

STATE OF NORTH CAROLINA

UNIVERSITY OF NORTH CAROLINA AT WILMINGTON

Request for Proposal #:72-PCWP24016

Calculation Agent Services

Date of Issue: 09/15/2023

Proposal Opening Date: 09/29/2023

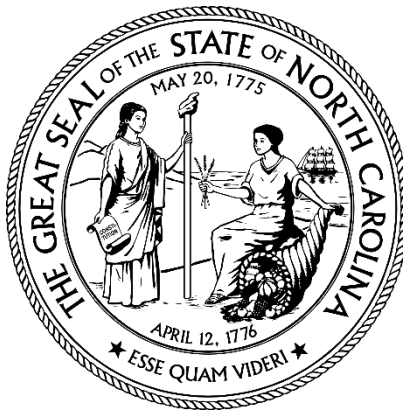
At 02:00 PM ET

Direct all inquiries concerning this RFP to:

Carol W. Page

Email: pagec@uncw.edu

Phone: 910-962-3190



STATE OF NORTH CAROLINA

Request for Proposal

72-PCWP24016

For internal State agency processing, including tabulation of proposals, provide your company's eVP (Electronic Vendor Portal) Number. Pursuant to G.S. 132-1.10(b) this identification number shall not be released to the public. **This page will be removed and shredded, or otherwise kept confidential**, before the procurement file is made available for public inspection.

**This page shall be filled out and returned with your proposal.
Failure to do so may subject your proposal to rejection.**

Vendor Name

Vendor eVP#

Note: For a contract to be awarded to you, your company (you) must be a North Carolina registered vendor in good standing. You must enter the vendor number assigned through eVP (Electronic Vendor Portal). If you do not have a vendor number, register at <https://vendor.ncgov.com/vendor/login>

For eVP System Support contact 888-211-7440

Electronic responses ONLY will be accepted for this solicitation.

STATE OF NORTH CAROLINA <i>University of North Carolina at Wilmington</i>	
Refer <u>ALL</u> Inquiries regarding this RFP to: Carol W. Page, Associate Director, UNCW Purchasing Services pagec@uncw.edu	Request for Proposal #: 72-PCWP24016 Proposals will be publicly opened. Date and Time: 09/29/2023 2:00 PM ET Zoom Meeting Link: Meeting ID: 949 804 4566 Passcode: yDPx3E
Requisition No.: TBD	Commodity No. and Description: 84000000 Financial and Insurance Services

EXECUTION

In compliance with this Request for Proposals (RFP), and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein.

By executing this proposal, the undersigned Vendor understands that false certification is a Class I felony and certifies that:

- this proposal is submitted competitively and without collusion (G.S. 143-54),
- none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and
- it is not an ineligible Vendor as set forth in G.S. 143-59.1.

Furthermore, by executing this proposal, the undersigned certifies to the best of Vendor’s knowledge and belief, that:

- it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency.

As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this RFP, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system.

As required by Executive Order 24 (2017), the undersigned vendor certifies will comply with all Federal and State requirements concerning fair employment and that it does not and will not discriminate, harass, or retaliate against any employee in connection with performance of any Contract arising from this solicitation.

G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public contracts; or awarding or administering public contracts; or inspecting or supervising delivery of the public contract of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of this response to the RFP, the undersigned certifies, for Vendor’s entire organization and its employees or agents, that Vendor is not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

By executing this proposal, Vendor certifies that it has read and agreed to the **INSTRUCTION TO VENDORS** and the **NORTH CAROLINA GENERAL TERMS AND CONDITIONS incorporated herein**. These documents can be accessed from the ATTACHMENTS page within this document.

Failure to execute/sign proposal prior to submittal may render proposal invalid and it MAY BE REJECTED. Late proposals shall not be accepted.

COMPLETE/FORMAL NAME OF VENDOR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #21):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:	FAX NUMBER:	
VENDOR’S AUTHORIZED SIGNATURE*:	DATE:	EMAIL:

VALIDITY PERIOD

Offer shall be valid for at least sixty 60 days from date of bid opening, unless otherwise stated here: 120 days, or if extended by mutual agreement of the parties in writing. Any withdrawal of this offer shall be made in writing, effective upon receipt by the agency issuing this RFP.

Proposal Number: 72-PCWP24016

Vendor: _____

ACCEPTANCE OF PROPOSAL

If your proposal is accepted, all provisions of this RFP, along with the written results of any negotiations, shall constitute the written agreement between the parties ("Contract"). The NORTH CAROLINA GENERAL TERMS AND CONDITIONS are incorporated herein and shall apply. Depending upon the Services being offered, other terms and conditions may apply, as mutually agreed.

FOR STATE USE ONLY: Offer accepted and Contract awarded this _____ day of _____, 20____, as indicated on

The attached certification, by _____.

(Authorized Representative of University of North Carolina at Wilmington)

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1.0 PURPOSE AND BACKGROUND

The Center for Innovation and Entrepreneurship (“CIE”) at the University of North Carolina at Wilmington (herein after referred to as “State”, “UNCW” or “the University”) wishes to engage the services of Calculation Agent to support its development of an exciting new program, the UNC Wilmington Blue Economy Index.

The index will be 100 global equity securities, reconstituted annually, rebalanced semi-annually. We are looking for EOD calculation only until the index is licensed.

The index was constructed through our partnership with FactSet. UNCW owns the IP and FactSet will help with the operational duties.

Additionally, UNCW will be offering a class this fall semester in Indexing and this index will be a big part of that class. Therefore, we also like to ask that in your pricing of the calculation of the index if you can include any offering you can make to enhance the student experience in the classroom. Internships, technology, ability to guest lecture and any other student activity you can offer.

The intent of this solicitation is to award an Agency Specific Contract.

For information about:

- UNCW CIE please visit: <https://uncw.edu/research/centers/innovation-entrepreneurship/>
- Blue Economy Index:
<https://uncw.edu/research/centers/innovation-entrepreneurship/events-programs/programs/blue-economy>
- For general information about UNCW: <https://uncw.edu/about/>

1.1 CONTRACT TERM

The Contract shall have an initial term of one (1) year, starting on the date of final Contract execution (the “Effective Date”).

At the end of the Contract’s initial term, the State shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to one (1) additional one-year term. The State will give the Vendor written notice of its intent to exercise each option no later than sixty (60) days before the end of the Contract’s then-current term. In addition to any optional renewal terms, and with the Vendor’s concurrence, the State reserves the right to extend the Contract after the last active term.

Proposals shall be submitted in accordance with the terms and conditions of this RFP and any addenda issued hereto.

2.0 GENERAL INFORMATION

2.1 REQUEST FOR PROPOSAL DOCUMENT

This RFP is comprised of the base RFP document, any attachments, and any addenda released before Contract award, which are incorporated herein by reference.

2.2 E-PROCUREMENT FEE

ATTENTION: The E-Procurement fee **DOES NOT** apply to this solicitation. See the paragraph entitled ELECTRONIC PROCUREMENT of the North Carolina General Terms and Conditions.

General information on the E-Procurement Services can be found at: <http://eprocurement.nc.gov/>.

2.3 NOTICE TO VENDORS REGARDING RFP TERMS AND CONDITIONS

It shall be the Vendor’s responsibility to read the Instructions to Vendors, the North Carolina General Terms and Conditions, all relevant exhibits and attachments, and any other components made a part of this RFP and comply with all requirements and specifications herein. Vendors are also responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this RFP.

If Vendors have questions or issues regarding any component of this RFP, those must be submitted as questions in accordance with the instructions in the PROPOSAL QUESTIONS Section. If the State determines that any changes will be made as a result of the questions asked, then such decisions will be communicated in the form of an RFP addendum. The State may also elect to leave open the possibility for later negotiation of specific provisions of the Contract that have been addressed during the question-and-answer period, prior to contract award.

Other than through the process of negotiation under 01 NCAC 05B.0503, the State rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor’s proposal or otherwise. This applies to any language appearing in or attached to the document as part of the Vendor’s proposal that purports to vary any terms and conditions or Vendors’ instructions herein or to render the proposal non-binding or subject to further negotiation. Vendor’s proposal shall constitute a firm offer that shall be held open for the period required herein (“Validity Period” above).

The State may exercise its discretion to consider Vendor proposed modifications. By execution and delivery of this RFP Response, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded unless expressly agreed upon through negotiation and incorporated by way of a Best and Final Offer (BAFO). Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor’s proposal as nonresponsive.

2.4 RFP SCHEDULE

The table below shows the *intended* schedule for this RFP. The State will make every effort to adhere to this schedule.

Event	Responsibility	Date and Time
Issue RFP	State	09/15/2023
Submit Written Questions	Vendor	09/20/2023 at 12:00 PM ET
Provide Response to Questions	State	Around 09/22/2023
Submit Proposals	Vendor	09/29/2023 at 02:00 PM ET
Remote Pre-Award Interview (if requested by UNCW)	State & Vendor	TBD
Contract Award	State	TBD

2.5 SITE VISIT or PRE-PROPOSAL CONFERENCE

[Reserved]

2.6 PROPOSAL QUESTIONS

Upon review of the RFP documents, Vendors may have questions to clarify or interpret the RFP in order to submit the best proposal possible. To accommodate the Proposal Questions process, Vendors shall submit any such questions by the “Submit Written Questions” date and time provided in the RFP SCHEDULE Section above, unless modified by Addendum.

Written questions shall be emailed to pagec@uncw.edu by the date and time specified above. Vendors should enter “RFP # _____ Questions” as the subject for the email. Question submittals should include a reference to the applicable RFP section and be submitted in the format shown below:

Reference	Vendor Question
RFP Section, Page Number	Vendor question ...?

Questions received prior to the submission deadline date, the State’s response, and any additional terms deemed necessary by the State will be posted in the form of an addendum to **the electronic Vendor Portal (eVP), <https://evp.nc.gov>**, and shall become an Addendum to this RFP. No information, instruction or advice provided orally or informally by any State personnel, whether made in response to a question or otherwise in connection with this RFP, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in the RFP and an addendum to this RFP.

2.7 PROPOSAL SUBMITTAL

IMPORTANT NOTE: This is an absolute requirement. Late bids, regardless of cause, will not be opened or considered, and will be automatically disqualified from further consideration. Vendor shall bear the sole risk of late submission due to unintended or unanticipated delay. It is the Vendor’s sole responsibility to ensure its proposal has been received as described in this RFP by the specified time and date of opening. The time and date of receipt will be marked on each proposal when received. Any proposal or portion thereof received after the proposal deadline will be rejected.

[eVP]

All proposal responses shall be submitted electronically via the electronic Vendor Portal (eVP). Additional information can be found at the eVP updates for Vendors link: <https://eprocurement.nc.gov/news-events/evp-updates-vendors> or contact: 888-211-7440.

If confidential and proprietary information is included in the proposal, also submit one (1) signed, REDACTED copy of the proposal. Such information may include trade secrets defined by N.C. Gen. Stat. § 66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. §132- 1.2. Vendor may designate information, Products, Services or appropriate portions of its response as confidential, consistent with and to the extent permitted under the statutes and rules set forth above. By so redacting any page, or portion of a page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors, that the portions determined to be confidential and proprietary and redacted as such, meet the requirements of the Rules and Statutes set forth above. However, under no circumstances shall price information be designated as confidential.

If the Vendor does not provide a redacted version of the proposal with its proposal submission, the Department may release an unredacted version if a record request is received.

Failure to submit a proposal in strict accordance with these instructions shall constitute sufficient cause to reject a Vendor’s proposal(s). Vendors are strongly encouraged to allow sufficient time to upload proposals.

Critical updated information may be included in Addenda to this RFP. It is important that all Vendors responding to this RFP periodically check the State’s **eVP website** for any Addenda that may be issued prior to the bid opening date. All Vendors shall be deemed to have read and understood all information in this RFP and all Addenda thereto.

2.8 PROPOSAL CONTENTS

Vendors shall populate all attachments of this RFP that require the Vendor to provide information and include an authorized signature where requested. Failure to provide all required items, or Vendor’s submission of incomplete items, may result in the State rejecting Vendor’s proposal, in the State’s sole discretion.

Vendor RFP responses shall include the following items and attachments, which shall be arranged in the following order:

- a) Cover Letter, which must contain the following: (i) a statement that confirms that the proposer has read the RFP in its entirety, including all links, and all Addenda released in conjunction with the RFP, (ii) a statement that the Vendor agrees to perform in accordance with the scope of work, requirements, and specifications contained herein; and (iii) Vendor’s agreement to comply with all instructions, terms and conditions, and attachments.

- b) Title Page: Include the company name, address, phone number and authorized representative along with the Proposal Number.
- c) Completed and signed version of all EXECUTION PAGES, along with an entire copy of the RFP.
- d) Signed receipt pages of any addenda released in conjunction with this RFP, if required to be returned.
- e) Vendor's Proposal addressing all Specifications of this RFP.
- f) Completed version of ATTACHMENT A: PRICING AND QUESTIONS TO VENDOR
- g) Completed version of ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION
- h) Completed version of ATTACHMENT E: CUSTOMER REFERENCE FORM
- i) Completed version of ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR
- j) Completed and signed version of ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION

2.9 ALTERNATE PROPOSALS

Unless provided otherwise in this RFP, Vendor may submit alternate proposals for comparable Services, various methods or levels of Service(s), or that propose different options. Alternate proposals must specifically identify the RFP requirements and advantage(s) addressed by the alternate proposal. Any alternate proposal, in addition to the marking described above, must be clearly marked with the legend: "Alternate Proposal #___ [for 'name of Vendor']". Each proposal must be for a specific set of Services and must include specific pricing. If a Vendor chooses to respond with various offerings, each must be offered with a separate price and be contained in a separate proposal document. Each proposal must be complete and independent of other proposals offered.

2.10 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

Relevant definitions for this RFP are provided in 01 NCAC 05A .0112 and in the Instructions to Vendors found below which are incorporated herein by this reference.

3.0 METHOD OF AWARD AND PROPOSAL EVALUATION PROCESS

3.1 METHOD OF AWARD

North Carolina G.S. 143-52 provides a general list of criteria the State shall use to award contracts, as supplemented by the additional criteria herein. The Services being procured shall dictate the application and order of criteria; however, all award decisions shall be in the State's best interest. All qualified proposals will be evaluated, and awards will be made to the Vendor(s) meeting the specific RFP Specifications and achieving the highest and best final evaluation, based on the criteria described below.

While the intent of this RFP is to award a Contract(s) to a single Vendor, the State reserves the right to make separate awards to different Vendors for one or more line-items, to not award one or more line-items or to cancel this RFP in its entirety without awarding a Contract if it is considered to be most advantageous to the State to do so.

The State reserves the right to waive any minor informality or technicality in proposals received.

3.2 CONFIDENTIALITY & PROHIBITED COMMUNICATIONS DURING EVALUATION

While this RFP is under evaluation, the responding Vendor, including any subcontractors and suppliers, is prohibited from engaging in conversations intended to influence the outcome of the evaluation. See the Paragraph 29 of the Instructions to Vendors entitled COMMUNICATIONS BY VENDORS.

Each Vendor submitting a proposal to this RFP, including its employees, agents, subcontractors, suppliers, subsidiaries and affiliates, is prohibited from having any communications with any person inside or outside the using agency; issuing agency; other government agency office or body (including the purchaser named above, any department secretary, agency head, members of the General Assembly and Governor's office); or private entity, if the communication refers to the content of Vendor's proposal or qualifications, the content of another Vendor's proposal, another Vendor's qualifications or ability to perform a resulting contract,

and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals, the award of a contract, or both.

Any Vendor not in compliance with this provision shall be disqualified from evaluation and award. A Vendor’s proposal may be disqualified if its subcontractor and/or supplier engage in any of the foregoing communications during the time that the procurement is active (*i.e.*, the issuance date of the procurement until the date of contract award or cancellation of the procurement). Only those discussions, communications or transmittals of information authorized or initiated by the issuing agency for this RFP or inquiries directed to the purchaser named in this RFP regarding requirements of the RFP (prior to proposal submission) or the status of the award (after submission) are excepted from this provision.

3.3 PROPOSAL EVALUATION PROCESS

Only responsive submissions will be evaluated.

The State will conduct a One-Step evaluation of Proposals:

Proposals will be received according to the method stated in the Proposal Submittal Section above.

All proposals must be received by the issuing agency not later than the date and time specified in the RFP SCHEDULE Section above, unless modified by Addendum. Vendors are cautioned that this is a request for offers, not an offer or request to contract, and the State reserves the unqualified right to reject any and all offers at any time if such rejection is deemed to be in the best interest of the State.

At the date and time provided in the RFP SCHEDULE Section above, unless modified by Addendum, the proposal from each responding Vendor will be opened publicly and all offers (except those that have been previously withdrawn, or voided bids) will be tabulated. The tabulation shall be made public at the time it is created. When negotiations after receipt of bids is authorized pursuant to G.S. 143-49 and 01 NCAC 05B.0503, only the names of offerors and the Services offered shall be tabulated at the time of opening. *If negotiation is anticipated, cost and price shall become available for public inspection at the time of the award.* Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of a Vendor’s pricing position.

At their option, the evaluators may request oral presentations or discussions with any or all Vendors for clarification or to amplify the materials presented in any part of the proposal. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not. Therefore, all proposals should be complete and reflect the most favorable terms available from the Vendor.

Upon completion of the evaluation process, the State will make award(s) based on the evaluation and post the award(s) to eVP website under the RFP number for this solicitation. Award of a Contract to one Vendor does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed most advantageous and represented the best value to the State.

The State reserves the right to negotiate with one or more vendors, or to reject all original offers and negotiate with one or more sources of supply that may be capable of satisfying the requirement, and in either case to require Vendor to submit a Best and Final Offer (BAFO) based on discussions and negotiations with the State.

3.4 EVALUATION CRITERIA

In addition to the general criteria in G.S. 143-52 which may or may not be relevant to this RFP, all qualified proposals will be evaluated, and award made based on considering the following criteria, to result in an award most advantageous to the State:

All qualified proposals will be evaluated, and award made based on considering the following criteria listed in descending order of importance, to result in an award most advantageous to the State:

- a) Price Proposal. Professional fees charged, administrative fees (if any), payment schedule and discount structure. 25%
- b) Approach to service/ Customer service philosophy/ Academic support offered (i.e.: internships, guest lectures, technology, etc.) 25%
- c) Vendor experience / Company profile. 25%
- d) Willingness to accept North Carolina General Terms and Conditions without exception and, to the extent they are applicable UNCW IT Services & Systems Addendum. 25%

3.5 PERFORMANCE OUTSIDE THE UNITED STATES

Vendor shall complete ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR. In addition to any other evaluation criteria identified in this RFP, the State may also consider, for purposes of evaluating proposed or actual contract performance outside of the United States, how that performance may affect the following factors to ensure that any award will be in the best interest of the State:

- a) Total cost to the State
- b) Level of quality provided by the Vendor
- c) Process and performance capability across multiple jurisdictions
- d) Protection of the State’s information and intellectual property
- e) Availability of pertinent skills
- f) Ability to understand the State’s business requirements and internal operational culture
- g) Particular risk factors such as the security of the State’s information technology
- h) Relations with citizens and employees
- i) Contract enforcement jurisdictional issues

3.6 INTERPRETATION OF TERMS AND PHRASES

This RFP serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by the State; and (2) to provide (together with other specified documents) the terms of the Contract resulting from this procurement. The use of phrases such as “shall,” “must,” and “requirements” are intended to create enforceable contract conditions. In determining whether proposals should be evaluated or rejected, the State will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy the State’s needs as described in the RFP. Except as specifically stated in the RFP, no one requirement shall automatically disqualify a Vendor from consideration. However, failure to comply with any single requirement may result in the State exercising its discretion to reject a proposal in its entirety.

4.0 REQUIREMENTS

This Section lists the requirements related to this RFP. By submitting a proposal, the Vendor agrees to meet all stated requirements in this Section as well as any other specifications, requirements, and terms and conditions stated in this RFP. If a Vendor is unclear about a requirement or specification, or believes a change to a requirement would allow for the State to receive a better proposal, the Vendor is urged to submit these items in the form of a question during the question-and-answer period in accordance with the Proposal Questions Section above.

4.1 PRICING

Proposal price shall constitute the total cost to the State for complete performance in accordance with the requirements and specifications herein, including all applicable charges for handling, transportation, administrative and other similar fees. Complete ATTACHMENT A: PRICING FORM and include in Vendor’s proposal. The pricing provided in ATTACHMENT A, or resulting from any negotiations, is incorporated herein and shall become part of any resulting Contract.

4.2 INVOICES

Vendor shall invoice the Purchasing Agency. The standard format for invoicing shall be Single Invoices meaning that the Vendor shall provide the Purchasing Agency with an invoice for each order. Invoices shall include detailed information to allow Purchasing Agency to verify pricing at point of receipt matches the correct price from the original date of order. The following fields shall be included on all invoices, as relevant:

Vendor's Billing Address, Customer Account Number, NC Contract Number, Order Date, Buyer's Order Number, Manufacturer Part Numbers, Vendor Part Numbers, Item Descriptions, Price, Quantity, and Unit of Measure.

INVOICES MAY NOT BE PAID UNTIL AN INSPECTION HAS OCCURRED AND THE SERVICES ACCEPTED.

4.3 FINANCIAL STABILITY

As a condition of contract award, the Vendor must certify that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

Each Vendor shall certify it is financially stable by completing ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential issues from contracting with a Vendor that is financially unstable. From the date of the Certification to the expiration of the Contract, the Vendor shall notify the State within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification. The Contract Manager may

4.4 HUB PARTICIPATION

Pursuant to North Carolina General Statute G.S. 143-48, it is State policy to encourage and promote the use of small, minority, physically handicapped, and women contractors in purchasing Goods and Services. As such, this RFP will serve to identify those Vendors that are minority owned or have a strategic plan to support the State's Historically Underutilized Business program by meeting or exceeding the goal of 10% utilization of diverse firms as 1st or 2nd tier subcontractors. Vendor shall complete ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION.

4.5 VENDOR EXPERIENCE

In its Proposal, Vendor shall demonstrate experience with public and/or private sector clients with similar or greater size and complexity to the State. Vendor shall provide information as to the qualifications and experience of all executive, managerial, legal, and professional personnel to be assigned to this project, including resumes citing experience with similar projects and the responsibilities to be assigned to each person.

4.6 REFERENCES

Vendor shall provide at least three (3) references, using ATTACHMENT E: CUSTOMER REFERENCE FORM, for which it has provided Services of similar size and scope to those proposed herein. The State may contact these users to determine whether the Services provided are substantially similar in scope to those proposed herein and whether Vendor's performance has been satisfactory. The information obtained may be considered in the evaluation of the Proposal.

4.7 BACKGROUND CHECKS

Any personnel or agent of Vendor performing Services under any Contract arising from this RFP may be required to undergo a background check at the expense of the Vendor, if so requested by the State.

4.8 PERSONNEL

Vendor warrants that qualified personnel shall provide Services under this Contract in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the industry. Vendor will serve as the prime contractor under this Contract and shall be responsible for the performance and payment of all subcontractor(s) that may be approved by the State. Names of any third-party Vendors or

subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor’s obligations hereunder. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

Should the Vendor’s proposal result in an award, the Vendor shall be required to agree that it will not substitute key personnel assigned to the performance of the Contract without prior written approval by the Contract Lead. Vendor shall further agree that it will notify the Contract Lead of any desired substitution, including the name(s) and references of Vendor’s recommended substitute personnel. The State will approve or disapprove the requested substitution in a timely manner. The State may, in its sole discretion, terminate the Services of any person providing Services under this Contract. Upon such termination, the State may request acceptable substitute personnel or terminate the contract Services provided by such personnel.

4.9 VENDOR’S REPRESENTATIONS

If Vendor’s Proposal results in an award, Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of the State under the Contract. If any Services, deliverables, functions, or responsibilities not specifically described in this solicitation are required for Vendor’s proper performance, provision and delivery of the Service and deliverables under a resulting Contract, or are an inherent part of or necessary sub-task included within such Service, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract. Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and/or other Deliverables.

4.10 QUESTIONS TO VENDORS

Vendor shall respond to each of the following questions. Vendors are requested to keep responses concise and relevant and should not include generic marketing materials. Responses will be reviewed as part of the evaluation process and **should be submitted in the order presented below in Section 7.**

4.11 AGENCY INSURANCE REQUIREMENTS MODIFICATION

The Purchasing Agency has conducted a risk assessment and determined that certain default coverage provisions in the North Carolina General Terms and Conditions, paragraph entitled *Insurance*, should be increased from the minimums stated. Increased or additional insurance coverage amounts for this Solicitation are as follows. Coverages not changed here remain as stated in the General Terms and Conditions.

- a) Employer’s Liability \$1,000,000
- b) Commercial General Liability \$2,000,000 Combined Single Limit
- c) Automobile \$1,000,000 Bodily injury and property damage
\$1,000,000 Uninsured/under insured motorist
\$1,000 Medical payment

4.12 NC COVID-19 VACCINATION AND TESTING REQUIREMENT [Reserved]

4.13 FEDERAL COVID-19 VACCINATION REQUIREMENT [Reserved]

4.14 LOBBYING ACTIVITY CERTIFICATION FOR FEDERAL GRANTS [Reserved]

5.0 SPECIFICATIONS AND SCOPE OF WORK

5.1 GENERAL

The purpose of this RFP is to solicit proposals and enter into a contract with Calculation Agent. The services shall include at minimum:

- a) Upon award the awarded Calculation Agent will be given UNCW’s methodology paper for the index to see how it was constructed. Once work begins the Vendor shall receive a CSV file daily from the index provider’s operations

team (UNCW/FactSet) with a list of constituents in the index and the End-of-Day (EOD) share price of each company in the list. They calculate those prices into a single price for the index. Vendor shall publish the index by sending the daily index price to roughly 900 global financial media outlets, including Bloomberg, Google Finance, WSJ, Financial Times, etc.

- b) Also of interest are index development software access for students, training and support, guest lectures and webinars, internships, and other related programs.
- c) The budget for the procurement the calculation services and any software is not to exceed \$10,000. University funds will be used and therefore NC General Terms & Conditions will apply to the procurement contract. Additionally, to the extent they applicable, acceptance of UNCW’s IT Service & Systems Addendum may be required.
- d) Licensing of the final UNC Wilmington Blue Economy Index *is not* included in the scope of this RFP.

5.2 PROJECT ORGANIZATION

Vendor shall describe the organizational and operational structure it proposes to utilize for the work described in this RFP and identify the responsibilities to be assigned to each person Vendor proposes to staff the work.

5.3 TECHNICAL APPROACH

Vendor’s proposal shall include, in narrative, outline, and/or graph form the Vendor's approach to accomplishing the tasks outlined in the Scope of Work section of this RFP. A description of each task and deliverable and the schedule for accomplishing each shall be included.

5.4 CERTIFICATION AND SAFETY LABELS

[Reserved]

6.0 CONTRACT ADMINISTRATION

All Contract Administration requirements are conditioned on an award resulting from this solicitation. This information is provided for the Vendor’s planning purposes.

6.1 CONTRACT MANAGER AND CUSTOMER SERVICE

The Vendor shall be required to designate and make available to the State a contract manager. The contract manager shall be the State’s point of contact for Contract related issues and issues concerning performance, progress review, scheduling, and service.

Contract Manager Point of Contact	
Name:	
Office Phone #:	
Mobile Phone #:	
Email:	

The Vendor shall be required to designate and make available to the State for customer service. The customer service point of contact shall be the State’s point of contact for customer service-related issues (define roles and responsibilities).

Customer Service Point of Contact

Name:	
Office Phone #:	
Mobile Phone #:	
Email:	

6.2 POST AWARD PROJECT REVIEW MEETINGS

The Vendor, at the request of the State, shall be required to meet periodically with the State for Project Review meetings. The purpose of these meetings will be to review project progress reports, discuss Vendor and State performance, address outstanding issues, review problem resolution, provide direction, evaluate continuous improvement and cost saving ideas, and discuss any other pertinent topics.

6.3 CONTINUOUS IMPROVEMENT

The State encourages the Vendor to identify opportunities to reduce the total cost the State. A continuous improvement effort consists of various ways to enhance business efficiencies as performance progresses.

6.4 PERIODIC STATUS REPORTS

The Vendor shall be required to provide Management Reports to the designated Contract Lead on a periodic basis as requested by the Contract Administrator. This report shall include, at a minimum, or as otherwise directed by the Contract Administrator, information concerning the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated, and notification of any significant deviation from previously agreed upon work plans and schedules. These reports shall be well organized and easy to read. The Vendor shall submit these reports electronically using the format required by the Purchasing Agency. The Vendor shall submit the reports in a timely manner and on a regular schedule as agreed by the parties.

6.5 ACCEPTANCE OF WORK

Performance of the work and/or delivery of Services shall be conducted and completed at least in accordance with the Contract requirements and recognized and customarily accepted industry practices. Performance shall be considered complete when the Services are approved as acceptable by the Contract Administrator. Acceptance of Vendor’s work product shall be based on the following criteria:

The duties are completed to the full satisfaction of the Contract Administrator.

The State shall have the obligation to notify Vendor, in writing ten (10) calendar days following completion of such work or delivery of a deliverable described in the Contract that it is not acceptable. The notice shall specify in reasonable detail the reason(s) it is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for reasonable review, evaluation, installation, or testing, as applicable to the work or deliverable. Final acceptance is expressly conditioned upon completion of all applicable assessment procedures. Should the work or deliverables fail to meet any specifications, acceptance criteria or otherwise fail to conform to the Contract, the State may exercise any and all rights hereunder, including, for Service deliverables, such rights provided by the Uniform Commercial Code, as adopted in North Carolina.

6.6 FAITHFUL PERFORMANCE

Any Contract may include terms ensuring a Vendor's performance such as: (1) a bond, or similar assurance; (2) liquidated damages; (3) a percentage of the Contract value held as a retainage; (4) withholding final payment contingent on acceptance of the final

deliverable; and (5) any other provision that assures performance of the Vendor. The parties agree that the Vendor shall be subject to the following faithful performance requirements:

- Withholding final payment contingent on acceptance of the final deliverable

6.7 TRANSITION ASSISTANCE

Reserved

6.8 DISPUTE RESOLUTION

During the performance of the Contract, the parties agree that it is in their mutual interest to resolve disputes informally. Any claims by the Vendor shall be submitted in writing to the State’s Contract Manager for resolution. Any claims by the State shall be submitted in writing to the Vendor’s Project Manager for resolution. The Parties shall agree to negotiate in good faith and use all reasonable efforts to resolve such dispute(s).

During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. The Parties will agree on a reasonable amount of time to resolve a dispute. If a dispute cannot be resolved between the Parties within the agreed upon period, either Party may elect to exercise any other remedies available under the Contract, or at law. This provision, when agreed in the Contract, shall not constitute an agreement by either party to mediate or arbitrate any dispute.

6.9 CONTRACT CHANGES

Contract changes, if any, over the life of the Contract shall be implemented by contract amendments agreed to in writing by the State and Vendor. Amendments to the contract can only be through the contract administrator.

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7.0 ATTACHMENTS

****IMPORTANT NOTICE****

RETURN THE REQUIRED ATTACHMENTS WITH YOUR RESPONSE
 FOLLOW THE LINKS TO ACCESS EACH ATTACHMENT

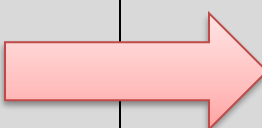
ATTACHMENT A: PRICING AND QUESTIONS TO VENDOR

By submitting this proposal, the potential Vendor certifies the following:

- Execution (page 3) is signed by an authorized representative of the firm.
- Vendor can obtain insurance certificates as required within 10 calendar days after notice of award.
- The cost and availability of all equipment, materials, and supplies associated with performing the services described herein have been determined and included in the proposed cost.
- All labor costs, direct and indirect, have been determined and included in the proposed cost.
- The Vendor has read and understands the conditions set forth in this RFP and agrees to them with no exceptions.
- The Vendor is registered in NC Dept. of Administration Purchase and Contract IPS system or agrees to register within two days after notification of contract award.

1. PRICE PROPOSAL: (25% of Overall Score)

Proposers must complete the table below with their rates. The rates should reflect the total cost to the University.

LINE #	DESCRIPTION	UNCW COST (\$)	Month or Annual ?	REMARKS:
(1.)				
(2.)				
(3.)				
(4.)				
(5.)				
(6.)				
(7.)				
(8.)	GRAND TOTAL NOT-TO-EXCEED COST DO NOT LEAVE THIS FIELD BLANK OR TOTAL ELSEWHERE IN YOUR PROPOSAL. This amount will be used in the evaluation of your proposal.			

2. QUESTIONS TO VENDOR:

Vendor shall provide the following information:

- A. Provide a description of your firm’s approach to service. Include details of your customer service philosophy. Also of interest is academic support that the firm may offer, such as internships, guest lectures, technology, and other value-adding services included in price quoted. (25% of Overall Score):
- B. Please give us details of the firm’s history, years of service, and experience, particularly any with universities or with

similar programs. Include profiles of personnel who shall be assigned to UNCW's account. (25% of Overall Score):

- C. Willingness to accept North Carolina General Terms and Conditions without exception (ATTACHMENT C) (25% of Overall Score). Does the firm agree to NC terms as written and without exception?

ATTACHMENT B: INSTRUCTIONS TO VENDORS

The Instructions to Vendors, which are incorporated herein by this reference, may be found here:

<https://ncadmin.nc.gov/formnorth-carolina-instructions-vendors032023/download?attachment>

ATTACHMENT C: NORTH CAROLINA GENERAL TERMS & CONDITIONS

The North Carolina General Terms and Conditions, which are incorporated herein by this reference, may be found here:

https://files.nc.gov/ncdoa/pandc/OnlineForms/Form_North-Carolina-General-Terms-and-Conditions_11.2021.pdf

ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION

Complete and return the Historically Underutilized Businesses (HUB) Vendor Information form, which can be found at the following link:

https://files.nc.gov/ncdoa/pandc/OnlineForms/Form_HUB-Supplemental-Vendor-Information_9.2021.pdf

ATTACHMENT E: CUSTOMER REFERENCE FORM

Complete and return the Customer Reference Form, which can be found at the following link:

https://files.nc.gov/ncdoa/pandc/OnlineForms/Form_Customer_Reference_Template_09.2021.pdf

ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR

Complete and return the Location of Workers Utilized by Vendor, which can be found at the following link:

https://files.nc.gov/ncdoa/pandc/OnlineForms/Form_Location-of-Workers_09.2021.pdf

ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION

Complete, sign, and return the Certification of Financial Condition, which can be found at the following link:

https://files.nc.gov/ncdoa/pandc/OnlineForms/Form_Certification-of-Financial-Condition_09.2021.pdf

ATTACHMENT H: UNCW IT SERVICES & SYSTEMS ADDENDUM

UNCW IT Services & Systems Addendum begins on the next page and depending on the services contracted may apply.

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ATTACHMENT H
UNIVERSITY of NORTH CAROLINA AT
WILMINGTON

IT Services & Systems
Addendum

Vendor acknowledges that UNCW will disclose Personally Identifying Information (PII) to the Vendor during the performance of this Agreement, and/or the Agreement allows the Vendor access to PII. Vendor agrees to maintain strict confidentiality of PII, in accordance with the requirements and conditions set forth in this Addendum.

Vendor attests and warrants that any documentation submitted or supplied is accurate, complete, and is a comprehensive assessment of the requirements for which it is submitted. Vendor shall immediately notify the University of any errors, omissions, corrections, or material changes in the documentation and/or underlying information used to prepare the documentation. The University assumes no responsibility to verify the documentation.

1) DEFINITIONS:

- a) "Data" is information, formulae, algorithms, or other content that UNCW, UNCW's employees, agents and end users provide, create or modify using the Services pursuant to this Agreement. Data also includes user identification information and metadata which may contain Data or from which UNCW's Data may be ascertainable. All data provided or derived is the property of UNCW and is to be confidential and kept private unless otherwise noted by mutual agreement.
- b) "Regulated data" means Personally Identifiable Information (PII) and any other Data that is protected or regulated by state or federal law.
- c) "Services" are the duties and tasks undertaken by the Vendor to fulfill the requirements and specifications of this Agreement.
- d) "Support" includes provision of ongoing service updates, fixes, training, consulting, and maintenance for Vendor supplied services.
- e) "Personally Identifiable Information", or "PII", is any information that can be used to distinguish one person from another and can be used for de-anonymizing anonymous data. Personally Identifiable Information shall include "Education Records" and "Personnel Information" as those terms are further defined herein.

2) ACCESS AND USE OF IT SERVICES:

- a) Vendor grants UNCW a personal non-transferable and non-exclusive right to use and access, all contracted Services. UNCW may utilize the Services as agreed herein and in accordance with any mutually agreed Acceptable Use Policy. UNCW is authorized to access UNCW Data and any data provided as part of the contracted Services. Services may be subject to a more specific Service Level Agreement (SLA) agreed to in writing by the parties. UNCW shall notify the Vendor of any unauthorized use of any password or account, or any other known or suspected breach of security access. All Services and information designated as "confidential" or "proprietary", and all Data, shall be kept in confidence except as may be required by the North Carolina Public Records Act: N.C.G.S. § 132-1, *et. seq.*
- b) UNCW's right to license the Services and its associated services neither transfers, vests, nor infers any title or other ownership right in any intellectual property rights of the Vendor or any third party, unless otherwise agreed to by the parties. Vendor has a limited, non-exclusive license to access and use UNCW Data as provided to Vendor, but solely for providing the specified contracted Services.
- c) The technical and professional activities required for establishing, managing, and maintaining the Services and environment are the responsibility of the Vendor.
- d) Any additional agreements or terms derived by end user assent (e.g., "clickthrough") are null and void.
- e) All UNCW Data must remain within the legal jurisdiction of the United States unless the Data's disposition is otherwise explicitly designated by UNCW.

- f) The Vendor is ultimately responsible for providing the contracted Services under the specified provisions. The Vendor may utilize partners and/or subcontractors to assist in the provision of the Services, but Vendor assumes all responsibility for third party activities in those regards. Vendor will not provide Data to any subcontractor or agent without UNCW's prior written consent, and until the subcontractor or agent agrees in writing to comply with these Terms and Conditions.

3) **MODIFICATION OF SERVICES:**

If Vendor modifies or replaces the Services provided to UNCW and other tenants, and if UNCW has paid all applicable Subscription Fees, as that term may be defined in Vendor documentation, UNCW shall be entitled to receive, at no additional charge, access to a newer version of the Services that supports substantially the same functionality as the then-accessible version of the Services. Newer versions of the Services containing substantially increased functionality may be made available to UNCW for an additional subscription fee. In the event of either of such modifications, the then-accessible version of the Services shall remain fully available to UNCW until the newer version is provided to UNCW and accepted. If a modification materially affects the functionality of the Services as used by UNCW, at its sole option, UNCW may defer such modification.

4) **TRANSITION PERIOD:**

- a) For a minimum of ninety (90) days, either prior to the expiration date of this Agreement, or upon notice of termination of this Agreement, Vendor shall assist UNCW, upon written request, in extracting and/or transitioning all Data in the format determined by UNCW ("Transition Period").
- b) The Transition Period and terms may be modified as specified by both parties in writing.
- c) During the Transition Period, Services access shall continue to be made available to UNCW without alteration.
- d) Vendor agrees to compensate UNCW for damages or losses UNCW incurs as a result of Vendor's failure to comply with this Transition Period section.
- e) Upon termination, and unless otherwise stated in an SLA, and after providing UNCW Data to UNCW as indicated above in this section with acknowledged receipt by UNCW in writing, the Vendor shall permanently destroy or render inaccessible all UNCW Data. The vendor shall provide written documentation confirming the destruction or inaccessibility of UNCW's Data.

5) **CONFIDENTIALITY:**

UNCW may maintain the confidentiality of certain types of information provided by Vendor described in N.C. Gen. Stat. § 132-1, *et seq.* Such information may include trade secrets defined by N.C. Gen. Stat. § 66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. § 132-1.2. Vendor may designate information, products, or Services or appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "**CONFIDENTIAL.**" By so marking any page, or portion of a page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors, that the portions marked "confidential" meet the requirements of the Rules and Statutes set forth above. *However, under no circumstances shall price information be designated as confidential.* UNCW agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. If an action is brought pursuant to N.C. Gen. Stat. § 132-9 to compel UNCW to disclose information marked "confidential," the Vendor agrees that it will intervene in the action through its counsel and participate in defending UNCW, including any public official(s) or public employee(s). The Vendor agrees that it shall hold UNCW and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against UNCW in the action. UNCW shall have the right, at its option and expense, to participate in the defense of the action through its counsel. UNCW shall have no liability to Vendor with respect to the disclosure of Vendor's confidential information ordered by a court of competent jurisdiction pursuant to N.C. Gen. Stat. § 132-9 or other applicable law.

6) **SECURITY OF UNCW DATA:**

- a) All materials, including software, Data, information, and documentation provided by UNCW to the Vendor (UNCW Data) during the performance or provision of Services hereunder are the property of UNCW and must be kept secure, returned to UNCW, and afterwards destroyed. The Vendor will protect UNCW Data from disclosure, unauthorized modification, loss, damage, destruction by natural event, or other eventuality. Proprietary Vendor materials shall be identified to UNCW by Vendor prior to use or provision of Services

hereunder and shall remain the property of the Vendor. Derivative works of any Vendor proprietary materials prepared or created during the performance of provision of Services hereunder shall be provided to UNCW as part of the Services.

- b) The Vendor shall protect the confidentiality and integrity of all information, Data, instruments, studies, reports, records and other materials provided to it by UNCW or maintained or created in accordance with provided services. No such information, Data, instruments, studies, reports, records, other materials, or derivatives of such, in the possession of Vendor, shall be disclosed in any form without the prior written consent from UNCW Purchasing.
- c) The Vendor is responsible for the protection of UNCW Data, including but not limited to Personal Identifying Information (PII). Vendor acknowledges its responsibility for securing any UNCW Data used in connection with the provision of the Services. Vendor warrants, it shall provide reasonable care and efforts to protect private and Regulated Data, detect fraudulent activity involving such Data, and promptly notify UNCW Purchasing of any unauthorized access, use, or Data loss. Specific terms and conditions for Personally Identifiable Information are included herein.
- d) Vendor will provide and maintain secure backups of UNCW Data on an acceptable periodic schedule.
- e) Vendor shall implement and maintain appropriate access controls for its online system providing the Services, as well as all appropriate administrative, physical, technical, and procedural safeguards at all times during the term of this Agreement to secure the Data and the Services from loss, corruption, unauthorized disclosure.
- f) Vendor will apply the principle of “least privilege” for employee and contractor access in providing the contracted services.
- g) Vendor must maintain logs of all changes in user privilege and any access to data.
- h) Upon request Vendor must provide UNCW with the most recent report, audit, or certification, performed by a third party, that relates to the security, availability, processing integrity, confidentiality, and privacy of the operations and systems of the Vendor.
- i) UNCW may, at any time, make a local copy of all UNCW data.
- j) Vendor shall certify to UNCW:
 - i) They have and adhere to a periodically tested and annually reviewed disaster recovery plan.
 - ii) That the Services will comply with the following where applicable:
 - (1) Privacy provisions of the Federal Privacy Act of 1974;
 - (2) The Family Educational Rights and Privacy Act (FERPA) if records include student information.
 - (3) The Health Insurance Portability and Accountability Act if records include any health-based information.
 - (4) The Americans with Disabilities Act and Section 504 of the Rehabilitation Act requirements for access to and use of their provided services.
 - (5) The North Carolina Identity Theft Protection Act, N.C.G.S. Chapter 75, Article 2A (e.g., N.C.G.S. § 75-65 and -66);
 - (6) The North Carolina Public Records Act, N.C.G.S. Chapter 132; and
 - (7) Applicable industry standards and guidelines, including but not limited to, relevant security provisions of the Payment Card Industry (PCI) Data Security Standard (PCIDSS) including the PCIDSS Computing Guidelines.
- k) Security Breach. “Security Breach” under the NC Identity Theft Protection Act (N.C.G.S. § 75-60) means (1) any circumstance pursuant to which applicable Law requires notification of such breach to be given to affected parties or other activity in response to such circumstance (e.g., N.C.G.S. § 75-65); or (2) any actual, attempted, suspected, threatened, or reasonably foreseeable circumstance that compromises, or could reasonably be expected to compromise, either Physical Security or Systems Security (as such terms are defined below) in a fashion that either does or could reasonably be expected to permit unauthorized Processing (as defined below), use, disclosure or acquisition of or access to any UNCW Data or UNCW confidential information. “Physical Security” means physical security at any site or other location housing systems maintained by Vendor or its agents or subcontractors in connection with the Services. “Systems Security” means security of computer, electronic or telecommunications systems of any variety (including data bases, hardware, software, storage, switching and interconnection devices and mechanisms), and networks of which such systems are a part or communicate with, used directly or indirectly by Vendor or its agents or subcontractors in connection with the Services. “Processing” means any operation or set of operations performed upon UNCW Data or UNCW confidential information described in Section 1 above, whether or not by automatic means, such as creating, collecting, procuring, obtaining, accessing, recording,

organizing, storing, adapting, altering, retrieving, consulting, using, disclosing or destroying. Notwithstanding the above, Vendor shall, within one business day of discovery, report to UNCW any use or disclosure of PII not authorized by these Terms and Conditions or in writing by UNCW. Vendor's report shall identify:

- (i) the nature of the unauthorized use or disclosure;
- (ii) the PII used or disclosed;
- (iii) who made the unauthorized use or received the unauthorized disclosure;
- (iv) what Vendor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
- (v) what corrective action Vendor has taken or shall take to prevent future similar unauthorized use or disclosure.

UNCW, in its sole discretion, shall have the right to require Vendor to submit to a plan of monitoring and reporting; provide Vendor with a fifteen (15) day period to cure the breach; or terminate the Agreement immediately if cure is not possible, subject to Vendor's obligations upon termination described in this paragraph 6. Vendor shall provide any such other information relevant to UNCW's breach investigation and mitigation, including a written report, as reasonably requested by UNCW.

- l) Breach Notification. In the event Vendor becomes aware of any Security Breach due to Vendor acts or omissions other than in accordance with the terms of the Agreement, Vendor shall, at its own expense,
 - (i) immediately notify UNCW Purchasing of such Security Breach and perform a root cause analysis thereon,
 - (ii) investigate such Security Breach,
 - (iii) provide a remediation plan, acceptable to UNCW, to address the Security Breach and prevent any further incidents,
 - (iv) conduct a forensic investigation to determine what systems, data and information have been affected by such event; and
 - (v) cooperate with UNCW, and any law enforcement or regulatory officials, credit reporting companies, and credit card associations investigating such Security Breach.

UNCW shall make the final decision on notifying UNCW's persons, entities, employees, service providers and/or the general public of such Security Breach, and the implementation of the remediation plan. If a notification to a customer is required under any Law or pursuant to any of UNCW's privacy or security policies, then notifications to all persons and entities who are affected by the same event (as reasonably determined by UNCW) shall be considered legally required. If the Family Policy Compliance Office of the U.S. Department of Education determines that the Vendor improperly disclosed PII obtained from UNCW's Education Records, UNCW may not allow the Vendor access to Education Records for at least five (5) years.

- m) Notification Related Costs. Vendor shall reimburse UNCW for all Notification Related Costs incurred by UNCW arising out of or in connection with any such Security Breach due to Vendor acts or omissions other than in accordance with the terms of the Agreement resulting in a requirement for legally required notifications. "Notification Related Costs" shall include UNCW's internal and external costs associated with addressing and responding to the Security Breach, including but not limited to: (1) Preparation and mailing or other transmission of legally required notifications; (2) Preparation and mailing or other transmission of such other communications to customers, agents or others as UNCW deems reasonably appropriate; (3) Establishment of a call center or other communications procedures in response to such Security Breach (e.g., customer service FAQs, talking points and training); (4) Public relations and other similar crisis management services; (5) legal and accounting fees and expenses associated with UNCW's investigation of and response to such event; and (6) Costs for credit reporting services that are associated with legally required notifications or are advisable, in UNCW's opinion, under the circumstances. In the event that Vendor becomes aware of any Security Breach which is not due to Vendor acts or omissions other than in accordance with the terms of the Agreement, Vendor shall immediately notify UNCW Purchasing of such Security Breach, and the parties shall reasonably cooperate regarding which of the foregoing or other activities may be appropriate under the circumstances, including any applicable Charges for the same.
- n) In the event of disaster or catastrophic failure that results in significant UNCW Data loss or extended loss of access to Data or Services, Vendor shall notify UNCW Purchasing by the fastest means available and also in writing, with additional notification provided to the UNCW Chief Information Officer or designee. Vendor shall provide such notification within twenty-four (24) hours after Vendor reasonably believes there has been such a disaster or catastrophic failure. In the notification, Vendor shall inform UNCW of:
 - i) The scale and quantity of UNCW Data loss;

- ii) What Vendor has done or will do to recover the UNCW Data from backups and mitigate any deleterious effect of UNCW Data and Services loss; and
- iii) What corrective action Vendor has taken or will take to prevent future UNCW Data and Services loss.
- iv) If Vendor fails to respond immediately and remedy the failure, UNCW may exercise its options for assessing damages or other remedies.

Vendor shall conduct an investigation of the disaster or catastrophic failure and shall share the report of the investigation with UNCW. UNCW and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Vendor shall cooperate fully with UNCW, its agents and law enforcement.

- o) In the event of termination of this contract, cessation of business by the Vendor or other event preventing Vendor from continuing to provide the Services, Vendor shall not withhold UNCW Data or any other UNCW confidential information or refuse for any reason, to promptly return to UNCW Data and any other UNCW confidential information (including copies thereof) if requested to do so on such media as reasonably requested by UNCW, even if UNCW is then or is alleged to be in breach of the Agreement as long as UNCW has paid any undisputed sums. As a part of Vendor's obligation to provide UNCW Data pursuant to this Paragraph 10)o), Vendor will also provide UNCW any data maps, documentation, software, or other materials necessary, including, without limitation, handwritten notes, materials, working papers or documentation, for UNCW to use, translate, interpret, extract and convert UNCW Data.

7) CONFIDENTIALITY OF EDUCATION RECORDS AND PERSONNEL INFORMATION

a) Education Records

- i) **Definition: Education Records** shall have the meaning prescribed to it in 34 CFR § 99.3, and includes paper and electronic student education record information supplied by UNCW, as well as any data provided by UNCW's students to the Vendor, excluding any information that is designated as "directory information" in UNCW Policy 04.150 Student Records and Family Educational Rights and Privacy Act (FERPA).
- ii) **Protection of Education Records:** Vendor agrees to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in the Family Educational Rights and Privacy Act (34 CFR § 99.33(a)(2)) and with the terms set forth below. 34 CFR § 99.33 (a)(2) states that the officers, employees and agents of a party that receives education record information from the institution may use the information, but only for the purposes for which the disclosure was made.
- iii) **School Official Designation:** For purposes of this Agreement and receipt of Education Records, Vendor is a school official with a legitimate educational interest as defined in 34 CFR § 99.31(a)(1)(i)(B).

b) Personnel Information

- i) **Definition: Personnel Information** shall mean staff and faculty identification numbers beginning with "850," and, to the extent applicable, confidential information contained in an employee's personnel file as provided in N.C.G.S. §§ 126-22 *et seq.*
- ii) **Vendor Designation:** To the extent N.C.G.S. § 132-6 applies, Vendor acknowledges that it is not a custodian of public records under that statute.

c) Ownership and Use of Education and Personnel Records

- i) **Property of UNCW:** Education Records and Personnel Information shall remain the sole property of UNCW. Vendor expressly acknowledges and agrees that Vendor has no property right or interest whatsoever in any such data.
- ii) **Prohibition on Unauthorized Use or Disclosure of Education Records:** Vendor agrees to hold Education Records and Personnel Information in strict confidence. Vendor shall not use or disclose Education Records and Personnel Information received from or on behalf of UNCW except as permitted or required by the Agreement, as required by law, or as otherwise authorized in writing by UNCW. Vendor agrees not to use Education Records and Personnel Information for any purpose other than the purpose for which the disclosure was made. In the event that Vendor receives a request for Education Records and Personnel Information by subpoena or other legal process or from a court, governmental authority, accrediting agency, or other third party, Vendor shall give prompt written notice to UNCW.

- 8) **PAYMENT CARD INDUSTRY DATA SECURITY STANDARDS (PCI DSS) COMPLIANCE:**
In the event Vendor may have access to credit or debit card information and/or may affect the security of a credit or debit card transaction, Vendor is required to maintain PCI compliance. Vendor will provide documentation of PCI compliance per the PCI Security Standards Council (www.pcisecuritystandards.org) for itself and any of its third-party vendors, contractors, and service providers used for services provided to the university. Vendor will provide annually a PCI Security Standards Council Attestation of Compliance (AOC), preferably signed by a registered QSA firm, to the university.

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