

ADDENDUM

to the

Card Systems Master Agreement

Dated June 9, 2005

between

James Madison University ("Customer")
and
Diebold, Incorporated

acquired by
The CBORD Group, Inc. ("CBORD")
July 1, 2005

The use of the System is limited to the location specified as of the original Effective Date of the Agreement, and any expanded use of the System at any locations other than those specified shall require CBORD's prior written consent and payment of additional fees in the amount to be set by CBORD.

The Agreement is hereby amended as follows, in consideration of the Customer's intent to license CBORD Services from CBORD.

Services:

CBORD shall identify, recruit, and manage a network of local merchants to be included as participants in the Customer's card program (the "Campus Program") which enables Customer students, faculty, staff and other participants (the "Cardholders") to use their ID card (the "Customer Card") to purchase goods and services from Customer-operated facilities and/or from goods or service providers under contract with Customer, including the provision of merchant transaction processing equipment and transaction settlement services, consistent with the terms and conditions of **Attachment I, Statement of Work** attached hereto (collectively, the "CBORD Merchant Network Services").

The CBORD Merchant Network Services, the Marketing Plan Services, defined in **Attachment II**, and the Web Site Services, if elected by the Customer and as defined in **Attachment III**, shall be referred to collectively, as the "CBORD Services." The Customer agrees that it shall perform such obligations as set forth herein as necessary to support the CBORD Services.

1. Identification of Contacts

1.1. CBORD. CBORD shall designate a CBORD employee (the "Client Services Manager"), whose focus shall be the management and oversight of the relationship between CBORD and the Customer for purpose of the CBORD Services. The Client Services Manager and the Campus Program Manager (as defined in Section 1.2 below) shall communicate by telephone or in person no less than once every two weeks during each academic term.

1.2. Customer. The Customer shall make available to CBORD for consultation a Customer employee available for daily consultation with respect to the CBORD Services (the "Campus Program Manager") and an employee capable of making decisions about the CBORD Services (the "Customer Decision Maker").

2. License of Indicia

The Customer grants to CBORD the non-exclusive, non-assignable right and license to use the Licensed Indicia in connection with its performance of the CBORD Services as set forth in this Addendum and the applicable Attachments hereto. "Licensed Indicia" shall mean the current and future names, symbols, designs and colors of the Customer and the Campus Program, including without limitation, the trademarks, service marks, designs, nicknames, abbreviations, city/state names in the appropriate context, slogans, logo graphics, mascots, seals and other symbols associated with or referring to the Customer. Licensed Indicia shall also include the domain name for the Customer Card Web Site in the event Customer elects to have such a site developed by CBORD. Customer agrees to provide CBORD with samples of the Licensed Indicia no later than ten (10) days after the effective date of this Addendum. CBORD shall not distribute any materials that bear any connection to the Customer, the Campus Program or the Licensed Indicia for any other purpose beyond those specifically set forth in this Addendum and as approved in advance by the Customer.

3. Suspension; Termination

3.1 Notwithstanding any other provision in this Addendum or any Attachment hereto, in the event that the Customer fails to provide CBORD with access to funds sufficient to reimburse the CBORD Merchants pursuant to **Attachment I, Statement of Work**, CBORD may with thirty-six (36) hours of notice to Customer (a) suspend the CBORD Services until such time as such funds are made available to CBORD and, if paid by check, duly honored and paid by the applicable financial institution or (b) terminate this Addendum.

3.2 Either party may terminate this Addendum (i) if the other party has committed a material breach of its obligations under this Addendum and (a) such breach has not been cured within thirty (30) days after written notice of such breach by the non-breaching party, or (b) the parties have mutually agreed to a program for cure exceeding thirty (30) days after such notice and such program deadlines are not met; or (ii) immediately pursuant to Section 4.

3.3 In the event of the termination or expiration of this Addendum, CBORD shall cease to perform any and all of the CBORD Services under this Addendum on the effective date of such termination. In addition, the Customer agrees that the contracts entered into between OCA (as defined in Section 9) and the CBORD Merchants (the "Merchant Services Agreements") are valuable assets of CBORD and the Customer will not attempt to directly or indirectly interfere with, disrupt or encourage the termination of any Merchant Contract.

4. Regulatory

To the extent the Campus Program is determined by a federal, state or quasi-governmental agency (including, but not limited to the Federal Reserve under the Electronic Funds Transfer Act or its implementing regulations "Regulations E") to be subject to and not in compliance with any federal, state or quasi-governmental regulation, CBORD and the Customer will undertake to (i) modify the Campus Program so as to make it exempt from such regulations, or (ii) undertake to comply with all such regulations so as to allow the Campus Program to continue to operate in compliance with such regulations. In the event this Section 4 applies, the parties agree to work together in good faith to resolve all regulatory matters, including but not limited to negotiating any additional fees which may become payable by the Customer to CBORD to cover costs of such compliance. To the extent that the Campus Program is found to be subject to and not in compliance with a federal, state or quasi-governmental regulation due to the conduct or participation of the Customer, the Customer's third party service providers or financial institution or CBORD, and the Customer, the Customer's third party service providers or financial institution or CBORD is unwilling to modify said conduct or comply with the regulations or is unable to modify said conduct or comply with the regulations within ninety (90) days or within such other timeframe, if any, as the parties may mutually agree upon in writing or as such federal, state or quasi-governmental agency may impose, this Addendum may be terminated by CBORD or the Customer.

5. Warranty

Each party warrants that it has the full corporate right, power and authority to enter into this Addendum and to perform the acts required of it hereunder and each party warrants that its execution of this Addendum by such party and performance of its obligations hereunder, do not and will not violate any agreement to which it is a party or by which it is bound; and in performance under and related to this Addendum, the parties shall comply with all applicable laws, rules and regulations (including, without limitation, Federal Reserve and state banking laws, and other laws related to privacy). **EACH PARTY ACKNOWLEDGES THAT THE OTHER PARTY MAKES NO WARRANTY THAT THE CAMPUS PROGRAM OR THE CBORD SERVICES WILL BE ACCESSIBLE WITHOUT INTERRUPTION.**

6. Intellectual Property

6.1 CBORD. CBORD or its licensor retains and shall be the sole and exclusive owner of all right, title and interest in and to the content provided by CBORD, the CBORD network of web sites, the CBORD Services, including the "look and feel" and templates for the Customer Card Web Site to the extent it is developed and provided by CBORD under Attachment III and not constituting Customer Intellectual Property, and any Intellectual Property associated with any of the foregoing, including without limitation, any and all content, data, hardware, Software, Source Code, Object Code, CBORD Customizations, Derivative Works (including user interfaces), and any ideas, techniques, know how, templates and programs embodied therein or any related Intellectual Property and excluding Customer Intellectual Property defined in Section 6.2 below (the "CBORD Intellectual Property"). All goodwill arising out of the Customer's use of any of the CBORD Intellectual Property shall inure solely to the benefit of CBORD or its licensor. The Customer will not distribute any materials that bear any connection to CBORD or Off-Campus Advantage or CBORD's trademarks or trade names without the permission of CBORD. In the exercise of the rights granted in this Addendum, the Customer agrees not to remove, obliterate or destroy any proprietary, trademark or copyright markings or notices contained within the Software, Documentation or content.

For purpose of this Section 6.1:

- (i) "Derivative Work" mean: (a) for copyrightable or copyrighted material (including materials subject to mask work rights), a work which is based upon the Software or Source Code, such as a revision, modification, translation, abridgment, condensation, expansion, collection, compilation, or any other form in which such Software or Source Code may be recast, transformed, or adapted; (b) for patentable or patented materials, any adaptation, addition, improvement, or combination of the Software or Source Code; and (c) for material subject to trade secret protection, any new material, information, or data relating to and derived from the Software or Source Code, including new material which may be protectable by copyright, patent, or other proprietary rights.
- (ii) "Documentation" means all end user and system documentation, manuals, flow charts, program listings, programmers' notes, error logs, diagnostic reports, benchmark results and similar materials describing or relating to the Software or its operation or performance.
- (iii) "Object Code" means a form of the Software and CBORD Customizations and Derivative Works resulting from the translation or processing of software in Source Code by a computer into machine language or intermediate code, which thus is in a form that would not be convenient to human understanding of the program.
- (iv) "Source Code" means the source code form of the Software and CBORD Customizations and including any, error corrections or patches and any related Documentation made available to during the term of this Addendum that is not executable by a computer system directly but must be converted into machine language by compilers, assemblers, and/or interpreters.
- (v) "Software" shall mean CBORD's or its Licensor's software necessary for the operation of the CBORD Services in machine executable object code format, including modules and

updates thereto that are made available to the Customer, including any CBORD Customizations.

- (vi) "CBORD Customizations" shall mean CBORD's or its Licensor's modifications, enhancements and extensions to the Software and Source Code. All CBORD Customizations shall be considered Derivative Works.
- (vii) "Intellectual Property" means all intellectual property rights on a worldwide basis in, to or arising out of: (i) any proprietary information, know-how, and data, including but not limited to, all proprietary intellectual property rights arising out of statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired, and (ii) all trade names, logos, domain names, designs copyrights, trademarks or patents, inventions, discoveries, technology, know-how, trade secrets, confidential and proprietary information and mask works, all registrations thereof and all applications for and all renewals, reissues and extensions of, and all goodwill in, the foregoing, throughout the world.

Except as expressly permitted in this Agreement, the Customer may not directly or indirectly, (a) copy, print, display, publish or transmit all or any part of the Software, Source Code, CBORD Customizations, related Intellectual Property or Derivative Works; (b) sell, rent, lease, distribute, license or sublicense, or otherwise transfer all or any part of the Software, Source Code, CBORD Customizations, related Intellectual Property or Derivative Works; (c) modify, adapt or translate the Software, Source Code, CBORD Customizations, related Intellectual Property or Derivative Works, create any Derivative Works or otherwise merge or utilize all or any part of the Software, Source Code, CBORD Customizations, related Intellectual Property or Derivative Works with or into other computer programs or other materials; (d) copy, install or use the Software, Source Code, CBORD Customizations or Derivative Works on any of its computer systems, servers, or networks; (e) transfer, lease, loan, resell for profit, distribute or otherwise grant any rights in the Software, Source Code, CBORD Customizations or Derivative Works in any form to any other party; or (f) in any manner decompile, reverse compile, reverse engineer, decode or disassemble the Software, Source Code, CBORD Customizations or Derivative Works

6.2 Customer. The Customer retains all right, title and interest in and to the Licensed Indicia, the Campus Program web site(s) (including, without limitation, any and all content, data, URLs, domain names, technology, software, code, user interfaces, trademarks and other items posted thereon or used in connection or associated therewith; but excluding any CBORD Intellectual Property), the Customer Card Web Site domain name and the Intellectual Property associated with any of the foregoing (the "Customer Intellectual Property"). All goodwill arising out of CBORD's use of any of the Customer's Intellectual Property shall inure solely to the benefit of the Customer. Moreover, CBORD shall not distribute any materials which bear any connection to the Customer or the Campus Program or the Customer's trademarks or trade names without the permission of the Customer.

7. Exclusivity. The Customer agrees that during the term of the Addendum, it will not engage a third party (not including Customer students, faculty or staff) other than CBORD to provide, services for the Campus Program similar to the CBORD Services covered by this Addendum.

8. Confidentiality. For purposes of this Addendum, the Merchant Profiles (as defined in Attachment I) shall be considered Confidential Information of CBORD. For purposes of this Addendum, the Directory Data provided by the Customer shall be considered Confidential Information and shall not be used by CBORD except for the purpose of marketing the Campus Program. Transaction data collected by CBORD as part of the CBORD Services, to the extent it does not constitute Directory Data, shall be Confidential Information and shall be owned by both CBORD and the Customer. Directory Data" shall be defined to include: Cardholder name, ID number and/or account number, home addresses, campus and email addresses. Cardholder information that CBORD gains directly from students in the course of conducting programs other than the Campus Program shall not be considered Confidential Information of the Customer.

9. **Subcontracting.** The Customer agrees that CBORD shall have the right to subcontract for all or a portion of the CBORD Services to be performed under this Addendum. As of the date of this Addendum, permitted subcontractors will include Off-Campus Advantage LLC, a wholly owned subsidiary of CBORD ("OCA"), OCA's ACH transaction processor, the Third Party Server Host (as such term is defined in Attachment I) and the provider of warranty and support services for the TPE equipment (as such term is defined in Attachment I).

10. Effective Date

The effective date of this Addendum is August 1, 2008.

All other terms of the Agreement shall remain in full force and effect.

Accepted for CBORD:



Timothy A. Tighe
President
The CBORD Group, Inc.
61 Brown Road
Ithaca, NY 14850

Date: 2/17/09

Accepted for CUSTOMER:



Name: Iris M. Monbray, Buyer Sr.
Title: 800 S. Main St
Address: Harrisonburg, VA 22807

Date: 8/15/08

Attachments:

- I. ✓ Statement of Work
- II. ✓ Marketing Program
- II. ✓ Web Site Development and Maintenance

ATTACHMENT I
STATEMENT OF WORK

1. CBORD Obligations

1.1 Merchant Target List Development. CBORD shall compile a list of prospective off-campus merchants for participation in the Campus Program, taking into consideration the merchant's proximity to campus, the type of service/products offered by the merchant and Cardholder preference (the "Target List"). CBORD shall not include in the Target List merchants that principally sell alcohol, tobacco, professional services or obscene materials (such criteria shall constitute guidelines only and CBORD reserves the right to take other factors into consideration when recruiting merchants). However, a merchant shall not be accepted into the Campus Program from the Target List unless and until it is approved by the Customer. For all merchants accepted into the Campus Program, CBORD shall compile contact information in order to prepare introductory mailings.

1.2 Merchant Recruitment. CBORD shall contact potential merchants and schedule an initial meeting. At the initial meeting, CBORD shall explain the Campus Program, review the operational details of the Campus Program, outline the costs and commitments associated with the Campus Program, review the CBORD Merchant contract and outline next steps. If the merchant elects to participate in the Campus Program, CBORD shall execute a CBORD Merchant contract (each, a "Merchant Services Agreement") with each qualified merchant. Merchants accepted by the Customer that execute a Merchant Services Agreement shall be defined as "CBORD Merchants." CBORD shall maintain a record for each CBORD Merchant (a "Merchant Profile") containing all pertinent CBORD Merchant information, including but not limited to, TPE (as defined below in Section 1.3) functionality, promotions, logos, and operational statistics. The Customer acknowledges that in connection with the services performed by CBORD as part of the Merchant Contract, CBORD may require the CBORD Merchants to pay CBORD certain fees, including but not limited to Interchange Fees and other fees associated with the provision of merchant equipment, the processing of Cardholder transactions, customer service, and other bankcard fees, all as further described in Section 3 of this Attachment I.

1.3 Transaction Processing. As part of the CBORD Services, CBORD will provide transaction processing services in exchange for certain fees to be paid by the Customer as set forth herein. During the Term of the Addendum, a Cardholder shall use his/her Customer Card to make a purchase at a Merchant (a "Transaction") and the Merchant TPE (defined below) shall dial-up to a central server owned or operated by CBORD (the "CBORD Central Server"), which may be hosted by a third party service provider (the "Third Party Server Host"), which shall connect to the Campus Program Host to confirm the Cardholder balance, and if sufficient funds exist in the Cardholder account, approve the Transaction. The CBORD Central Server shall then communicate back an approval, or denial if there are insufficient funds, of the Transaction to the Merchant TPE. Each night the CBORD Central Server shall automatically download a file containing of all of the Transactions by Customer Cardholders approved during that day through the CBORD Central Server and CBORD will send an ACH settlement file (a "Settlement File") to the Customer for settlement by Customer.

1.4 Equipment Procurement, Training and Support. CBORD shall be responsible for providing transaction processing equipment ("TPE") to each CBORD Merchant and for installing and supporting such equipment. Specifically, for CBORD Merchants CBORD shall also:

1.4.1 identify the TPE needs, assist with the procurement of the required TPE (through purchase or lease) and schedule a meeting with each CBORD Merchant to conduct equipment installation and quality testing to ensure proper functionality of the TPE at the time of installation;

1.4.2 schedule training sessions with each CBORD Merchant and educate each location owner and/or key managers on TPE functions and the Campus Program;

1.4.3 provide an information hotline to CBORD Merchants for questions regarding the functionality of the TPEs; and

1.4.4 conduct periodic quality testing to ensure the functionality of TPEs prior to deployment and make commercially reasonable efforts to work with the Customer Campus Program systems provider for the purpose of maintaining the CBORD Merchants' access to the Campus Program Host.

1.5 Merchant Dispute Resolution. In the event that a Cardholder disputes a transaction at an CBORD Merchant, CBORD, or its subcontractor, shall (i) contact the CBORD Merchant on behalf of the Cardholder regarding the disputed transaction and request, when appropriate, a copy of the receipt signed by the Cardholder, and (ii) allow the CBORD Merchant fourteen (14) business days to provide a receipt. In the event the dispute is resolved in favor of the Cardholder, CBORD shall chargeback the disputed amount to the CBORD Merchant and notify the Customer of the corrective procedure. The Customer shall be responsible for communicating the status of the dispute to the Cardholder and for crediting any amounts resolved in favor of the Cardholder to the Cardholder's account. CBORD shall maintain a record of all disputes and the resolution thereof. The Customer agrees that disputes under this Section 1.4 shall be made no later than sixty (60) days after the date of the Transaction which is the subject to the dispute.

1.6 Merchant Reimbursement. Subject to Section 2.3 of this Attachment I, CBORD, through its subcontractors, shall be responsible for reimbursing CBORD Merchants via ACH for transactions made with the Customer Card as part of the Campus Program substantially as set forth in Section 4 of this Attachment I (the "Transaction Processing and Funds Transfer").

1.7 Merchant Marketing. CBORD shall set-up CBORD Merchants with (i) point of sale signage, (ii) Campus Program signage, and (iii) in-store posters referencing on-going promotions (the "In-Store Collateral"). CBORD shall also replenish In-Store Collateral.

2. Customer Obligations

2.1 To enable CBORD to perform the CBORD Services and to complete all Transaction Processing and Funds Transfers, the Customer agrees that it shall:

2.1.1 Be responsible for all hardware, software, communication and license costs associated with providing a Campus Program host capable of supporting Transaction Processing and Funds Transfers (as defined in Section 4) in a reliable and accurate manner (the "Campus Program Host"); and

2.1.2 make available the Campus Program Manager to work with CBORD to integrate the set-up of new CBORD Merchant with the Campus Program Host.

2.1.3 provide access to the Campus Program Host by providing to a central server owned or operated by CBORD (the "CBORD Central Server"), hosted by a third party service provider (the "Third Party Server Host"), access to the Campus Program Host to enable the CBORD Central Server to confirm Cardholder balances and authorize Transactions by Cardholders with CBORD Merchants at all times; and

2.1.4 Enable CBORD or its subcontractors to reimburse the CBORD Merchants, including the ability to transfer funds via ACH directly from a selected Customer account to such CBORD Merchants as substantially set forth in Section 4 of this Attachment I; and

2.1.5 Notify CBORD within one (1) hour if the Campus Program Host is not operational, the estimated time of system recovery and the time of actual system recovery. The Customer agrees that if the Campus Program Host is not operational or cannot be accessed by CBORD or CBORD's subcontractors, Transactions may not be processed.

2.2 Merchant Approval. The Customer agrees that it shall not withhold approval of any new merchant submitted by CBORD as part of the Target List without good reason and in any event shall not fail to approve fifty percent (50%) of all merchants submitted for approval by CBORD from the Target List. The Customer may not refuse to approve any Target List merchant based solely on the proximity of such merchant to campus or the category of product/service offered by such merchant, except as expressly stated in Section 1.1 of this Attachment I.

2.3 Funds Availability. The Customer shall make sufficient funds available to CBORD through a selected Customer bank account to enable CBORD or its authorized subcontractor (through ACH transfers or otherwise) to complete all Transaction Processing and Funds Transfers with CBORD Merchants for all Cardholder Transactions as described in Section 4 of this Attachment I.

2.4 Campus Program Policies. The Customer agrees that as of the effective date of this Addendum, the Campus Program policies shall include a provision stating that the Customer shall permit transaction processing using manual entry of Customer Card data in lieu of the Customer Card being present. Other than as set forth in this Attachment I, the Customer agrees that it shall not include any restrictions in the Campus Program policies (e.g. such as transactions surcharges, minimum amounts, etc.) on transactions with CBORD Merchants without the prior consent of CBORD.

2.5 Branding. The Customer agrees to permit the use of the Customer Licensed Indicia and the "Off-Campus Advantage" logo (the "Brand") on all collateral materials provided to CBORD Merchants without Customer approval and on all other Campus Program collateral as approved by the Customer after the effective date of this Addendum. The Customer shall not distribute any materials which bear any connection to CBORD, OCA or CBORD's trademarks or trade names without the permission of CBORD.

2.6 Cardholder Programs. At CBORD's discretion, CBORD will develop and execute programs which enable Cardholders to accumulate loyalty points and/or other promotional offers when they use their Customer Card for payment (collectively, the "Cardholder Programs"). To the extent Cardholder Programs are implemented, CBORD will award Cardholders the appropriate amount of loyalty points for their purchases periodically. CBORD will be responsible for the procurement and delivery of awards which are a part of the Cardholder Programs, except to the extent such goods or services are delivered by CBORD Merchants. The Customer agrees that the success of the Campus Card Program and the Cardholder Programs shall depend upon the active knowledge and use of the program by Cardholders. To disseminate information about the Campus Program, to encourage the depositing of funds by Cardholders and to permit the Cardholder Programs, the Customer agrees to provide CBORD with Directory Data for, and Access to, Cardholders. "Directory Data" shall be defined to include: Cardholder name, ID number and/or account number, home addresses, campus and email addresses. "Access" shall be defined to include the ability of CBORD to directly communicate with all current Cardholders at least weekly and with all current and potential Cardholders at least once prior to the beginning of each semester or term. The Customer agrees that it shall deliver the Directory Data to CBORD and allow CBORD direct Access to Cardholders. The Customer further warrants that prior to such delivery or Access it shall have received the written consent of each Cardholder to provide such Directory Data to CBORD, to include CBORD in the Campus Program as contemplated by this Addendum and to permit CBORD to collect information on its marketing efforts hereunder including transaction records.

2.7 CBORD Web Site Services. The Customer agrees to link its Campus Program web site, and any other web sites it selects in consultation with CBORD, to the Customer Card Web Site to enable Cardholders to access Campus Program information and services consistent with links to other Customer departmental web sites. The Customer shall be responsible for and/or for approving all content contained on the Campus Program Site, such consent not to be unreasonably withheld.

3. Payments.

3.1 Royalty. In connection with the CBORD Services, CBORD agrees that it shall pay the Customer a royalty payment (the "Royalty") as defined in the VASCUPPS Addendum dated June 19, 2008 between CBORD and the Commonwealth of Virginia, James Madison University ("Purchasing Agency") collected by CBORD from CBORD Merchants participating in the Campus Program as set forth in this Section 3.1 (the "Royalty Rate"):

Whereby CBORD shall offer transaction sales volume for the Agencies' revenue share percentages:

VASCUPPS Agencies' UGryd
Aggregate Revenue Share

<u>Tier 1</u>	<u>\$0 - \$250,000</u>	<u>30%</u>
<u>Tier 2</u>	<u>\$250,001 - \$500,000</u>	<u>35%</u>
<u>Tier 3</u>	<u>\$500,001 - \$1,000,000</u>	<u>40%</u>
<u>Tier 4</u>	<u>\$1,000,000 +</u>	<u>50%</u>

For purpose of calculating the Royalty, CBORD shall pay the Customer the applicable Royalty Rate up and until Tier 1 has been exceeded and shall not recalculate earlier payments based on a higher Royalty Rate in the event subsequent Sales occur. Each Academic Year (as such term is defined in Section 5 below) during the Term shall restart the calculation of Sales for purpose of calculating the Royalty owed to the Customer. For example, for each Transaction occurring after the date of this Addendum and during the first Academic Year, CBORD shall pay the Customer a Royalty calculated using the schedule above until such time during such Academic Year as the aggregate Sales by Cardholders at CBORD Merchants equals the next Tier. Subsequent Royalty rates shall be applied in a similar manner throughout the applicable Academic Year.

3.2 Excluded Amounts. The Royalty shall not include any other commission or fees, including but not limited to Terminal Fees, Transaction Fees or Other Fees, collected by CBORD from CBORD Merchants. Nothing in this Addendum shall impact the amounts collected by the Customer with respect to non-CBORD Merchants participating in the Campus Program. CBORD or its subcontractors shall pay the Royalty to the Customer on a periodic basis and in a manner consistent with Section 4 of this Attachment I.

4. Transaction Processing and Funds Transfer. The CBORD Transaction Processing and Funds Transfer service provides transaction processing services for the CBORD Merchants and shall manage ACH funds settlement of all Cardholder transaction activity at the CBORD Merchants, including automated payment and fee collection, through electronic ACH transfers in exchange for certain fees to be paid by CBORD Merchants as set forth herein. During the Term of the Addendum, a Cardholder shall use his/her Customer Card to make a purchase at a CBORD Merchant (a "Transaction") and the CBORD Merchant TPE shall dial-up to the CBORD Central Server which shall connect to the Campus Program Host to confirm the Cardholder balance, and if sufficient funds exist in the Cardholder account, approve the Transaction. The CBORD Central Server shall then communicate back an approval, or denial if there are insufficient funds, of the Transaction to the CBORD Merchant TPE. Each night the CBORD Central Server shall automatically download a file containing of all of the Transactions by Customer Cardholders approved during that day through the CBORD Central Server and send the file to the CBORD Merchant Processor for settlement.

4.2 Funds Transfer. The Customer shall be responsible for and shall manage all Cardholder accounts and a separate ACH clearing account for use by CBORD and its subcontractor (the "Customer Account") and shall retain all interest income therefrom. CBORD, through OCA and/or the CBORD Merchant Processor, shall arrange for funds for CBORD Merchant Transactions to be transferred from the

Customer Account to the CBORD Merchant accounts on a regular schedule and no less frequently than weekly. Funds sufficient to reimburse the CBORD Merchant Transactions shall be transferred by CBORD's subcontractor from the Customer Account to the CBORD Merchant accounts via ACH. CBORD, through its subcontractor, shall transfer all applicable Interchange Fees via ACH either from the Customer Account at the time the CBORD Merchants are reimbursed (resulting in a net reimbursement to the CBORD Merchant) or from the CBORD Merchant accounts to a CBORD account monthly, or at another frequency agreed to by the CBORD Merchant. CBORD, through its subcontractor, shall then deduct from the Interchange Fees, the Royalty owed to the Customer and shall pay the Customer the Royalty via ACH from CBORD's account to a Customer account. The Customer shall receive monthly notices of Sales and of the Royalties owed from CBORD on account of such Sales. In connection with the funds transfers, CBORD shall provide management reports to both the Customer and each CBORD Merchant for account reconciliation purposes.

4.3 The CBORD Merchant Processor shall process all Transactions as follows:

(a) CBORD shall perform, through the CBORD Merchant Processor, Interchange Fee and Royalty scorekeeping on all Transactions and risk assessment to identify unusual Transaction amounts, CBORD Merchant totals outside of defined ranges, and duplicate Transactions.

(b) CBORD shall organize, through the CBORD Merchant Processor, the information in the Transaction Files by debit and credit Transactions in order to create ACH settlement files (the "Settlement Files"). CBORD shall settle Transaction activity based on the Processing Date, which may differ from the Transaction Date.

(c) The Settlement Files shall be submitted by the CBORD Merchant Processor to the Federal Reserve ACH system.

(d) Funds shall be transferred via ACH by the CBORD Merchant Processor from the Customer Account to a Federal Reserve Bank clearing account. Funds shall then be transferred by the CBORD Merchant Processor from the Federal Reserve Bank clearing account to individual CBORD Merchant bank accounts.

(e) An email shall be sent by CBORD or the CBORD Merchant Processor to the Customer controller notifying the Customer of the settlement totals.

(f) If not done from the Customer Account at the time of the reimbursement of the CBORD Merchants (as described in Section 4.2 above), no less than monthly, Interchange Fees shall be transferred by CBORD through the CBORD Merchant Processor from the individual CBORD Merchant bank accounts to an CBORD bank account. Applicable Royalties shall then be transferred via ACH from a CBORD bank account to a Customer bank account.

(g) CBORD Merchant statements shall be printed and mailed monthly by CBORD or the CBORD Merchant Processor to CBORD Merchants.

(h) Customer statements and Royalty reconciliation reports shall be printed and mailed monthly to the Customer. Reports shall also be made available electronically.

5. **Definitions.** For purpose of this **Attachment I**, the following terms shall have the following meanings:

(a) "Academic Year" shall mean the period beginning July 1 and ending June 30 of the following calendar year. In the event the Addendum is executed after July 1 of any year, the first Academic Year shall be considered the period from the effective date of this Addendum through June 30 of the following calendar year.

(b) "Interchange Fees" shall mean an amount calculated by applying the then applicable Interchange Rate to the gross or net, as agreed to with each CBORD Merchant, Sales made by such CBORD Merchant.

(c) "Interchange Rate" shall mean the percentage of a participating CBORD Merchant's total Sales charged by CBORD to the CBORD Merchant in exchange for the CBORD Merchant's participation in the Campus Program.

(d) "Other Fees" shall mean any amounts charged to CBORD Merchants by CBORD to cover other operational merchant support costs, including but not limited to, monthly statements, merchant help desk, terminal replacement, transaction dispute handling and bank card fees, including those for transaction processing.

(e) "Processing Date" shall mean the date on which the Transaction is received by the CBORD Merchant Processor.

(f) "Sales" shall mean the aggregate sale amount paid by Cardholders to CBORD Merchants at the time of Transactions for goods or services.

(g) "CBORD Merchant Processor" shall mean the settlement system owned and operated by a subcontractor of CBORD that handles commission scorekeeping, risk assessment and reporting and which is a MasterCard/Visa certified system used to process bankcard activity for financial institutions nationwide.

(h) "Transaction Date" shall mean the actual date of any Cardholder Transaction.

(i) "Transaction Fees" shall mean any amounts charged to an CBORD Merchant by CBORD and calculated by applying a fixed per-Transaction rate to the number of CBORD Transactions presented by the CBORD Merchant to CBORD for settlement.

(j) "Terminal Fees" shall mean any amounts charged to CBORD Merchants by CBORD in connection with the provision of CBORD Merchant equipment required to participate in the Campus Program, including but not limited to TPEs.

ATTACHMENT II
MARKETING PROGRAM

CBORD shall work with Customer to promote the Campus Program (the "Marketing Plan Services"). The Marketing Plan Services will be offered to Customer and shall be performed by CBORD and managed by Customer's Client Services Manager (as defined in the Agreement) as follows:

Off Campus Advantage shall:

1. Customer shall print an annual flyer in the summer that contains both on and off-campus listings. OCA shall create the document at no cost and pay for half the printing cost (produced in-house by Customer)
2. Print flyers 2 times per year and at no charge to Customer.
3. Create and maintain a Loyalty Website with rewards program

ATTACHMENT III

WEB SITE DEVELOPMENT AND MAINTENANCE

At the Customer's election, CBORD shall design, maintain and host a Customer Card web site on the World Wide Web portion of the Internet (the "Customer Card Web Site") as set forth in Attachment I (the "CBORD Web Site Services"). The Customer Card Web Site shall be a ".com." The costs associated with the CBORD Web Site Services shall be included in the CBORD Fee (as defined in **Attachment I**).

The Customer Card Web Site shall be a ".com" web site and shall link to other Customer web sites, as requested by the Customer.

CBORD agrees to create and maintain a Loyalty Website with rewards program.

Addendum to

Contract No. UCPJMU3458
Commonwealth of Virginia Standard Contract ("Contract")

between
The CBORD Group, Inc. ("Contractor")
and the
Commonwealth of Virginia, James Madison University ("Purchasing Agency")

WHEREAS the Contract, for the benefit of the VASCUPPS Agencies ("Agencies"), provides discounts to the Agencies for the purchases of CBORD CS Gold products as defined therein, and

WHEREAS, both parties agree to include the additional CBORD products under this Agreement,

WHEREBY CBORD software is discountable, and service and maintenance fees, professional services, third-party software, hardware and transaction fees are non-discountable, and

WHEREBY software, service and maintenance fees, professional services, third-party software and hardware invoices shall act as accumulators towards the purchase totals, with the exception of transaction fees:

NetCardManager
ManageMyID
Webfood

Each Agency shall be required to execute a separate Addendum for the above products.
Notwithstanding the above, Agencies shall have access to CBORD's Off-Campus Advantage ("UGryd") programs as follows, whereby CBORD shall offer transaction sales volume for the Agencies' revenue share percentages:

VASCUPPS Agencies' UGryd
Aggregate Revenue Share

<u>Tier 1</u>	<u>\$0 - \$250,000</u>	<u>30%</u>
<u>Tier 2</u>	<u>\$250,001 - \$500,000</u>	<u>35%</u>
<u>Tier 3</u>	<u>\$500,001 - \$1,000,000</u>	<u>40%</u>
<u>Tier 4</u>	<u>\$1,000,000 +</u>	<u>50%</u>

Each Agency shall be required to execute a separate addendum for the UGryd program.

IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed intending to be bound thereby.

CONTRACTOR

BY: 

NAME/TITLE: *Timothy A. Tighe*

DATE: *6/19/08*

PURCHASING AGENCY

BY: *Lisa Mouchray*

NAME/TITLE: *Buyer Senior*

DATE: *6/19/08*



May 26, 2006

Ms. Iris Moubray
Senior Buyer and Procurement Services
James Madison University
800 South Main Street
MSC 5720
Harrisonburg, VA 22807

Dear Ms. Moubray:

Your facility and Diebold, Inc., an Ohio corporation ("Diebold"), are parties to an Agreement related to Card Systems.

The CBORD Group, Inc., a Delaware corporation ("CBORD"), has acquired Diebold's Card Systems Division ("CSD").

In connection with the Acquisition, CBORD hereby requests that you consent to any deemed assignment, change of control or other consequence of the Acquisition as to which your consent is or may be required under the Agreement. Further, CBORD also requests that you waive any and all notice and other procedural requirements set forth in the Agreement as such requirements relate to this consent. CBORD expressly understands and agrees that this waiver is not and shall not be construed as either a waiver of notice or other procedural requirements with respect to any other matters or a waiver of any other obligation of CBORD under the Agreement. Please acknowledge: (1) your consent to any deemed assignment, change of control or other consequence of the Merger as to which your consent is or may be required under the Agreement, (2) your waiver of any and all notice and other procedural requirements set forth in the Agreement as such requirements relate to this consent, and (3) your agreement with the foregoing by signing this letter in the space provided below and returning a copy to my attention at the address and fax number set forth below.

Thank you in advance for your prompt attention to this request.

THE CBORD GROUP, INC.

Acknowledged and agreed:
James Madison University

By: Timothy A. Tighe
President & CEO

By: Iris Moubray
Print Name: Iris Moubray
Title: Buyer Sr
Date: 6/20/06



May 26, 2006

Ms. Iris Moubray
Senior Buyer and Procurement Services
James Madison University
800 South Main Street
MSC 5720
Harrisonburg, VA 22807

Dear Ms. Moubray:

Thank you for your continued support of Diebold Card Systems Division's products and services. I am writing to ask for your immediate attention to an important matter that pertains to our relationship.

As is described in the attached letter, The CBORD Group, Inc. has undertaken an acquisition transaction, whereby it has acquired Diebold's Card Systems Division. We believe you will notice only improvements in the new relationship with CBORD. Diebold Card Systems customers can leverage the expanded service capabilities and the full range of products and technologies provided by the new, combined organization.

CBORD is having a great year, and the prospects for the future seem brighter still. Thank you in advance for taking the time to read this letter and the attachment and for responding to our request. I ask that you sign the attached letter and return it to me (at your very earliest convenience) by fax at 607-257-1902, with the original by mail in the enclosed self-addressed envelope.

If you have any questions or concerns regarding this matter, or if you cannot execute the attached letter and return it to me in the next couple of days, please give me a call at 607-330-7575 so that we may discuss the situation.

Sincerely,

The CBORD Group, Inc.

Timothy A. Tighe
President

TAT:csc



COMMONWEALTH OF VIRGINIA
STANDARD CONTRACT

Contract No. UCPJM3458

This contract entered into this 1st day of October, 2005, by The CBORD Group, Inc. hereinafter called the "Contractor" and the Commonwealth of Virginia, James Madison University, called the "Purchasing Agency".

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

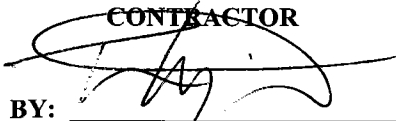
SCOPE OF CONTRACT: The Contractor shall provide the services to the Purchasing Agency as set forth in the Contract Documents.

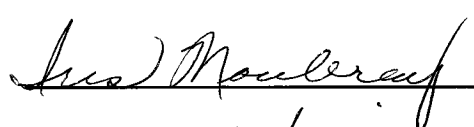
PERIOD OF PERFORMANCE: From October 1, 2005 through September 30, 2006
With an Option to renew for 9 additional one year periods.

The contract documents shall consist of:

- (1) This signed form;
- (2) The attached purchasing description which consists of :
 - (a) The Scope of Work,
 - (b) The General Terms and Conditions,
 - (c) The Special Terms and Conditions, all of which documents are incorporated herein.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR
BY: 
TITLE: Timothy A. Tighe
President

PURCHASING AGENCY
BY: 
TITLE: Susan Moulcraft
Senior

SCOPE OF WORK

CONTRACT # UCPJMU3458

**JAMES MADISON UNIVERSITY
AND
CBORD GROUP, INC.**

Contractor shall offer a full range of options on all equipment, i.e., purchase and lease, services in accordance with current retail price list and letter from Steve Gresham dated September 8, 2005 detailing discount schedule, to all Commonwealth of Virginia Agencies which currently have CBORD systems installed.

This contract shall be accessible by all Commonwealth of Virginia Agencies/Institutions, K-12 School Systems of the Commonwealth, City or County with the Commonwealth and any Commonwealth of Virginia Agency/Institutions not-for-profit foundations. James Madison University is the sponsoring agency and will authorize and approve use of the contract by other qualified agencies/institutions throughout the contract's term.

The following Institutions shall immediately have access to the contract:

**James Madison University
Longwood University
Norfolk State University
Old Dominion University
Radford University
University of Virginia
Virginia Commonwealth University
Virginia Polytechnic Institute and State University
Northern Virginia Community College
Tidewater Community College**

All new systems must be competed for at an agency/institution level and awarded to CBORD prior to obtaining access to this contract. CBORD requires that each institution must have signed their Card Systems Master Agreement prior to being granted access to this contract.



September 8, 2005

Iris M. Moubray, C.P.M., VCO
James Madison University
Procurement Services MSC5720
1070 Virginia Ave., Suite 299 Harrisonburg, VA 22807

Iris,

Per your request, here is a list of current CBORD system users:

James Madison University
Longwood University
Norfolk State University
Old Dominion
Radford University
University of Virginia
Virginia Commonwealth University
Virginia Tech
Northern Virginia Community College
Tidewater Community College

CBORD is willing to offer the schools listed above a discount based on previous fiscal year purchases. Service and maintenance invoices will count as accumulators towards the purchase totals, but will not be discounted. Professional Services (e.g. Project Management, On-site assistance by Systems Engineers) and third-party software and hardware are non-discountable, but will act as accumulators. In some cases CBORD may elect to offer products at a greater discount to all customers. No other discounts can be combined with the following discounts, however if other discounts become available, the University may choose the discount that benefits it most.

The discount schedule is as follows:

Total Invoices	Discount
Less than \$900,000	No Discount
\$900,000 - \$1,299,999	7.5%
\$1,300,000 - \$1,699,999	10.5%
\$1,700,000 - \$1,999,999	12%
\$2,000,000+	13%

Discounts are applied to the then-current product list price. All products must be quoted at the time of purchase, and the quote will provide the list price and the discounted price.

Sincerely,
Steve Gresham

Steve Gresham
Senior Account Manager
The CBORD Group, Inc.
1556 Winbury Drive
Midlothian, VA 23114

GENERAL & SPECIAL TERMS AND CONDITIONS

- A. **PURCHASING MANUAL:** This contract is subject to the provisions of the Commonwealth of Virginia's **Purchasing Manual for Institutions of Higher Education and Their Vendors** and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is available for review at the purchasing office. In addition, the manual may be accessed electronically at <http://www.jmu.edu/procurement> or a copy can be obtained by calling Procurement Services at (540) 568-3145.
- B. **APPLICABLE LAWS AND COURTS:** This contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the Commonwealth of Virginia *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** Contractor certifies to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide

occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
- 2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. **ETHICS IN PUBLIC CONTRACTING:** Contractor certifies that their quotes are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeree), supplier, manufacturer or subcontractor in connection with their quote, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** Contractor certifies that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS:** Contractor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- G. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. PAYMENT:

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. A contractor is hereby obligated:

- (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
 - b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.
 3. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

I. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

J. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

K. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:

 1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
- b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

L. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

M. **TAXES:** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

N. **INSURANCE:** By signing Contract #UCPJMU3458, the Contractor certifies that they have the following insurance coverages at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR CONTRACT:

1. **Workers' Compensation - Statutory requirements and benefits.** Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirement under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. **Employer's Liability - \$100,000.**
3. **Commercial General Liability - \$1,000,000 per occurrence.** Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. **Automobile Liability - \$1,000,000 per occurrence.** (Only used if motor vehicle is to be used in the contract.)

O. **DRUG-FREE WORKPLACE:** During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and

specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- P. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, web site portal www.eva.state.va.us, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders or offerors must register in eVA; failure to register will result in the bid/proposal being rejected.
- a. **eVA Basic Vendor Registration Service:** \$25 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, and electronic bidding.
 - b. **eVA Premium Vendor Registration Service:** \$200 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments, and ability to research historical procurement data, as they become available.
- Q. **RENEWAL OF CONTRACT:** This contract may be renewed by the Commonwealth upon written agreement of both parties for nine (9) successive one year periods, under the terms of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration.

SOLE SOURCE REQUEST

GOOD/SERVICE: Perpetual CBORD System Equipment and Services

1. EXPLAIN WHY THIS IS THE ONLY PRODUCT/SERVICE THAT CAN MEET THE AGENCY'S NEEDS:

Numerous agencies/institutions of the Commonwealth have competitively purchased CBORD Campus Card Systems. Additional equipment and services are required each year in the operations of these systems. The software is proprietary and another contractor cannot provide equipment that will interface with the CBORD System. Services cannot be provided by another contractor without voiding the System warranty.

2. EXPLAIN WHY THIS VENDOR IS THE ONLY PRACTICABLY AVAILABLE SOURCE FROM WHICH TO OBTAIN THIS PRODUCT OR SERVICE:

CBORD is the sole provider of compatible equipment and due to the proprietary software, maintenance services can only be provided by CBORD. CBORD does not have manufacturer's representatives, nor distributors.

3. EXPLAIN WHY THE PRICE IS CONSIDERED REASONABLE:

Without a contract incorporating a discount schedule, CBORD charges the current retail prices. By establishing a contract incorporating all Commonwealth of Virginia agencies/institutions purchases and establishing discounts from 7.5% to 13% based on volume of purchases of all agencies/institutions, the Commonwealth will obtain considerable savings. The discount structure will provide considerable savings to the Commonwealth and the pricing will be more reasonable than the retail price.

4. DESCRIBE THE EFFORTS THAT WERE MADE TO CONDUCT NON-COMPETITIVE NEGOTIATION TO GET THE BEST POSSIBLE PRICE FOR THE TAXPAYERS:

The University contacted CBORD and requested establishing a contract to provide discounts to all the Commonwealth of Virginia agencies/institutions for additional CBORD equipment and services. During negotiations CBORD provided a discount structure based on volume of purchases by all agencies/institutions. Discounts from 7-1/2% to 13% were provided. These were the highest discount CBORD were willing to provide.

CERTIFICATION: I certify that the above statements are true and complete to the best of my knowledge.

Les Moulouat
Signature

10/7/05
Date

Approved [☒] Rejected [☐]

Mary W. Helmick
Mary Helmick, Director of Procurement Services

10/7/05
Date