performed under this agreement will not interfere with or detract from the full-time duties of the employee and the amount of annual compensation received by: __________________________________________ (above named vendor) from the State of West Virginia for full-time employment during the current fiscal year will be $ __________

The vendor serves as __________________________ with the title of __________________________.

certified by __________________________________________.

(Supervisor’s Signature)

APPROVED BY:

Agency __________________________________________ Vendor __________________________________________

(Authorized Signature of Agency) (Vendor’s Signature)

(Title) (MCTC ID (901#) or FEIN) (Note: Do Not Use Social Security Number)

(Date) (Date)

BOG 48
Revised April 14, 2008

EXHIBIT D.2
PROPOSAL RESPONSE CERTIFICATION

DATE  ________________

The undersigned, as proposer, declares that he/she has read the Request for Proposals and the following proposal is submitted on the basis that the undersigned, the company and its employees or agents, shall meet, or agree to, all specifications contained therein. It is further acknowledged, if applicable, addenda numbers _____ to _____ have been received and were examined as part of the RFP document.

_________________________________________________________________________
Name of Proposer

_________________________________________________________________________
Signature of Proposer

_________________________________________________________________________
Title

_________________________________________________________________________
Firm Name

_________________________________________________________________________
Street Address

_________________________________________________________________________
City, State, Zip

_________________________________________________________________________
Telephone

_________________________________________________________________________
Facsimile Number
Response to Questions

1. So that we can be assured of timely, trackable delivery of our response, we prefer to send it via UPS rather than mail to the PO Box listed in your RFP. Is this permissible and if so, to what physical address should this be sent?
   Yes. A trackable delivery to a physical address is possible. Please use the following address:
   
   MCTC
   917 Third Avenue
   Suite 201, Second Floor
   Huntington, WV 25701

2. Would it be possible to give clarification or more explanation of what you are requesting in Section 4.1 Section I regarding operating policies?
   Please list any policies believed to be important to students and customer service, such as textbook buyback policies.

3. Could you please clarify how we are to present the information in Part 4.1 Section VII and 4.5. Is this two separate items or one? As we understand it, this is to be in a separate sealed envelope but it’s also to be part of the response. We want to make sure we are following the format correctly, so helping us understand this would be greatly appreciated. Also, can you define what you are looking for in the benefit analysis referred to in 4.5?
   Part 4.1 Section VII and 4.5 are referring to the same item. Specify what your company can pay or provide to MCTC in the form of commission rates and estimated revenue. This information is to be part of the proposal, but contained in a separate sealed envelope. The Evaluation Committee will rate the proposals using the evaluation criteria A-E as defined in Section 4.3 of the proposal. Criteria F will be calculated by the Chief Financial Officer and then added to the Evaluation Committee’s scores.
   The benefit analysis will detail the benefits/commission received by MCTC for both online and onsite sales.

4. For purposes of this RFP response, is it necessary to fill out and return the Agreement in Exhibit D.2., since we aren’t performing labor?
   Exhibit D.2 does not need to be completed.

5. Is there a specific place/section in our response binder to put the various forms to be signed?
   The forms which require signature should be included in the response binder under a separate tab labeled Required Procurement Forms.
STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

VENDOR OWING A DEBT TO THE STATE:
West Virginia Code §5A-3-10a provides that: 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 the debt owed is an amount greater than one thousand dollars in the aggregate.

PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:
If this is a solicitation for a public improvement construction contract, the vendor, by its signature below, affirms that it has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the West Virginia Code. The vendor must make said affirmation with its bid submission. Further, public improvement construction contract may not be awarded to a vendor who does not have a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the West Virginia Code and who has not submitted that plan to the appropriate contracting authority in timely fashion. For a vendor who is a subcontractor, compliance with Section 5, Article 1D, Chapter 21 of the West Virginia Code may take place before their work on the public improvement is begun.

ANTITRUST:
In submitting a bid to any agency for the state of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will 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 the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership or person or entity submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

LICENSING:
Vendors 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 agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY:
The vendor agrees that he or she 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/noticeConfidentiality.pdf.

Under penalty of law for false swearing (West Virginia Code §61-5-3), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

Vendor’s Name: Validis Resources
Authorized Signature: [Signature]
Date: June 15, 2009

Purchasing Affidavit (Revised 01/01/09)
AGREEMENT ADDENDUM

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 clause 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. Payment will be in arrears.

6. **INTEREST** - Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.

7. **RECOUPMENT** - Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense 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, lessee, individual, or any other party are deleted.

10. **SIMPALAR 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. **ATTORNEY FEES** - 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 the 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 limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. 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.

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 hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.

17. **INSURANCE** - Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.

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: Marshall Community & Technical College

Signed: [Signature]

Title: Vice President/CFO-CFO

Date: June 12, 2009

**VENDOR**

Company Name: Validis Resources

Signed: [Signature]

Title: Vice President Campus Relations

Date: June 15, 2009