

<b>THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL</b>  104 Airport Drive CB #1100, Suite 3500 Chapel Hill, NC 27599-1100	Request for Proposals (RFP) No.: <b>65-McColl_Bldg_Bell Hall_LLBB_2025</b>
<b>Refer <u>ALL</u> inquiries regarding this RFP to:</b> Name: Lynn Barelo Title: Purchasing Specialist Email Address: <a href="mailto:lynnbare@email.unc.edu">lynnbare@email.unc.edu</a> Phone: (919) 962-0265	Title: PROVIDE FURNITURE & INSTALLATION SERVICES CONTRACT FOR KENAN-FLAGLER BUSINESS SCHOOL AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL  Issue Date: 05 MARCH 2025  Due Date and Time: 17 APRIL 2025 3PM EST

## OFFER

The University of North Carolina at Chapel Hill (the "University") solicits offers for goods and/or services as described in this solicitation. All offers received shall be treated as offers to contract as defined in 9 NCAC 06A.0102(12).

## EXECUTION PAGE

In compliance with this Request for Proposals, and subject to all the conditions herein, the undersigned offers and agrees to furnish any and all goods and/or services upon which prices are offered, at the price(s) offered herein, within the time specified herein.

**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 ninety (90) days from date of offer opening unless otherwise stated here: \_\_\_\_ days

## ACCEPTANCE OF OFFER

If any or all parts of this offer are accepted, an authorized representative of the University shall affix its signature hereto. Acceptance shall create a contract having an order of precedence as follows: Best and Final Offer(s), if any; special terms and conditions specific to this RFP, if any; specifications of the RFP; The University of North Carolina at Chapel Hill Terms and Conditions for Procurement of Information Technology Products, Software and Services; and the agreed portion of the awarded Vendor's offer. A copy of this acceptance will be forwarded to the awarded Vendor(s).

**FOR UNIVERSITY USE ONLY**

Offer accepted and contract awarded this date, as indicated on attached certification, by  
(Authorized representative of University).

**THE UNIVERSITY OF NORTH CAROLINA  
AT CHAPEL HILL**

**Request for Proposals No.: 65-McColl\_Bldg\_Bell Hall\_LLBB\_2025**

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

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

\_\_\_\_\_  
Vendor Name

\_\_\_\_\_  
Vendor eVP Number

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

***Electronic responses ONLY will be accepted for this solicitation.***

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## 1.0 ANTICIPATED PROCUREMENT SCHEDULE

The table below shows the intended schedule for this RFP. The University will make every effort to adhere to this schedule, but all dates and times are subject to change at the University's sole discretion. All times listed are in Eastern Time (ET).

Action	Responsibility	(no later than) Date and Time
RFP Issued	University	March 5, 2025
<b>Mandatory</b> Pre-Offer Conference and Tour	University	March 18, 2025 at 2:30 PM EST
Written Questions Deadline	Vendors	March 27, 2025 at 3:00 PM ET
University's Response to Written Questions / RFP Addendum Issued	University	April 4, 2025
Offer Deadline	Vendors	April 17, 2025 at 3:00 PM ET
Contract AWARD/Effective Date	University	TBD

## 2.0 PURPOSE OF RFP

### 2.1 INTRODUCTION

The University of North Carolina at Chapel Hill (the "University"), for its Kenan-Flagler Business School (KFBS), is soliciting proposals from qualified vendors to provide furniture procurement and installation services for Stephen D. Bell Hall at Kenan-Flagler Business School. *Vendors must be aligned with the North Carolina State Contract 5610A to participate in this RFP.*

Bell Hall is a new state-of-the-art building with approximately 30,000 square feet (SF) of classroom space and a total project area of 156,000 SF. When completed, Bell Hall will allow KFBS to admit 50% more students into its Undergraduate Business Program and modernize the learning environment for students in all of its top-ranked Undergraduate Business, Master of Accounting, Master of Business Administration (MBA) and Doctor of Philosophy (PhD) programs.

Bell Hall will be located at 175 William Blythe Drive in Chapel Hill, NC. The facility includes four (4) stories of classrooms, program offices, meeting, group study and interview spaces, a penthouse, and two (2) below grade levels of parking (not included in the gross SF). Bell Hall will house a 240-seat multi-purpose event facility with ceiling mounted sky fold dividing walls, a café and dining facility, 16 tiered and flat teaching classrooms, an interview suite with meeting rooms, and student support, study and collaboration spaces.

The scope also includes renovations to the second floor of the McColl Building where two (2) existing classrooms have been removed and replaced with new lounge seating and study spaces.

The project will be furnished in three furniture type groupings.

1. Office Suites, Meeting Rooms and Study and Interview Rooms
2. Classrooms
3. Ancillary - Open Lounge, Dining and Collaborative Work/ Study Areas

Access for delivery of furniture will be from Kenan Drive via the loading dock of the Bell Hall building. Delivery of furniture to each floor in the building will be via the service elevator located adjacent to the Bell Hall loading dock.

Proposed solutions are required to meet the intended basis of design, quality standards, technical specifications, installation delivery timeframes, and warranty requirements.

Proposals shall be submitted in accordance with the terms and conditions of this RFP and any addenda issued hereto. While the intent of this RFP is to award a contract to a single vendor, the University reserves the right to award a contract to more than one (1) vendor if it is considered to be most advantageous to the University to do so.

## **2.2 AGENCY BACKGROUND**

Kenan–Flagler Business School is the business school of The University of North Carolina at Chapel Hill, a public research university located in Chapel Hill, North Carolina. Founded in 1919, the school was renamed to its current name in 1991 in honor of Mary Lily Kenan and her husband, Henry Flagler. The school offers programs for granting a Bachelor of Science (BS) in Business Administration (BSBA), a Master of Business Administration (MBA), an executive MBA, a Master of Accounting (MAC), a Doctor of Philosophy (PhD), a business certificate, and executive education programs. It is accredited by the Association to Advance Collegiate Schools of Business.

## **2.3 RFP DOCUMENT**

This RFP is comprised of the base RFP document, the Design Documentation, all attachments, and any addenda released for this RFP in advance of any contract award. All Design Documentation, attachments, and any addenda released for this RFP in advance of any contract award are incorporated herein by reference.

## **2.4 INTERPRETATION OF TERMS AND PHRASES**

This RFP serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by the University; and (2) to provide (together with other specified documents) the terms and conditions of any contract(s) resulting from this solicitation. The use of phrases such as “shall,” “must,” and “requirements” are intended to create enforceable contract conditions. As used herein, phrases such as “reasonable”, “necessary”, or “proper” shall be interpreted solely by the University.

## **3.0 TERMS AND CONDITIONS**

### **3.1 NOTICE TO VENDORS REGARDING TERMS AND CONDITIONS**

The University rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor’s offer. This applies to any language appearing in or attached to Vendor’s offer that purports to vary any terms and conditions herein, or to render the offer non-binding or subject to further negotiation.

All offers submitted in response to this RFP are subject to the terms and conditions outlined herein, and any resulting contract shall be governed by the terms and conditions of the RFP. By execution and delivery of an offer in response to this RFP, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded. Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor’s offer as nonresponsive.

### **3.2 CONTRACT TERM**

A contract awarded pursuant to this RFP shall have an effective date as provided in either the Notice of Award or the resulting contract, as applicable (the “Effective Date”). The contract shall be binding on both parties from the Effective Date through the satisfactory completion of the work required under the RFP, and shall be complete when final payment has been made, unless terminated earlier in accordance with the terms and conditions of the RFP.

### **3.3 CONTRACT TYPE**

This RFP will establish a closed-ended contract between the Contractor(s) (if any) and the University to furnish a pre-determined quantity of goods and/or services during a specified period of time.

The University reserves the right to make partial, progressive or multiple awards (a) where it is advantageous to award separately by line item(s), (b) where more than one Vendor is needed or desired to meet the contemplated specifications as to quantity, quality, delivery, service, or geographical areas, and (c) where other factors are deemed to be necessary or proper to the purchase in question.

## 4.0 SCOPE OF WORK

### 4.1 GENERAL

Provide, configure, install, test, and commission the Furniture in accordance with the Design Documentation. UNC is requesting proposals to furnish the newly constructed Bell Hall. Vendors can submit comprehensive proposals for the entire scope of work and/or propose by individual furniture grouping:

1. Office Suites, Meeting Rooms and Study and Interview Rooms
2. Classrooms
3. Ancillary - Open Lounge, Dining and Collaborative Work/ Study Areas
4. Exterior

Detailed plans and specifications are provided to bidding vendors for proposal development related to each group of products. Vendors may bid on one or all of these packages.

#### FURNITURE SELECTION, ITEM REVIEW & FINISH SELECTION

Awarded vendor(s) should include a minimum three in person meetings per grouping with UNC, Kenan Flagler and the Interior Designer to finalize specifications and finish selections for each item. Final validation document showing furniture, finishes, and placement to be submitted for approval. Additionally, review for ADA compliance will be required. Plans showing clearance dimensions to be submitted to UNC for approval.

#### ORDERING & INSTALLATION:

Once specifications are approved by UNC, awarded vendor(s) will work with UNC Procurement to finalize quote submissions. The installation timeline is as follows:. Punch walk-throughs with UNC to be scheduled following installation of each category.

The vendors will coordinate with the CM for deliveries and installation of the furniture. The projected schedule for the installations and completions are based on the current construction schedule and may change as we nearer completion of the construction. The vendor is responsible to maintain coordination and work with the CM to develop final delivery and installation dates and more accurate installation times. The installation of the furniture is staggered by floor level and all workstations in open offices will need to be installed and power and data connected for inspections by the State Construction Office Electrical Inspector.

Refer to **ATTACHMENT A:** Furniture Package design documentation and for the preliminary furniture installation schedule. The vendor will work with the CM and owner to modify the duration times required for installation of the furniture for the project. All installations of furniture must be completed no later than ~~September 30, 2025~~ **October 17, 2025**. All powered furniture equipment needed for approval by the electrical inspector must be installed and all wiring completed for approval by electrical inspection to receive Beneficial Occupancy. Schedule of this work will need to be coordinated with General Contractor to not delay Beneficial Occupancy.

A grand opening for the building is planned for November 6th and 7th, 2025. **A soft opening will occur on October 31<sup>st</sup>.**

All storage of furniture until the delivery of the furniture by the vendor is to be included in the bids. Appropriate manpower is required to install the furniture in the timelines identified.

Open Office workstation furniture and electrical connections are to be completed by Floor Level as identified in the preliminary schedule.

All other furniture is to be completed by level as indicated in the preliminary schedule.

The proposed solutions shall meet the following objectives:

1. Closely meet or match the design intent of the furniture bid package as developed by the project Architect and Interior Design consultant.
2. Assist UNC in finalizing selections, fabrics, and finishes that meet design guidelines and requirements detailed in bid documents in collaboration with the project Architect and Interior Design consultant. A basis of finish requirements, grades and levels are included in the furniture specifications for pricing purposes and will form the basis of selections based on finalized selections
3. Meet schedule/timeline of project: Anticipated installation start is July 18, 2025 for workstation installation and completed by **October, 31<sup>st</sup>**, 2025 with installation coordinated with the CM and the Owner.
4. Provide detailed furniture plans reflecting final quoted goods, dimensioned to show required clearances per code.
5. Provide validation document reflecting final quoted goods for approval.
6. Provide timely project management and experienced installation support team as outlined in Section 5.0.
7. Provide responsive post-occupancy support as outlined in section 4.2.
8. Meet requirements set forth in Evaluation Criteria Section 7.2.

#### TASKS:

1. Proposal that closely meets or matches design intent while meeting requirements as outlined in the bid documents including University design guidelines, applicable codes, and Stars 3.0 qualifying certifications.
2. Design, project management, and installation management services to meet project schedule. Vendor to include ordering and installation schedule with proposal.
3. Punch resolution, furniture technical support post-occupancy and training to ensure seamless occupancy of Bell Hall.

## 4.2 RELATED WORK

#### TRAINING, WARRANTY & POST-OCCUPANCY SUPPORT:

1. Vendor(s) will provide digital project manuals with installed products, warranty information, cleaning and support instructions. Twenty hours of on-site training support post-occupancy will be provided to Kenan Flagler Business School in addition to vendor on-site resolution of all punch concerns for each category. A finalized list of installed products will be provided to UNC including specifications and environmental certification status. All warranties will cover at minimum 10 years from date of acceptance (at minimum of 300 lbs. for seating).

Vendor shall return with its offer a completed Attachment G: Requirements Checklist.

## 5.0 REQUIREMENTS

Vendor shall return with its offer a completed Attachment G: Requirements Checklist.

### 5.1 MANDATORY PRE-OFFER CONFERENCE AND TOUR

*Vendor must have at least one (1) representative in attendance at a mandatory pre-offer conference and tour to be held on **March 18, 2025 at 3:00 PM EST**. Reference Section 8.2.1 (Pre-Offer Conference and Tour) of this RFP for more information.*

**\*\*\*Late attendance will not be able to participate.\*\*\*** Reference Section 8.2.1 (Pre-Offer Conference and Tour) of this RFP for more information.



## 5.2 REQUIRED QUALIFICATIONS

Only vendors aligned with [North Carolina Contract 5610A](#) are able to participate. Provide documentation attesting to alignment of this contract. Please provide documentation attesting to alignment of this contract.

## 5.3 COMPLIANCE

Subject any documented exceptions, Vendor must comply with all the specifications and requirements of this RFP and the Design Documentation. Vendor is required to complete all (3) sections (1-Office, Mtg, Study / 2-Classrooms / 3-Ancillary / 4-Exterior) of the Bid Response Form. Proposals shall be submitted on the bid response excel form included with the Proposal Documents. The Bidder shall make no revisions to the bid response form other than to provide alternates as indicated (shaded in green) on the bid response form and fill out any column indicated as "This portion to be completed by Dealer" for BOD or Proprietary items as able. Bidder to notify UNC prior to submission if any discrepancies or formula issues are found in the provided bid response documents.

## 5.4 COMPLETION

*All work included herein shall be complete and operational no later than October 31, 17th 2025.* A grand opening for the building is planned for November 6<sup>th</sup> and 7<sup>th</sup> 2025. *A soft opening is planned for October 31<sup>st</sup>, 2025.* Vendor shall be capable of providing any and all qualified resources necessary to meet this completion date.

Work shall be coordinated with the General Contractor in accordance with the then-current building construction schedule and Vendor shall complete the work by the targeted dates by floor. All powered furniture equipment needed for approval by the electrical inspector must be installed and all wiring completed for approval by electrical inspection to receive Beneficial Occupancy. Schedule of this work will need to be coordinated with General Contractor to not delay Beneficial Occupancy.

A copy of the building construction schedule that is current as of the Issue Date of this RFP is included in the Design Documentation.

## 5.5 INSURANCE

Vendor shall purchase and maintain the following:

- a) Insurance coverage as outlined in Attachment B; and
- b) Property insurance until final acceptance, upon the entire work at the site to the full insurable value thereof of the scope of work included in this RFP. This insurance shall include the interests of the University, the Vendor, and any subcontractors or subcontractors in the work and shall insure against the perils of fire, wind, rain, flood, extended coverage, and vandalism and malicious mischief. If the University is damaged by failure of the Vendor to purchase or maintain such insurance, then the Vendor shall bear all reasonable costs properly attributable thereto. Furthermore, the Vendor shall obtain and maintain similar property insurance on portions of the work stored off the site when request for payment per articles so includes such portions.

Proof of insurance must be provided prior to award of contract.

## 6.0 COST OF VENDOR'S OFFER

### 6.1 OFFER COSTS

Offer price shall constitute the total cost to the University for complete performance in accordance with the specifications and requirements herein, including all applicable charges for handling, administrative, and other similar fees and expenses. Vendor shall not invoice for any amounts not specifically allowed for in this RFP.

Vendor shall return with its offer a completed Bell Building Equipment Worksheet – reference the Design

Documentation.

## **6.2 PAYMENT SCHEDULE**

If applicable, Vendor shall propose its itemized payment schedule based on the content of its offer. All payments must be based upon acceptance of goods and/or services by KFBS.

## **7.0 EVALUATION**

### **7.1 SOURCE SELECTION**

A trade-off method of source selection will be utilized in this procurement to allow the University to award this RFP to the Vendor providing the Best Value, while recognizing that Best Value may not result in an award to the Vendor offering the lowest price or highest technically qualified offer. By using this method, the overall ranking may be adjusted up or down when considered with, or traded-off against, other non-price factors.

#### **7.1.1 EVALUATION PROCESS**

University employees will review all offers. All offers will be initially classified as being responsive or non-responsive. If an offer is found non-responsive, it will be rejected and will not be considered further. All Responsive Offers will be evaluated based on stated evaluation criteria.

#### **7.1.2 SUBSTANTIAL CONFORMITY**

To be eligible for consideration, Vendor's offer must substantially conform to the specifications. Vendor's offer may be deemed to substantially conform to the specifications if it satisfies the purpose or objective of the business need, even without adhering to ALL of the specifications. Substantial conformity will be determined solely by the University. Offers that do not substantially conform may be rejected. Further, offers that are seriously deficient with regard to any one (1) or more singular specification(s) may be rejected.

#### **7.1.3 CLARIFICATIONS**

The evaluation committee may request clarifications from or open communications with any or all Vendors as allowed by 9 NCAC 06B.0307. However, the University may refuse to accept, in full or partially, the response to a clarification request given by any Vendor. Vendors are cautioned that the evaluators are not required to request clarifications; therefore, all offers should be complete and reflect the most favorable terms. Vendors should be prepared to send qualified personnel to Chapel Hill, North Carolina or meet via remote meeting technology to discuss furniture and contractual aspects of the offer.

#### **7.1.4 NO UNIVERSITY OBLIGATION**

Vendors are advised that the University is not obligated to ask for, or accept after the offer deadline, data that may be essential for a complete and thorough evaluation of the offer.

## 7.2 EVALUATION CRITERIA

All Responsive Offers will be evaluated based on the following evaluation criteria:

CRITERIA	DETAILS	
Proposed Products Meet Specified Requirements	<ul style="list-style-type: none"> <li>Products meet all requirements as described in the RFP relating to size, material, environmental stewardship, durability, and other noted attributes</li> <li>Products meet or exceed <a href="#">NC State Contract 5610A</a> requirements for approved commercial furniture and are *ANSI/BIFMA and code compliant.</li> </ul>	
Proposed Products Meet Design Intent	<ul style="list-style-type: none"> <li>Products proposed closely approximate RFP package design intent or are the same products as specified in RFP package</li> </ul>	
Vendor Capability to Perform	<ul style="list-style-type: none"> <li>Confirmation of installation timing and logistics per the schedule outline in the RFP and coordinated with the CM for the project (Barnhill/Holt Construction)</li> <li><a href="#">NC State Contract 5610A</a> aligned vendor</li> <li>References for installed projects of similar scale and execution are provided</li> </ul>	
Installation Management & Post-Occupancy Support	<ul style="list-style-type: none"> <li>Project management proposal</li> <li>Training resources</li> <li>Warranty</li> </ul>	

\*ANSI: [ANSI](#), BIFMA: [BIFMA](#), 16 CFR 1640 (Cal TB 117-2013), ADA, Building Codes (IBC, State, etc)

- a) How well the Vendor's offer conforms to the specifications
  - b) How each Vendor's offer compares with other Vendors' offers
  - c) Pricing<sup>1</sup>
  - d) Proposed alternates, if any
  - e) Vendor schedule / timeline for completing the work<sup>2</sup>
  - f) Warranty and service contract
  - g) Strength of proposed personnel
  - h) Strength of relevant references
  - i) Past experience working at The University of North Carolina at Chapel Hill<sup>3</sup>
  - j) Risks associated with Vendor's offer
- The University, in its sole discretion, may or may not conduct a line-by-line review of the Bell Building Bid Response Form to ensure that all required devices are included. Pricing for each furniture type will be evaluated as a complete and operational system.
  - Vendor must provide a detailed Furniture installation schedule coordinated with the building construction schedule.

3. Vendor may be disqualified from any evaluation or award if the Vendor or any key personnel proposed, has previously failed to perform satisfactorily during the performance of any contract with the University, or violated rules or statutes applicable to public bidding in the State of North Carolina.

### **7.3 BEST AND FINAL OFFER (BAFO)**

The University reserves the right to negotiate with one or more Vendor(s), and to request such Vendor(s) to submit a Best and Final Offer (BAFO) based on discussions and negotiations with the University.

### **7.4 POSSESSION AND REVIEW**

During the evaluation period and prior to award, possession of the offers 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. Under 1 NCAC 05B.0103, price information shall not be deemed confidential.

## **8.0 VENDOR INFORMATION AND INSTRUCTIONS**

### **8.1 GENERAL CONDITIONS OF OFFER**

#### **8.1.1 VENDOR RESPONSIBILITY**

It shall be the Vendor's responsibility to read this entire document, review all references, enclosures and attachments (including but not limited to the Design Documentation), and comply with all specifications, requirements and the University's intent as specified herein. Vendors are also responsible for obtaining and complying with all addenda and other changes that may be issued in connection with this RFP. If a Vendor discovers an inconsistency, error or omission in this RFP, the Vendor should request a clarification from the University's contact person.

#### **8.1.2 RIGHTS RESERVED**

While the University has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the University to award a contract. Upon determining that any of the following would be in its best interests, the University may:

- a) waive any formality, informality, or technicality;
- b) amend the solicitation;
- c) not award one or more line item(s);
- d) cancel or terminate this RFP;
- e) reject any or all offers received in response to this RFP;
- f) waive any undesirable, inconsequential, or inconsistent provisions of this RFP;
- g) if the response to this solicitation demonstrate a lack of competition, negotiate directly with one or more Vendors;
- h) not award, or if awarded, terminate any contract if the University determines adequate funds are not available; or
- i) if all offers are found non-responsive, determine whether Waiver of Competition criteria may be satisfied, and if so, negotiate with one or more known sources of supply.

#### **8.1.3 SOLICITATION AMENDMENTS OR REVISIONS**

Any and all amendments or revisions to this document shall be made by written addendum from the University.

#### **8.1.4 ORAL EXPLANATIONS**

The University will not be bound by oral explanations or instructions given at any time during the RFP process or after award.

#### **8.1.5 PROHIBITED COMMUNICATIONS**

During the evaluation period (i.e., from the offer deadline through the date of contract award, if any), each Vendor submitting an offer (including its representatives, subcontractors and/or suppliers) is prohibited from having any communications with any person inside or outside of the University if the communication refers to the content of Vendor's offer or qualifications, the contents of another

Vendor's offer, another Vendor's qualifications or ability to perform the contract, and/or the transmittal of any other communication or information that could reasonably be considered to have the effect of directly or indirectly influencing the evaluation of offers and/or the award of the contract. Any Vendor not in compliance with this provision shall be disqualified from contract award, unless it is determined in the University's sole discretion that the communication was harmless, that it was made without intent to influence and that the best interest of the University would not be served by the disqualification.

Only (a) those discussions, communications or transmittals of information authorized or initiated by the University regarding this RFP, or (b) general inquiries directed to the University's contact person named on the first page of this RFP regarding details of the RFP (prior to offer submission) or the status of contract award (after offer submission) are excepted from this provision.

#### **8.1.6 AWARDS**

The State of North Carolina has implemented the North Carolina electronic Vendor Portal (eVP) that allows the public to retrieve award notices and information on the Internet at <https://evp.nc.gov>. This information may not be available for several weeks depending upon the complexity of the acquisition and the length of time to complete the evaluation process.

#### **8.1.7 PROTEST PROCEDURES**

Protests of awards exceeding \$25,000 in value must be submitted to the University at the address given on the first page of this document. Protests must be received by the University within fifteen (15) calendar days from the date of the RFP award and provide specific reasons and any supporting documentation for the protest. **All protests are governed by 9 NCAC 06B.1102.**

### **8.2 GENERAL INSTRUCTIONS FOR VENDOR**

#### **8.2.1 PRE-OFFER CONFERENCE AND TOUR**

**What:** *Mandatory* pre-offer conference and tour

**Who:** All Vendors intending to submit an offer in response to this RFP

**When:** March 18, 2025 at 2:30 PM EST

**Where:** Kenan Center, Room 204 – located at 300 Kenan Center Drive, Chapel Hill, NC

**Tour Items:** *Vendors touring the building will need to bring their own PPE, which include Hi-Viz vest, protective helmet, protective eyewear or glasses and no open-toed shoes.*

**Parking:** All attendees must park in the Visitor Lot at the south side of Kenan Center Drive. *The Visitor Lot is only accessible from Mason Farm Road. Kenan Drive is closed for construction access only.*

**Parking Passes:** All attendees must obtain a parking pass in one of the following two ways:

1. Prior to the conference, attendees can obtain a digital parking pass which must be printed and placed on their vehicle's dashboard. Contact Maggie Rohrs at [maggie\\_rohrs@kenan-flagler.unc.edu](mailto:maggie_rohrs@kenan-flagler.unc.edu) for a digital parking pass or any additional information regarding access to the Visitor Lot.
2. On the day of the conference, attendees can obtain a physical parking pass from the main reception desk on the first floor of the Kenan Center.

**Contact Information:** Michael Ambrose, AIA, 215.816.8695, [michael.ambrose@fac.unc.edu](mailto:michael.ambrose@fac.unc.edu)

**NOTE:** Mr. Ambrose may ONLY be contacted by vendors with questions related to pre-offer conference and tour logistics – reference Section 8.1.5 (Prohibited Communications) of this RFP.

Vendor must have at least one (1) representative in attendance at a mandatory pre-offer conference and tour to be held on March 18, 2025 at 3:00 PM EST. Offers received from any Vendor that did NOT have a representative in attendance at the pre-offer conference and tour **will be rejected**.

**In-person attendance is required.** All attendees must sign in upon arrival and clearly indicate the Vendor represented on the sign-in sheet. Attendees are strongly encouraged to arrive on time. **ANY VENDOR REPRESENTATIVE ARRIVING AFTER 2:30 PM ET WILL NOT BE ALLOWED TO SIGN IN OR ENTER THE CONFERENCE ROOM, NOR SHALL THEIR OFFER BE CONSIDERED.**

Attendees will tour the new Bell Hall building immediately following the pre-offer conference – the total duration of the conference and tour is estimated at two (2) hours.

The purpose of this pre-offer conference and tour is for all prospective Vendors to apprise themselves with the conditions and specifications which will affect the performance of the work called for by this RFP. Vendors must stay for the entire duration of the conference and tour. No allowances will be made for unreported conditions that a prudent Vendor would recognize as affecting the work called for or implied by this RFP.

Vendors are cautioned that any information released to attendees during the conference or the tour which conflicts with, supersedes, or adds to specifications in this RFP must be confirmed by written addendum before it can be considered to be a part of this RFP – reference Section 8.2.2 (Questions Concerning the RFP) of this RFP.

## **8.2.2 QUESTIONS CONCERNING THE RFP**

Written questions concerning this RFP will be received until March 27, 2025 at 3:00 PM ET (the “Written Questions Deadline”). Date and time of receipt shall be as indicated on the email received by the University; late submissions will not be accepted.

Vendors’ questions posed orally at the pre-offer conference and tour must be reduced to writing by the Vendor and provided to the University in accordance with this Section 8.2.2. **Oral answers are not binding on the University.**

Written questions must be submitted to the contact person listed on Page One of this RFP via email. Please enter “Questions Solicitation 65-McColl\_Bldg\_Bell Hall\_LLBB\_2025” as the subject for the message. Questions should be submitted in the following format:

REFERENCE	VENDOR QUESTION
RFP Section, Page Number	

## **8.2.3 ADDENDUM TO RFP**

If written questions are received prior to the Written Questions Deadline, an addendum comprising all such questions and responses to those questions, or any additional terms deemed necessary by the University, shall become an addendum to this RFP and will be provided via the eVP.

Critical updated information may be included in these addenda, if any. Therefore, it is important that all Vendors submitting an offer in response to this RFP periodically check the eVP for any and all addenda that may be issued prior to the offer deadline.

An addendum issued will clearly state any updates that have been made with a revision cloud or strikethrough.

#### **8.2.4 COSTS RELATED TO OFFER SUBMISSION**

Costs for developing and delivering an offer in response to this RFP and any subsequent interview, oral presentation, or product demonstration as requested by the University are entirely the responsibility of the Vendor. The University is not liable for any expense incurred by the Vendors in the preparation or presentation of their offers.

All materials submitted in response to this RFP become the property of the University and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the University and the Vendor resulting from this RFP process.

#### **8.2.5 ALTERNATE OFFERS**

The basis of design furniture specifications has been carefully constructed with the University. Substitutions that are of a comparable design style, cost and quality to the BOD specification will be considered for the items with an alternate line item (highlighted in green) provided in the bid response form, unless discussed with the Architect prior. In the Bid Response Form, all substitutes should be listed as alternates and not included in the overall subtotal. Bidders are required to price BOD and Brand Specific item (highlighted in grey) specification per the Bid Response Form even if a substitution is provided.

For items that are specified with alternate choices, all alternates should be priced for this RFP. Only one type of alternate will be chosen, and therefore included in the final furniture specification package. Notwithstanding the foregoing, alternate offers may be rejected if not found to be substantially conforming at the sole discretion of the University.

#### **MODIFICATIONS TO OFFER**

An offer may not be unilaterally modified by the Vendor after the offer deadline.

#### **8.2.6 BASIS FOR REJECTION**

Pursuant to 9 NCAC 06B.0401, the University reserves the right to reject any or all offers, in whole or in part, based on the following:

- a) late offers;
- b) unsigned offers;
- c) the University's determination that the offer is unsatisfactory as to quantity, quality, delivery, price or service offered;
- d) the Vendor's failure to comply with the intent or conditions of the solicitation document;
- e) the lack of competitiveness due to collusion or due to the knowledge that reasonably available competition was not received;
- f) error(s) in specifications or indication that revision(s) would be to the University's advantage;
- g) cancellation of, or changes in, the intended project or other determination that the commodity or service is no longer needed;
- h) limitation or lack of available funds;
- i) circumstances that prevent determination of the lowest priced or highest qualified technically acceptable offer or the Best Value offer; or
- j) any determination that rejection would be in the best interest of the University.

#### **8.2.7 VENDOR REGISTRATION WITH THE SECRETARY OF STATE**



Vendors do not have to be registered with the NC Secretary of State to submit an offer; however, in order to receive an award/contract with the University, they must be registered. Registration can be completed at the following website: [https://www.sosnc.gov/Guides/launching\\_a\\_business](https://www.sosnc.gov/Guides/launching_a_business).

### **8.2.8 VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM**

The North Carolina electronic Vendor Portal (eVP) allows Vendors to electronically register with the State of North Carolina to receive electronic notification of current procurement opportunities for goods and services available at the following website: <https://evp.nc.gov>.

This RFP is available electronically on the eVP.

### **8.2.9 VENDOR INFORMATION**

Vendor shall return with its offer a completed Attachment C: Description of Offeror Form.

## **8.3 INSTRUCTIONS FOR OFFER SUBMISSION**

### **8.3.1 GENERAL INSTRUCTIONS FOR OFFER**

Vendors are strongly encouraged to adhere to the following general instructions in order to bring clarity and order to the offer and subsequent evaluation process:

- a) Organize the offer in the exact order in which the specifications are presented in the RFP. The Execution Page of this RFP should be placed at the front of the offer. Each page should be numbered. The offer should contain a table of contents, which cross-references the RFP specification and the specific page of the response in the Vendor's offer.
- b) Provide complete and comprehensive responses with a corresponding emphasis on being concise and clear. Elaborate offers in the form of brochures or other presentations beyond that necessary to present a complete and effective offer are not desired.
- c) Clearly state your understanding of the problem(s) presented by this RFP including your proposed solution's ability to meet the specifications, including capabilities, features, and limitations, as described herein, and provide a cost offer.
- d) Supply all relevant and material information relating to the Vendor's organization, personnel, and experience that substantiates its qualifications and capabilities to perform the Services and/or provide the goods described in this RFP.
- e) Furnish all information requested; and if response spaces are provided in this RFP, the Vendor shall furnish said information in the spaces provided. Any references in an answer to another location in the RFP materials or offer shall have specific page numbers and sections stated in the reference. Further, if required elsewhere in this RFP, each Vendor must submit with its offer sketches, descriptive literature and/or complete specifications covering the products offered.
- f) Only information that is received in response to this RFP will be evaluated. References to information previously submitted or available via the internet will not suffice as a response to this solicitation.
- g) Any offer that does not adhere to these instructions may be rejected.

### **8.3.2 OFFER ORGANIZATION**

The offer should be organized and indexed in the following format and should contain, at a minimum, all listed items below.

- a) Completed and signed Execution Page
- b) Completed eVP Number form
- c) Signed receipt pages of any addenda released in conjunction with this RFP

- d) Completed and signed Requirements Checklist (Attachment G)
- e) Completed Description of Offeror Form (Attachment C)
- f) Information and documentation requested including but not limited to the following:
  - i) Completed Bell Building Bid Response Form
  - ii) Statement of Compliance
  - iii) Bidder Information
    - 1) General Company and Team Information
    - 2) Project References and documentation examples
    - 3) Other Work Performed for the University
  - iv) Subcontracting Information
  - v) Statement of Warranty and Service Contract
  - vi) Schedule of Installation: Provide a detailed process outlining and schedule depicting your furniture installation process based on the provided project schedule and floor plans. Provide detailed installation milestone schedule from order placement to client move in.
  - vii) Non-Obsolescence Clause: Provide a non-obsolescence statement from system manufacturer guaranteeing availability of compatible products for a minimum ten-year period.
  - viii) Day 2 Furniture Purchases and Services: Provide a description of the effecting duration of pricing holds for any day-2 purchases by Client as well as day-2 services offered by your company
  - ix) Additional Incentives: Provide descriptions of any additional incentives/discounting that will be offered by dealer/manufacturer upon award of the project.
- g) Proof of required insurance (reference Section 5.5 of this RFP)
- h) Signed Vendor Certification Form (Attachment D)
- i) Completed Location of Workers Utilized by Vendor Form (Attachment E)
- j) Completed and signed Certification of Financial Condition Form (Attachment F)
- k) Vendor may attach other supporting materials that it feels may improve the quality of its response. These materials should be included as items in a separate appendix.

### **8.3.3 OFFER SUBMITTAL**

#### **Due date and time: April 17, 2025 at 3:00 PM EST**

Offers must be submitted (a) by the due date and time, (b) via the North Carolina electronic Vendor Portal (eVP), located at <https://evp.nc.gov>, and (c) with the Execution Page signed and dated by an official authorized to bind the Vendor's firm.

**IMPORTANT NOTE:** It is the Vendor's sole responsibility to upload their signed offer to the eVP by the specified due date and time. Vendor shall bear the risk for late electronic submission due to unintended or unanticipated delay, including but not limited to internet issues, network issues, local power outages, or application issues.

**Offers will be deemed non-responsive and will be rejected if any of the following are true:**

- a) Offer was submitted *after* the due date and time (i.e., late offers);

- b) Offer was *not* submitted via the eVP (e.g., offer was submitted via facsimile (FAX) machine, telephone, email, or in any hardcopy format); or
- c) Offer was *not* signed on the Execution Page by an official authorized to bind the Vendor's firm.

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.

File contents SHALL NOT be password protected, file formats must be in .PDF, .JPEG, .DOC or .XLS format, and files shall be capable of being copied to other sources. Inability by the University to open the Vendor's files may result in the Vendor's offer being rejected.

If the Vendor's offer contains any trade secrets (as defined in Attachment B, Section 17 (c) (Protection of Vendor Trade Secrets under NC Public Records Act)), then the Vendor must provide one (1) signed, original electronic copy and one (1) redacted electronic copy.

Additional information can be found via the North Carolina eProcurement Vendor Training link: <https://eprocurement.nc.gov/training/vendor-training>.

Questions or issues related to using the eVP should be directed to the North Carolina eProcurement Help Desk – reference the following link: <https://eprocurement.nc.gov/contact>.

#### **8.3.4 PUBLIC OPENING**

The name of each Vendor will be announced at a public, virtual Zoom meeting to be held at 3:00 PM EST on April 17, 2025. Attendance is optional – please use the following information to join the meeting:

**Meeting Zoom Link:** <https://unc.zoom.us/j/96260997430>

**Meeting ID:** 962 6099 7430

#### **8.3.5 TABULATIONS**

All offers (except those that (a) have been previously withdrawn, or (b) are found to be non-responsive) will be tabulated. The tabulations shall be made public via the North Carolina electronic Vendor Portal (eVP), located at <https://evp.nc.gov>.

### **9.0 OTHER REQUIREMENTS AND SPECIAL TERMS**

#### **9.1 VENDOR UTILIZATION OF WORKERS OUTSIDE THE UNITED STATES**

In accordance with N.C.G.S. §143B-1361(b), the Vendor must detail in its offer the manner in which it intends to utilize resources or workers located outside the United States. The University will evaluate the additional risks, costs, and other factors associated with such utilization.

Vendor shall return with its offer a completed Attachment E: Location of Workers Utilized by Vendor Form.

#### **9.2 FINANCIAL STABILITY**

The Vendor shall provide evidence of financial stability by returning with its offer a completed Attachment F: Certification of Financial Condition Form.

#### **9.3 VENDOR'S REPRESENTATIONS**

##### **9.3.1 QUALIFIED PERSONNEL**

Vendor represents and warrants to the University that qualified personnel will provide all services in a professional manner. "Professional manner" means that the personnel performing the service(s)

will possess the skill and competence consistent with the prevailing business standards in the industry.

### **9.3.2 INTELLECTUAL PROPERTY**

Vendor represents and warrants to the University that (a) it has the right to provide the goods and services without violating or infringing any law, rule, regulation, copyright, patent, trade secret or other proprietary right of any third party, and (b) its goods and services are not the subject of any actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.

### **9.3.3 INHERENT SERVICES**

If any goods or services, functions, or responsibilities not specifically described in this RFP are (a) required for Vendor's proper performance, provision or delivery of the goods or services, or (b) an inherent part of or necessary sub-task included within the goods or services, they will be deemed to be implied by and included within the scope of any resulting contract to the same extent and in the same manner as if specifically described in this RFP.

### **9.3.4 VENDOR PERFORMANCE**

Vendor warrants that it has the financial capacity to perform and to continue to perform its obligations under any resulting 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 under any resulting contract; and that entering into any resulting contract is not prohibited by any other contract, or order by any court of competent jurisdiction.

## **9.4 PERSONNEL**

Vendor shall not substitute key personnel assigned to the performance of any resulting contract without prior written approval by the University. The individuals designated as key personnel for purposes of any resulting contract are those specified in the Vendor's offer. Any desired substitution shall be noticed to the University in writing accompanied by the names and references of Vendor's recommended substitute personnel. The University will approve or disapprove the requested substitution in a timely manner. The University may, in its sole discretion, terminate the services of any person providing services under any resulting contract. Upon such termination, the University may request acceptable substitute personnel or terminate the services provided by such personnel.

## **9.5 SECURITY AND BACKGROUND CHECKS**

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

## **9.6 DISCLOSURE OF LITIGATION**

**9.6.1** The Vendor shall notify the University in its offer if it, or any of its subcontractors, or their officers, directors, or key personnel who may provide services under any contract awarded to the Vendor pursuant to this RFP, have ever been convicted of a felony, or any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception. The Vendor shall promptly notify the University of any criminal litigation, investigations or proceeding involving the Vendor or any subcontractor, or any of the foregoing entities' then current officers or directors, during the term of any contract awarded to the Vendor pursuant to this RFP.

**9.6.2** The Vendor shall notify the University in its offer, and promptly thereafter as otherwise applicable, of any civil litigation, arbitration, proceeding, or judgments against it or any of its subcontractors during the three (3) years preceding its offer, or which may occur during the term of any contract awarded to the Vendor pursuant to this RFP, that involve (1) services or goods similar to those provided pursuant to any contract and that involve a claim that may affect the viability or financial stability of the Vendor, (2) a claim or written allegation of fraud by the Vendor or any subcontractor hereunder, arising out of their business activities, or (3) a claim or written allegation

that the Vendor or any subcontractor hereunder violated any federal, state or local statute, regulation or ordinance. Multiple lawsuits and or judgments against the Vendor or subcontractor shall be disclosed to the University to the extent that they affect the financial solvency and integrity of the Vendor or subcontractor.

**9.6.3** All such notices shall be provided in writing to the University within thirty (30) calendar days after the Vendor learns about any such criminal or civil matters. Details of settlements which are prevented from disclosure by the terms of the settlement shall be annotated as such. Vendor may rely on good faith certifications of its subcontractors addressing the foregoing, which certifications shall be available for inspection at the option of the University.

## **9.7 CRIMINAL CONVICTION**

In the event the Vendor, an officer of the Vendor, or an owner of a 25% or greater share of the Vendor, is (a) convicted of a criminal offense incident to the application for or performance of a State, public, or private contract or subcontract; (b) convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of North Carolina employees; (c) convicted under State or federal antitrust statutes; or (d) convicted of any other criminal offense which in the sole discretion of the University reflects upon the Vendor's business integrity, such Vendor shall be prohibited from entering into a contract for goods or services with any department, institution or agency of the State.

## **9.8 ASSURANCES**

In the event that criminal or civil investigation, litigation, arbitration or other proceedings disclosed to the University, or of which the University otherwise becomes aware, during the term of any resulting contract, causes the University to be reasonably concerned about:

- a) the ability of the Vendor or its subcontractor(s) to continue to perform the contract in accordance with its terms and conditions, or
- b) whether the Vendor or its subcontractor(s), in performing services under the contract, is engaged in conduct which is similar in nature to conduct alleged in such investigation, litigation, arbitration or other proceedings, which conduct would constitute a breach of contract or violation of law, regulation or public policy, then the Vendor shall be required to provide the University all reasonable assurances requested by the University to demonstrate that the Vendor or its subcontractor(s): (i) will be able to continue to perform the contract in accordance with its terms and conditions, and (ii) will not, in performing services under the contract, engage in conduct which is similar in nature to the conduct alleged in any such litigation, arbitration or other proceedings.

## **9.9 CONFIDENTIALITY OF OFFERS**

All offers and any other RFP responses shall be made public as required by the NC Public Records Act and GS 143B-1350. Vendors may mark portions of offers as confidential or proprietary, after determining that such information is excepted from the NC Public Records Act, provided that such marking is clear and unambiguous and preferably at the top and bottom of each page containing confidential information. Standard restrictive legends appearing on every page of an offer are not sufficient and shall not be binding upon the University.

Certain University information is not public under the NC Public Records Act and other laws. Any such information which the University designates as confidential and makes available to the Vendor shall be protected by the Vendor from unauthorized use and disclosure. The Vendor shall not be required under the provisions of this section to keep confidential, (1) information generally available to the public, (2) information released by the University generally, or to the Vendor without restriction, (3) information independently developed or acquired by the Vendor or its personnel without reliance in any way on otherwise protected

information of the University. Notwithstanding the foregoing restrictions, the Vendor and its personnel may use and disclose any information which it is otherwise required by law to disclose, but in each case only after the University has been so notified, and has had the opportunity, if possible, to obtain reasonable protection for such information in connection with such disclosure.

## **9.10 PROJECT MANAGEMENT**

Vendor project management will attend all project meetings, coordinate meetings with UNC to finalize product specifications, and manage ordering/installation/punch process. Vendor project manager will coordinate with UNC on installation timing and will provide furniture project schedule with milestones to facilitate installation timing as described in Ordering & Installation section.

All project management and coordination on behalf of the University shall be through a single point of contact designated as the University Project Manager. The Vendor shall designate a Vendor Project Manager who will provide a single point of contact for management and coordination of the Vendor's work. All work performed pursuant to any resulting contract shall be coordinated between the University Project Manager and the Vendor Project Manager.

## **9.11 MEETINGS**

Contractor shall conduct weekly meetings throughout the course of the scope of work included herein with KFBS and the design team to provide updates on the progress of the work and identify any issues. These meetings shall begin with a kick-off meeting to be arranged after award of contract at a time and place agreed upon by the Contractor and KFBS.

Contractor is further required to meet with KFBS personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of any resulting contract. Meetings will occur as problems arise and will be coordinated by KFBS. Contractor will be given reasonable and sufficient notice of meeting dates, times, and locations.

## **9.12 RECYCLING AND SOURCE REDUCTION**

It is the policy of this University 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 goods purchased. However, no sacrifice in quality of packaging will be acceptable. The Vendor remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Vendors are strongly urged to bring to the attention of the University those products or packaging they offer which have recycled content and that are recyclable.

## ATTACHMENT A: DEFINITIONS

- 1) **Barnhill:** Barnhill/ Holt Brothers, a 75/25 Joint Venture.
- 2) **Basis of Design (BOD):** a document that outlines the fundamental principles, requirements, and objectives for a project's design and construction. It's a framework that guides the design team's decision-making process.
- 3) **Best Value:** The selection of a vendor based on determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the vendor's proposal; the vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance.
- 4) **Brand Specific:** Manufacturer name and product description are product specific. The item offered must be the manufacturer and type specified. These specific products are needed due to compatibility and continuity of support.
- 5) **Contractor:** The awarded Vendor(s).
- 6) **Design Documentation:** LS3P Associates Furniture Package documentation located at the following web address:  
<https://ls3p-my.sharepoint.com/:f/p/erinmulligan/EjWBiglnOT1NpGHgYxXanFoBFfMKQuHQeIDzszX4zvWmjQ?e=VWRnaf>  
The password is **KFBS2025FURN**
- 7) **eVP:** The North Carolina electronic Vendor Portal (eVP), located at <https://evp.nc.gov>, is the State of North Carolina's system to connect vendors with state government organizations that purchase goods and services.
- 8) **General Contractor:** Barnhill / Holt Brothers, a 75/25 Joint Venture.
- 9) **Holt Brothers:** Holt Brothers Construction.
- 10) **KFBS:** Kenan-Flagler Business School.
- 11) **LS3P:** LS3P Associates, Ltd., the architect of record.
- 12) **Responsive Offer:** An offer that (a) was submitted in accordance with Section 8.3.3 (Offer Submittal), and (b) meets the requirements outlined in Section 5.0 (Requirements) of this RFP.
- 13) **University:** The University of North Carolina at Chapel Hill.
- 14) **Vendor:** Company, firm, corporation, partnership, individual, etc., submitting an offer in response to a solicitation.

## **ATTACHMENT B: UNIVERSITY INFORMATION PRODUCT AND SERVICES TERMS AND CONDITIONS**

By shipping Products, commencing performance of Services, or responding to the Purchase Order, the Supplier accepts and agrees to the following terms and conditions:

### **1. DEFINITIONS.** As used herein,

- (a) “Agreement” or “Contract” means The University of North Carolina at Chapel Hill General Terms and Conditions for Procurement of Products and Services and incorporating the University’s Purchase Order(s), Solicitation Document(s), and any Statement(s) of Work executed by the Parties under this Agreement, as applicable.
- (b) “Parties” means the University and the Supplier, collectively (each, individually, a “Party”).
- (c) “Products” means all equipment, merchandise, hardware, goods, and documentation to be delivered to the University by the Supplier under this Agreement, the Purchase Order(s), Solicitation Document(s), and any Statement(s) of Work, as applicable.
- (d) “Purchase Order” means the document used by the University to order Products and/or any type of Service(s) provided by the Supplier in sufficient detail to allow the Supplier to accept and accurately fulfill the University’s order, and including terms describing price, quantity, invoicing and delivery addresses, and purchasing agent contact information.
- (e) “Services” means all services to be performed by the Supplier for the University under this Agreement, the Purchase Order(s), Solicitation Document(s), and any Statement of Work(s), as applicable.
- (f) “Solicitation Document” means the University’s request for proposal, request for information, invitation for bid, and/or other solicitation document issued by the University to solicit offers for the Products and Services.
- (g) “State” means the State of North Carolina.
- (h) “Statement of Work” means a document that defines, for each project under this Agreement, the (1) work activities to be performed by the Supplier, (2) payment rates, (3) additional payment terms (if any), (4) Products and/or Services, (5) work schedule governing the Supplier’s provision of Services, and (6) any other relevant information the Parties wish to include.
- (i) “Supplier” means the Party providing the Products and/or Services to the University under this Agreement, and its successors and assigns.
- (j) “University” means The University of North Carolina at Chapel Hill and its successors and assigns.

### **2. PERFORMANCE.**

(a) It is anticipated that the tasks and duties undertaken by the Supplier under the contract which results from the University’s solicitation in this matter (Contract) shall include Services, and/or the manufacturing, furnishing, or development of goods and other tangible features or components, as deliverables.

(b) Except as provided herein, and unless otherwise mutually agreed in writing prior

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to award, any deliverables not subject to an agreed Supplier license and provided by Supplier in performance of this Contract shall be and remain property of the University. During performance, Supplier may provide proprietary components as part of the deliverables that are identified in this Contract. Supplier grants the University a personal, permanent, non-transferable license to use such proprietary components of the deliverables and other functionalities, as provided under this Contract. Any technical and business information owned by Supplier or its suppliers or licensors made accessible or furnished to the University shall be and remain the property of the Supplier or such other party, respectively. Supplier agrees to perform under the Contract in at least the same or similar manner provided to comparable users and customers. The University shall notify the Supplier of any defects or deficiencies in performance or failure of deliverables to conform to



the standards and specifications provided in this Contract. Supplier agrees to timely remedy defective performance or any nonconforming deliverables on its own or upon such notice provided by the University.

(c) Supplier has a limited, non-exclusive license to access and use University data provided to Supplier, but solely for performing its obligations under and during this Agreement and in confidence as further provided for herein or by law.

(d) Supplier or its suppliers, as specified and agreed in the Contract, shall provide support and assistance to the University related to all Services performed or other deliverables procured hereunder during the University's normal business hours. Supplier warrants that its support, customer service, and assistance will be performed at a minimum in accordance with generally accepted and applicable industry standards.

(e) The State may document and take into account in awarding or renewing future procurement contracts the general reputation, performance and performance capabilities of the Supplier under this Contract as provided by N.C Gen. Stat. §§ 143-52 and 143-135.9 (a) and (b) (Best Value).

### **3. PAYMENT TERMS.**

(a) All invoices shall be submitted to the University's Systems and Operations Department unless otherwise instructed on the face of the Purchase Order. Payment terms are net thirty (30) days after the University's receipt of a correct invoice or acceptance of the Products or Services, whichever is later.

(b) The University retains the right to determine the most appropriate method to remit payments to the Supplier.

(c) Upon written request approved by the University and solely as a convenience to the Supplier, the University may: (i) forward the Supplier's payment check directly to any person or entity designated by the Supplier, and (ii) include any person or entity designated by Supplier as a joint payee on the Supplier's payment check. In no event shall such approval and action obligate the University to anyone other than the Supplier and the Supplier shall remain responsible for fulfillment of all contract obligations.

(d) The University does not agree in advance, in contract, pursuant to Constitutional limitations, to pay costs such as interest, late fees, penalties, or attorney's fees. This Agreement will not be construed as an agreement by the University to pay such costs and will be paid only as ordered by a court of competent jurisdiction.

**4. TAXES.** Any applicable taxes shall be invoiced as a separate item. Invoices shall not include any sales or use tax (or fees) unless required by the North Carolina Department of Revenue. The University is exempt from North Carolina Sales and Use Tax for all qualifying purchases. The University's North Carolina Sales and Use Tax exemption number is 400028. The University is exempt from Federal Taxes, such as excise and transportation. The University shall not be responsible for income or property taxes.

**5. TRANSPORTATION OF PRODUCTS.** Transportation of Products 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 University. In cases where parties other than the Supplier 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.

**6. CONDITION AND PACKAGING.** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage, or shipment.

### **7. STANDARDS.**

(a) *Manufacturing Requirements.* All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for

electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

(b) *Energy Star Compliance.* All Products constituting electronic office equipment, including but not limited to, computers, monitors, printers, scanners, photocopy machines, and facsimile machines, shall be Energy Star compliant. If any of the Products do not satisfy Energy Star requirements, the Supplier shall provide a justification statement explaining why the Products are not Energy Star compliant.

(c) *Quality Assurance.* The Supplier will provide and maintain a quality assurance system or program that includes any Products and will tender to the University only those Products that have been inspected and found to conform to the requirements of this Agreement. All manufactured items and/or fabricated assemblies comprising Products are subject to operation, certification, or inspection, and accessibility requirements as required by State or federal regulation.

(d) *Site Preparation.* The Supplier shall provide the University complete site requirement specifications for the Products, to the extent applicable. These specifications shall ensure that the Products to be installed shall operate properly and efficiently within the site environment. Any subsequent alterations or modifications required to be made to the site which are directly attributable to incomplete or erroneous specifications provided by the Supplier shall be made at the expense of the Supplier. (e) *Specifications.* The apparent silence of the specifications in the Solicitation Document as to any detail concerning the Products 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. Unless otherwise specified in the University's Solicitation Document, the Products shall be new and not refurbished, field-upgraded, previously opened, or otherwise used.

(f) *Information Security Compliance and Certifications.* At all times during the term of this Agreement, the Supplier shall (1) use information security best practices for transmitting and storing potentially sensitive information; (2) employ information security best practices with respect to network security techniques, including, but not limited to, firewalls, intrusion detection, and authentication protocols; (3) comply with all applicable laws and regulations regarding privacy and data security to maintain database security on any online financial transactions conducted on the University's behalf through the use of the Supplier's Software or records belonging to the University that contain sensitive and confidential information; (4) provide most current SOC 2 Type II report at least once every two (2) years; (5) maintain ISO/IEC 27000 series information security best practices; and (6) in the event the Supplier is acting as a Service Provider as defined by the Payment Card Industry Data Security Standard (PCI-DSS), comply with the Payment Card Industry Data Security Standard (PCI-DSS) and provide appropriate PCI attestation documentation, such as a valid Attestation of Compliance (AOC). The University reserves the right to conduct or request the Supplier to have an independent third-party security audit performed.

**8. TRAVEL EXPENSES.** Unless otherwise agreed by the Parties, the Supplier may be reimbursed for documented travel expenses arising under the performance of this Agreement at the out-of-state rates set forth in N.C Gen. Stat. § 138-6, as amended from time to time. The Supplier personnel whose travel expenses are to be paid or reimbursed by University funds are subject to University travel regulations, which are located at <https://finance.unc.edu/services/travel/>. The Supplier agrees to use the lowest available airfare not requiring a weekend stay and to use the lowest available rate for rental vehicles, and to require employees to share rental vehicles whenever the Services to be provided reasonably allow. Unless otherwise agreed by the Parties, all Supplier-incurred travel expenses shall be billed on a monthly basis, shall be supported by receipt, and shall be paid by the University within thirty (30) days after invoice approval. Travel expenses exceeding the foregoing rates shall not be paid by the University unless otherwise agreed by the Parties. The University will reimburse travel allowances only for days on which the Supplier is required to be in North Carolina performing Services for which it is necessary to be on site under this Agreement.

**9. OWNERSHIP OF WORK PRODUCT.** Unless otherwise agreed in writing by the Parties, deliverables developed or prepared specifically for the University hereunder (the “Deliverables”) shall be deemed “works made for hire” under the federal copyright laws. The Supplier hereby assigns to the University any and all rights, title, and interest, including, without limitation, copyrights, trade secrets, and proprietary rights to the Deliverables. To the extent the Deliverables include data, modules, components, designs, utilities, subsets, objects, processes, tools, models, and specifications (“Technical Elements”) owned or developed by the Supplier prior to, or independently from, its engagement hereunder, the Supplier retains ownership of such Technical Elements and the Supplier hereby grants to the University a perpetual, worldwide, fully paid-up limited license to use such Technical Elements for University related purposes.

**10. QUALIFIED PERSONNEL; INTERVIEWS.** For Services procurements, the Supplier shall ensure that qualified personnel of the Supplier will provide the Services under this Agreement 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 applicable industry. Prior to the Supplier commencing the provision of the Services and upon the University's request, the University shall have the opportunity to review resumes and conduct interviews of the personnel who the Supplier proposes to deploy to provide the Services to the University. If the University is not satisfied with the proposed personnel, the University may request acceptable substitute personnel to be provided by the Supplier.

**11. KEY PERSONNEL.** For Services procurements, the Supplier shall not substitute key personnel assigned to the performance of this Agreement without express prior written approval by the University's designated contract administrator. Any desired substitution shall be noticed to the University's contract administrator accompanied by the names and references of the Supplier's recommended substitute personnel. The University will approve or disapprove the requested substitution in a timely manner. The University may, in its sole discretion, terminate the Services of any person providing Services under this Agreement. Upon such termination, the University may request acceptable substitute personnel to be provided by the Supplier.

**12. CARE OF UNIVERSITY PROPERTY.**

(a) The Supplier agrees that it shall be responsible for the proper custody and care of any University real or personal property, information, data, instruments, documents, studies, or reports given to or prepared or assembled by or provided to the Supplier under this Agreement, furnished for use in connection with the performance of this Agreement, or purchased by it for this Agreement and will reimburse the University for loss or damage of such property.

(b) Any University property, information, data, instruments, documents, studies, or reports given to or prepared or assembled by or provided to the Supplier under this Agreement shall be kept as confidential, used only for the purpose(s) required to perform this Agreement and not divulged or made available to any individual or organization without the express prior written approval of the University.

(c) The University's property in the hands of the Supplier shall be protected from unauthorized disclosure, loss, damage, or destruction by a natural event or another eventuality. The Supplier agrees to reimburse the University for loss or damage of University property while in Supplier's custody. Such University property shall be returned to the University upon the termination or expiration of this Agreement as directed by the University.

**13. INSPECTION AT VENDOR'S SITE.** The University reserves the right to inspect, at a reasonable time during normal business hours, the equipment/item, plant, or other facilities of a prospective vendor prior to Purchase Order award, and during the Purchase Order term as necessary for the University's determination that such equipment/item, plant, or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Agreement.

**14. INDEPENDENT CONTRACTOR.** The Supplier and its employees, officers and executives, and subcontractors, if any, shall be independent contractors and not employees or agents of the University. This Agreement shall not operate as a joint venture, partnership, trust, agency, or any other business relationship.

**15. INSURANCE COVERAGE.** This section provides minimum insurance coverage rates that are applicable to most moderate risk solicitations. The University will determine, in its sole and absolute discretion, if higher insurance coverage amounts are needed based on the likelihood and severity of exposure to the University.

(a) *Generally.* Providing and maintaining adequate insurance coverage is a material obligation of the Supplier and is of the essence of this Agreement. All such insurance shall meet all laws of the State. Such insurance coverage shall be obtained from companies with an A.M. Best rating of not less than A-VII that are authorized to provide such coverage and that are authorized by the North Carolina Commissioner of Insurance to do business in the State. The Supplier 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 Agreement. The minimum coverage limitations under each insurance policy indicated below shall not be interpreted as limiting the Supplier's liability and obligations or the indemnification requirements under this Agreement.

(b) *Coverage.* During the term of the Agreement, the Supplier, at its sole cost and expense, shall provide commercial insurance of such type and with such terms and limits as indicated. The University shall not be deemed or construed to have assessed the risk that may be applicable to the Supplier. The Supplier shall assess its own risks and, if it deems appropriate, maintain higher limits and broader coverages. The University shall be listed as an additional insured. The Supplier will provide thirty (30) days advance notice to the University, either directly or through the insurer, of any cancellation or non-renewal of a policy. The insurance policies must be written on a primary basis and any insurance or self-insurance maintained by the University shall be non-contributing.

(i) **For Small Purchases** as defined under North Carolina Administrative Code 01 NCAC 05A. 0112 (35) and 05B. 0301 (1), the minimum applicable insurance requirements for Worker's Compensation and Automobile Liability will apply as required by North Carolina law. The University may require Commercial General Liability coverage consistent with the assessed risks involved in the procurement.

(ii) **For contracts valued in excess of the Small Purchase threshold, but up to \$1,000,000.00, the following limits shall apply:**

a. Worker's Compensation - The Supplier shall provide and maintain Worker's Compensation Insurance, as may be required by the laws of North Carolina, as well as employer's liability coverage, with minimum limits of \$250,000.00, covering all of Supplier's employees who are engaged in any work under this Agreement. If any work is subcontracted, the Supplier shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under this Agreement.

b. Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. Defense costs shall be in excess of the limit of liability.

c. Automobile - Automobile Liability Insurance, to include liability coverage covering all owned, hired and non-owned vehicles, used within North Carolina in connection with the Contract. The minimum combined single limit shall be \$250,000.00 bodily injury and property damage; \$250,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.

d. Professional Liability (Errors and Omissions Liability), including Cyber Liability - Supplier, at its sole cost and expense, shall maintain Professional Liability insurance with the following minimum limits of liability: (i) \$1,000,000.00 per loss and (ii) \$1,000,000.00 per aggregate. This insurance shall provide coverage for:

(A) liability arising from theft, dissemination, and/or use of Sensitive and Confidential Information;

(B) network security liability arising from the unauthorized access to, use of, or tampering with computer systems; and

(C) liability arising from the introduction of a computer virus into, or otherwise causing damage to a computer system, network or similar related property. If professional liability insurance is written on a claims-made basis, Supplier warrants that any retroactive date under the policy shall precede the effective date of this Agreement and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed. If such insurance is maintained on an occurrence form basis, Supplier shall maintain such insurance for an additional period of one (1) year following termination of the Agreement. If such insurance is maintained on a claims-made basis, Supplier shall maintain such insurance for an additional period of three (3) years following termination of the Agreement.

**(iii) For contracts valued in excess \$1,000,000.00, the following limits shall apply:**

a. Workers' Compensation Insurance - The Supplier, at its sole cost and expense, shall maintain Workers' Compensation Insurance in accordance with the limits and terms required by the laws of North Carolina, as well as Employers' Liability coverage with minimum limits of \$500,000.00, covering all of the Supplier's employees who are engaged in any work under this Agreement. If any work is subcontracted, the Supplier shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under this Agreement.

b. Commercial General Liability - The Supplier, at its sole cost and expense, shall maintain Commercial General Liability (CGL) insurance (ISO form CG0001 or equivalent) with the following minimum limits of liability: (i) General Aggregate: \$2,000,000.00; (ii) Products/Completed Operations Aggregate: \$2,000,000.00; (iii) Personal/Advertising Injury: \$1,000,000.00; and (iv) Each Occurrence Limit: \$1,000,000.00. Umbrella or excess liability insurance may be used to meet the CGL coverage limit requirements.

c. Automobile Liability Insurance - The Supplier, at its sole cost and expense, shall maintain Automobile Liability Insurance, to include liability coverage, covering all owned, non-owned, employee non-owned, leased, and hired vehicles used in connection with this Agreement. The minimum combined single limit shall be \$1,000,000 bodily injury and property damage per accident. Umbrella or excess liability insurance may be used to meet the Automobile Liability coverage limit requirements.

d. Professional Liability (Errors and Omissions Liability), including Cyber Liability - Supplier, at its sole cost and expense, shall maintain Professional Liability insurance with the following minimum limits of liability: (i) \$2,000,000.00 per loss and (ii) \$5,000,000.00 per aggregate. This insurance shall provide coverage for: (A) liability arising from theft, dissemination, and/or use of Sensitive and Confidential Information; (B) network security liability arising from the unauthorized access to, use of, or tampering with computer systems; and (C) liability arising from the introduction of a computer virus into, or otherwise causing damage to a computer system, network or similar related property. If professional liability insurance is written on a claims-made basis, Supplier warrants that any retroactive date under the policy shall precede the effective date of this Agreement and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed. If such insurance is maintained on an occurrence form basis, Supplier shall maintain such insurance for an additional period of one (1) year following termination of the Agreement. If such insurance is maintained on a claims-made basis, Supplier shall maintain such insurance for an additional period of three (3) years following termination of the Agreement.

**16. AVAILABILITY OF FUNDS.** Any and all payments to the Supplier shall be dependent upon and subject to the availability of funds appropriated or allocated to the University for the purpose set forth in this Agreement.

## **17. GENERAL INDEMNITY.**

(a) The Supplier shall indemnify, defend, and hold harmless the University, its trustees, officers, employees, and agents (collectively, "Indemnitees") from and against any and all damages, costs, liabilities, losses, and expenses incurred by Indemnitees arising from or related to (i) the Products delivered, the Services performed, or materials or supplies furnished in connection with the performance of this Agreement; (ii) a breach of this Agreement by the Supplier; or (iii) any misconduct or acts of negligence by the Supplier or its employees or agents in the performance of this Agreement.

(b) The Supplier represents and warrants that it shall make no claim of any kind or nature against the University's agents who are involved in the delivery or processing of Supplier deliverables or Services as part of this Agreement with the University.

(c) As part of this provision for General Indemnity, if federal funds are involved in this procurement, the Supplier warrants that it will comply with all relevant and applicable federal requirements and laws, and will indemnify, defend and hold and save the University harmless from any claims or losses resulting to the University from the Supplier's noncompliance with such federal requirements or law in the performance of this Agreement. The representations and warranties in the preceding two (2) sentences shall survive the termination or expiration of the Contract.

(d) The Supplier will indemnify the University for any breach of confidentiality or failure of its responsibilities to protect confidential information, including by not limited to, the cost of notification of affected persons as a result of its accidental or negligent release of University data provided to the Supplier pursuant to the Agreement.

## **18. INTELLECTUAL PROPERTY WARRANTY AND INDEMNITY.**

(a) Supplier shall hold and save the University, its officers, agents, and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any Services or copyrighted material, patented or patent-pending invention, article, device or appliance delivered in connection with this Agreement.

(b) Supplier warrants to the best of its knowledge that:

(i) Performance under this Agreement does not infringe upon any intellectual property rights of any third party; and

(ii) There are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.

(c) Should any deliverables supplied by Supplier become the subject of a claim of infringement of a patent, copyright, trademark, or a trade secret, the Supplier, shall at its option and expense, either procure for the University the right to continue using the deliverables, or replace or modify the same to become non-infringing. If neither of these options can reasonably be taken in Supplier's judgment, or if further use shall be prevented by injunction, the Supplier agrees to cease provision of any affected deliverables and refund any sums the University has paid Supplier for such deliverables and make every reasonable effort to assist the University in procuring substitute deliverables. If, in the sole opinion of the University, the cessation of use by the University of any such deliverables due to infringement issues makes the retention of other items acquired from the Supplier under this Agreement impractical, the University shall then have the option of terminating this Agreement, or applicable portions thereof, without penalty or termination charge; and Supplier agrees to refund any sums the University paid for unused Services or other deliverables.

(d) The Supplier, at its own expense, shall defend any action brought against the University to the extent that such action is based upon a claim that the deliverables supplied by the Supplier or their use or operation, infringe on a patent, copyright, trademark or violate a trade secret. The Supplier shall pay those costs and damages finally awarded or agreed in a settlement against the University in any such action.

(e) Supplier will not be required to defend or indemnify the University to the extent any claim by a third party against the University for infringement or misappropriation results solely from the University's material

alteration of any Supplier-branded deliverables or Services, or from the continued use of the Services or other deliverables after receiving written notice from the Supplier of the claimed infringement.

**19. SUSPENSION.** The University will have the right to suspend performance of this Agreement at any time by providing written notice to the Supplier and specifying the dates of the suspension. The University will be responsible for paying the Supplier in accordance with the terms of the Agreement for the delivery of Products and Services accepted by the University at the time of the suspension.

**20. DEFAULT AND TERMINATION FOR CAUSE.**

(a) If, through any cause, the Supplier shall fail to fulfill in timely and proper manner the obligations under this Agreement, including, without limitation, in these Terms and Conditions, the University shall thereupon have the right to terminate this Agreement by giving written notice to the Supplier and specifying the effective date thereof. In that event, any or all finished or unfinished deliverables under this Agreement prepared by the Supplier shall, at the option of the University, become the University's property (and under any applicable Supplier license to the extent necessary for the University to use such property), and the Supplier shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding the foregoing, the Supplier shall not be relieved of liability to the University for damages sustained by the University by virtue of any breach of this Agreement, and the University may withhold any payment due the Supplier for the purpose of setoff until such time as the exact amount of damages due to the University from such breach can be determined. The University reserves the right to require a performance bond or other acceptable alternative performance guarantees from the successful offeror without expense to the University. N.C. Gen. Stat. §§ 25-2-609 and 143-52(a); 01 NCAC 05B.1521.

(b) In case of default by the Supplier, the University may, as provided by North Carolina law, procure the Products or Services necessary to complete performance hereunder from other sources and hold the Supplier responsible for any excess cost occasioned thereby. N.C. Gen. Stat. § 25-2-712. In addition, and in the event of default by the Supplier, or upon the Supplier filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Supplier, the University may immediately cease doing business with the Supplier, terminate this Agreement for cause, take action to recover relevant damages, and initiate proceedings to debar the Supplier from doing future business with agencies of the State of North Carolina. 01 NCAC 05B.1520.

(c) The Supplier shall be in default if it submitted a certification for price-matching preference under Executive Order #50 and N.C. Gen. Stat. § 143-59 that was false and/or contained materially misleading or inaccurate information, and/or the Supplier failed to provide information and documentation requested by the University to substantiate the Supplier's certification. The State of North Carolina may take action against the Supplier under the False Claims Act, N.C. Gen. Stat. § 1-605 et seq., for submitting a false certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties).

**21. TERMINATION FOR CONVENIENCE.** The University may terminate this Agreement without penalty for any reason upon thirty (30) days written notice to the Supplier. In that event, all finished or unfinished deliverable items prepared by the Supplier under this Agreement shall, at the option of the University, become its property, and under any applicable Supplier license to the extent necessary for the University to use such property. If this Agreement is terminated by the University for convenience, the Supplier shall be paid for those items or services satisfactorily completed, less any payment or compensation previously made.

**22. 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, flood, power failures, acts or threats of war, acts or threats of terrorism, hostile foreign action, nuclear explosion, riot, strike, civil insurrection, pandemic, epidemic, quarantine, acts or regulations of public or University officials including measures to limit the spread of contagious disease, governmental acts, orders, or restrictions, national, regional, or local emergency, severely inclement weather, interruption or delay or transportation service, earthquake, hurricane, tornado, or other catastrophic natural event or Act of God; provided that such Party uses reasonable efforts, under the circumstances, to promptly

notify the other Party of the cause of such delay and to resume performance as soon as possible in light of the circumstances giving rise to the force majeure event.

### **23. CONFIDENTIALITY; CARE OF INFORMATION.**

(a) *Confidentiality.* Any information, data, documents, studies, and reports given to or prepared or assembled by the Supplier under this Agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the University.

(b) *Response to Third-party Requests for University Data.* If the Supplier is served with a subpoena related to University data, then, unless prohibited by law, the Supplier will provide prior notice of such subpoena to the University to allow the University an opportunity to seek injunctive relief before disclosure of the information.

(c) *Protection of Supplier Trade Secrets under NC Public Records Act.* The University will maintain the confidentiality of the Supplier's "trade secrets", in accordance with N.C. Gen. Stat. § 132-1, et seq. (the "NC Public Records Act"). Trade secrets are defined by North Carolina statute as "business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that derives independent actual or potential commercial value from (i) not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy." (See N.C. Gen. Stat. § 66-152). The Supplier shall designate the portions of the materials it delivers to the University that meet this definition of "trade secrets," or that otherwise are exempt from disclosure under the NC Public Records Act, by printing "CONFIDENTIAL" in boldface at the top and bottom of the applicable pages or sections. Under the North Carolina Administrative Code, price information shall not be deemed confidential (NCAC 05B.0103). In spite of what is labeled as confidential, the determination as to whether the information is subject to disclosure shall be determined by North Carolina law. The Supplier is notified that if the confidentiality of material is challenged by other parties, the Supplier has the responsibility of defending the assertion of confidentiality. N.C. Gen. Stat. § 143-52(a).

(d) *Protection of University's Sensitive and Confidential Information.* The Supplier shall safeguard and protect Sensitive and Confidential Information of the University in accordance with all applicable laws and regulations and consistent with ISO/IEC 27000 series information security best practices. "Sensitive and Confidential Information" means any, but not limited to, the following: "Personal Information" under the North Carolina Identity Theft Protection Act of 2005, confidential "personnel information" under the North Carolina Human Resources Act, "Protected Health Information" under the Health Insurance Portability and Accountability Act (HIPAA), student "education records" under Family Educational Rights and Privacy Act (FERPA), "customer record information" under Gramm Leach Bliley Act (GLBA), "cardholder data" as defined by the Payment Card Industry Data Security Standard (PCI-DSS), and any information protected from disclosure under the North Carolina Public Records Act. Sensitive and Confidential Information must be restricted by the Supplier to those with a legitimate business need for access to such information. For purposes of illustration, Sensitive and Confidential Information may appear in research data, public safety information, financial donor information, information concerning select agents, system access passwords, information security records, and information file encryption keys.

If the Supplier becomes aware of a confirmed or suspected exposure of Sensitive and/or Confidential University Information, the Supplier shall notify the University's IT Help Desk (919-962-HELP) and ask that a "Critical Remedy Ticket" be created with the University's Information Security Office. The Supplier shall provide a telephone number at which the reporting party can be reached for more detail. The Help Desk takes calls 24x7x365. The Supplier shall not provide any information regarding the risk to Sensitive Information or Confidential Information until contacted via telephone by a University incident handler. Upon being contacted by the incident handler, the Supplier agrees to provide the University with access to any information that is



pertinent to the investigation of the possible compromise of the University's sensitive information or mission critical system, including, but not limited to: log data, metadata, and forensic images.

(e) *Grant of Limited Right to Use University Data.* Subject to the terms and conditions of this Agreement, the University grants to the Supplier a non-exclusive, non-transferable, limited right to use University data received or accessed by the Supplier in the course of performing services under this Agreement. All right, title, and interest in the data shall remain with the University or end users, as applicable. The Supplier may not access and/or duplicate the data for any reasons other than those stated herein without the prior written consent of University.

(f) *Limitations on Use of University Data.* The Supplier shall not collect, mine, save, disclose, or otherwise use any end user personal information or University data for any purpose other than to provision and support the services expressly contemplated under this Agreement.

(g) *FERPA Acknowledgement.* If the Supplier's Services involve the hosting or accessing of student education records, the Supplier acknowledges and agrees that (i) the University has outsourced to the Supplier the performance of institutional services or functions for which the University would otherwise use its own employees, (ii) the Supplier is considered to be a "school official" with "legitimate educational interests" in "personally identifiable information" from "education records" of University students, as those terms have been defined under FERPA (34 C.F.R. 99), (iii) the Supplier is under the direct control of the University with respect to the Supplier's use and maintenance of data in the education records, and (iv) the Supplier will abide by the limitations and requirements imposed by 34 C.F.R. 99.33(a) on school officials. The Supplier will use such data only for the purpose of fulfilling its duties under this Agreement, and will not monitor or share such data with or disclose it to any third party except as required by law, or authorized in writing by the University.

(h) *Data Security.* The Supplier shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations, and rules.

(i) *Costs Borne by Supplier.* If the Supplier experiences a security incident or breach concerning any Confidential Information covered by this Agreement, and such breach is covered by applicable federal or state laws and regulations, then the Supplier will (a) fully

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comply with the Supplier's obligations under such laws and regulations, including but not

**24. IMPLEMENTATION; CONFLICTS/INCONSISTENCIES.** This Agreement shall be implemented by a University Purchase Order unless an alternate effective date is otherwise provided for in the Agreement. For purposes of construing a transaction as an integrated contract, the following provisions shall apply: (a) the definitions in the Instructions to Vendors in the relevant solicitation for this Contract, and in 01 NCAC 05A. 0112 are specifically incorporated herein; (b) if federal funds are involved in the transactions under this Contract, the Supplier shall comply with all applicable state and federal requirements and laws, except where State requirements are more restrictive. See the additional federal requirements included in the "Federal Funds Provisions" section below; (c) "Purchasing Agency" herein is as defined in 01 NCAC 05A. 0112, except that if this Contract has been entered into by the NC Department of Administration, Division of Purchase and Contract (P&C) as indicated in the Contract (e.g., a State Term Contract), then P&C will then be a Purchasing Agency for the purposes herein and in the Federal Funds Provisions, below; (d) contracts made in contravention of General Statutes, Chapter 143, Article 3 and the Rules in 05 NCAC Chapter 5, are void. G.S. 143-58; (e) in cases of conflict between specific provisions in this Contract and any other referenced documents, the Order of Precedence shall be (high to low) (1) any special terms and conditions specific to this Contract, including any negotiated terms; (2) requirements, specifications and administrative terms; (3) THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL GENERAL CONTRACT TERMS AND CONDITIONS FOR PROCUREMENT OF PRODUCTS AND SERVICES, including the Federal Funds Provisions; (4) Definitions and other provisions in INSTRUCTIONS TO VENDORS in this solicitation, which is specifically incorporated in this Contract; (5) PRICING, and (6) Supplier's Bid, to the extent specifically and mutually incorporated into this Contract. In the event of conflict of terms between applicable provisions of the Federal Funds Provisions

and the other provisions of these General Contract Terms and Conditions, the more restrictive provision will govern.

**25. SUBCONTRACTING.** The Supplier may subcontract performance of this Agreement to third parties only with the express prior written consent of the University. The Supplier remains solely responsible for the performance of its subcontractors. Subcontractors, if any, shall adhere to the same obligations and standards required of the Supplier under this Agreement, and the terms and conditions of this Agreement shall be specifically incorporated into any agreements with subcontractors relating thereto.

**26. ASSIGNMENT OR DELEGATION OF DUTIES.** This Agreement may not be assigned or delegated by Supplier without the written consent of the University. If Supplier requests any assignment, or delegation of duties, the Supplier shall remain responsible for fulfillment of all Agreement obligations. Upon written request, the University may, in its unfettered discretion, approve an assignment or delegation to another responsible entity acceptable to the University, such as the surviving entity of a merger, acquisition or a corporate reorganization if made as part of the transfer of all or substantially all of the Supplier's assets. 01 NCAC 05B.1507. Any limited to the NC Identity Theft Protection Act, (b) immediately notify the University regarding the breach pursuant to the process outlined in subsection (d) above and provide the information listed in N.C. Gen. Stat. § 75-65(d)(1-4) and other federal or state laws and regulations required by the University, and (c) fully cooperate with the University in carrying out the University's obligations under said Identity Theft Protection Act. purported assignment or delegation made in violation of this provision shall be void and a material breach of this Agreement. N.C. Gen. Stat. § 143-58.

**27. AMENDMENTS/CONTRACT AUTHORIZATION.**

(a) This Agreement may not be amended orally or by performance. Any amendment, in order to be effective, must be made in written form and signed by duly authorized representatives of the University and the Supplier in accordance with this section.

(b) This Agreement is made subject to the shipment of quantities, qualities, and prices indicated on the Purchase Order and all conditions and instructions on the Purchase Order or the Solicitation Document, as applicable. Any changes made to this Agreement or Purchase Order proposed by the Supplier are hereby rejected unless accepted in writing by the University's Purchasing Services Department or the Vice Chancellor for Finance and Operations. The University shall not be responsible for products delivered without a Purchase Order or authorization from the University's Purchasing Services Department. In order to be effective, contracts for University purchases of products or services exceeding \$5,000.00 must be signed by a duly authorized officer of the University's Purchasing Services Department, or the University's Vice Chancellor for Finance and Operations or his/her delegate.

**28. USE OF UNIVERSITY NAME AND TRADEMARK.** The Supplier shall not appropriate or use the existence of this Agreement or the names, logos, photographs, images, property, service marks, or trademarks of the University or the State of North Carolina as a part of any marketing, advertising, endorsement, promotion, or otherwise, without express prior written approval of the University. Requests to use the University's names, logos, photographs, images, property, service marks, or trademarks should be directed to the University's Office of Trademarks and Licensing (<https://licensing.unc.edu/>). If the University grants express prior written consent to use the University's names, logos, photographs, images, property, service marks, or trademarks, for marketing, advertising, endorsement, promotion, or otherwise, the University shall have the right to reject any such use proposed by the Supplier which in the University's sole discretion violates the University's standards of advertising or is inconsistent with the University's role and reputation as a public institution of higher education.

**29. EXPORT CONTROL.**

(a) The Supplier agrees to comply with all applicable export control laws and regulations with jurisdiction over hardware, software, or technology used or accessed in connection with performing this Agreement, including but not limited to, U.S. Export Control Regulations, including the Export Administration Regulations (15 C.F.R. 730-744), the International Traffic in Arms Regulations (22 C.F.R. 120-130), and the Office of Foreign

Asset Controls regulations (31 C.F.R. 500-599) in all transactions required to fulfill the terms of this Agreement. Supplier agrees to cooperate with any recordkeeping, certification, license, security measure, or other action required to confirm or maintain compliance with export control regulations, including provision of personal information specifically required for such export compliance purposes.

(b) The Supplier shall not transfer or disclose to the University any equipment, information, substance, or material that is controlled under the federal government's Export Administration Regulations (15 C.F.R. 730-774) or International Traffic in Arms Regulations (22 C.F.R. 120-130) (collectively, any "Export Controlled Material") without first informing the University of the Export Controlled Material's Export Control Classification Number ("ECCN"), or other applicable export control designation other than EAR99. **30.**

**EQUAL OPPORTUNITY.** The Supplier shall abide by the requirements of 41 C.F.R. 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or appropriate inquiries regarding compensation. The Supplier will take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status, disability, or appropriate inquiries regarding compensation.

**31. NOTICES.** Any notices required under this Agreement should be delivered to the contract administrator for each Party. Unless otherwise specified in the Solicitation Document, any notices shall be delivered in writing by U.S. Mail, commercial courier, or by hand.

**32. COMPLIANCE WITH LAWS AND UNIVERSITY POLICIES.** Each Party shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and performance in accordance with this Agreement, including those of federal, state, and local agencies having jurisdiction and/or authority. The Supplier agrees to comply with all applicable University policies.

**33. NO BRIBERY; NO BOYCOTT.** Supplier shall adhere to and comply with U.S. anti-boycott laws and all applicable anti-bribery laws, including the U.S. Foreign Corrupt Practices Act. Supplier shall not directly or indirectly offer, give, promise to give, or authorize the giving of any money, loan, gift, donation, or other thing of value to induce a government official to do or to omit from doing any act in violation of their lawful duty, in order to obtain any improper advantage, or to induce a government official to use his or her influence improperly to affect or influence any act or decision.

**34. ACCESS TO PERSONS AND RECORDS.** During, and after the term hereof during the relevant period required for retention of records by State law (N.C. Gen. Stat. §§ 121-5 and 132-1 *et seq.*, typically five years), the State Auditor, the University's internal auditors, and the Joint Legislative Commission on Governmental Operations and legislative employees whose primary responsibility is to provide professional or administrative services to the Commission shall have access to persons and records related to this Agreement to verify accounts and data affecting fees or performance under this Agreement, as provided in N.C. Gen. Stat. § 143-49(9), § 147-64.7. However, if any audit, litigation, or other action arising out of or related in any way to this Agreement is commenced before the end of the retention of records period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the record retentions period, whichever is later.

**35. SITUS, GOVERNING LAW, AND VENUE.**

(a) The place of this Agreement, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation, and enforcement shall be determined. This Agreement is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules.

(b) In the event the Parties are unable to resolve any dispute relating to this Agreement, the exclusive venue for any judicial action or proceeding arising out of or relating to this Agreement shall be the state or federal courts located in the State of North Carolina.

(c) Pursuant to applicable N.C. Gen. Stat., including but not limited to § 55A-15-01 and § 55-15-01, non-resident Supplier corporations not formed under North Carolina law must be domesticated in the Office of the North Carolina Secretary of State in order to contract with the State of North Carolina.

**36. SEVERABILITY.** In the event that a court of competent jurisdiction holds that a provision or requirement of this Agreement 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 Agreement 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.

**37. CERTIFICATIONS REGARDING COVERED TELECOMMUNICATIONS TECHNOLOGY AND SERVICES.** The Supplier shall not provide to the University, or cause the University to use, covered telecommunications equipment or services, as defined in 48 CFR 52.204-25, in the performance of any contract, subcontract or other contractual instrument between the Supplier and the University. In the event the Supplier identifies, during contract performance, covered telecommunications equipment or services as part of any item or service Supplier provides to the University, the Supplier shall immediately notify the University via email to [purchasing\\_team@unc.edu](mailto:purchasing_team@unc.edu).

**38. CERTIFICATIONS UNDER STATE LAW.** The Supplier certifies as follows: (a) its proposal was submitted competitively and without collusion (N.C Gen. Stat. § 143-54); (b) none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (N.C. Gen. Stat. § 143-59.2); (c) it is not an ineligible vendor as set forth in N.C. Gen. Stat. § 143-59.1; (d) no gift has been offered, extended, or promised by any of its employees or representatives to any University employee associated with preparing plans, specifications, or estimates for the solicitation, or in awarding or administering this Agreement resulting from the solicitation, or in inspecting or supervising the services to be rendered (N.C. Gen. Stat. § 133-32); (e) the Supplier and each of its subcontractors for this Agreement comply with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system (N.C. Gen. Stat. § 143-48.5); and (f) neither the Supplier nor any assignee of the Supplier is identified on a list maintained by the NC State Treasurer noting either: (i) persons engaged in investment activities in Iran (N.C. Gen. Stat. § 147-86.60) or (ii) persons engaged in business activities boycotting Israel (N.C. Gen. Stat. § 147-86.80 et seq.). False certification may constitute a Class I felony under North Carolina law.

**39. [Provision for purchase orders made using federal grant funds.] CERTIFICATIONS UNDER FEDERAL LAW.** The Supplier certifies as follows:

(a) Lobbying (2 C.F.R. 200.450).

- (i) To the best of its knowledge and belief, no federal appropriated funds have been paid or will be paid, by or on behalf of the Supplier, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with the award of any federal contract, the making of any federal grant or loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement in accordance with 2 C.F.R. 200.450;
- (ii) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Supplier shall

complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," to the University.

(iii) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

(b) Debarment, Suspension, and Other Responsibility Matters (2 C.F.R. 200.213 and 2 C.F.R. 180). To the best of its knowledge and belief, neither the Supplier nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency, in accordance with 2 C.F.R. 200.213 and 2 C.F.R. 180.

(c) Protection from Reprisal (41 U.S.C. 4712). The Supplier will: (i) inform in writing its employees working on a federal award of whistleblower protections under 41 U.S.C. 4712 in the predominant language of the workforce; and (ii) include such requirements in any agreement made with a subcontractor or subgrantee.

(d) Environmental Law Compliance. The Supplier will: (i) comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387) and the Energy Policy and Conservation Act (42 U.S.C. 6201); and (ii) report all violations to the University.

**40. ELECTRONIC RECORDKEEPING.** The University may preserve electronically all documents related to this Agreement, and such electronic documents will have the same force and effect as the original hardcopy documents. Any printout or other output readable by sight that accurately duplicates the electronic record will be considered an "original" document.

#### **41. WARRANTY TERMS.**

(a) If the Supplier is not the manufacturer of the Products, the Supplier represents and warrants to the University that it has been designated by the manufacturer as an authorized reseller of the Products and any manufacturer warranties will pass from the manufacturer through the Supplier and inure to the benefit of the University. In the event such manufacturer warranties fail to pass through the Supplier and inure to the benefit of the University, the Supplier shall pay, indemnify, and hold the University harmless from all losses, damages, and expenses resulting from such failure.

(b) If the Supplier is the manufacturer of the Products:

(i) The Supplier represents and warrants to the University that for a period of ninety (90) days from the date of installation ("Warranty Period") the Products shall perform in good working order in accordance with industry practices and standards and meet the specifications set forth in the Solicitation Document. Following receipt of written notice thereof, the Supplier shall promptly respond to any failure to comply with the representations and warranties in this subsection, and the Supplier shall promptly repair, replace, or correct the Products at the Supplier's sole cost and expense. The remedies set forth in this section shall be in addition to any other rights and remedies that may be available to the University.

(ii) Supplier represents and warrants to University that, to the best of its knowledge: (1) the licensed Products and associated materials do not infringe any intellectual property rights of any third party; (2) there are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party; (3) the Software and associated materials do not contain any surreptitious programming codes, viruses, Trojan Horses, "back doors" or other means to facilitate or allow unauthorized access to the University's information systems; and (4) the Software and associated materials do not contain any timer, counter, lock or similar device (other than security features specifically approved by Customer in the Specifications) that inhibits or in any way limits the Software's ability to operate.

(iii) The Supplier represents and warrants to the University that any Product which performs any date and/or time data recognition functionality, calculation, or sequencing, will provide accurate date/time data and leap year calculations. This warranty shall survive termination or expiration of the Agreement.

(iv) Supplier represents and warrants to University that the Software demonstrated to University, to the extent applicable, during Supplier's on-campus demonstrations: (1) represents a generally available version of the Software; and (2) was configured but not otherwise modified by Supplier or otherwise manipulated in any way to display features or functions that do not exist in a generally available version of the Software as of the date of the Supplier's demonstrations.

(v) Supplier represents and warrants to University that the Products and Services meet the accessibility requirements (to the extent applicable) outlined in Title II of the Americans with Disabilities Act (28 CFR Part 35 Subpart H), and the best practices outlined in the W3C Web Accessibility Initiative.

**42. NO WAIVER OF REMEDIES OR DEFAULT.** Notwithstanding any other language or provision in this Agreement or in any Supplier-supplied material, nothing herein is intended or shall be interpreted as a waiver of any right, remedy, default or breach otherwise available to the University. The waiver by the University of any right, remedy, default, or breach on any one occasion or instance shall not constitute or be interpreted as a waiver of that or any other right or remedy on any other occasion or instance.

**43. RETENTION OF RECORDS.** During the term of this Agreement and for a period thereafter as determined by the University, the Supplier and its employees, agents, and subcontractors shall maintain complete and professionally adequate records and shall retain them according to the North Carolina Public Records Act and applicable University policies.

**44. GOVERNMENT RESTRICTIONS.** In the event any governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship, or performance of the Products or Services offered, prior to acceptance, it shall be the responsibility of the Supplier to notify, in writing, the University's issuing purchasing officer at once, indicating the specific regulation which requires such alterations. The University reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Agreement. **45. GOVERNMENT REVIEW.** To the extent required by applicable law and pursuant to written requests from any appropriate governmental authority, the Supplier and the University shall make available to such appropriate governmental authority this Agreement and any books, records, documents, and other records that are necessary to certify the nature and extent of the services provided and the costs claimed for services rendered pursuant to this Agreement or so as to otherwise comply with the requirements of any lawful agreement between the party and such governmental authority.

**46. LICENSES, PERMITS, AND CERTIFICATIONS.** During the term of this Agreement, the Supplier and its employees, agents, and subcontractors shall hold current licenses, permits, and certifications, at the levels required to practice their professions and to provide the contracted services in the relevant jurisdiction(s). Upon the University's request, Supplier shall provide proof of such licenses, permits, and certifications.

**47. OUTSOURCING.** If, after award of this Agreement, and consistent with any applicable NC DIT security provisions, the Supplier wishes to relocate or outsource any portion of performance to a location outside the United States, or to contract with a subcontractor for any such performance, which subcontractor and nature of the work has not previously been disclosed to the University in writing, prior express written approval must be obtained from the University unit or department responsible for the Agreement. The Supplier shall give prompt notice to the University of any relocation of the Supplier, employees of the Supplier, subcontractors of the Supplier, or other persons performing services under a University agreement to a location outside of the United States. N.C. Gen. Stat. § 147-86.60. Any vendor or subcontractor providing call or contact center services to the University shall disclose to inbound callers the location from which the call or contact center services are being provided.

**48. REJECTION OF NON-SOLICITATION.** The University rejects and disaffirms any non-solicitation provision or other similar term contained in any material related to the Agreement that would require that the Parties refrain from recruiting or hiring the employees of the other Party unless the non-solicitation provision is

expressly agreed to in a writing signed and specifically initialed by an authorized University representative and the Office of University Counsel.

**49. HEADINGS, GENDER, AND NUMBER.** The headings contained herein are not material parts of the Agreement and should not be used to construe the meaning thereof. The singular of any word or phrase shall be read to include the plural and vice-versa.

**50. PARTIAL INVALIDITY.** If any provision of this Agreement shall be invalid, the remainder of this Agreement shall not be affected thereby.

**51. SURVIVAL OF PROMISES.** All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein that by their sense and context are intended to survive the contract expiration or termination date shall so survive, unless specifically provided otherwise herein, or unless superseded by applicable Federal or State of North Carolina statutes of limitation.

**52. SOVEREIGN IMMUNITY.** Notwithstanding any other term or provision in this Agreement, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity or other State or federal constitutional provision or principle that otherwise would be available to the University under applicable law.

## Attachment C: Description of Offeror Form

Provide the information about the offeror.

Offeror's full name	
Offeror's address	
Offeror's telephone number	
Ownership	<input type="checkbox"/> Public <input type="checkbox"/> Partnership <input type="checkbox"/> Subsidiary <input type="checkbox"/> Other (specify)
Date established	
If incorporated, State of incorporation.	
North Carolina Secretary of State Registration Number, if currently registered	
Number of full-time employees on January 1 <sup>st</sup> for the last three years or for the duration that the Vendor has been in business, whichever is less.	
Offeror's Contact for Clarification of offer: Contact's name Title Email address and Telephone Number	
Offeror's Contact for Negotiation of offer: Contact's name Title Email address and Telephone Number	
If Contract is Awarded, Offeror's Contact for Contractual Issues: Contact's name Title Email address and Telephone Number	
If Contract is Awarded, Offeror's Contact for Technical Issues: Contact's name Title Email address and Telephone Number	



## 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 categories. Also included as HUBs are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to N.C.G.S. §§ 143B-1361(a), 143-48 and 143-128.4, the University 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 RFP. Contact the North Carolina Office of Historically Underutilized Businesses at 919-807-2330 with questions concerning NC HUB certification. <http://ncadmin.nc.gov/businesses/hub>

Respond to the questions below.

1. Is Vendor a Historically Underutilized Business? ☐ Yes ☐ No
2. Is Vendor Certified with North Carolina as a Historically Underutilized Business? ☐ Yes ☐ No

If so, state HUB classification:

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## ATTACHMENT D: VENDOR CERTIFICATION FORM

### 1) ELIGIBLE VENDOR

The Vendor certifies that in accordance with N.C.G.S. §143-59.1(b), Vendor is not an ineligible vendor as set forth in N.C.G.S. §143-59.1 (a).

The Vendor acknowledges that, to the extent the awarded contract involves the creation, research, investigation or generation of a future RFP or other solicitation; the Vendor will be precluded from bidding on the subsequent RFP or other solicitation and from serving as a subcontractor to an awarded vendor.

The University reserves the right to disqualify any vendor if the University determines that the vendor has used its position (whether as an incumbent vendor, or as a subcontractor hired to assist with the RFP development, or as a vendor offering free assistance) to gain a competitive advantage on the RFP or other solicitation.

### 2) CONFLICT OF INTEREST

Applicable standards may include: N.C.G.S. §§143B-1352 and 143B-1353, 14-234, and 133-32. The Vendor shall not knowingly employ, during the period of any resulting contract, nor in the preparation of any response to this RFP, any personnel who are, or have been, employed by a vendor also in the employ of the University and who are providing services involving, or similar to, the scope and nature of this RFP or any resulting contract.

### 3) E-VERIFY

Pursuant to N.C.G.S. § 143B-1350(k), the University shall not enter into a contract unless the awarded Vendor and each of its subcontractors complies with the E-Verify requirements of N.C.G.S. Chapter 64, Article 2. Vendors are directed to review the foregoing laws. Vendors claiming exceptions or exclusions under Chapter 64 must identify the legal basis for such claims and certify compliance with federal law regarding registration of aliens including 8 USC 1373 and 8 USC 1324a. Any awarded Vendor must submit a certification of compliance with E-Verify to the University, and on a periodic basis thereafter as may be required by the University.

### 4) CERTIFICATE TO TRANSACT BUSINESS IN NORTH CAROLINA

As a condition of contract award, the awarded Vendor shall have registered its business with the North Carolina Secretary of State and shall maintain such registration throughout the term of any resulting contract.

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Vendor Name

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Signature

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Date

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Printed Name

---

Title

**[This certification must be signed by an individual authorized to sign on behalf of the Vendor]**

## **ATTACHMENT E: LOCATION OF WORKERS UTILIZED BY VENDOR FORM**

In accordance with N.C.G.S. §143B-1361(b), Vendor must identify (a) how it intends to utilize resources or workers located outside the U.S., and (b) the countries or cities where such resources or workers are located. The University will evaluate additional risks, costs, and other factors associated with the Vendor's utilization of resources or workers located outside the U.S. prior to making an award for any such Vendor's offer. The Vendor shall provide the following:

- a) The location of work to be performed by the Vendor's employees, subcontractors, or other persons, and whether any work will be performed outside the United States. The Vendor shall provide notice of any changes in such work locations if the changes result in performing work outside of the United States.
- b) Any Vendor or subcontractor providing support or maintenance services for software, or call or contact center services shall disclose the location from which the services are being provided upon request.

**Will Vendor perform any work outside of the United States?**

☐ YES ☐ NO

ATTACHMENT F: CERTIFICATION OF FINANCIAL CONDITION FORM

Name of Vendor: \_\_\_\_\_

The undersigned hereby certifies that: [check all applicable boxes]

- ☐ The Vendor is in sound financial condition and, if applicable, has received an unqualified audit opinion for the latest audit of its financial statements.  
  
Date of latest audit: \_\_\_\_\_
- ☐ The Vendor has no outstanding liabilities, including tax and judgment liens, to the Internal Revenue Service or any other government entity.
- ☐ The Vendor is current in all amounts due for payments of federal and state taxes and required employment-related contributions and withholdings.
- ☐ The Vendor is not the subject of any current litigation or findings of noncompliance under federal or state law.
- ☐ The Vendor has not been the subject of any past or current litigation, findings in any past litigation, or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of this Contract.
- ☐ He or she is authorized to make the foregoing statements on behalf of the Vendor.

**Note:** This is a continuing certification and Vendor shall notify the University within fifteen (15) days of any material change to any of the representations made herein.

**If any one or more of the foregoing boxes is NOT checked, Vendor shall explain the reason in the space below:**

\_\_\_\_\_

Signature	Date
Printed Name	Title

[This certification must be signed by an individual authorized to sign on behalf of the Vendor]

## ATTACHMENT G: REQUIREMENTS CHECKLIST

1. Is your firm aligned with [NC State Contract 5610A](#)?  
☐ Yes ☐ No
2. Did your firm have at least one (1) representative in attendance at the mandatory pre-offer conference and tour?  
☐ Yes ☐ No
3. Does your firm meet all of the required qualifications listed in the Design Documentation in Appendix A?  
☐ Yes ☐ No
4. Subject to any documented exceptions, is your firm able to comply with all the specifications and requirements of the RFP and the Design Documentation in Appendix A?  
☐ Yes ☐ No
5. Is your firm able to complete the work included herein no later than October 31, 17, 2025?  
☐ Yes ☐ No
6. Is your firm able to purchase and maintain the required insurance as outlined in Section 5.5 (Insurance) of the RFP?  
☐ Yes ☐ No

I attest that I have provided complete and correct information on this form to the best of my knowledge.

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Vendor Name

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Signature

---

Date

---

Printed Name

---

Title

**[This attachment must be signed by an individual authorized to sign on behalf of the Vendor]**