

Addendum attached hereto and
incorporated herein for all purposes.

TCM Contract # 2021-481

QUOTE



MAINTENANCE RENEWAL

QUOTE: 105-921-23

DATE: 6/1/2021

UNIVERSITY OF NORTH TEXAS

From:

Kinetic Software, Inc. d/b/a
WebCheckout 4000 W Montrose Ave.
#505
Chicago, IL 60641
Phone 773-477-7019
Fax 773-477-7021

Description

MAINTENANCE FOR WEBCHECKOUT SOFTWARE

Fees

\$ 18,394.00

TERM DATES: SEPTEMBER 1, 2021 - AUGUST 31, 2022

**WEBCHECKOUT RESOURCE MANAGEMENT &
SCHEDULING SOFTWARE AND THE FOLLOWING
MODULES:**

Authentication Module, Repair and Preventative Maintenance Module, Patron Integration Module, Bundles Module, Reservation by Resource Type Module, Patron Portal Module, Media Module, Messaging Module, and Billing Module

Total Fees: \$18,394.00

Notes:

1. Unless the parties have executed a separate agreement governing Maintenance, this Quote is subject to the attached WebCheckout Maintenance Terms.
2. All amounts stated in this Quote are in US dollars and exclude any sales tax, duties, or other third party fees and/or taxes (where applicable). Any taxes or fees due will be calculated and specified on the invoice.
3. All payments are non-refundable.
4. At any time during the Term, if Client makes a change in test instances - hosted or non-hosted, or the authentication type or vendor, the costs associated to such change is not included in the Fees set forth in this Quote and Client will be subject to additional charges based on WebCheckout's then current standard rates or based on time and material billable at a 3 hour minimum.

Acceptance of foregoing renewal and WebCheckout Maintenance Terms:

Client Signature: _____

Print Name/Title: _____
8/20/2021

Date: _____

PO Number: **243289**

Bill to Address if different than above:

University of North Texas System

Attn: _____
1112 Dallas Dr, Ste. 4000,
Denton, TX 76205
Invoices@untsystem.edu
Phone # 940-369-5500

Kinetic Software Inc. Tax ID No. 76-0824724 PLEASE
NOTE NEW REMITTANCE ADDRESS FOR CHECKS
AND NEW ACCOUNT NUMBER FOR WIRES

BY CHECK:
Kinetic Software, Inc. d/b/a WebCheckout 4000 W
Montrose Ave. #505
Chicago, IL 60641

BY WIRE:

Swift Address: WFBUS6S Account #
4057573008

WebCheckout Maintenance Terms

Kinetic Software, Inc. doing business as WebCheckout ("WebCheckout") will provide client ("Client") named on the foregoing quote ("Quote") with maintenance and support of licensed proprietary software and related modules known as WebCheckout, as more specifically identified in the Quote ("Software"). These terms apply upon payment of the Maintenance fees on the Quote unless the parties have executed a separate agreement governing maintenance of the Software. These terms supersede any alternative terms provided by Client including, purchase order terms. The Software is subject to a separate license between the parties (or, if none, WebCheckout's standard license terms) ("License").

1. **Term.** Maintenance periods are a term of one (1) year and shall automatically renew annually unless Client provides written notice to WebCheckout at least thirty (30) days prior to the renewal date. The maintenance term is set forth in the Quote.

2. **Fees/Payment.** Maintenance fees are due annually in advance. Invoices are due thirty (30) days from the invoice date. WebCheckout may increase fees annually.

3. **Maintenance.** Upon payment of the fees on the Quote, WebCheckout shall provide Maintenance.

(a) "Maintenance" means the Software maintenance services provided by WebCheckout, which includes (i) online and telephone support provided during normal business hours (9:00 a.m. to 5 p.m. CST) relating to the use and Maintenance of the Software and (ii) updates to the Software as they are developed and made generally available to customers. Updates are subject to the License and Client will install updates promptly. WebCheckout will continue to support the most recent two

(2) prior versions of the Software.

(b) Maintenance does not include training, consulting, installation, or modification or customization of the Software that is not an update or Maintenance. Such additional services are available by mutual agreement of the parties.

(c) Client will assist WebCheckout by providing information reasonably required to diagnosis issues with the Software. WebCheckout will not provide Maintenance for issues not caused by the Software or for Client's improper use of the Software.

(d) Client will provide WebCheckout with reasonable access to its computer systems as is necessary to enable WebCheckout to provide Maintenance.

4. **Ownership.** WebCheckout owns all intellectual property rights in and to (i) the Software; (ii) all updates to the Software; (iv) any documentation or data related to the Software; and (v) any software, applications, inventions or other technology developed in connection with the Software. For clarity, Client obtains no ownership interest in the Software or Maintenance.

5. **Limitation of Liability.** Neither party shall be liable for any indirect, incidental, consequential, exemplary, special, or punitive damages including, without limitation, any damages resulting from loss of use, loss of business, loss of revenue, loss of profits, or loss of data, even if a party has been advised of the possibility of such damages. WebCheckout's entire liability related to the Software or Maintenance will be limited to direct damages in an amount equal to the fees paid by Client to WebCheckout for Maintenance during the twelve (12) month period immediately preceding the claim.

STANDARD ADDENDUM TO AGREEMENT

Contracts with the University of North Texas System and the University of North Texas (collectively, "UNT") are subject to the following terms and conditions, which are incorporated for all purposes into the Agreement to which they are attached. In the event of a conflict between the Agreement and this Addendum to Agreement, this Addendum shall govern. Any term or condition of the Agreement that is not superseded by a term or condition of this Addendum shall remain in full force and effect.

Payment. In accordance with Chapter 2251 of the Texas Gov't Code: (a) payment shall be made no later than thirty days following the later of (i) delivery of the goods or completion of the services and (ii) delivery of an invoice to UNT; and (b) interest, if any, on past due payments shall accrue and be paid at the maximum rate allowed by law. Vendor must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur. Invoices and any required supporting documents must be presented to: University of North Texas – Business Service Center, 1112 Dallas Dr. Ste. 4000, Denton, TX 76205.

Eligibility to Receive Payment. By entering into and performing under this Agreement, Vendor certifies that under Section 231.006 of the Texas Family Code and under Section 2155.004 of the Texas Gov't Code, it is not ineligible to receive the specified payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Tax Exempt. UNT is exempt from the payment of taxes and will provide necessary documentation confirming its tax exempt status.

Breach of Contract Claims Against UNT. Chapter 2260 of the Texas Gov't Code establishes a dispute resolution process for contracts involving goods, services, and certain types of projects. To the extent that Chapter 2260, Texas Gov't Code, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the parties to attempt to resolve any claim for breach of contract against UNT that cannot be resolved in the ordinary course of business.

Governing Law and Venue. This Agreement shall be construed and enforced under and in accordance with the laws of the State of Texas. The Agreement is made and entered into, and is performable in whole or in part in Denton County, Texas, and venue for any suit filed against UNT shall be subject to the mandatory venue statute set forth in § 105.151 of the Texas Education Code.

No Excess Obligations. In the event this Agreement spans multiple fiscal years, UNT's continuing performance under this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Texas State Legislature. If the Legislature fails to appropriate or allot the necessary funds, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act, UNT shall issue written notice to Vendor that UNT may terminate the Agreement without further duty or obligation.

Travel Expenses. Reasonable travel, meals, and lodging expenses shall be charged in accordance with and shall not exceed State of Texas travel, meal, and lodging reimbursement guidelines applicable to employees of the State of Texas.

Delivery. Delivery shall be FOB Destination.

Insurance. UNT, as an agency of the State of Texas, is insured for general liability insurance under a self-insurance program covering its limits of liability. The parties agree that such self-insurance by UNT shall without further requirement, satisfy all insurance obligations of UNT under the Agreement.

Public Information. UNT shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Vendor shall make public information available to UNT in an electronic format. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this contract and Vendor agrees that the contract can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter. Further, Vendor agrees (1) to preserve contracting information for the duration of the contract and according to UNT records retention requirements; (2) to promptly provide contracting information to UNT when requested; and (3) upon completion of the contract to provide, at no cost, all contracting information to UNT or to preserve all contracting information according to UNT's records retention requirements.

Required Posting of Contracts on Website. Vendor acknowledges and agrees that UNT is required by Section 2261.253 of the Texas Gov't Code to post each contract it enters into for the purchase of goods or services from a private vendor on its Internet website, including any terms and conditions otherwise marked confidential and/or proprietary.

Israel Non-Boycott Verification. If the Agreement is subject to Texas Gov't Code Section 2271.002, Vendor hereby represents, verifies, and warrants that it does not boycott Israel and will not boycott Israel during the term of the Agreement.

Limitations. UNT is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on UNT property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers, and limitations on legal rights, remedies, requirements, and processes; limitations of time in which to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; and indemnities. Terms and conditions relating to these limitations will not be binding on UNT, except to the extent not prohibited by the Constitution and the laws of the State of Texas.

VENDOR: Kinetic Software aka webCheckout

UNIVERSITY OF NORTH TEXAS

By: 
Name: _____
Title: _____
Date: 8/20/2021

By: 
Title: _____
Date: 8/20/2021

Declaration of Procurement Method

The attached contract document has been issued as a result of either a sole source or proprietary justification approved by the University of North Texas System Procurement Department.

The approved justification form is on file with the UNT System Procurement Department records.