

STATE OF NORTH CAROLINA SOUTH PIEDMONT COMMUNITY COLLEGE	INVITATION FOR BIDS OR REQUEST FOR QUOTE NO. 76-20260714
	Offers will be publicly opened: August 13, 2026
	Issue Date: July 21, 2026
Refer <u>ALL</u> inquiries regarding this IFB/RFQ to: Anthony Barbour, Director of Purchasing abarbour@spcc.edu 704-272-5383	Commodity Number: 811622
	Description: Managed Network & NOC
	Using Agency: South Piedmont Community College
See page 2 for mailing instructions.	Requisition No.:

OFFER AND ACCEPTANCE

The State seeks offers for the goods and/or related services described in this solicitation. The State's acceptance of any offer must be demonstrated by execution of the acceptance found below and any subsequent Request for Best and Final Offer, if issued. Acceptance shall create a contract having an order of precedence as follows: In cases of conflict between documents comprising the contract, the order of precedence shall be (1) Best and Final Offers, if any, (2) special terms and conditions specific to this IFB/RFQ, (3) specifications, (4) Department of Information Technology Terms and Conditions of this IFB/RFQ, and (5) the agreed portions of the awarded Vendor's offer. **No contract shall be binding on the State until an encumbrance of funds has been made for payment of the sums due under the contract.**

EXECUTION

In compliance with this Invitation for Bid / Request for Quote, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all Services or goods upon which prices are offered, at the price(s) offered herein, within the time specified herein. By executing this offer, I certify that this offer is submitted competitively and without collusion.

Failure to execute/sign offer prior to submittal shall render offer invalid. Late offers are not acceptable.

OFFEROR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY, STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO
PRINT NAME & TITLE OF PERSON SIGNING:		FAX NUMBER:
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:

Offer valid for sixty (60), days from date of offer opening unless otherwise stated here: ____ days

ACCEPTANCE OF OFFER

If any or all parts of this IFB/RFQ are accepted, an authorized representative of South Piedmont Community College shall affix their signature hereto. A copy of this acceptance will be forwarded to the successful vendor(s).

<u>FOR STATE USE ONLY</u> Offer accepted and contract awarded this ____ day of _____, 20____, as indicated on attached certification, by _____ (Authorized representative of South Piedmont Community College).
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1.0 INTENT, USE, DURATION AND SCOPE

The purpose of this Request for Quote is to obtain pricing for and procure a fully managed Network Operations Center as a Service (NOCaaS) for South Piedmont Community College's new Ascend704 Entrepreneurship Center. Goods and Services will be provided in accordance to the terms and conditions of this IFB/RFQ.

The selected vendor shall provide:

- Design
- Procurement
- Installation
- Configuration
- Monitoring
- Support
- Maintenance
- Lifecycle Management

For a complete enterprise grade wired and wireless networking environment.

The facility will support:

- Multiple independent tenants
- Shared office space
- Public/common areas
- Meeting rooms
- Large conference/event space usage

The selected solution must provide secure multi-tenant segmentation, enterprise wireless coverage, dedicated internet connectivity, and 24x7 monitoring/support services.

2.0 GENERAL INFORMATION

2.1. SITE VISIT

Due Date: Tuesday, July 28, 2026
Time: 10:00 AM Eastern Time

Instructions: Prospective Vendors and/or Vendor representatives are URGED and CAUTIONED to visit the site of the project and apprise themselves of all conditions; which will affect

the performance of the work required or reasonable implied by this RFQ. A non-mandatory site visit is scheduled for Tuesday, July 28, 2026 at 10:00 AM ET at South Piedmont Community College OCH Campus, located at 1851 South Piedmont St., Monroe, NC 28110, Building A, Conference Room A1601. All attendees must sign in. This opportunity to visit the site may not be rescheduled unless so authorized by addendum to this IFB/RFQ. Submission of an offer shall constitute sufficient evidence of this compliance and no allowance will be made for unreported conditions; which a prudent Vendor would recognize as affecting this performance of the work called for in this RFQ.

Vendors are cautioned that any information released to attendees during the site visit, other than that involving the physical aspects of the facility referenced above, and which conflicts with, supersedes, or adds to requirements in this IFB/RFQ, must be confirmed by written addendum before it can be considered to be a part of this offer.

2.2. VENDOR QUESTIONS

All inquiries regarding the solicitation specifications or requirements are to be addressed to the contact person listed on Page One of this solicitation. Vendor contact regarding this Solicitation with anyone other than the contact person listed on Page One of this Solicitation may be grounds for rejection of said Vendor's offer.

Written questions concerning this Solicitation will be received until August 4, 2026 at 11:00 AM Eastern Time. They must be submitted to the contact person listed on Page One of this Solicitation. Please enter "Questions Solicitation 76-20260714" as the subject for the message.

REFERENCE	VENDOR QUESTION
RFP Section, Page Number	

2.3. ADDENDA

The State may issue addenda if Vendor questions are permitted as described above, or if additional terms, specifications, or other changes are necessary for this procurement. It is important that all Vendors bidding on this IFB/RFQ periodically check the NC eVP for any and all Addenda that may be issued prior to the offer opening date. All addenda shall become an Addendum to this IFB/RFQ.

2.4. OFFER SUBMITTAL

Due Date: Thursday, August 13, 2026
Time: 2:00 PM Eastern Time

IMPORTANT NOTE: Vendor shall bear the risk for late submission due to unintended or unanticipated delay—whether submitted electronically, delivered by hand, U.S. Postal Service, courier or other delivery service. **Vendor must include all the pages of this solicitation in their response.** It is the Vendor's sole responsibility to ensure its offer has been delivered to this Office by the specified time and date of opening. Any proposal-delivered after the proposal deadline will be rejected.

Offer Submission Details:

Mailing address for delivery of offer via US Postal Service	Office Address of delivery by any other method (special delivery, overnight, or any other carrier).
<i>RFP NUMBER: 76-20260714</i> <i>South Piedmont Community College</i> <i>PO Box 126</i> <i>Polkton, NC 28135</i> <i>Attn: Anthony Barbour</i>	<i>RFP NUMBER: 76-20260714</i> <i>South Piedmont Community College</i> <i>680 US Hwy. 74W</i> <i>Polkton, NC 28135</i> <i>Attn: Anthony Barbour</i>

Sealed offers, subject to the conditions made a part hereof, will be received until 2:00pm Eastern Time on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Offers must be submitted in a sealed package with the Execution page signed and dated by an official authorized to bind the Vendor's firm. Failure to return a signed offer shall result in disqualification.

For offers submitted via U.S. mail, please note that the U.S. Postal Service generally does not deliver mail to a specified street address but to the State's Mail Service Center. Vendors are cautioned that proposals sent via U.S. Mail, including Express Mail, may not be delivered by the Mail Service Center to the agency's purchasing office on the due date in time to meet the proposal deadline. All Vendors are urged to take the possibility of delay into account when submitting a proposal by U.S. Postal Service, courier, or other delivery service. **Attempts to submit a proposal via facsimile (FAX) machine, telephone or email in response to this RFP shall NOT be accepted.**

- a) Submit **one (1) signed, original executed** offer electronically to the address identified in the table above.
- b) Submit your proposal in a sealed package. Clearly mark each package with Vendor name and the RFP number. Address the package(s) for delivery as shown in the table above. If Vendor submits more than one (1) proposal, each proposal shall be submitted in separate sealed envelopes and marked accordingly. For delivery purposes, separate sealed envelopes from a single Vendor may be included in the same outer package. Proposals are subject to rejection unless submitted with the information above included on the outside of the sealed proposal package.
- c) Copies of proposal files must be provided on separate read-only flash drives. File contents **SHALL NOT** be password protected the file formats shall be in .DOC, .PDF or .XLS format, and shall be capable of being copied to other sources.
- d) If the Vendor's proposal contains any confidential information (as defined in Attachment B, Paragraph #18), then the Vendor must provide one (1) signed, original offer and one (1) redacted copy on the USB flash drive. All File names should start with the vendor's name first, in order to easily determine all the files to be included as part of the vendor's response. For example, files should be named as follows: Vendor Name-your file name.

2.5. BASIS FOR REJECTION

Pursuant to 9 NCAC 06B.0401, the State reserves the right to reject any and all offers, in whole or in part; by deeming the offer unsatisfactory as to quality or quantity, delivery, price or service offered; non-compliance with the specifications or intent of this solicitation; lack of competitiveness; error(s) in specifications or indications that revision would be advantageous to the State; cancellation or

other changes in the intended project, or other determination that the proposed requirement is no longer needed; limitation or lack of available funds; circumstances that prevent determination of the best offer; or any other determination that rejection would be in the best interest of the State. Vendor contact regarding this RFQ with anyone other than Anthony Barbour, Director of Purchasing may be grounds for rejection of said Vendor's offer.

2.6. LATE OFFERS

Regardless of cause, late offers will not be accepted and will automatically be disqualified from further consideration. It shall be the Vendor's sole risk to ensure delivery at the designated office by the designated time. Late offers will not be opened and may be returned to the Vendor at the expense of the Vendor or destroyed if requested.

2.7. NON-RESPONSIVE OFFERS

Vendor offers will be deemed non-responsive by the State and will be rejected without further consideration or evaluation if statements such as the following are included:

- "This offer does not constitute a binding offer",
- "This offer will be valid only if this offer is selected as a finalist or in the competitive range",
- "Vendor does not commit or bind itself to any terms and conditions by this submission",
- "This document and all associated documents are non-binding and shall be used for discussion purposes only",
- "This offer will not be binding on either party until incorporated in a definitive agreement signed by authorized representatives of both parties", or
- A statement of similar intent.

2.8. NOTICE TO VENDORS

The State objects to and will not be required to evaluate or consider any additional terms and conditions not previously agreed to by the State and submitted with an Offeror's response. This applies to any language appearing in or attached to the document as part of the Offeror's response. By execution and delivery of this Invitation for Bids / Request for Quote and response(s), the Offeror agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.

2.9. E-PROCUREMENT SOLICITATION

This is an E-Procurement solicitation. See Paragraph #47 of the attached Department of Information Technology Terms and Conditions.

The Terms and Conditions made part of this solicitation contain language necessary for the implementation of North Carolina's statewide E-Procurement initiative. It is the Vendor's responsibility to read these terms and conditions carefully and to consider them in preparing the offer. By signature vendor acknowledges acceptance of all terms and conditions including those related to E-Procurement.

- a) General information on the E-Procurement service can be found at <http://eprocurement.nc.gov/>
- b) Within two days after notification of award of a contract, vendor must register in NC E-Procurement @ Your Service at the following web site: <https://vendor.ncgov.com/vendor/login>
- c) As of the IFB/RFQ submittal date, the Vendor must be current on all e-Procurement fees. If the Vendor is not current on all E-Procurement fees, the State may disqualify the Vendor from participation in this IFB/RFQ.

2.10. DISTRIBUTORS AND RESELLERS

"Resellers" as used herein, refers to businesses that routinely sell or distribute Vendor's Products, and may include "Distributors", "Value Added Resellers" (VARs), "Original Equipment

Manufacturers" (OEMs), Channel Partners, or such other designations. These businesses must be approved by the State prior to placement of any orders. Any contract established will be subject to this solicitation and any resulting Agreement(s), and to the terms and conditions of the State's competitive bidding process.

The Agency acknowledges that the Reseller has merely purchased the Third-Party Items for resale or license to the Agency, and that the proprietary and intellectual property rights to the Third Party Items are owned by parties other than the Reseller ("Third Parties"). The Agency further acknowledges that except for the payment to the Reseller for the Third-Party Items, all of its rights and obligations with respect thereto flow from and to the Third Parties. The Reseller shall provide the Agency with copies of all documentation and warranties for the Third-Party Items which are provided to the Reseller. The Reseller shall assign all applicable third-party warranties for Deliverables to the Agency.

2.11. POSSESSION AND REVIEW

During the evaluation period and prior to award, possession of the bids and accompanying information is limited to personnel of the issuing agency, and to the committee responsible for participating in the evaluation. Vendors who attempt to gain this privileged information, or to influence the evaluation process (i.e. assist in evaluation) will be in violation of purchasing rules and their offer will not be further evaluated or considered.

After award of contract the complete bid file will be available to any interested persons with the exception of trade secrets, test information or similar proprietary information as provided by statute and rule. Any proprietary or confidential information, which conforms to exclusions from public records as provided by N.C.G.S. §132-1.2 **must be clearly marked as such in the offer when submitted.**

2.12. BEST AND FINAL OFFERS (BAFO)

The State may establish a competitive range based upon evaluations of offers, and request BAFOs from the Vendor(s) within this range; e.g. "Finalist Vendor(s)". If negotiations or subsequent offers are solicited, the Vendor(s) shall provide BAFO(s) in response. Failure to deliver a BAFO when requested shall disqualify the non-responsive Vendor from further consideration. The State will evaluate BAFO(s), oral presentations, and product demonstrations as part of the Vendors' respective offers to determine the final rankings.

2.13. AWARD

It is the general intent to award this contract to one Vendor. As provided by statute, award will be based on Best Value Analysis, Lowest Price Technically Acceptable Source Selection Method in accordance with N.C.G.S. §143B-1350(h), which provides that the offer must be in substantial conformity with the specifications herein, and 09 NCAC 06B.0302.

A link to the NC Electronic Vendor Portal (eVP) allows the public to retrieve contract award information electronically from the web site: <https://evp.nc.gov/> Results may be found by searching by IFB number or agency name. This information may not be available for several weeks dependent upon the complexity of the acquisition and the length of time to complete the evaluation process

2.14. POINTS OF CONTACT

Contact by the Offeror with the persons shown below for contractual and technical matters related to this IFB/RFQ is only permitted if expressly agreed to by the purchasing lead named on page 5, or upon award of contract:

Vendor Contractual Point of Contact	Vendor Technical Point of Contact
Name of Vendor:	Name of Vendor:

Street:	Street:
City, State, Zip:	City, State, Zip:
Attn:	Attn:
Email:	Email:
State Contractual Point of Contact	State Technical Point of Contact
Name of Vendor:	Name of Vendor:
Street:	Street:
City, State, Zip:	City, State, Zip:
Attn:	Attn:
Email:	Email:

3.0 **SPECIFICATIONS**

3.1. **VENDOR STANDARD AGREEMENT(S)**

The terms and conditions of Vendor's standard services, license, maintenance or other agreement(s) applicable to Services, Goods, Software and other Products acquired under this Agreement may apply to the extent such terms and conditions do not materially change the terms and conditions of this Agreement. In the event of any conflict between the terms and conditions of this Agreement and the Vendor's standard agreement(s), the terms and conditions of this Agreement relating to audit and records, jurisdiction, choice of law, the State's electronic procurement application of law or administrative rules, the remedy for intellectual property infringement and the exclusive remedies and limitation of liability in the DIT Terms and Conditions herein shall apply in all cases and supersede any provisions contained in Vendor's relevant standard agreement or any other agreement. The State shall not be obligated under any standard license and/or maintenance or other Vendor agreement(s) to indemnify or hold harmless the Vendor, its licensors, successors or assigns; nor arbitrate any dispute, nor pay late fees, legal fees or other similar costs.

For Vendor Completion:

_____ The Vendor represents and warrants that the terms and conditions of Vendor's standard license, maintenance, or other agreement(s) do not apply to this procurement. No vendor agreement, standard or otherwise is incorporated into this RFQ #76-20260714

_____ The Vendor standard license, maintenance, or other agreement(s) is provided with the RFQ response and shall be incorporated into this RFQ #76-20260714 based on the outcome of a legal review.

3.2. **VENDOR UTILIZATION OF WORKERS OUTSIDE U.S. – DISCLOSURE STATEMENT**

In accordance with the Statewide Information Security Manual (SISM), the State restricts the location of information systems that receive, process, store, or transmit State and Federal data to the United States which includes the following areas: US States, US Territories, US Embassies, and US Military installations (stateside or overseas). This restriction applies to the Vendor and to any subcontractors engaged to provide Services under this Agreement or with access to State Data.

The Vendor must ensure that its subcontractor agreements contain the same restrictions and will be responsible for monitoring and enforcing subcontractor compliance at all times.

Pursuant to N.C.G.S. §143B-1361(b), the Vendor must complete and return this Disclosure Statement Attachment F with its solicitation response. The Vendor may attach additional pages to its response if needed. The State of North Carolina will evaluate Disclosure Statement Attachments for additional risks, costs, and other factors associated with its service prior to making an award for any such Vendor's offer. The Vendor must provide the following information in its bid response:

Vendor to complete:

- a. The location of work performed under a state contract by the Vendor, any subcontractors, employees, or other persons performing the contract and whether any of this work will be performed outside the United States.
- b. The corporate structure and location of corporate employees and activities of the Vendor, its affiliates or any other subcontractors.
- c. Vendor agrees to provide notice of the relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing Services under a state contract outside of the United States in the event such relocation occurs during the contract term.
- d. Vendor agrees that any Vendor or subcontractor providing call or contact center Services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center Services are being provided.
- e. Will any work under this contract be performed outside the United States?
☒ YES ☐ NO

The use of resources or workers located outside the United States is a critical security exception that must be escalated to the State Chief Information Officer for review pursuant to N.C.G.S. §143B-1376(c) and §143B-1320(c). These critical security exceptions are approved only in rare and extenuating circumstances. Vendor should account for this when preparing its response.

3.3. E-VERIFY

Pursuant to N.C.G.S. § 143B-1350(k), the State shall not enter into a contract unless the awarded Vendor and each of its subcontractors comply with the E-Verify requirements of N.C.G.S. Chapter 64, Article 2. Vendors are directed to review the foregoing laws. Any awarded Vendor must submit a certification of compliance with E-Verify to the awarding agency, and on a periodic basis thereafter as may be required by the State.

3.4 SECURITY SPECIFICATIONS

3.4.1 SOLUTIONS HOSTED ON STATE INFRASTRUCTURE

Reserved.

3.4.2 SOLUTIONS NOT HOSTED ON STATE INFRASTRUCTURE

The Agency (named on page one (1)) has designated this solicitation to receive and securely manage data that is classified as:

- ☐ **Restricted** - Restricted data represents the highest risk to the State, State Agencies, and constituents if it is disclosed or compromised. This information is likely to be regulated by State or Federal law, and access to it is restricted to a limited audience (e.g., State and Federal Tax Information [FTI], Payment Card data, Protected Health Information [PHI], Criminal Justice Information [CJI], Social Security Administration provided information, etc.)
- ☐ **Confidential** - Includes information that is limited to a small audience with a need-to-know or legitimate business case (e.g., State employee personnel records, trade secrets, student records, sensitive public security information, etc.). If exposed to unauthorized parties, data from this category will cause high impact consequences such as regulatory fines, inability to recruit talent, loss of confidence, and/or damage to vendor relationships. This is not a complete list and is subject to legislative changes.
- ☒ **Internal** - This is information typically used within the agency and not for public sharing. Most documents are classified as Internal within the organization, and most State employees would have access. This type of data, if exposed to unauthorized parties, would have a very limited impact on an agency's reputation, compliance requirements or ability to achieve strategic goals. Internally classified data does not contain direct identifiers. Often, the effects of the loss of data can be recognized in very subtle ways and may not lead to clear negative consequences causing confusion due to lack of context or minor reputational harm.
- ☐ **Public** - Data that is open to public inspection according to state and federal law, or readily available through public sources.

Refer to the North Carolina Statewide Data Classification and Handling policy for more information regarding data classification. The policy is located at the following website: <https://it.nc.gov/document/statewide-data-classification-and-handling-policy>.

To comply with the State's Security Standards and Policies, State agencies are required to perform annual security/risk assessments on their information systems using NIST 800-53 controls.

This requirement additionally applies to all Vendor-provided, agency-managed Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Software as a Service (SaaS) solutions which will handle data classified as Internal, Confidential, or Restricted.

- (a) To comply with the State's Security Standards and Policies, cloud products are required to comply with applicable FedRAMP or GovRAMP security requirements, including but not limited to, continuous monitoring, incident response, and data classification as outlined in GovRAMP documentation.
- (b) To streamline and standardize this requirement the State has adopted GovRAMP which is a Risk and Authorization Management Program that provides a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services. GovRAMP's security verification model is based on NIST 800-53 Rev. 5 (or current).
- (c) For purposes of this solicitation, any Vendor-hosted cloud management platform that stores or processes State data shall maintain a GovRAMP Core verified status or a FedRAMP Rev. 5 authorization accepted by the State. If the platform does not hold the required status at offer submission, the Vendor shall provide its current GovRAMP Security Snapshot Score and describe its plan and schedule to achieve the required status within twelve (12) months of the effective date. The Vendor shall provide the State standard access to applicable

continuous-monitoring packages within fourteen (14) days of contract award and within seven (7) days of any subsequent status change.

Additional Security Documentation.

Refer to: <https://it.nc.gov/documents/statewide-glossary-information-technology-terms> for descriptions of the Application Criticality categories.

Refer to: <http://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.199.pdf> for descriptions of NIST system confidentiality, integrity, and availability categories.

3.5 ENTERPRISE ARCHITECTURE SPECIFICATIONS

3.5.1 ARCHITECTURE DIAGRAMS

The two diagrams are Network Architecture and Technology Stack. The State utilizes architectural diagrams to better understand the design and technologies of a proposed solution. Details on these diagrams can be found at the following link: <https://it.nc.gov/resources/statewide-it-procurement/vendor-engagement-resources#Tab-Architecture-1192>

The provision of these two diagrams is a requirement at offer submission. If they are not supplied at that time, the Vendor's offer will be considered non-responsive and will not be evaluated.

There may be additional architectural diagrams requested of the vendor after contract award. This will be communicated to the vendor by the agency as needed during the project.

3.5.2 SOLUTION ROADMAP

A Solution Roadmap defines the vision and strategic elements of the solution. The Solution Roadmap is a plan of action for how a Solution will evolve over time. The minimum content should include:

- Vision for the solution
- High-level functionality expected for each solution release into production environment
- High-level timeline
- Description of how customer feedback is collected and incorporated into solution enhancements

Describe the solution roadmap for your product. Include content on release strategies for functionality, roadmap for technical architecture, how scalability of solution is planned.

3.5.3 IDENTITY AND ACCESS MANAGEMENT

The proposed solution must externalize identity and access management. The protocols describing the State's Identity and Access Management can be found at the following link: <https://it.nc.gov/services/vendor-engagement-resources#Tab-IdentityAccessManagement-1241>

The proposed management platform shall support centralized identity and access management, role-based access control, multifactor authentication, and SAML 2.0 or OpenID Connect integration with the identity provider. Vendor shall describe local break-glass access, privileged-access controls, and administrative audit logging.

3.5.4 INTEGRATION APPROACH

Describe proposed solution capabilities to interoperate with other solutions. Identify the standards supported, integrations platforms, adaptors, APIs, and the like.

3.5.4 DISASTER RECOVERY AND BUSINESS CONTINUITY

Describe the proposed solution capabilities related to the following areas:

Disaster Recovery Plan (DRP) – describe how proposed solution supports Recovery Point Objectives (RPO) and Recovery Time Objectives (RTO) metrics.

System Backup – describe backup plan capabilities.

Disaster Recovery Testing – describe the frequency and test procedures for end-to-end disaster recovery testing. Business Continuity Plan (BCP) – describe capabilities proposed solution can provide in support of agency's continuity of operations and incident responses.

3.5.5 DATA MIGRATION

Reserved.

3.5.6 APPLICATION MANAGEMENT

Describe how the management platform monitors and reports service health, device availability, performance, capacity, wireless experience, security events, and SLA metrics.

Describe user administration, role-based permissions, tenant administration boundaries, and the process for adding, changing, and removing authorized users.

Describe administrative audit logging, configuration-change history, log retention, and export capabilities.

3.5.7 ACCESSIBILITY

Describe how the proposed solution complies with industry accessibility standards.

Provide product documentation that demonstrates how the proposed solution is digitally accessible or if not fully accessible, provide the roadmap with timeline for remediation.

Standards include:

- State of North Carolina Digital Accessibility & Usability Standard
- W3C Web Accessibility Initiative - Web Content Accessibility Guidelines (WCAG) 2.1:
<https://www.w3.org/TR/WCAG21/>
- Section 508: <https://www.section508.gov/>
- Voluntary Product Accessibility Template (VPAT®):
<https://www.itic.org/policy/accessibility/vpat>

ENTERPRISE, SERVICES, AND STANDARDS

Agencies and vendors should refer to the Vendor Resources Page for information on North Carolina Department of Information Technology regarding architecture, security, strategy, data, digital, identity and access management and other general information on doing business with state IT process.

The Vendor Resources Page found at the following link: <https://it.nc.gov/vendor-engagement-resources>. This site provides vendors with statewide information and links referenced throughout the RFP document. Agencies may request additional information.

3.6. PRODUCT RECALL

Vendor assumes full responsibility for prompt notification of both the contract administrator and purchaser of any product recall in accordance with the applicable state and federal regulations.

3.7 WARRANTY

All equipment furnished under this RFQ shall be new, currently supported, and covered by the manufacturer's standard warranty. Throughout the contract term, the Vendor shall be responsible for warranty administration, troubleshooting, replacement parts, labor, freight, configuration

restoration, and return of failed equipment at no additional cost unless expressly identified in the pricing schedule.

The Vendor may use remote diagnosis when appropriate; however, remote troubleshooting shall not delay on-site service or hardware replacement when required to meet the applicable SLA. The Vendor remains responsible for performance of any manufacturer or third-party service provider.

Vendor shall identify the manufacturer warranty term for each proposed hardware item and state whether warranty service will be performed directly by the Vendor or by an authorized third party

The report of a problem does not presuppose that every call must result in an "on-site" visit for service/repair. The Vendor and/or service sub-contractor shall utilize best efforts to resolve problems in a timely fashion through the use of acceptable servicing methods to include, but not limited to, verbal problem analysis and remote diagnosis. The warranty requirement does not impose any additional duty on the State to make other than normal and good faith problem resolution efforts or expenditures of time. Vendor is responsible for compliance with warranty terms by any third-party service provider.

Is Vendor authorized by manufacturer to repair equipment offered during the warranty period?

☐ YES ☐ NO

Will Vendor provide warranty service? ☐ YES ☐ NO, an authorized third party will perform warranty service

Contact information for warranty service provider:

Company Name: _____

Company Address: _____

Contact Person: _____

Contact Person Phone Number: _____

Contact Person Email: _____

3.8 MAINTENANCE

Vendor Maintenance, monitoring, support, licensing, subscriptions, firmware updates, security patches, configuration backups, hardware replacement, and lifecycle management shall be included for the full contract term. Planned maintenance shall be coordinated with the College and performed in accordance with the change-management and SLA requirements of this RFQ. Recurring charges shall include all services necessary to keep the proposed solution fully operational and supported.

For completion by Vendor: Vendor's maximum response time to this location after receipt of service call: _____ hours

Describe in detail the items and services to be covered under the extended maintenance:

3.9. CONTRACT TERM

A contract awarded pursuant to this IFB/RFQ shall have an effective date as provided in the Notice of Award. The term shall be three (3) years and will expire upon the anniversary date of the effective date unless otherwise stated in the Notice of Award, or unless terminated earlier. The State retains the option to extend this contract for two (2) additional one (1) year periods at its sole discretion.

3.10 DELIVERY

Successful Vendor will complete the scope of work within 90 consecutive calendar days after receipt of purchase order to the following location(s): Ascend 704 Entrepreneurship Center

The schedule shall identify carrier construction, equipment procurement, design, installation, configuration, testing, documentation, training, acceptance, and production milestones. Vendor shall state the proposed number of calendar days from Notice to Proceed to production acceptance.

Installation shall occur at the Ascend704 Entrepreneurship Center, 1851 South Piedmont Street, Monroe, North Carolina 28110, and at any associated carrier demarcation locations required to deliver the proposed service.

For completion by Vendor: Delivery of goods will be made from _____ (city, state) within _____ consecutive days after receipt of order.

Delivery shall not be considered to have occurred until installation has been completed. Upon completion of the installation, the Vendor shall remove and properly dispose of all waste and debris from the installation site. Vendor shall be responsible for leaving the installation area clean and ready to use.

If circumstances beyond the control of the contractor result in a late delivery [or installation], it is the responsibility and obligation of the contractor to notify the Purchasing Agent listed on the purchase order, in writing, immediately upon determining delay of shipment. The written notification should indicate the anticipated delivery dated.

3.11 SPECIFICATIONS

Project Objectives

The objective of this RFP is to establish a scalable, secure, and fully managed network environment that:

- Provides reliable internet access to tenants and guests
- Ensures logical isolation between tenant organizations
- Supports enterprise-grade wireless connectivity throughout the building
- Supports high-density wireless usage in conference/event areas
- Minimizes operational overhead for Ascend704 staff
- Provides SLA-backed monitoring and support services
- Provides long-term scalability and lifecycle management

Existing Building Infrastructure

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The following infrastructure is already in place:

Infrastructure Item	Status
MDF/IDFs Built Out	Yes
Equipment Racks Installed	Yes
Ladder Tray/Cable Management Installed	Yes
Adequate Closet Cooling	Yes
UPS-Backed Power Available	Yes
Redundant Power Circuits	No
Fiber Between Closets	Yes
Fiber Type	Multimode Fiber
Conduit Pathways Available	Yes

Vendor shall validate all existing infrastructure prior to implementation.

Telecommunications Closets

The building contains three telecommunications closets:

Closet	Description
MDF 146	1st Floor Main Distribution Frame
IDF 170	1st Floor Intermediate Distribution Frame
IDF 259	2nd Floor Intermediate Distribution Frame

Closet-to-closet distances and floor layouts shall be provided during vendor walkthroughs and proposal development.

Network Drop Counts

1st Floor MDF 146

Public/User Drops

- 44 drops supporting:
 - Offices
 - Shared spaces
 - Meeting rooms
 - Common/public areas

Wireless Access Point Drops

- 16 AP drops

1st Floor IDF 170

Public/User Drops

- 8 meeting room/public drops

Wireless Access Point Drops

- 8 AP drops
-

2nd Floor IDF 259

Public/User Drops

- 84 drops supporting:
 - Offices
 - Shared workspaces
 - Meeting rooms

Wireless Access Point Drops

- 21 AP drops
-

Estimated Infrastructure Requirements

Component	Estimated Quantity
User/Public Drops	136
AP Drops	45
Telecommunications Closets	3

Vendor shall provide:

- Sufficient switching capacity
- Growth capacity
- Proper PoE budgets
- Uplink redundancy recommendations
- Appropriate oversubscription ratios

All user/public drops shall have active switch ports provisioned.

Wireless AP drops shall be dedicated for wireless infrastructure only.

Scope of Work:

The selected vendor shall provide:

Network Design & Engineering

Vendor shall:

- Design the complete wired and wireless architecture
 - Provide logical and physical diagrams
 - Provide VLAN and segmentation design
 - Provide IP addressing recommendations
 - Provide redundancy recommendations
 - Provide internet edge design
 - Provide wireless design and RF planning
 - Provide rack elevation diagrams for vendor-managed equipment
-

Internet Services

Vendor shall provide:

- Dedicated business-class internet connectivity
- Minimum proposed bandwidth of 1 Gbps
- Symmetrical bandwidth preferred
- SLA-backed internet services
- Always-on DDoS protection
- 24x7 monitoring

Preferred DDoS protection method:

- Upstream carrier-based DDoS mitigation

Vendors may optionally propose:

- Dual ISP architecture
- Automatic failover
- SD-WAN solutions
- Redundant internet circuits

Vendor shall specify:

- ISP provider(s)
 - Circuit type
 - Bandwidth scalability
 - SLA details
 - Failover options
-

Wireless Requirements

Vendor shall provide enterprise-grade wireless coverage throughout all indoor areas of the building.

Wireless Coverage Requirements

Wireless coverage shall support:

- Offices
- Shared workspaces
- Meeting rooms
- Common/public spaces
- Conference/event areas

Outdoor wireless coverage is not required.

Wireless Standards

Minimum requirements:

- WPA2 security minimum
- 5 GHz support required
- Enterprise-grade AP management
- Seamless roaming capabilities
- RF optimization
- Band steering

Vendor may propose:

- WPA3
 - WiFi 6/6E
 - High-density optimization
-

Wireless Design Requirements

Vendor shall:

- Perform predictive and physical wireless survey
- Provide heat map deliverables
- Determine final AP placement
- Validate wireless density requirements
- Design for high-density conference/event space usage

The facility includes a conference/event space with an estimated maximum occupancy of approximately 700 persons.

The vendor's predictive RF survey must detail a distinct high-density layout for this space, utilizing narrow-beam directional antennas mounted high in the structure to restrict cell sizes and maximize spatial reuse, coupled with aggressive band steering to force capable devices onto the 5 GHz and 6 GHz spectrums.

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Vendor shall specifically address:

- High-density wireless design methodology
 - Event capacity planning
 - RF optimization strategy
 - Expected concurrent wireless client support
-

Multi-Tenant Segmentation Requirements

The environment shall support multiple independent tenant organizations.

Vendor shall provide:

- Secure tenant isolation
- Segmented wired networks
- Segmented wireless networks
- Guest/public wireless isolation

Wireless segmentation shall utilize:

- iPSK (Identity Pre-Shared Key) or equivalent secure segmentation technology

Requirements:

- One wireless password per tenant organization
- Guest/public wireless network
- Prevention of tenant-to-tenant visibility

Tenant onboarding and offboarding shall be coordinated through designated Ascend704/college staff contacts who will submit service requests to the vendor NOC.

Switching Infrastructure

Vendor shall provide:

- Enterprise-grade managed switching
- PoE/PoE+ support
- VLAN capabilities
- Layer 2 and/or Layer 3 functionality
- Centralized management
- Monitoring and telemetry
- Remote administration capabilities

Vendor may propose architecture based on:

- Cloud-managed platforms
- On-premises management

- Hybrid management solutions

Vendor shall justify:

- Switching architecture
 - Redundancy model
 - Scalability approach
 - Vendor platform selection
-

Firewall & Security Requirements

Vendor shall provide:

- Enterprise-grade managed firewall(s)
- IDS/IPS protections
- Secure remote management
- Logging and monitoring
- Best-practice security configurations
- Administrative MFA protections

Vendor shall:

- Maintain current supported firmware
 - Follow secure configuration baselines
 - Maintain vulnerability remediation procedures
 - Provide security alerting for infrastructure-level incidents
-

Monitoring & NOC Services

Vendor shall provide:

- 24x7x365 monitoring
- Incident detection and response
- Automated alerting
- Performance monitoring
- Availability monitoring
- Configuration backup management
- Wireless performance monitoring
- DDOS Protection

Infrastructure to be monitored:

- Internet circuits
- Firewalls
- Switches
- Wireless infrastructure

Support Requirements

Vendor shall provide:

- Support availability during nights and weekends
- Infrastructure support services
- Ticketing system access
- Escalation procedures
- Incident management

Support scope shall primarily cover:

- Network infrastructure
 - Internet connectivity
 - Wireless infrastructure
 - Vendor-managed equipment
-

Authorized Contacts

Ascend704 shall maintain a list of registered/authorized contacts permitted to:

- Open support tickets
- Request changes
- Approve maintenance
- Escalate incidents

Vendor shall validate authorized contacts before performing change requests.

Service Level Agreements (SLAs)

Vendor shall provide proposed SLAs including:

Metric	Requirement
Monitoring Coverage	24x7x365
Critical Incident Response	≤ 15 minutes
High Severity Response	≤ 30 minutes
Medium Severity Response	≤ 2 hours
Low Severity Response	≤ 1 business day
Critical MTTR Target	≤ 4 hours
Infrastructure Availability	99.9% or greater
Internet Availability	99.99% preferred

Vendor shall define:

- Severity classifications
- Escalation procedures
- Maintenance windows
- SLA exclusions

Service Level Credit (SLC) Matrix

The vendor shall provide service credits for failure to meet contractual SLA requirements. Service credits shall be applied to the monthly recurring service charges for the affected services.

Service Metric	SLA Target	Measured Performance	Service Credit
Internet Availability	99.99%	99.90% – 99.98%	5% Monthly Service Credit
Internet Availability	99.99%	99.00% – 99.89%	10% Monthly Service Credit
Internet Availability	99.99%	< 99.00%	20% Monthly Service Credit
Critical Incident Response	≤ 15 Minutes	> 15 to 30 Minutes	5% Monthly Service Credit
Critical Incident Response	≤ 15 Minutes	> 30 Minutes	10% Monthly Service Credit
Critical MTTR	≤ 4 Hours	4 – 8 Hours	5% Monthly Service Credit
Critical MTTR	≤ 4 Hours	> 8 Hours	10% Monthly Service Credit
Wireless Infrastructure Availability	99.9%	99.0% – 99.89%	5% Monthly Service Credit
Wireless Infrastructure Availability	99.9%	< 99.0%	10% Monthly Service Credit

Additional SLC Terms

- Service credits shall not exceed 50% of the monthly recurring charges for the affected service in a single billing cycle.
- Scheduled maintenance windows approved by Ascend704 shall not count against SLA calculations.
- Force majeure events shall be excluded from SLA calculations.
- Vendor shall provide monthly SLA reporting detailing uptime, incidents, and applicable credits.
- Repeated SLA failures may constitute breach of contract and grounds for termination.
- Service credits must be requested by Ascend704 within thirty (30) calendar days of the applicable SLA violation.
- Vendor shall provide RCA (Root Cause Analysis) documentation for all Priority 1/Critical incidents exceeding SLA targets.
- Chronic SLA violations occurring in three (3) consecutive months may trigger contract review and remediation requirements.

Maintenance & Change Management

Vendor shall provide:

- Scheduled maintenance procedures
- Emergency maintenance procedures
- Firmware lifecycle management
- Patch management
- Change management procedures
- Rollback procedures

Vendor shall provide advance notification for:

- Planned maintenance
 - Service interruptions
 - Security-related emergency changes
-

Documentation Requirements

Vendor shall provide:

- Network diagrams
- IP addressing documentation
- VLAN documentation
- Wireless heat maps
- AP placement maps
- Asset inventory
- Firewall documentation
- Support escalation documentation
- ISP/circuit documentation

Documentation shall remain current throughout the contract term.

Equipment Ownership & Lifecycle

The selected vendor may provide equipment under:

- Managed lease
- Subscription
- Equipment-as-a-service model

Vendor-owned equipment is acceptable and preferred.

Vendor shall specify:

- Hardware ownership model
- Equipment refresh lifecycle

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- Warranty handling
- Failed hardware replacement procedures

Ascend704 is seeking pricing for:

- 3-year term
 - 5-year term
-

Out of Scope

The following items are specifically excluded from vendor responsibility:

- UPS systems
 - Electrical systems
 - Rack procurement
 - Patch panels
 - Horizontal Cat6 cabling
 - Security cameras
 - VoIP systems
 - HVAC systems
 - Outdoor wireless coverage
 - Physical access control systems
 - Endpoint devices including:
 - Computers
 - Printers
 - Tenant-owned equipment
-

Future Scalability

Vendor solutions shall support future growth including:

- Additional tenants
- Additional APs
- Additional bandwidth
- Additional segmented networks
- Future internet redundancy
- Expanded event usage

Vendor shall provide sufficient infrastructure capacity to support future growth without requiring complete replacement of the proposed architecture.

Vendor Proposal Requirements

Vendor responses shall include:

Company Information

- Company overview
 - Relevant experience
 - References
 - NOC locations
-

Technical Proposal

- Proposed architecture
 - Equipment list
 - Wireless design methodology
 - Security approach
 - Monitoring approach
 - Internet provider details
-

Operational Proposal

- SLA documentation
 - Escalation matrix
 - Support model
 - Change management procedures
 - Maintenance procedures
-

Preferred Platforms

Preferred enterprise platforms include:

- Cisco
- Meraki
- HPE Aruba Networking Aruba
- Juniper Networks Mist
- Fortinet Fortinet

Equivalent enterprise-grade solutions may be proposed.

Evaluation Criteria

Vendor proposals may be evaluated based on:

- Technical capability
- Scalability

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- Wireless design approach
 - Security architecture
 - SLA offerings
 - Relevant experience
 - Support capabilities
 - Overall value and cost effectiveness
-

Site Walkthrough

Ascend704 reserves the right to require mandatory site walkthroughs prior to final proposal submission.

Vendor walkthroughs may include:

- Closet inspection
- Wireless analysis
- Conference/event space review
- ISP demarc review

4.0 FURNISH AND DELIVER

Pricing for 3 year term and 5 year term.

Vendor shall provide:

- One-time implementation costs
- Monthly recurring costs @ 1GB Speed
- Internet costs
- Licensing costs
- Optional redundancy pricing
- Optional dual ISP pricing

5.0 ADDITIONAL INFORMATION

5.1. HISTORICALLY UNDERUTILIZED BUSINESSES

"Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the aforementioned categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled." <http://ncadmin.nc.gov/businesses/hub>

Pursuant to N.C.G.S. §§143B-1361(a), 143-48 and 143-128.4, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this IFB/RFQ.

Is Vendor a Historically Underutilized Business? ☐ YES ☐ NO If "YES", specify classification. _____

5.2. **RECYCLED CONTENT**

In an effort to support the sustainability efforts of the State of North Carolina Executive Order Number 156, we solicit your cooperation.

Does the packaging of the items offered in response to this IFB/RFQ contain recycled content?

☐ YES ☐ NO

If Vendor answered "YES" above, indicate the following:

Percentage of recycled content: _____ Can the packaging be recycled? ☐ YES ☐ NO

Do items offered in response to this solicitation contain recycled content? ☐ YES ☐ NO

If Vendor answered "YES" above, indicate the material and content percentage of applicable items.

Material: _____ Percentage of recycled content: _____

State how items may be disposed of or recycled at the end of use?

5.3. **ENERGY STAR PRODUCTS**

"ENERGY STAR® is a government-backed program helping businesses and individuals protect the environment through superior energy efficiency." <http://www.energystar.gov/>

Do products offered meet Energy Star specifications of energy efficiency? ☐ YES ☐ NO

6.0 **DEPARTMENT OF INFORMATION TECHNOLOGY INSTRUCTIONS TO VENDORS**

- 1) **READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
- 2) **DEFINITIONS:**
 - **NCDIT:** The North Carolina Department of Information Technology, formerly Office of Information Technology Services
 - **NCDIT CONVENIENCE CONTRACT:** A contract that is used for the procurement of IT goods or Services. These contracts are in place for the convenience of the state and use of them is optional.
 - **OPEN MARKET CONTRACT:** A contract for the purchase of goods or Services not covered by a term, technical, or convenience contract.
 - **TERM CONTRACT:** A contract in which a source of supply is established for a specified period of time for specified Services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price
 - **THE STATE:** Is the state of North Carolina and its agencies.

- **VENDOR:** Company, firm, corporation, partnership, individual, etc., submitting a response to a solicitation.
- 3) **PROMPT PAYMENT DISCOUNTS:** Vendors are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
- 4) **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this IFB/RFQ, each Vendor must submit with their offer sketches, descriptive literature and/or complete specifications covering the products offered. **Only information that is received in response to this RFQ will be evaluated.** Reference to information previously submitted or Internet Website Addresses (URLs) will not satisfy this provision. Offers, which do not comply with these requirements, will be subject to rejection.
- 5) **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items, which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Companies are strongly urged to bring to the attention of the relevant purchasers in the State those products or packaging they offer which have recycled content and that are recyclable.
- 6) **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from NCDIT. The Vendor is cautioned that the requirements of this IFB/RFQ can be altered only by written addendum and that verbal communications from whatever source are of no effect.
- 7) **ACCEPTANCE AND REJECTION:** The State reserves the right to reject any and all offers, to waive any informality in offers and, unless otherwise specified by the Vendor, to accept any item in the offer. If either a unit price or an extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
- 8) **AWARD OF CONTRACT:** Responsive offers will be evaluated and acceptance may be made in accordance with Best Value procurement practices as defined by N.C.G.S. §143-135.9, and in accordance with N.C.G.S. §143B-1350(h), which provides that the offer must be in substantial conformity with the specifications herein, and 09 NCAC 06B.0302. Unless otherwise specified by the State or the Vendor, the State reserves the right to accept any item or group of items on a multi-item offer. In addition, on agency specific or term contracts, NCDIT reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by NCDIT to be pertinent or peculiar to the purchase in question.
- 9) **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the Vendor's expense. Written request for the return of samples must be made within 10 days following date of offer opening. Otherwise the samples will become the property of the State. Each individual sample must be labeled with the Vendor's name, offer number, and item number. A sample, on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.
- 10) **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns and the singular of any word or phrase shall be read to include the plural and vice versa.
- 11) **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded pursuant to this solicitation that is over \$25,000 they must submit a written request to the issuing agency at the address given in this document. This request must be received in this office within fifteen (15) calendar days from the date of the contract award, and must contain specific sound reasons and any supporting documentation for the protest. **Note:** Contract award notices are sent **only** to those

actually awarded contracts, and not to every person or firm responding to this solicitation. IFB/RFQ status and Award notices are posted on at <https://evp.nc.gov/>. **All protests will be governed by NCAC Title 9, Department of Information Technology (formerly Office of Information Technology Services), Subchapter 06B Sections .1101 - .1121**

- 12) **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows Vendors to electronically register with the State to receive electronic notification of current procurement opportunities for goods and services available on the NC Electronic Vendor Portal (eVP) at the following web site: <https://evp.nc.gov/>
- 13) **DIGITAL IMAGING:** The State will digitize the Vendor's response if not received electronically, and any awarded contract together with associated contract documents. This electronic copy shall be a preservation record and serve as the official record of this solicitation with the same force and effect as the original written documents comprising such record. Any printout or other output readable by sight shown to reflect such record accurately is an "original."

7.0 DEPARTMENT OF INFORMATION TECHNOLOGY TERMS AND CONDITIONS

- 1) **DEFINITIONS:** As used herein;
 - a) Deliverable/Product Warranties shall mean and include the warranties provided for products or deliverables licensed to the State in Paragraphs 7 and 8, and included in Paragraph 29 c) of these Terms and Conditions unless superseded by a Vendor's Warranties pursuant to Vendor's License or Support Agreements.
 - b) Purchasing State Agency or Agency shall mean the Agency purchasing the goods or Services.
 - c) Services shall mean the duties and obligations accepted by the Vendor to carry out the requirements, and meet the specifications, of this procurement.
 - d) State shall mean the State of North Carolina, the Department of Information Technology as an Agency or in its capacity as the Award Authority.
- 2) **STANDARDS:** Manufactured items and/or fabricated assemblies comprising Deliverables shall meet all requirements of the Occupational Safety and Health Act (OSHA), and State and federal requirements relating to clean air and water pollution, if applicable. Vendor will provide and maintain a quality assurance system or program that includes any Deliverables and will tender to the State only those Deliverables that have been inspected and found to conform to the requirements of this Contract. All manufactured items and/or fabricated assemblies comprising Deliverables are subject to operation, certification or inspection, and accessibility requirements as required:
 - by State or federal Regulation,
 - by the Chief Information Officer's (CIO) policy or regulation, or
 - acceptance with appropriate standards of operations or uses of said Deliverables as may be shown by identification markings or other means of the appropriate certifying standards organization.
 - a) **Site Preparation:** Vendors shall provide the Purchasing State Agency complete site requirement specifications for the Deliverables, if any. These specifications shall ensure that the Deliverables to be installed shall operate properly and efficiently within the site environment. The Vendor shall advise the State of any site requirements for any Deliverables required by the State's specifications. Any alterations or modification in site preparation which are directly attributable to incomplete or erroneous specifications provided by the Vendor and which would involve additional expenses to the State, shall be made at the expense of the Vendor.
 - b) **Goods Return:** Deliverables and any other goods or materials furnished by the Vendor to fulfill technical requirements shall be in good working order and be maintained in good working order by Vendor for the duration of the Contract; unless otherwise provided in a separate maintenance agreement or in the Solicitation Documents. Deliverables failing to meet the State's technical requirements shall be considered non-conforming goods and subject to return to the Vendor for replacement at the State's option, and at the Vendor's expense. The State is responsible for the return costs related to the termination of a Contract, including deinstallation, and freight to destinations within the Continental United States; except in the case of default by the Vendor or delivery of non-conforming goods by Vendor. Shipping or freight charges, if any, paid by the State for non-conforming goods will be reimbursed to the State.
 - c) **Specifications:** The apparent silence of the specifications as to any detail, or the apparent omission of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality may be used. Upon any notice of noncompliance provided by the State, Vendor shall supply proof of compliance with the specifications. Vendor must provide written notice of its intent to deliver alternate or substitute products, goods or Deliverables. Alternate or substitute products, goods or Deliverables may be accepted or rejected in the sole discretion of the State; and any such alternates or substitutes must be accompanied by Vendor's certification and evidence satisfactory to the State that the function, characteristics, performance and endurance will be equal or superior to the original Deliverables specified.
- 3) **WARRANTIES:** Vendor shall assign all applicable third party warranties for Deliverables to the Purchasing State Agency.

- 4) **PERSONNEL**: Vendor shall not substitute key personnel assigned to the performance of this Contract without prior written approval by the Agency Contract Administrator. Any desired substitution shall be noticed to the Agency's Contract Administrator accompanied by the names and references of Vendor's recommended substitute personnel. The Agency will approve or disapprove the requested substitution in a timely manner. The Agency may, in its sole discretion, terminate the Services of any person providing Services under this Contract. Upon such termination, the Agency may request acceptable substitute personnel or terminate the contract Services provided by such personnel.
 - a) Vendor personnel shall perform their duties on the premises of the State, during the State's regular work days and normal work hours, except as may be specifically agreed otherwise, established in the specification, or statement of work.
 - b) This Contract shall not prevent Vendor or any of its personnel supplied under this Contract from performing similar Services elsewhere or restrict Vendor from using the personnel provided to the State, provided that:
 - i) Such use does not conflict with the terms, specifications or any amendments to this Contract, or
 - ii) Such use does not conflict with any procurement law, regulation or policy, or
 - iii) Such use does not conflict with any non-disclosure agreement, or term thereof, by and between the State and Vendor or Vendor's personnel.
- 5) **SUBCONTRACTING**: The Vendor may subcontract the performance of required Services with other Vendors or third parties, or change subcontractors, only with the prior written consent of the contracting authority. Vendor shall provide the State with complete copies of any agreements made by and between Vendor and all subcontractors. The selected Vendor remains solely responsible for the performance of its subcontractors. Subcontractors, if any, shall adhere to the same standards required of the selected Vendor. Any contracts made by the Vendor with a subcontractor shall include an affirmative statement that the State is an intended third party beneficiary of the contract; that the subcontractor has no agreement with the State; and that the State shall be indemnified by the Vendor for any claim presented by the subcontractor. Notwithstanding any other term herein, Vendor shall timely exercise its contractual remedies against any non-performing subcontractor and, when appropriate, substitute another subcontractor.
- 6) **VENDOR'S REPRESENTATION**: Vendor warrants that qualified personnel will provide Services 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 information technology industry. Vendor agrees that it will not enter any agreement with a third party that might abridge any rights of the State under this Contract. Vendor will serve as the prime Vendor under this Contract. Should the State approve any subcontractor(s), the Vendor shall be legally responsible for the performance and payment of the subcontractor(s). 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. Third party subcontractors, if approved, may serve as subcontractors to Vendor. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).
 - a) **Intellectual Property**. Vendor has the right to provide the Services and Deliverables without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party. Vendor represents that its Services and Deliverables are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.
 - b) **Inherent Services**. If any Services, Deliverables, functions, or responsibilities not specifically described in this Contract are required for Vendor's proper performance, provision and delivery of the Service and Deliverables pursuant to this Contract, or are an inherent part of or necessary sub-task included within the 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 in the Contract, 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 Deliverables.

- c) Vendor warrants that it has the financial capacity to perform and to continue 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.
 - d) **Warranty as to Equipment; Hardware.** Vendor warrants that the equipment and hardware that it provides pursuant to this Contract shall be free from defects in materials, in good working order and be maintained in good working order.
- 7) **SOFTWARE LICENSE** *(for internal embedded software, firmware and unless otherwise provided in the State's solicitation document, or in an attachment hereto):* Deliverables comprising goods, equipment or products (hardware) may contain software for internal operation, or as embedded software or firmware that is generally not sold or licensed as a severable software product. Software may be provided on separate media, such as floppy diskettes or CD-ROM, or may be included within the hardware at or prior to delivery. Such software is proprietary, copyrighted, and may also contain valuable trade secrets and may be protected by patents. Vendor grants the State a license to use the Code (or any replacement provided) on, or in conjunction with, only the Deliverables purchased, or with any system identified in the solicitation documents. The State shall have a worldwide, nonexclusive, non-sublicensable license to use such software and/or documentation for its internal use. The State may make and install copies of the software to support the authorized level of use. Provided, however that if the hardware is inoperable, the software may be copied for temporary use on other hardware. The State shall promptly affix to any such copy the same proprietary and copyright notices affixed to the original. The State may make one copy of the software for archival, back-up or disaster recovery purposes. The license set forth in this Paragraph shall terminate immediately upon the State's discontinuance of the use of the equipment on which the software is installed. The software may be transferred to another party only with the transfer of the hardware. If the hardware is transferred, the State shall i) destroy all software copies made by the State, ii) deliver the original or any replacement copies of the software to the transferee, and iii) notify the transferee that title and ownership of the software and the applicable patent, trademark, copyright, and other intellectual property rights shall remain with Vendor, or Vendor's licensors. The State shall not disassemble, decompile, reverse engineer, modify, or prepare derivative works of the embedded software, unless permitted under the solicitation documents.
- 8) **MAINTENANCE/SUPPORT SERVICES:** Unless otherwise mutually provided herein, for the first year after the expiration of any warranty coverage (and for all subsequent Contract years, for which Support is purchased), Vendor agrees to provide the following Support Services for the Hardware and any Software provided with the Deliverables for any years in which the applicable support fees are paid, which may be more particularly described, e.g., under part numbers, in the Furnish & Deliver Table, above:

HARDWARE/EQUIPMENT:

- a) **Basic Services.** The Vendor will provide at least normal and usual Hardware support and maintenance Services generally provided to customers in a similar program, position or setting consistent with and subject to the payment of the support and maintenance fees agreed upon in this Contract, all as indicated by part numbers in the Furnish and Deliver Table, above. The Vendor warrants to the State that all items furnished will be new (unless otherwise requested in this IFB/RFQ), of good material and workmanship, and agrees to repair or replace any items which fail to comply with the specifications by reason of defective material or workmanship under normal use, free of State's negligence or accident for one year from date of installation. Such repair or replacement shall include any transportation costs free of any charge to the State. This statement is not intended to limit any additional coverage, which may normally be associated with a product, such as any "hot switch" or similar replacement warranty program applicable as indicated by the Vendor's support description in the Furnish & Deliver Table, above. Any available

warranties applicable to replacement Hardware equipment or parts will be passed on to the using agency.

- b) **Telephone Assistance.** Vendor shall provide the State with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Support problems, during normal business hours, 8:00 AM - 5:00 PM Eastern Standard Time, Monday-Friday. Vendor shall respond to the telephone requests for Program maintenance service, within four hours, for calls made at any time.

SOFTWARE:

- a) **Error Correction.** Upon notice by State of a problem with the Software (which problem can be verified), Vendor shall use reasonable efforts to correct or provide a working solution for the problem. The State shall comply with all reasonable instructions or requests of Vendor in attempts to correct an error or defect in the Program. Vendor and the State shall act promptly and in a reasonably timely manner in communicating error or problem logs, other related information, proposed solutions or workarounds, and any action as may be necessary or proper to obtain or affect maintenance Services under this Paragraph.
 - b) Vendor shall notify the State of any material errors or defects in the Deliverables known, or made known to Vendor from any source during the Contract term that could cause the production of inaccurate or otherwise materially incorrect, results. Vendor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.
 - c) **Updates.** Vendor shall provide to the State, at no additional charge, all new releases and bug fixes (collectively referred to as "Changes") for any Software Deliverable developed or published by Vendor and made generally available to its other customers at no additional charge. All such Changes shall become a part of the Software and Documentation and, as such, will be governed by the provisions of this Contract.
 - d) **Telephone Assistance.** Vendor shall provide the State with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Software problems, during normal business hours, 8:00 AM - 5:00 PM Eastern Standard Time, Monday-Friday. Vendor shall respond to the telephone requests for Program maintenance service, within four hours, for calls made at any time.
- 9) **TRAVEL EXPENSES: All travel expenses should be included in the Vendor's proposed costs. Separately stated travel expenses will not be reimbursed.** In the event that the Vendor may be eligible to be reimbursed for travel expenses arising under the performance of this Contract, reimbursement will be at the out-of-state rates set forth in N.C.G.S. §138-6; as amended from time to time. Vendor agrees to use the lowest available airfare not requiring a weekend stay and to use the lowest available rate for rental vehicles. All Vendor incurred travel expenses shall be billed on a monthly basis, shall be supported by receipt and shall be paid by the State within thirty (30) days after invoice approval. Travel expenses exceeding the foregoing rates shall not be paid by the State. The State will reimburse travel allowances only for days on which the Vendor is required to be in North Carolina performing Services under this Contract.
- 10) **GOVERNMENTAL RESTRICTIONS:** In the event any restrictions are imposed by governmental requirements that necessitate alteration of the material, quality, workmanship, or performance of the Deliverables offered prior to delivery thereof, the Vendor shall provide written notification of the necessary alteration(s) to the Agency Contract Administrator. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract. The State may advise Vendor of any restrictions or changes in specifications required by North Carolina legislation, rule or regulatory authority that require compliance by the State. In such event, Vendor shall use its best efforts to comply with the required restrictions or changes. If compliance cannot be achieved by the date specified by the State, the State may terminate this Contract and compensate Vendor for sums due under the Contract.
- 11) **PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES:** Vendor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the State for the purpose of obtaining any contract or award issued by the State. Vendor further warrants that no commission or other payment has been or will be received from or paid to any third party

contingent on the award of any contract by the State, except as shall have been expressly communicated to the State Purchasing Agent in writing prior to acceptance of the Contract or award in question. Each individual signing below warrants that he or she is duly authorized by their respective Party to sign this Contract and bind the Party to the terms and conditions of this Contract. Vendor and their authorized signatory further warrant that no officer or employee of the State has any direct or indirect financial or personal beneficial interest, in the subject matter of this Contract; obligation or contract for future award of compensation as an inducement or consideration for making this Contract. Subsequent discovery by the State of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts. Violations of this provision may result in debarment of the Vendor(s) as permitted by 09 NCAC 06B.1206, or other provision of law.

- 12) AVAILABILITY OF FUNDS:** Any and all payments to Vendor are expressly contingent upon and subject to the appropriation, allocation and availability of funds to the Agency for the purposes set forth in this Contract. If this Contract or any Purchase Order issued hereunder is funded in whole or in part by federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Contract or Purchase Order. If the term of this Contract extends into fiscal years subsequent to that in which it is approved such continuation of the Contract is expressly contingent upon the appropriation, allocation, and availability of funds by the N.C. Legislature for the purposes set forth in the Contract. If funds to effect payment are not available, the Agency will provide written notification to Vendor. If the Contract is terminated under this paragraph, Vendor agrees to take back any affected Deliverables and software not yet delivered under this Contract, terminate any Services supplied to the Agency under this Contract, and relieve the Agency of any further obligation thereof. The State shall remit payment for Deliverables and Services accepted prior to the date of the aforesaid notice in conformance with the payment terms.
- 13) PAYMENT TERMS:** Payment terms are Net 30 days after receipt of correct invoice or acceptance of the Deliverables, whichever is later; unless a period of more than 30 days is required by the Agency. The Purchasing State Agency is responsible for all payments under the Contract. No additional charges to the Agency will be permitted based upon, or arising from, the Agency's use of a Business Procurement Card. The State may exercise any and all rights of Set Off as permitted in Chapter 105A-1 et. seq. of the N.C. General Statutes and applicable Administrative Rules. Upon Vendor's written request of not less than 30 days and approval by the State or Agency, the Agency may:
- a) Forward the Vendor's payment check(s) directly to any person or entity designated by the Vendor, or
 - b) Include any person or entity designated in writing by Vendor as a joint payee on the Vendor's payment check(s), however
 - c) In no event shall such approval and action obligate the State to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations.
- 14) ACCEPTANCE CRITERIA:** In the event acceptance of Deliverables is not described in additional Contract documents, the State shall have the obligation to notify Vendor, in writing ten calendar days following the supply of any Deliverable described in the Contract if it is not acceptable. The notice shall specify in reasonable detail the reason(s) a deliverable is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for installation and/or testing of Deliverables. Final acceptance is expressly conditioned upon completion of all applicable inspection and testing procedures. Should the Deliverables fail to meet any specifications or acceptance criteria the State may exercise any and all rights hereunder, including such rights provided by the Uniform Commercial Code as adopted in North Carolina. Deliverables discovered to be defective or failing to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Deliverables or non-compliance with the specifications was not reasonably ascertainable upon initial inspection. If the Vendor fails to promptly cure the defect or replace the Deliverables, the State reserves the right to cancel the Purchase Order, contract with a different Vendor, and to invoice the original Vendor for any differential in price over the original Contract price. When Deliverables are rejected, the Vendor must remove the rejected

Deliverables from the premises of the State Agency within seven (7) calendar days of notification, unless otherwise agreed by the State Agency. Rejected items may be regarded as abandoned if not removed by Vendor as provided herein.

- 15) EQUAL EMPLOYMENT OPPORTUNITY:** Vendor shall comply with all Federal and State requirements concerning fair employment and employment of the disabled, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or physical disability.
- 16) INSPECTION AT VENDOR'S SITE:** The State reserves the right to inspect, during Vendor's regular business hours at a reasonable time, upon notice of not less than two (2) weeks, and at its own expense, the prospective Deliverables comprising equipment or other tangible goods, or the plant or other physical facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary or proper to ensure conformance with the specifications/requirements and their adequacy and suitability for the proper and effective performance of the Contract.
- 17) ADVERTISING/PRESS RELEASE:** The Vendor absolutely shall not publicly disseminate any information concerning the Contract without prior written approval from the State or its Agent. For the purpose of this provision of the Contract, the Agent is the Purchasing Agency Contract Administrator unless otherwise named in the solicitation documents.
- 18) CONFIDENTIALITY:** In accordance with N.C.G.S. §§143B-1350(e), 143B-1375 and 09 NCAC 06B.0103 and 06B.1001 and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in N.C.G.S. §132-1 et seq. Such information may include trade secrets defined by N.C.G.S. §66-152 and other information exempted from the Public Records Act pursuant to N.C.G.S. §132-1.2. Vendor may designate 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, 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.*** The State may serve as custodian of Vendor's confidential information and not as an arbiter of claims against Vendor's assertion of confidentiality. If an action is brought pursuant to N.C.G.S. §132-9 to compel the State to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Vendor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State 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.G.S. §132-9 or other applicable law.
- a) Care of Information: Vendor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or the Agency during performance of any contractual obligation from loss, destruction or erasure.
- b) Vendor warrants that all its employees and any approved third party Vendors or subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in North Carolina. Vendor will, upon request of the State, verify and produce true copies of any such agreements. Production of such agreements by Vendor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that Vendor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the N.C. Public Records laws in N.C.G.S. §132-1 et seq. The State may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the State for Vendor's execution. The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication

1075, (Tax Information Security Guidelines for Federal, State, and Local Agencies), HIPAA, 42 USC 1320(d) (Health Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Department of Information Technology or the N.C. Department of Revenue pursuant to future statutory or regulatory requirements.

- c) Nondisclosure: Vendor agrees and specifically warrants that it, its officers, directors, principals and employees, and any subcontractors, shall hold all information received during performance of this Contract in the strictest confidence and shall not disclose the same to any third party without the express written approval of the State.

19) DELIVERABLES: Deliverables, as used herein, shall comprise all Services, project materials, including goods, software licenses, data, and documentation created during the performance or provision of Services hereunder. Deliverables are the property of the State of North Carolina, except where licensed or leased to the State. Proprietary Vendor materials licensed to the State shall be identified to the State by Vendor prior to use or provision of Services hereunder and shall remain the property of the Vendor. Embedded software or firmware shall not be a severable Deliverable. Deliverables include "Work Product" and means any expression of Licensor's findings, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, designs, programs, enhancements, and other technical information; but not source and object code or software. All Software source and object code is the property of Licensor and is licensed nonexclusively to the State, at no additional license fee, pursuant to the terms of the software license contained herein, and in the Supplemental Terms and Conditions for Software and Services or the License Agreement if incorporated in the Solicitation Documents.

20) LATE DELIVERY, BACK ORDER: Vendor shall advise the Agency contact person or office immediately upon determining that any Deliverable will not, or may not, be delivered at the time or place specified. Together with such notice, Vendor shall state the projected delivery time and date. In the event the delay projected by Vendor is unsatisfactory, the Agency shall so advise Vendor and may proceed to procure substitute Deliverables or Services.

21) PATENT, COPYRIGHT, AND TRADE SECRET PROTECTION:

- a) Vendor has created, acquired or otherwise has rights in, and may, in connection with the performance of Services for the State, employ, provide, create, acquire or otherwise obtain rights in various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and general purpose consulting and software tools, utilities and routines (collectively, the "Vendor Technology"). To the extent that any Vendor Technology is contained in any of the Deliverables including any derivative works, the Vendor hereby grants the State a royalty-free, fully paid, worldwide, perpetual, non-exclusive license to use such Vendor Technology in connection with the Deliverables for the State's purposes.
- b) Vendor shall not acquire any right, title, and interest in and to the copyrights for goods, any and all software, technical information, specifications, drawings, records, documentation, data or derivative works thereof, or other work products provided by the State to Vendor. The State hereby grants Vendor a royalty-free, fully paid, worldwide, perpetual, non-exclusive license for Vendor's internal use to non-confidential Deliverables first originated and prepared by the Vendor for delivery to the State.
- c) The Vendor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the Services or Deliverables supplied by the Vendor, or the operation of such Deliverables pursuant to a current version of Vendor-supplied software, infringes a patent, or copyright or violates a trade secret in the United States. The Vendor shall pay those costs and damages finally awarded against the State in any such action; damages shall be limited as provided in N.C.G.S. 143B-1350(h1). Such defense and payment shall be conditioned on the following:
 - i) That the Vendor shall be notified within a reasonable time in writing by the State of any such claim; and,

- ii) That the Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise provided, however, that the State shall have the option to participate in such action at its own expense.
 - d) Should any Services or software supplied by Vendor, or the operation thereof become, or in the Vendor's opinion are likely to become, the subject of a claim of infringement of a patent, copyright, or a trade secret in the United States, the State shall permit the Vendor, at its option and expense, either to procure for the State the right to continue using the goods/hardware or software, or to replace or modify the same to become noninfringing and continue to meet procurement specifications in all material respects. If neither of these options can reasonably be taken, or if the use of such goods/hardware or software by the State shall be prevented by Injunction, the Vendor agrees to take back such goods/hardware or software, and refund any sums the State has paid Vendor less any reasonable amount for use or damage and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other items of Deliverables acquired from the Vendor under this Contract impractical, the State shall then have the option of terminating the Contract, or applicable portions thereof, without penalty or termination charge. The Vendor agrees to take back such Deliverables and refund any sums the State has paid Vendor less any reasonable amount for use or damage.
 - e) Vendor will not be required to defend or indemnify the State if any claim by a third party against the State for infringement or misappropriation (i) results from the State's alteration of any Vendor-branded product or Deliverable, or (ii) results from the continued use of the good(s) or Services and Deliverables after receiving notice they infringe a trade secret of a third party.
 - f) Nothing stated herein, however, shall affect Vendor's ownership in or rights to its preexisting intellectual property and proprietary rights.
- 22) ACCESS TO PERSONS AND RECORDS:** Pursuant to N.C.G.S. §147-64.7, the Agency, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Vendor insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of this Contract or to costs charged to this Contract. The Vendor shall retain any such books, records, and accounts for a minimum of three (3) years after the completion of this Contract. Additional audit or reporting requirements may be required by any Agency, if in the Agency's opinion, such requirement is imposed by federal or state law or regulation. The Joint Legislative Commission on Governmental Operations and the legislative employees whose primary responsibility is to provide professional or administrative services to the Commission may audit the records of the Vendor during and after the term of this Agreement to verify accounts and data affecting fees or performance in accordance with Chapter 120, Article 13.
- 23) ASSIGNMENT:** Vendor may not assign this Contract or its obligations hereunder except as permitted by 09 NCAC 06B.1003 and this Paragraph. Vendor shall provide reasonable notice of not less than thirty (30) days prior to any consolidation, acquisition, or merger. Any assignee shall affirm this Contract attorning to the terms and conditions agreed, and that Vendor shall affirm that the assignee is fully capable of performing all obligations of Vendor under this Contract. An assignment may be made, if at all, in writing by the Vendor, Assignee and the State setting forth the foregoing obligation of Vendor and Assignee.
- 24) INSURANCE COVERAGE:** During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Vendor shall provide and maintain the following coverage and limits:
- a) **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$100,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sublet, the Vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the Contract; and

- b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$2,000,000.00 Combined Single Limit (Defense cost shall be in excess of the limit of liability); and
 - c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$5,000.00 medical payment; and
 - d) Providing and maintaining adequate insurance coverage described herein is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract.
- 25) **DISPUTE RESOLUTION:** The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to the Agency Contract Administrator for decision. A claim by the State shall be submitted in writing to the Vendor's Contract Administrator for decision. The Parties shall 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. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.
- 26) **DEFAULT:** In the event Services or other Deliverable furnished or performed by the Vendor during performance of any Contract term fail to conform to any material requirement(s) of the Contract specifications, notice of the failure is provided by the State and if the failure is not cured within ten (10) days, the State may cancel the contract. Default may be cause for debarment as provided in 09 NCAC 06B.1206. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
- a) If Vendor fails to deliver or provide correct Services or other Deliverables within the time required by this Contract, the State shall provide written notice of said failure to Vendor, and by such notice require performance assurance measures pursuant to N.C.G.S. 143B-1340(f). Vendor is responsible for the delays resulting from its failure to deliver or provide services or other Deliverables.
 - b) Should the State fail to perform any of its obligations upon which Vendor's performance is conditioned, Vendor shall not be in default for any delay, cost increase or other consequences resulting from the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's offers that prove erroneous or are otherwise invalid. Any deadline that is affected by any such failure in assumptions or performance by the State shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.
 - c) Vendor shall provide a plan to cure any delay or default if requested by the State. The plan shall state the nature of the delay or default, the time required for cure, any mitigating factors causing or tending to cause the delay or default, and such other information as the Vendor may deem necessary or proper to provide.
- 27) **WAIVER OF DEFAULT:** Waiver by either party of any default or breach by the other Party shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be a modification or novation of the terms of this Contract, unless so stated in writing and signed by authorized representatives of the Agency and the Vendor, and made as an amendment to this Contract pursuant to Paragraph 40) herein below.

28) TERMINATION: Any notice or termination made under this Contract shall be transmitted via US Mail, Certified Return Receipt Requested. The period of notice for termination shall begin on the day the return receipt is signed and dated.

- a) The parties may mutually terminate this Contract by written agreement at any time.
- b) The State may terminate this Contract, in whole or in part, pursuant to Paragraph 26), or pursuant to the Special Terms and Conditions in the Solicitation Documents, if any, or for any of the following:
 - i) Termination for Cause: In the event any goods, software, or service furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract, and the failure is not cured within the specified time after providing written notice thereof to Vendor, the State may cancel and procure the articles or Services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 29) and 30) herein. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. Vendor shall not be relieved of liability to the State for damages sustained by the State arising from Vendor's breach of this Contract; and the State may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties. Voluntary or involuntary Bankruptcy or receivership by Vendor shall be cause for termination.
 - ii) Termination For Convenience Without Cause: The State may terminate service and indefinite quantity contracts, in whole or in part by giving thirty (30) days prior notice in writing to the Vendor. Vendor shall be entitled to sums due as compensation for Deliverables provided and Services performed in conformance with the Contract. In the event the Contract is terminated for the convenience of the State the Agency will pay for all work performed and products delivered in conformance with the Contract up to the date of termination.

29) LIMITATION OF VENDOR'S LIABILITY:

- a) Where Deliverables are under the State's exclusive management and control, the Vendor shall not be liable for direct damages caused by the State's failure to fulfill any State responsibilities of assuring the proper use, management and supervision of the Deliverables and programs, audit controls, operating methods, office procedures, or for establishing all proper checkpoints necessary for the State's intended use of the Deliverables.
- b) The Vendor's liability for damages to the State arising under the contract shall be limited to two times the value of the Contract.
- c) The foregoing limitation of liability shall not apply to claims covered by other specific provisions including but not limited to Service Level Agreement or Deliverable/Product Warranty compliance, or to claims for injury to persons or damage to tangible personal property caused by Vendor's gross negligence or willful or wanton conduct. This limitation of liability does not apply to contributions among joint tortfeasors under N.C.G.S. 1B-1 et seq., the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract. For avoidance of doubt, the Parties agree that the Service Level Agreement and Deliverable/Product Warranty Terms in the Contract are intended to provide the sole and exclusive remedies available to the State under the Contract for the Vendor's failure to comply with the requirements stated therein.

30) VENDOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a) The Vendor shall be liable for damages arising out of personal injuries and/or damage to real or personal property of the State, employees of the State, persons designated by the State for training, or person(s) other than agents or employees of the Vendor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Vendor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Vendor.
- b) The Vendor agrees to indemnify, defend and hold the Agency and the State and its Officers, employees, agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, accruing or resulting to any other person, firm or corporation

furnishing or supplying work, Services, materials or supplies in connection with the performance of this contract, whether tangible or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors, in the performance of this Contract.

- c) Vendor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Vendor.

31) CHANGES: This Contract and subsequent purchase order(s) is awarded subject to shipment of quantities, qualities, and prices indicated by the order or Contract, and all conditions and instructions of the Contract or offer on which it is based. Any changes made to this Contract or purchase order proposed by the Vendor are hereby rejected unless accepted in writing by the Agency or State Award Authority. The State shall not be responsible for Deliverables or Services delivered without a purchase order from the Agency or State Award Authority.

32) STOP WORK ORDER: The State may issue a written Stop Work Order to Vendor for cause at any time requiring Vendor to suspend or stop all, or any part, of the performance due under this Contract for a period up to ninety (90) days after the Stop Work Order is delivered to the Vendor. The ninety (90) day period may be extended for any further period for which the parties may agree.

- a) The Stop Work Order shall be specifically identified as such and shall indicate that it is issued under this term. Upon receipt of the Stop Work Order, the Vendor shall immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the Stop Work Order during the period of work suspension or stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Vendor, or within any extension of that period to which the parties agree, the State shall either:
 - i) Cancel the Stop Work Order, or
 - ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Vendor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
 - i) The Stop Work Order results in an increase in the time required for, or in the Vendor's cost properly allocable to the performance of any part of this Contract, and
 - ii) The Vendor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if the State decides the facts justify the action, the State may receive and act upon an offer submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for Convenience of the State, the State shall allow reasonable direct costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Vendor for loss of profits because of a Stop Work Order issued under this term.

33) PRICE ADJUSTMENTS FOR TERM CONTRACTS: RESERVED

34) TIME IS OF THE ESSENCE: Time is of the essence in the performance of this Contract.

35) DATE AND TIME WARRANTY: The Vendor warrants that any Deliverable, whether hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interface therein which performs any date and/or time data recognition function, calculation, or sequencing, will provide accurate date/time data and leap year calculations. This warranty shall survive termination or expiration of the Contract.

36) INDEPENDENT CONTRACTORS: Vendor and its employees, officers and executives, and subcontractors, if any, shall be independent Vendors and not employees or agents of the State. This Contract shall not operate as a joint venture, partnership, trust, agency or any other business relationship.

- 37) TRANSPORTATION:** Transportation of Deliverables shall be FOB Destination; unless otherwise specified in the solicitation document or purchase order. Freight, handling, hazardous material charges, and distribution and installation charges shall be included in the total price of each item. Any additional charges shall not be honored for payment unless authorized in writing by the Purchasing State Agency. In cases where parties, other than the Vendor ship materials against this order, the shipper must be instructed to show the purchase order number on all packages and shipping manifests to ensure proper identification and payment of invoices. A complete packing list must accompany each shipment.
- 38) NOTICES:** Any notices required under this Contract should be delivered to the Contract Administrator for each party. Unless otherwise specified in the Solicitation Documents, any notices shall be delivered in writing by U.S. Mail, Commercial Courier or by hand.
- 39) TITLES AND HEADINGS:** Titles and Headings in this Contract are used for convenience only and do not define, limit or proscribe the language of terms identified by such Titles and Headings.
- 40) AMENDMENT:** This Contract may not be amended orally or by performance. Any amendment must be made in written form and signed by duly authorized representatives of the State and Vendor in conformance with Paragraph 31) herein.
- 41) TAXES:** The State of North Carolina is exempt from Federal excise taxes and no payment will be made for any personal property taxes levied on the Vendor or for any taxes levied on employee wages. Agencies of the State may have additional exemptions or exclusions for federal or state taxes. Evidence of such additional exemptions or exclusions may be provided to Vendor by Agencies, as applicable, during the term of this Contract. Applicable State or local sales taxes shall be invoiced as a separate item.
- 42) GOVERNING LAWS, JURISDICTION, AND VENUE:**
- a) This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. The place of this Contract or purchase order, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation and enforcement shall be determined. Vendor agrees and submits, solely for matters relating to this Contract, to the jurisdiction of the courts of the State of North Carolina, and stipulates that Wake County shall be the proper venue for all matters.
 - b) Except to the extent the provisions of the Contract are clearly inconsistent therewith, the applicable provisions of the Uniform Commercial Code as modified and adopted in North Carolina shall govern this Contract. To the extent the Contract entails both the supply of "goods" and "Services," such shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when deeming such Services as "goods" would result in a clearly unreasonable interpretation.
- 43) FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
- 44) COMPLIANCE WITH LAWS:** The Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.
- 45) SEVERABILITY:** In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Contract shall remain in full force and effect. All promises, requirement, terms, conditions, provisions, representations, guarantees and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statute, including statutes of repose or limitation.
- 46) FEDERAL INTELLECTUAL PROPERTY BANKRUPTCY PROTECTION ACT:** The Parties agree that the Agency shall be entitled to all rights and benefits of the Federal Intellectual Property

Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365(n), and any amendments thereto.

47) ELECTRONIC PROCUREMENT (Applies to all contracts that include E-Procurement and are identified as such in the body of the solicitation document): Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Service. The Vendor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of this contract.

- a) **The successful Vendor(s) shall pay a transaction fee of 1.75% (.0175) on the total dollar amount (excluding sales taxes) of each purchase order issued through the Statewide E-Procurement Service.** This applies to all purchase orders, regardless of the quantity or dollar amount of the purchase order. The transaction fee shall neither be charged to nor paid by the State, or by any State approved users of the contract. The transaction fee shall not be stated or included as a separate item in the proposed contract or invoice. There are no additional fees or charges to the Vendor for the Services rendered by the Supplier Manager under this contract. Vendor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the Vendor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the Vendor's failure to perform or comply with specifications or requirements of the contract.
- b) Vendor, or its authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Vendor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Vendor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Vendor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, Vendor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which payment of the related goods by the governmental purchasing entity has not been received by the Vendor. If payment of the transaction fee invoice is not received by the State within this payment period, it shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the Vendor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.
- c) The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate Vendor on State Contract. The State or State approved user, not the Supplier Manager, shall be responsible for the solicitation, offers received, evaluation of offers received, award of contract, and the payment for goods delivered.
- d) Vendor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a Vendor is a corporation, partnership or other legal entity, then the Vendor may authorize its employees to use its password. Vendor shall be responsible for all activity and all charges for such employees. Vendor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the Vendor's account, Vendor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Vendor shall cooperate with the state and the Supplier Manager to mitigate and correct any security breach.

48) ELECTRONIC PROCUREMENT (Applies only to Statewide Term Contracts): RESERVED