

STATE OF NORTH CAROLINA

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

Request for Proposal #: 65-03082024MTS

CAMPUS BEVERAGE SERVICES

Date of Issue: 03-13-2024

Proposal Opening Date: 04-26-2024

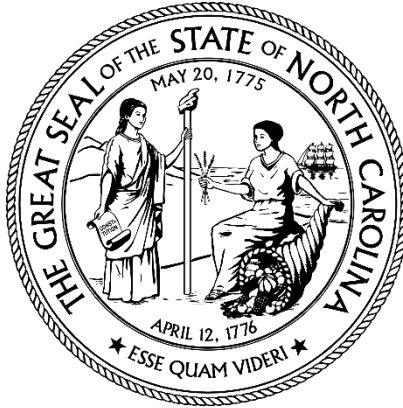
At 1:00 PM EST

Direct all inquiries concerning this RFP to:

Mark Thomas Sillman

Associate Director Purchasing Services

Email: mark_sillman@unc.edu



STATE OF NORTH CAROLINA

Request for Proposal #

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

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

Vendor Name

Vendor eVP#

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

Electronic responses ONLY will be accepted for this solicitation.

STATE OF NORTH CAROLINA
The University of North Carolina at Chapel Hill

Refer <u>ALL</u> Inquiries regarding this RFP to: Mark Thomas Sillman Mark_sillman@unc.edu	Request for Proposal #: 65-03082024MTS
	Proposals will be publicly opened: 04-26-2024 @ 1:00 PM EST
Using Agency: UNC-CH	Commodity No. and Description: N/A
Requisition No.: N/A	

EXECUTION

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

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

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

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

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

As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this RFP, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system. As required by Executive Order 24 (2017), the undersigned vendor certifies will comply with all Federal and State requirements concerning fair employment and that it does not and will not discriminate, harass, or retaliate against any employee in connection with performance of any Contract arising from this solicitation. G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public contracts; or awarding or administering public contracts; or inspecting or supervising delivery of the public contract of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of this response to the RFP, the undersigned certifies, for Vendor's entire organization and its employees or agents, that Vendor is not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Proposal Number: **65-03082024MTS**

Vendor: _____

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

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

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

VALIDITY PERIOD

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

ACCEPTANCE OF PROPOSAL

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

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

The attached certification, by _____.

(Authorized Representative of The University of North Carolina at Chapel Hill)

1.0 INTRODUCTION

INTRODUCTION

The University of North Carolina at Chapel Hill (“UNC” or “University”) is a highly rated public university located in Chapel Hill, North Carolina. It is a large institution with a Fall 2023 enrollment of 19,743 undergraduate students and 11,796 graduate and professional students. UNC has a competitive acceptance rate of 23%. Fifty-two percent of undergraduates lived in college-owned, -operated, or -affiliated housing. Popular majors include Communications, Biology, and Psychology. Over 4,000 faculty and 9,000 staff members are employed at the University.

UNC is the nation’s first public university with a reputation as one of the world’s best research universities. The University’s mission is to serve as a center for research, scholarship, and creativity and to teach a diverse community of students to become the next generation of leaders. UNC continues to invest in knowledge and resources to enhance access to learning and foster the success and prosperity of each rising generation. With lux, Libertas – light and liberty – as its founding principles, the University has charted a bold course of leading change to improve society and to help solve the world’s greatest problems.

The University seeks to contract with a nationally recognized company to meet its extensive and complex campus beverage needs in accordance with this RFP. The successful bidder will have exclusive (“Fountain”) and full-service vending (“FSV”) rights, as well as an agreement to provide other bottled beverages for 80% of the merchandising space in Auxiliary Services locations on campus. For the purpose of this RFP, one hundred percent exclusive rights only refer to fountain beverage stations and full-service vending machines. For bottled beverage service, “Auxiliary Services” locations will include all retail locations operated by a dining contractor, Aramark Higher Education, LLC as well as the Campus Bookstore operated by Barnes and Noble College Booksellers, LLC.

The successful bidder will be responsible for three primary services:

1. Exclusive fountain beverage stations for residential and retail dining; and
2. 80% merchandising space for bottled beverage sales for C Stores and retail dining; See **Appendix 1: Dining Locations with Description** and
3. Exclusive Full-Service Vending

A list of all Dining Locations can be found in **Appendix 1. Dining Locations with Description**.

A list of all FSV locations can be found in **Appendix 3: FSV locations**.

A list of all locations with Fountain Beverage Service can be found in **Appendix 4: CDS locations with Fountain Service**

THE FOLLOWING SERVICES AND LOCATIONS ARE EXCLUDED FROM THIS RFP AND ANY RESULTING CONTRACT:

- i. Catering functions, including without limitation, UNC Athletics premium area game day catering services;
- ii. All UNC Athletics Gameday Concessions;
- iii. UNC Finley Golf Course and Golf Club;
- iv. University Hospital/Medical Center;
- v. Rizzo Center, a Destination by Hyatt Hotel;
- vi. The Carolina Inn, a Destination by Hyatt Hotel;
- vii. Athletic Training Table;
- viii. Granville Towers; and
- ix. George Watts Hill Alumni Center Dining Room

UNIVERSITY PRIORITIES

The successful bidder will serve as a sophisticated strategic and operational vendor and will ensure that Campus Beverage Services and Full-Service Vending fully align with the University's priorities, needs, culture, and standards of excellence. The successful bidder will fulfill UNC's key priorities, which are:

- i. Provide beverage services that deliver an outstanding experience for the campus community while driving participation and revenue.
- ii. Receive annual funding payments along with commissions to sustain and support Auxiliary Services goals and initiatives.
- iii. A successful collaboration between the University and the successful bidder creates a performance-based arrangement and drives continuous improvement to achieve excellence in all areas of service delivery.

1.1 CONTRACT TERM

The Contract shall begin on the date the University executes the Contract (the "Effective Date") and shall end on or about June 30, 2029 ("Term").

At the end of the Contract's initial term, the State shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions on either a month-to-month basis not to exceed six (6) months in duration, or for an addition five (5) – one (1) year options. The University will give the Vendor written notice of its intent to exercise each option no later than ten (10) days before the end of the Contract's then-current term.

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

2.0 GENERAL INFORMATION

2.1 REQUEST FOR PROPOSAL DOCUMENT

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

2.2 E-PROCUREMENT FEE

THIS SECTION INTENTIONALLY OMITTED AS NOT APPLICABLE TO UNIVERSITY SOLICITATIONS.

2.3 NOTICE TO VENDORS REGARDING RFP TERMS AND CONDITIONS

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

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

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

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

2.4 RFP SCHEDULE

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

MARCH 13, 2024	- RFP issued.
MARCH 25, 2024	- Pre-Proposal Mandatory Meeting.
MARCH 25, 2024	- Submitted Questions are due.
APRIL 12, 2024(on or about)	- Submitted questions answers posted.
APRIL 26, 2024	- Bid Due Date.
Week of April 29th	- Finalist Presentations (only if necessary).
May 10, 2024(on or about)	- Award of Bid notification.
August 06, 2024	- Commence Campus Beverage Operation. **

** Note - After the award of contract(s) and prior to the commencement of service, Supplier will be required to provide general coordination services regarding the planning and commencement of beverage pouring and vending operations.

2.5 SITE VISIT or PRE-PROPOSAL CONFERENCE

The Pre-Proposal Mandatory Meeting will begin at 10:00AM ET on the date stated in the Schedule. Attendees will meet at Chase Dining Hall (104 Ridge Road, Chapel Hill, NC) in the End Zone meeting area on the second floor. Parking is available in the deck at the address listed above. **Attendance is mandatory, and proposals submitted by entities that did not attend the Pre-Proposal Mandatory Meeting will not be considered.** Bidders shall notify the Purchasing Agent identified in the RFP of the names, titles, telephone numbers and email addresses of its participants no later than two (2) business days in advance of the meeting. Notification to any other individual shall not be considered valid notification in accordance with the RFP.

Instructions: It shall be MANDATORY that a representative from each Vendor be present for a pre-proposal site visit. Attendees must arrive promptly. All attendees must sign in upon arrival and clearly indicate each prospective Vendor represented on the sign in sheet. LATE ARRIVALS WILL NOT BE ALLOWED TO SIGN IN OR PARTICIPATE IN THE SITE VISIT, NOR SHALL THEIR PROPOSAL BE CONSIDERED. Once the sign-in process is complete, all other persons wishing to attend may do so to the extent that space and circumstances allow.

FAILURE TO ATTEND THE MANDATORY SITE VISIT SHALL RESULT IN VENDOR'S PROPOSAL BEING DEEMED NON-RESPONSIVE AND NOT CONSIDERED FOR AWARD.

The purpose of this visit is for all prospective Vendors to apprise themselves of the conditions and requirements which will affect the performance of the work called for by this RFP. Vendors must stay for the duration of the site visit. 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 site visit, other than that involving the physical aspects of the facility referenced above, and which conflicts with, supersedes, or adds to requirements in this RFP, must be confirmed by written addendum before it can be considered to be a part of this RFP.

2.6 PROPOSAL QUESTIONS Removed

2.7 PROPOSAL SUBMITTAL

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

This RFP is using eVP, which means that all proposal responses shall be submitted electronically via the electronic Vendor Portal (eVP). Additional information can be found at the eVP updates for Vendors link: <https://eprocurement.nc.gov/news-events/evp-updates-vendors>.

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

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

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

Critical updated information may be included in Addenda to this RFP. It is important that all Vendors responding to this RFP periodically check the State's (IPS or eVP website (*****Note** Agency should determine which option is appropriate based on when the solicitation is posted***)) for any Addenda that may be issued prior to the bid opening date. All Vendors shall be deemed to have read and understood all information in this RFP and all Addenda thereto.

2.8 SERVICE REQUIREMENTS

Service Requirements

In addition to preferential product pricing, which is required, Supplier shall pay the University an exclusivity fund each year on the anniversary date of the Effective Date of the Contract. Additionally, Supplier shall pay to the University the greater of an annual guaranteed vending commission or a vending commission based on total vending sales. Supplier shall also, separately, provide an annual payment amount for financial aid and scholarships, and Supplier shall provide an annual marketing budget to be used in ways to increase campus revenue as well as promote Supplier's brand.

Beverages shall be limited to the bestselling products of Supplier and the local area markets. All drink products, cartons, and containers shall meet the standards of quality and sanitation of the Federal, State, and local Departments of Health and Agriculture as well as other applicable regulating agencies. In no case shall standards fall below minimum standards sold commercially. The University will not permit vending machines with canned products on campus during the Term of the Contract unless otherwise requested by the University.

Supplier shall furnish all necessary refrigerated coolers, fountain units, vending machines, and other such equipment at no charge to the University. Supplier shall furnish and deliver applicable loaner equipment in the case of a major breakdown, at no charge to the University, as noted in the work location. Supplier shall furnish equipment and advertising material to properly merchandise the products.

Delivery Schedule: The delivery day(s) for all services will be mutually agreed upon between the University and Supplier. The University, in its sole discretion, reserves the right to increase or decrease frequencies of deliveries as demand warrants.

Installation of equipment and first delivery of product shall be accomplished on or as close to the Effective Date of the Contract as is practicable.

FOUNTAIN SERVICE

Supplier shall provide, install, and maintain only dispensing equipment approved by the University's Department of Auxiliary Services. Approval is at the University's sole discretion.

Supplier and the University shall agree upon appearance of the equipment.

Supplier shall provide soda fountain dispensers to all current and known future locations as listed in **Appendix 4. Fountain Service**.

Supplier shall supply and install necessary syrup lines for the equipment in a manner that will not detract from decor of location. Supplier should coordinate and have approval of the University for placement.

Supplier shall service all locations at intervals necessary to keep each dispensing location supplied with syrup and CO2 gas. Volumes vary at each location. See **Appendix 5. Product Movement and/or Revenue for 12 Month Period** for the estimated annual amount of syrup and supplies supplied to the University.

The supplier is solely responsible for providing all repair and maintenance services to the fountain equipment within twenty-four (24) hours of notification by the University on 7 days a week, 365 days a year basis.

Supplier shall work with the University to design customized cups and lids, which the University will purchase from Supplier. Supplier shall stock the cups and lids at the local warehouse and provide delivery to each location. Supplier shall ensure sufficient supply of cups and lids at each location. For projected cup and lid usage see **Appendix 5**.

Supplier shall provide a security key for shutting off each dispenser after hours as required.

Supplier shall schedule and provide annual training to UNC food service subcontractors and employees as well as training materials and videos for usage, maintenance, and upkeep of fountain beverage equipment.

The supplier shall provide a list of all fountain products available and the most current individual prices for each. Supplier and the University shall mutually determine flavors to be dispensed at each location.

Supplier will have exclusive rights to vended beverages in campus buildings except for the exclusions detailed in the INTRODUCTION section.

Supplier shall, at its expense, furnish vending machines throughout the Term of the Contract. The University shall approve the specific type of machine(s) prior to installation. Generally, the requirement will be multiple issuing machines in new or like new condition, or style and size that are best suited for each given location. The machines will be attractive, sanitary, safe, and reliable vending equipment of a type approved by the National Automatic Merchandising Association or a recognized State or local health department or testing laboratory.

Machines shall include vending miser or equivalent energy saving technology or better. Machines shall adhere to all ADA standards.

The University shall have final approval authority for the placement of any new machines or the removal of any machines from a pre-approved location prior to any action by Supplier. It is expected that Supplier should install machines in all locations that are currently being maintained see **Appendix 3: Full-Service Vending Locations**. Machines shall be added as needed on the recommendation of the University. Supplier is encouraged to suggest placement of additional machines or the removal of a machine but shall have prior written approval before taking any action.

It is the University's preference to operate ashless vending. However, the Contractor shall furnish dollar bill validators of adequate capacity at locations agreed upon by both parties to accept cash/coin if the need were to arise. Otherwise, it is approved for the Contractor to operate vending machines that accept only cashless payments.

The University operates a declining balance program, UNC One Card, utilizing the Campus ID card. The University uses CBORD as its provider of card-based transaction processing. Supplier shall install and maintain card readers on Vending Equipment that (i) can accept the UNC ONE Card in addition to other traditional payment cards. The supplier shall equip all machines with a specific style of card reader and HID device that can accept the UNC One card as a tap function as well as the mobile credential version of the UNC ONE card. Any vending reader proposed to accept the physical or digital campus card must be able to accept the HID Omnikey 5427 GE USB A reader. These readers must be acquired from CBORD Inc, and the cost of the readers is the responsibility of the vendor. (ii) In the case of traditional payment cards, the readers must be approved by the University's CERTIFI committee. Failure to receive approval will result in disqualification of equipment to be installed and used under this contract. It is the supplier's responsibility for the proper custody and care of this equipment and to report any equipment that is malfunctioning and coordinate resolution of the problem.

Gathering data from a CBORD/UGRYD query, the University will provide a monthly report of all gross sales from UNC ONE Cards at Vending machines to Supplier by the 1st of each month or on a date mutually determined by both parties that coincides with Supplier and the University billing cycle. The report will detail the UNC ONE Card sales occurring during the previous month. Supplier shall deduct this amount of UNC ONE Card sales from any commissions owed to the University for the month or agreed upon billing cycle. In months where a negative balance occurs, Supplier shall invoice the University for the balance.

Supplier shall make every vending machine deployed capable of accepting credit cards in addition to UNC ONE Cards and cash unless otherwise approved by the University or upon notification by the University it will accept cashless transactions. All credit card transactions shall be managed and reconciled by Supplier including any necessary receipts and refunds. Credit card processing is subject to the approval of the University's Compliant Electronic Receipt Transactions through Innovation and Financial Integrity (CERTIFI) Committee. In providing payment card equipment and processing payment card transactions, Supplier shall comply with all applicable terms and conditions, including but not limited to the following:

- (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 University's behalf through the use of Supplier's Software or records belonging to 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) 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 Parties expressly agree that, after award and, as applicable, Supplier shall cooperate with the University to ensure it is compliant with all the University's applicable information technology policies and procedures, including but not limited to CERTIFI. Failure to achieve compliance with any applicable information technology policy or procedure shall be a material breach of the Contract, and notwithstanding any provision, term, or condition to the contrary, the University may, in its sole discretion, terminate the Contract.

Further, the University reserves the right to conduct or request that Supplier have an independent third-party security audit performed. Any independent third-party security audit will be performed at Supplier's expense.

Supplier shall be responsible for all fees and regulations regarding credit card transactions from vending machines. The University will not be involved in any credit card transaction processing or management. This includes all forms of cashless payments except the UNC One Card. The University will have representatives capable of tracking and reporting campus card sales via CBORD/UGRYD; however, Supplier is responsible for maintaining the relationship with CBORD for card reader maintenance and usage fees.

Supplier shall maintain full-service machines stocked to provide sufficient amounts of beverages of excellent quality, dispensed in conformity with all applicable Federal, State, and local laws.

Supplier shall keep full-service machines supplied with high quality, nationally known, brand merchandise. The sale prices of vended products shall not exceed popular prices prevailing in nearby communities as well as other locations under control of the University. The University's established pricing is as follows: Any annual price adjustment request shall be accompanied by a complete local area market analysis with specific location product type and retail price for determination and submitted by May 1st of each Contract Year.

Supplier shall keep areas in vicinity of machines clean of spillage and waste, including removal of empty boxes and cartons during regular stocking and inspection visits. Supplier should provide repair/maintenance to equipment within 48 hours of notification. If repairs cannot be made in 24 hours, it is the contractor's responsibility to communicate the reasoning and status of the repair to the Contract Administrator.

Emergency Repair Service: Supplier shall provide emergency repair service to the equipment within twelve (12) hours of notification 7 days a week, 365 days a year. Examples of an emergency repair includes leakage, loud or disturbing noises, infestation, vandalism, or other repairs deemed urgent by the University. Supplier shall provide a standard of 24 (twenty-four) hour repair service, Monday – Friday, and shall provide contact information including phone number for emergency service. If repairs cannot be resolved in 24 hours, Supplier shall establish a manner in which to communicate the status of repairs to the Contract Administrator until the repair is completed.

The supplier shall provide the Contract Administrator with a monthly report of all service calls and the status and time the calls were opened and closed.

Supplier must establish a preventative maintenance ("PM") schedule for technical checkups throughout the Academic Year and provide the Contract Administrator a detailed quarterly report of the of this progress. Supplier should establish a recurring inspection and PM program to ensure machines remain in sound operating condition. Throughout the Term of the Contract, Supplier must make periodic inspection visits, as determined by the University, with a university representative to evaluate machines for replacement, etc.

All machines shall display instructions for reporting malfunctions and errors in addition to requests for refunds in some form. It is up to Supplier to decide the most efficient method possible for customer feedback and reporting errors. Whatever method is decided, the University will have final approval and the method will need to include a way for the Contract Administrator to have access and oversight of all the customer reports.

The supplier, in cooperation with the University, shall make reasonable arrangements for handling customer refunds with agreement to reimburse the University for amounts paid out due to empty, jammed, or otherwise inoperable machines. Each machine shall be equipped with easily readable instructions as mentioned above.

Commissions paid to the University shall be based on a percentage of total monthly gross receipts from sales of vended products. Supplier shall submit a detailed monthly report of sales including breakdowns from each FSV location and sorted from highest commission locations to lowest commission locations. Supplier shall make payment to the University no later than the fifteenth (15) day of the month immediately following that for which the report was provided. Quarterly and annual statements of sales and commissions are required for any machines under service.

Suppliers shall provide bottled beverages for resale via the direct store delivery method, and pricing should reflect this style of service and delivery. Supplier will manage the inventory of products at each location. Supplier will pick up and issue credit for items that are damaged or out of date. Products delivered for resale at Auxiliary Service locations shall not be pre-priced without the University's prior consent.

The University shall determine the number of coolers and bottled beverage space allocated to Supplier in each location. If additional refrigeration/display units are required, Supplier should provide and maintain those units at no additional cost. The University shall approve the specific type of machine(s) prior to installation. If Supplier sees a growth opportunity for revenue in adding coolers and or cooler space, they should get approval from the Contract Administrator before any additions.

Generally, the requirement will be machines are new or like new design or style and size that are best suited for each given location. The machines will be attractive, sanitary, safe, and reliable equipment of a type approved by a recognized State or local health department or testing laboratory. Proposal shall specify type(s) of machines to be furnished by Supplier.

The current number of vendor-provided coolers in the Retail Locations are detailed in **Appendix 2**.

MARKETING

Supplier must provide annual marketing funds and support to accomplish the Parties mutually agreed upon goals. These goals may include, but are not limited to:

1. Promotion of the campus food service department, its programs, and facilities through printed materials, giveaway programs, etc.
2. Conduct product promotions to increase beverage sales.
3. Beverage donations for campus events or department requests as determined necessary by the Contract Administrator.

Use of marketing funds will be coordinated between Supplier and the University.

Annual marketing funds offered by Supplier and not used by June 30 of each Contract Year will be paid to the University no later than September 1st of each Contract Year.

Supplier shall also provide beverages and sampling for Fall Fest each August of each Contract Year. Fall Fest is the Welcome Back to Campus event held on the first weekend of the Fall semester each Academic Year. During the Term of the Contract, if the Fall Fest is rebranded, renamed, or restructured, Supplier maintains responsibility to provide beverages. Each year the Contract Administrator will work with Supplier to determine the amount of beverages and support needed. Supplier should delegate a minimum of five (5) individuals to attend and support this annual event.

REQUIREMENTS DETAIL

This section lists additional Supplier requirements.. The supplier agrees to meet all stated requirements in this section as well as any other specifications, requirements and terms and conditions in any resulting contract.

A. During the Term, the University will grant Supplier a guarantee of at least 80% of cold beverage merchandising space (measured in the aggregate and not on a location-by-location basis) at the convenience stores (including, without limitation, the "Pit Stop" convenience store in the College Bookstore), snack bars and dining service operations located on the Campus. Additionally, with respect to Competitive Products that are sold in the shelf space not allocated to Supplier, the University's Auxiliary Services Department may not (i) advertise or promote such Competitive Products, (ii) run volume driving promotions for such Competitive Products, (iii) sell any such Competitive Products at a price less than the price at which the comparable Supplier Product (in like size and packaging) is sold, or (iv) sell such Competitive Products in take home packaging.

B. The University (and/or its dining contractor) will purchase its requirements of Products for the locations listed in the RFP exclusively from Supplier and it shall not purchase Products required per this Agreement for the locations listed above from any other Person.

C. The University's Auxiliary Services Department shall not in any way advertise or promote on Campus by any method or through any medium whatsoever (including, without limitation, print, broadcast, direct mail, coupons, displays and signage) any beverage products that are competitive with Suppliers Products. The foregoing sentence shall not restrict the University's right to sell Competitive Products in less than 20% of the shelf space in Retail Locations.

a) CONTRACT COORDINATION

- i) Supplier shall work directly with the University, its designated Contract Administrator, or any identified representative in connection with carrying out and conducting all the requirements, duties, and obligations during the Term of the Contract.
- ii) The University may require changes in the scope of the services provided by Supplier. Such changes, including any increase or decrease in price, which is mutually agreed upon, shall be incorporated by written amendment and executed by authorized representatives of Supplier and University. Price change proposals will be allowed once per Contract Year and shall be submitted by May 1 of the Contract Year to be executed by August 1 of Contract Year.
- iii) Supplier shall meet with the Contract Administrator as often as is necessary to resolve any differences.
- iv) Supplier shall recommend ways to upgrade and improve the product and services provided to the University.
- v) Supplier and the University representative(s) will annually review each location for possible upgrading of equipment. The Parties will mutually agree on the annual review date and, if the Parties cannot agree, Supplier shall comply with University's decision.
- vi) Supplier and University representative(s) will review any new facility locations to determine appropriate vending needs and Supplier will provide machine specifications for pre-construction requests.

b) DELIVERY AND INSTALLATION

- i) Supplier will have exclusive rights to vended beverages at university-owned campus locations except for the exclusions detailed in the INTRODUCTION section of the RFP.
- ii) Supplier shall, at its expense, furnish, install, operate, and maintain automatic vending equipment for the dispensing of bottled beverage and fountain products, in areas located on premises of the University, in accordance with the terms and conditions of the RFP. Supplier represents that it has, or will, secure at its own expense all personnel required in performing the services required in this RFP. Such personnel may not be employees of the State or University.
- iii) Supplier shall furnish vending machines during the Contract Term. The University shall approve the specific type of machine(s) prior to installation. Generally, the requirement will be multiple issuing machines, which must be new or in new or like new condition, and style and size that are best suited for each given location. The machines will be ADA compliant for accessibility. The machines will be attractive, sanitary, safe, and reliable vending equipment of a type approved by the National Automatic Merchandising Association or a recognized State or local health department or testing laboratory.
- iv) Delivery shall not be considered to have occurred until installation of equipment and product has been completed. Upon completion of the installation, Supplier shall remove and properly dispose of all waste and debris from the installation site. The supplier shall be responsible for leaving the installation area clean and ready to use.
- v) Supplier shall furnish/deliver applicable loaner equipment in the case of a major breakdown, at no charge to the University. Supplier shall furnish equipment and advertising material to properly merchandise the products. For the purposes of this agreement, a major breakdown is considered if and when the supplier establishes that it will be over seven days until the machine can provide routine service again.
- vi) Supplier's employees shall be suitable by training, appearance, and habits for working on university premises. They are to be clearly identified by appropriate uniform or other markings on their person that would identify them as Supplier employees.

- vii) The University shall have final approval for the placement of any new machines or the removal of any machines from a pre-approved location prior to any action by Supplier. It is expected that Supplier shall install machines in all locations that are currently being serviced. Machines shall be added as needed on the recommendation of the University. Supplier is encouraged to suggest placement of additional machines or the removal of a machine for the university's consideration and written approval. A University representative shall approve all locations.
- viii) The University may require Supplier to provide vending services in locations where the annual sales volume does not meet Supplier's break-even level, as certified by Supplier, but the number of locations where the annual sales volume does not exceed 50% of break-even level will not exceed 25% of all locations. No machine will be required to remain in a location with sales of less than 20% of break-even level for a continuous six-month period. At the beginning of the Term, Supplier shall place machines as described in this Contract. The Contract Administrator shall approve any exceptions to this startup distribution in advance and in writing. Supplier reserves the right to request University approval to remove machine(s) from locations where repeated instances of vandalism or theft have occurred, which approval shall not be unreasonably withheld.
- ix) The University reserves the right to require removal or relocation of machines with prior notice of no less than 10 Business Days, except in unforeseen, emergency situations.
- x) The current number of machines as of December 31, 2023, is +/- 185. It is expected that the current machine locations will be maintained. If the number of machines substantively changes during the Term of the Contract, the Parties will agree in writing, as needed.

c) SERVICING REQUIREMENTS

- i) Supplier collects the fees and stocks the machines while complying with all ADA and health compliance issues.
- ii) Supplier shall maintain all equipment in a clean and sanitary condition and in compliance with all local, County, State, and Federal statute, code, and regulation.
- iii) Supplier's employees shall be suitable by training, appearance, and habits for working on university premises. They are to be clearly identified by appropriate uniform or other markings on their person that would identify them as Supplier employees.
- iv) Supplier shall furnish equipment that accepts one and five-dollar bills of adequate capacity on all locations unless a mutual decision is made in the future to go cashless vending.
- v) Supplier shall keep full-service machines stocked to provide, under normal conditions, sufficient amounts of bottled beverage of good quality, dispensed in conformity with all applicable Federal, State, and local laws. A minimum of once weekly service is recommended for keeping machines adequately stocked. High-traffic areas such as residence halls, libraries, Recreation, and student centers will require more frequent service.
- vi) Supplier shall keep areas in vicinity of machines clean of spillage and waste, including removal of empty boxes and cartons during regular stocking and inspection visits.
- vii) Supplier shall clean glass and sanitize buttons no less than once monthly. Supplier should clean with every service but under no circumstances less than every other service.
- viii) The University is not responsible for damage or contamination of beverage products by rodents or insects or spillage. Supplier shall immediately notify the Contract Administrator or his/her designee of any rodent or insect contamination. Contaminated product(s) shall be removed from the premises and is the financial and physical responsibility of Supplier.
- ix) Machines placed on Campus locations by Supplier shall remain the property of Supplier. The University shall take reasonable precautions to protect vending property, but shall not be responsible for loss, or damage of machines or equipment from burglary, vandalism, fire, or other causes. Contents of machines are considered Supplier's property.

- x) All machines shall display instructions for reporting malfunction in some form. It is up to Supplier to decide the most efficient method possible for customer feedback and reporting malfunctions. Whatever method is decided, the University will have final approval and the method shall incorporate a way for the Contract Administrator to have access and oversight of all customer reports. A method of online reporting of machines or dashboard reporting is encouraged. At minimum, Supplier shall place on each machine an informational sticker or QR coded with information for vending customers to report problems.

Minimum Example:

For Service use one of the following:

Email: _____@_____ or Call: ____ - ____ - ____

Identify location and problem that occurred.

- xi) Supplier, in cooperation with the University, shall make reasonable arrangements for handling customer refunds with agreement to reimburse the University for amounts paid due to empty, jammed, or otherwise inoperable machines. In such cases where a refund petty cash amount is held by the applicable University department, Supplier is responsible for reimbursement to maintain adequate funds of no more than \$30.00. Supplier will provide a log for the University staff providing refunds from petty cash amount to complete stating customer's name, machine location, description of malfunction, amount refunded, date and signature. Although refund petty cash representatives are required to follow procedures for safe-keeping and appropriate accounting, the University shall not be liable for reconciliation or lost bags.
- xii) Supplier shall establish a recurring inspection and preventative maintenance program to ensure machines remain in sound operating condition. Throughout life of the agreement, Supplier will make annual inspection visits with a university representative to evaluate machines for replacement, etc.

d) PRODUCT REQUIREMENTS

- i) The list of all bottled beverage products to be stocked in machines and their selling prices listed in the proposal will begin on the Effective Date and remain in effect through the first Contract Year. Any additions to and/or deletions from the list will be communicated to the Contract Administrator in advance and in writing prior to the installation of the product in or removal of product from vending machines. Contract Administrator may reject any product he or she feels is unsuitable for the vending program and may require Supplier to continue stocking products proposed for deletion.
- ii) The University population has become accustomed to a wide product selection, which varies by building based on the preferences of its occupants. Supplier should be responsive to reasonable requests for product changes to improve customer service and increase sales.
- iii) Product Recalls: Supplier expressly assumes full responsibility for prompt notification to the Contract Administrator of any product recall in accordance with the applicable state or federal regulations. Supplier shall support the University, as necessary, to promptly replace any such products, at no cost. Any proven claim of consumer illness as the result of any product recall shall be resolved by Supplier.
- iv) Supplier shall follow guidelines for vending machine labeling requirements as designated by the FDA and the Affordable Care Act. Any future legislative guidelines will be met in a timely manner.

e) CUSTOMER SERVICE REQUIREMENTS

- i) Delivery Schedule: Supplier shall comply with the delivery schedule in the Contract that details frequency and dates for all bottled beverage, fountain service, and Full-Service Vending. The delivery frequency will be mutually agreed upon between the University and Supplier. The University reserves the right to increase or decrease frequencies of deliveries as demand warrants. During extremely high-volume periods in the Academic Year, seven-day delivery is required (e.g., Final Exam periods)

- ii) Supplier shall provide emergency repair service to the equipment within eight (8) hours of notification 7 days a week, 365 days a year. Examples of an emergency repair include leakage, loud or disturbing noises, infestation, vandalism, or other repairs deemed urgent at the sole discretion of the University. Supplier shall provide a standard 24-hour repair service, Monday through Friday, and shall provide contact information including a phone number for emergency service. If repairs cannot be resolved in 24 hours from time of notification, Supplier shall establish a way to communicate the status of repairs to the Contract Administrator until the repair is completed.
- iii) Each August 10 through May 10 of the Term of the Contract, Supplier will ensure that all residence hall machines are full by 5:00PM ET each Friday.
- iv) The University operates 7 days a week, 365 days a year. There shall be no service disruption throughout the year. A schedule of on-campus summer camps, summer school, and summer orientations, with Persons residing in the residence halls will be provided each spring and updated regularly. Notice will also be given if a residence hall is taken “offline” for the summer months. When a residence hall is taken “offline,” machines can be emptied with prior approval; and shall be refilled prior to when building occupancy resumes.

f) PRICING AND REPORTING REQUIREMENTS

- i) **Pricing:** Contract pricing for products and services must be guaranteed for the first Contract Year. Subsequent price increases will be in conformance with Pricing Requirements. Price increase proposals will be due on May 1st of each Contract Year. The University will give a written notice of approval or disapproval for price increase proposals.
- ii) **Commissions:** Commissions paid to the University shall be based on a percentage of total monthly gross receipts from sales of vended products. Supplier shall submit a detailed monthly report of sales and make payment to the University no later than the fifteenth (15) day of the following month. The University shall require information to substantiate monthly sales. Proposals shall include an explanation of the method of reporting sales, commissions, and samples of required reports.
- iii) **Annual Sales Goals:** Supplier shall generate and sustain a high level of sales. To evaluate the sales volumes generated by Supplier, the University requires Supplier to set and reasonably attempt to meet sales goals on an annual basis. Repeated substantial negative deviation from sales goals, or substantial lowering of sales goal volume are a material breach of the Contract.
- iv) **Quarterly Transaction and Repairs Report:** The purpose of this report is to log all Supplier activity (“visits” or “contacts” and “repairs”) with each machine during Reporting Period. It should be sorted by transaction date within machine serial number or account number. This report is due 4 times per year in agreed upon months with Supplier and Contract Administrator.
- v) **Machine Location Listing:** The purpose of this report is to describe where machines are located, by type. It is arranged by machine number within location within building. It includes machine serial number, machine control number, machine type, location, and building. This report shall be provided on the anniversary date of every Contract Year, and within ten (10) Business Days of any request by Contract Administrator.
- vi) **Machine Add/Remove Request:** Supplier will create a form for the Contract Administrator to use when departments or University representatives make a request to add or remove a machine. The purpose of this form is to allow both the Auxiliary Services Department and Supplier adequate time to consider the advisability of adding or removing a particular machine. It shall be approved by both parties prior to adding or removing vending operations at a particular location. This form does not need to be used in instances where Supplier is switching or substituting machines with the same general capabilities.

g) ANNUAL PAYMENT REQUIREMENTS

- i. **Annual Support Fund Payments.** Supplier will pay the University the following Annual Support Funds each Contract Year of the Term:
- ii. **Annual Collaboration Support Fund.** Supplier shall pay the University the Annual Collaboration Support Fund within sixty (60) days from the Effective Date of the Contract. By June 15 of each Contract Year thereafter, Supplier shall pay to the University the Annual Collaboration Support Fund of the then-current Contract Year; and
- iii. **Annual Scholarship Support Fund.** Supplier shall pay the University the Annual Scholarship Support within sixty (60) days from the Effective Date of the Contract. By June 15 of each Contract Year thereafter Supplier shall pay the University the Annual Scholarship Support Fund of the then-current year; provided, however, that the Annual Support Funds shall be funded only if the University is continuing to purchase fountain, bottle and can Product pursuant to the terms of the Agreement. Supplier shall have no obligation to pay University the Annual Support Fund Payments after termination of the Agreement.
- iv. **Other Annual Support Funds.** Supplier will pay the University any Marketing or other Annual Support Funds during each Contract Year. The Annual Marketing Fund or other Support Funds shall be used for purposes mutually agreed upon by the Parties. Any balances of the Annual Marketing or other Support Funds not used by June 30 of each Contract Year will be paid to the University no later than the following September 1.

2.9 PROPOSAL CONTENTS

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

Proposals must contain all of the information below and be submitted in the order presented here.

TECHNICAL PROPOSAL

Provide an Executive Summary of your proposal. The Executive Summary should touch on all components of your proposal and highlight those features that you believe best demonstrate the advantages of selecting your firm for this contract.

1) COLLABORATION -

The University requires the successful vendor to be strategic and collaborative.

A. Strategy

- i. What is the most important strategy for ensuring a successful beverage collaboration?
- ii. What are the 3 most important aspects of a great collaboration?

B. Innovation

- i. What Beverage and Full-Service Vending industry trends do you see over the next 5-10 years, and how do you anticipate these trends will impact higher education?
- ii. How are you innovating as a company to address these trends?
- iii. What innovations do you anticipate benefiting UNC, and why?

C. Customer Service relationships

- i. What does customer service relationships mean to you and how will you incorporate that into the providing your services at UNC?

D. Standard of Excellence

- i. Why are you the best choice for UNC?

2) PROGRAM -**A. Company Information**

- i. Brief history and overview of your company
- ii. Company-wide organizational chart
- iii. Simple list of your higher education and corporate accounts in UNC's geographic region; i.e. Southeastern U.S.
- iv. Key initiatives: Social responsibility, diversity, and inclusion; supported employment;

B. Beverage Options and Product Selections

- i. Specific to UNC, detail bidder's approach to the following:
 - a. Product listing for all types and packaging of beverages offered.

C. Retail and Full-Service Vending operations

- i. For Residence Halls, Library, and High-Volume customer locations, provide the following:
 - a. Proposed concepts
 - b. Describe your inventory management systems for Full-Service Vending
 - c. Proposed innovations and/or improvements in the five years of agreement
 - d. Proposed delivery solution & implementation details
 1. Most efficient methods for keeping FSV machines filled.
 2. Service schedules and routes.

D. Customer Feedback (The customer being the University and its community)

- i. Describe the mechanisms you will use to measure satisfaction and capture customer feedback for:
 - a. Full-Service Vending
 - b. Bottled Beverage Service
 - c. Marketing and Sampling Opportunities
 - d. Fountain Beverage
- ii. Describe the protocol you will use in responding to customer feedback.

E. Marketing

- i. Marketing plan for the first Contract Year.
- ii. Describe the corporate staff support and financial resources the onsite team will receive in developing and implementing marketing activities.

F. Wellness. Provide the following:

- i. How a campus beverage service can play into wellness initiatives and how you will undertake these ideas during the term of the contract, if awarded.
- ii. Specific examples of how you partner with clients and especially higher education clients in promoting health and wellness.

G. Sustainability

- i. Provide your proposed sustainability initiatives.
- ii. What additional sustainability initiatives would be beneficial to UNC in reducing the Program's carbon footprint, and how could a beverage partner help with these efforts?
- iii. What strategies and tools would you use to measure the outcomes of your sustainability initiatives?

H. Technology

- i. How are you using new forms of technology in Marketing and Services Provided
- ii. How are you using new forms of technology in Customer Experience (for example, QR codes and future endeavors)
- iii. What other technology is available or in development that might be beneficial?
- iv. Detail how the required HID devices for tap and Mobile ID Campus Card acceptance are funded, installed, implemented, used, and maintained on FSV machines.
- v. Provide a statement attesting that bidder, if awarded a Contract, will cooperate with the University to ensure its compliance with all applicable information technology policies and procedures as detailed in the RFP and at its own cost.

I. Management

- i. Account Management Structure
 - a. Describe the proposed on-site management structure and an organizational chart.
 - b. Describe the regional/district and corporate support personnel and provide an organizational chart.
 - c. Provide current resumes and position descriptions for:

- (i) Key Account Managers
- (ii) Territory Sales Managers
- (iii) Beverage Equipment Service Maintenance Managers

3) Pre-Occupancy Transition Plan

Provide a detailed pre-occupancy transition plan that describes your process and risk mitigation for transition and start up.

- i. Provide a list of designated employees to supervise and the number of employees you plan to allocate for pre-occupancy transition.
- ii. Provide a calendar of events for any transition plan leading up to the effective date of the new agreement.

FINANCIAL PROPOSAL

Financial proposals will be evaluated using the information given to the requests below.

Provide the information below for the cost proposal and product pricing. This shall be returned with the RFP response and should be included in charts and tables that are similar to the examples given below. **Please note that bidders may email the purchasing agent listed within this RFP for a copy of the tables and charts listed within the RFP for use in preparation of their proposals.

- 1. **Exclusivity and Collaboration Fee:** This is for the exclusive product availability rights as defined by the RFP. Identify the bidder's financial and creative commitment for exclusivity initiatives for a five(5) year period. (Installments to be paid on the dates and schedules listed within this RFP)
- 2. **Financial Aid and Scholarships:** Identify your financial support to other opportunities (i.e. scholarships, awards, internships) that will significantly enhance exposure and assist with the overall vision and mission of the University. Provide the information and time frame and if it is an annual support payment.
- 3. **Marketing Funds:** Identify any annual amount of marketing funding you plan to provide during the life of the collaboration.

Annual Funding Table

Contract Year	Exclusivity and Collaboration Fee	Financial Aid and Scholarships	Annual Marketing Funds
2024-2025			
2025-2026			
2026-2027			
2027-2028			
2028-2029			
Month by month total to be used only if necessary			
2029-2030 O/Y 1			
2030-2031 O/Y 2			
2030-2031 O/Y 3			
2030-2031 O/Y 4			
2030-2031 O/Y 5			

■ **Vending Commissions:** Bidder should identify if it plans to offer an annual guaranteed vending commission amount. It is not required but it is the University's preference that the successful bidder offer a guarantee throughout the Term. If the bidder chooses to offer an annual guarantee for vending commissions, the amount will remain the same throughout Term of the Contract. Identify the vend rate and commission percentage for the first Contract Year for each Product Description as set forth in Table **FSV Commission Table**. Vend rates can go up or down each Contract Year but shall be proposed to the University no later than May 1 of each Contract Year and agreed upon in writing executed by the authorized representatives of the Parties.

■ Note: Two tier pricing is not permitted and will not be evaluated.

■ **FSV COMMISSION TABLE**

Annual Vending Guarantee: _____

Product Description	Ounce size	Proposed Vend Rate	Commission %
Carbonated Soft Drink			
Non-Carbonated Soft Drink			
Water			
Electrolyte Enhanced Water			
Isotonic			
Juice			
Energy			
Energy/Juice			
Ready to Drink Coffee			
Cold Brewed Tea			
Sparkling Water			
Functional Beverage			
Additional Items not listed above			

■ **Fountain Beverage:** Using the table, **Fountain Beverage Pricing Table** exactly as it appears below or on next page, bidder must provide the pricing for fountain beverage pricing (BIB) for services as if they are to commence as of August of 2024.

■ ****Please note that bidders may email the purchasing agent listed within this RFP for a copy of the tables and charts listed within the RFP for use in preparation of their proposals.**

Retailed Bottled Beverage Packaging/List/Cost Table

- **Proposed Unit Case and Cost.** The ultimate retail pricing for soft drinks will be established by the University in collaboration with the successful Supplier. Provide a chart for PKG amount, case pricing, and unit cost for the following for all available categories and beverages to be offered by the bidder in the first Contract Year:
- **Please note that bidders may email the purchasing agent listed within this RFP for a copy of the tables and charts listed within the RFP for use in preparation of their proposals.

[illegible]

APPENDIX 1: DINING LOCATIONS WITH DESCRIPTION

Location	Description
Top of Lenoir	All you can eat residential Dining with Fountain Service
Lenoir Mainstreet	Retail Dining with Fountain Service
Bojangles	Brand/Concept Dining with Fountain Service
Chase Dining Hall	All you can eat residential Dining with Fountain Service
RH Market	Retail Market with Fountain Service/Bottled Beverage
Beach Café	Retail Market with Fountain Service/Bottled Beverage
McColl	Retail Market with Fountain Service/Bottled Beverage
Law Bar	C Store
Dental	C Store
Blue Ram	C Store
Atrium Café	C Store
Alpine Bagel	3rd party retail dining with Foutain Service
Café Converge	C store
Friday Center	Catering Kitchen/Conference Center with Fountain Service
B&N Bookstore	Contracted Bookstore with Bottled Beverage
Friends Café	3rd party Coffee Shop with Bottled Beverage
Joe Van Gogh	3rd party Coffee Shop with Bottled Beverage

APPENDIX 2: RETAIL LOCATIONS WITH SUPPLIER PROVIDED COOLERS

Beverage Supplier Branded Coolers provided on campus**May-23**

Location	Door Cooler		
	single	double	counter
TOL			
Mainstreet		2	
Bojangles			
Chase DH			
RH Market			
Beach Café			
McColl	1	1	
Law Bar	1	1	
Dental			1
Blue Ram		2	
Atrium Café	3	1	
Alpine Bagel			
Alpine Deli			
Café Converge	4		
Friday Center			
B&N Bookstore	1	2	

APPENDIX 3: FULL-SERVICE VENDING LOCATIONS

<u>Customer Name</u>	UNC COBB DORM BSMT 000	UNC HOUSE LIB SB GFV	UNC OLD WEST DORM 1ST 157
UNC ABERNATHY HALLWAY	UNC COBB DORM BSMT GFV	UNC ITS FRANKLIN GRD FL	UNC PARKER DORM BSMT 129
UNC ACC BUILDING GFV	UNC COBB PARKING DECK 2	UNC ITS MANNING 4FL	UNC PARKER DORM BSMT 130
UNC ALDERMAN DORM RAL 147	UNC CRAIG DORM GFV PEP	UNC ITS MANNING 2FL	UNC PEABODY HALL 180
UNC AOB BKRM 2FL GFV	UNC CRAIG DORM GFV SB	UNC ITS MANNING 5FL	UNC PEABODY HALL STR 246
UNC AVERY BSMT CSD	UNC CRAIG DORM 6FL	UNC JOYNER ALEX 3FL GFV	UNC PHILLIPS HAL 3RD 204
UNC AVERY BSMT GAT	UNC CRAIG DORM GFV GAT	UNC KENAN DORM BAT LN 164	UNC PHYSICIANS OFC BLDG
UNC AYCOCK FAMILY MED	UNC CRAIG NORTH DORM 1	UNC KENAN FLAGLER	UNC POWER PLANT 1FL
UNC BAITY HILL 1351	UNC CRAIG NORTH DORM 2	UNC KNAPP INST GOVT 2FL	UNC POWER PLANT 3FL
UNC BAITY HILL 1401	UNC CRAIG NORTH DORM 3	UNC KOURY DENTAL 4FL	UNC RAM VILLAGE 1 CSD
UNC BAITY HILL 1501	UNC CTR FOR DRAMATIC ARTS	UNC KOURY DORM 1	UNC RAM VILLAGE 2
UNC BAITY HILL 1600	UNC CTR SCH LDR AC GFV	UNC KOURY DORM 2	UNC RAM VILLAGE 3
UNC BAITY HILL 1700	UNC D SMITH ACT CTR BSMT	UNC KOURY DORM 3	UNC RAMS HEAD PARKING DCK
UNC BAITY HILL 1800	UNC DAVIE HALL 3FL	UNC LAW SCH GFV	UNC RAMS HEAD REC GAT GFV
UNC BAITY HILL 1900	UNC DAVIS LIBRARY 1FL 172	UNC LAW SCH SB GFV	UNC RAMS VILLAGE 1 GFV
UNC BAITY HILL 2000	UNC DAVIS LIBRARY GAT GFV	UNC LEWIS SB GFV	UNC RAMS VILLAGE 5 GFV
UNC BEARD HALL 1ST 199	UNC DAVIS LIBRARY PEP GFV	UNC LNBRGR CANCER CTR CSD	UNC ROSENAU HALL 2FL
UNC BIO MOLECULAR 1FL	UNC DAVIS LIBRARY SB GFV	UNC LOUDERMILK CENTER	UNC ROSENAU HALL 2FL
UNC BIOINFORMTCS BSMT GFV	UNC DEV OFC 4FL CAFE	UNC MACNIDER HALL 2FL	UNC ROSENAU HALL BSMT GFV
UNC BLDGS & GROUNDS DEPT	UNC DEY HALL STAIR GFV	UNC MANGUM DORM SB GFV	UNC RUFFIN DORM SB GFV
UNC BONDURANT BSMT GFV	UNC DOGWOOD DECK 2FL	UNC MANLY DORM SB GFV	UNC SASB BLDG SB GFV
UNC BRAUER HALL 1	UNC DOGWOOD DECK 4	UNC MANNING HALL 176	UNC SECURITY SER BLDG GRD
UNC BRAUER HALL GFV	UNC DOGWOOD PARK DECK 2FL	UNC MANNING HALL 233	UNC SITTERSON HALL GRD FL
UNC BROOKS SITTERSON HALL	UNC DOGWOOD PARK DECK 3FL	UNC MANNING HALL BSMT 281	UNC SPENCER HALL 155
UNC CARDINAL DECK 3FL	UNC DOGWOOD PARKING DECK	UNC MANNING STEAM PLT 3FL	UNC ST STOR RECV HVAC GRD
UNC CARDINAL DECK 4	UNC EHRLINGHAUS SB GFV	UNC MARSICO HALL	UNC STACY SB GFV
UNC CARDINAL DECK ELVATOR	UNC EHRLINGHAUS DORM 2	UNC MARY ELLEN 200Z	UNC TAYLOR DORM GFV PEP
UNC CARDINAL DECK GRD	UNC EHRLINGHAUS SB GFV 2	UNC MARY ELLEN GFV	UNC TAYLOR DORM 1ST GFV
UNC CARMICHAEL 3FL	UNC EHRLINGHAUS LAUND GFV	UNC MCCLINTON 2FL SB GFV	UNC TAYLOR DORM SB GFV
UNC CARMICHAEL DORM GFV	UNC HINTON JAMES PEP GFV	UNC MCIVER DORM	UNC TAYLOR HALL
UNC CARRNGTN HALL 1ST 242	UNC HINTON JAMES SB GFV	UNC MITCHELL HAL BSMT 272	UNC TAYLOR STUD HLTH GRD
UNC CARROLL HALL BSMT CSD	UNC HLTH & SAFETY OFF 1ST	UNC MORRISON DORM GFV SB	UNC TEAGUE HALL 1FL
UNC CARROLL HALL SB GFV	UNC HLTH & SCI LIBRARY	UNC MORRISON DORM GFV PEP	UNC THURSTON BOWLES 1FL
UNC CAULDIL LABS 1	UNC HORTON BSMT 1	UNC MORRISON DORM GFV	UNC TURNER SCH GFV
UNC CAULDIL LABS 2	UNC HORTON BSMT 2	UNC MCCOLL STAIRWELL	UNC VENABLE HALL GFV
UNC CHAPMAN HALL	UNC HOUSE LIB GAT GFV	UNC NEW WEST BLDG	UNC VENABLE HALL 200Z NCB
UNC CHEEK CLARK 1FL CAN	UNC HOUSE LIB PEP GFV	UNC OLD EAST DORM 1ST 127	UNC WINSTON CONN 3FL GFV

APPENDIX 4: CDS LOCATIONS WITH FOUNTAIN BEVERAGE EQUIPMENT

Location	Fountain Machines		
	6 head	8 head	10 head
TOL		6	
Mainstreet		5	
Bojangles		2	
Chase DH		4	2
RH Market		1	
Beach Café		2	
McColl		2	
Law Bar			
Dental			
Blue Ram			
Atrium Café			
Alpine Bagel		1	
Café Converge			
Friday Center		2	
B&N Bookstore			

APPENDIX 5: PRODUCT MOVEMENT AND/OR REVENUE FOR 12 MONTH PERIOD**Fountain Beverage**

Package Sales	12 month period
BIB 5G 1/1 FTN	16,345
BIB 3G 1/1 FTN	5,601
CTN 1G 3/1 FTN	2,265
CUPS CASES	350
CO2	99
LIDS CASES	46
EMPTY CO2	-108
Totals	24,598

FSV	12 month period
Vendor Revenue	\$792,000

Bottled Beverage	12 month period	
	CDS Locations	B&N Bookstore
Vendor Case QTY	16,500	5,700

2.10 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

■ In addition to any other abbreviations, acronyms, and definitions in the RFP, the following terms have the defined meanings:

- 1. **Academic Year** means the period of the year in which students attend the educational institution, generally mid-August to mid-May at UNC Chapel Hill. The University maintains an up-to-date academic calendar at <https://registrar.unc.edu/wp-content/uploads/sites/9/2023/11/Chancellor-Calendar-AY23-24-25.pdf>.
- 2. **Annual Support Fund Payments** means any annual payments that are paid on a recurring basis throughout the term of the agreement on a specified date. Examples of these payments are exclusivity and collaboration funds, scholarship payments, marketing funds, and any others the successful bidder may propose.
- 3. **Beverage Services** means all contractually required services, with exceptions as noted, to the UNC Chapel Hill Campus Beverage Vending and Pouring Rights Contract.
- 4. **BIB** means Bag in Box (either 5 gallon or 3 gallon) for Fountain Beverage Service.
- 5. **Business Day** means the hours 8:00AM to 5:00PM ET, Monday through Friday, except for holidays recognized by the University or any other day, in its sole discretion, during which the University is not conducting its regular business.

6. **Business Week** means the seven-day period beginning 12:00AM ET Sunday morning and ending 11:59PM ET the following Saturday.
7. **Campus** means all facilities (1) owned and operated or leased by the University, (2) where the University is a tenant and the landlord consents to the installation, or (3) which house organizations affiliated with the University and the organization has requested and the University has agreed to allow Beverage Vending Service. Exclusions to campus areas are listed in this RFP.
8. **Cold Bottled Beverages** means all carbonated or non-carbonated or naturally or artificially flavored beverages, except for bottled drinking water and bottled juice as defined below, which are dispensed from refrigerated vending machines or vendor supplied refrigerated coolers.
9. **Competitive Products** means any cold beverage products not offered by Supplier that may be offered in a retail setting.
10. **Contract Administrator** means the University's designated representative from its Auxiliary Services Department
11. **Contract Year** means each twelve (12) month period beginning each July 1 and ending the following June 30 except for the first Contract Year which will begin on the Effective Date and end on June 30, 2025.
12. **Convenience Stores and Snack Bars** means all stores or other Retail Locations on Campus operated and staffed by the University's current food service contractor.
13. **Dining Locations** means those locations detailed in **Appendix 1** and any future additions or concepts added by auxiliary services and or its dining contractor.
14. **Fiscal Year** means the twelve (12) month period beginning each July 1 and ending each June 30.
15. **Food Service Program** means the University's Dining Service operations.
16. **Fountain Beverage Service** means any beverage station that combines flavored syrup, carbon dioxide, and water to serve soft drinks, teas, and/or juices.
17. **Full-Service Vending (FSV)** means furnishing, installing, operations and maintenance of automatic vending equipment for dispensing of Beverages, in areas located on the Campus, in accordance with the terms and conditions of this Contract.
18. **Functional Products** means a product that professes to provide a specific benefit such as, but not limited to, one or more of the following: Energy drinks, Sports drinks, Products that claim to have specific health benefits, i.e., antioxidants, vitamin-enhanced, green tea-based drinks, probiotic enhanced, etc., Products that contain cholesterol reducing fat substitute, are low in carbohydrates, are high in fiber, etc.
19. **Juice** means a beverage that may 1) contain artificial or natural flavorings and/or sweeteners, 2) be made from concentrate, or 3) be organic content if pasteurized.
20. **Person** means a natural individual, proprietorship, partnership, corporation, limited liability corporation, bank, organization, firm, business, joint venture, association, trust or other entity and any government agency, body, or authority.

21. **Products** means all fountain, bottled, and canned non-alcoholic carbonated or non-carbonated or naturally or artificially flavored drinks, normally served at ambient, hot, cold or frozen temperatures, including but not limited to, carbonated and non-carbonated soft drinks, energy drinks, still, fortified, enhanced, sparkling or flavored waters, mixers, slush/frozen beverages, fruit or vegetable juice, including but not limited to, orange juice, fruit and vegetable juice flavored drinks containing less than 100% juice, ready-to-drink tea or tea-flavored beverages, ready-to drink lemonade or lemonade-flavored beverages, ready to drink coffee and coffee-flavored products, ready to drink nutritional supplement beverages, protein-enhanced and other functional beverages and isotonic beverages or sports drinks of any kind or form excluding milk, flavored milk, fruit and yogurt based smoothies, freshly brewed coffee or tea, tap water or freshly squeezed juice.
22. **Product Category** means the types of bottled beverage products and or BIB syrups and shall include, but shall not be limited to, 12 ounce carbonated beverages, 20 ounce carbonated beverages, 15.2 ounce juice, 16 ounce juice, 20 ounce sports drinks, 12 ounce water, 20 ounce water, 1 Liter Water, 12/16/20 oz energy drinks, and 7.5 – 16 oz Cold Crafted Coffee, Nitro Coffee, or Frappuccino or Latte Coffee drinks.
23. **Retail Locations** means those locations that are not Full Service Vending machines and are operated and staffed by the dining and/or bookstore contractor. These locations are detailed in **Appendix 2**.
24. **Water** means bottled drinking water "which is intended for human consumption and that is sealed in bottles or other containers with no added ingredients." Water that: 1) Contains zero calories, carbohydrates, protein, and fat., 2) Contains negligible amounts of sodium or is sodium free., 3) Contains less than 250 parts per million (ppm) total dissolved solids., 4) Is purified, filtered, etc., 5) And meets Federal and State requirements to be classified as Bottled Drinking water.

3.0 METHOD OF AWARD AND PROPOSAL EVALUATION PROCESS

3.1 METHOD OF AWARD

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

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

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

3.2 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION

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

Each Vendor submitting a proposal to this RFP, including its employees, agents, subcontractors, suppliers, subsidiaries and affiliates, is prohibited from having any communications with any person inside or outside the using agency; issuing agency; other government agency office or body (including the purchaser named above, any department secretary, agency head, members of the General Assembly and Governor's office); or private entity, if the communication refers to the content of Vendor's proposal or qualifications, the content of another Vendor's proposal, another Vendor's qualifications or ability to perform a resulting contract, and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals, the award of a contract, or both.

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

3.3 PROPOSAL EVALUATION PROCESS

Only responsive submissions will be evaluated.

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

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

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

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

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

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

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

3.4 EVALUATION CRITERIA

FINALIST PRESENTATIONS: The University may, but is not required to, invite bidder finalists for Finalist Presentations. If the University decides to hold Finalist Presentations, bidders will be invited to attend an on-site, in person presentation. The University will provide details regarding Finalist Presentations if held.

EVALUATION CRITERIA

Technical Proposal: Technical proposals must follow the format detailed in the proposal format below and provide all information relevant to the format questions and sections. A sample of the technical scoring format and the weight given to different sections is given below.

Financial Proposal: The Financial Proposal must be structured to provide a high-quality Campus Beverage program while allowing for the maximum financial return to the University.

As the University's commitment and initiative to create increased value with an exclusive beverage rights agreement through the increased sale of Supplier's beverages, the University recognizes and supports the benefit of providing exclusive beverage and soft drink right opportunities. In consideration of this exclusive commitment and support, the University requires appropriate compensation. All financial considerations shall be included in the bidder's submission. Bidder must detail its best financial and creative commitment to support the University and maximize financial return to the University during the life of the contract.

SCORING:

Technical Proposal Scoring		
Section	Submittal Requirement	
30 points	Collaboration	
60 points	Program	
10 points	Transition Plan	
Total score		
Total Possible Points		100

3.5 PERFORMANCE OUTSIDE THE UNITED STATES

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

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

3.6 INTERPRETATION OF TERMS AND PHRASES

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

4.0 REQUIREMENTS

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

4.1 PRICING

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

4.2 INVOICES

[Buyer should modify or delete, as appropriate. It may be that invoicing is to be based on progress payments, acceptance of deliverables, or another schedule rather than monthly.]

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

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

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

4.3 FINANCIAL STABILITY

[Include one of the options below or delete, as appropriate.]

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

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

4.4 HUB PARTICIPATION

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

4.5 VENDOR EXPERIENCE

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

4.6 REFERENCES

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

4.7 BACKGROUND CHECKS

Vendor and its personnel are required to provide or undergo background checks at Vendor's expense prior to beginning work with the State. As part of Vendor background, the following details must be provided to the State:

- a) Any **criminal felony conviction**, or conviction of any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception, by Vendor, its officers or directors, or any of its employees or other personnel to provide Services on this project, of which Vendor has knowledge, or provide a statement that Vendor is aware of none;
- b) Any **criminal investigation** for any offense involving moral turpitude, including, but not limited to fraud, misappropriation, falsification or deception pending against Vendor of which it has knowledge, or provide a statement Vendor is aware of none;
- c) Any **regulatory sanctions** levied against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies within the past three years or a statement that there are none. As used herein, the term "regulatory sanctions" includes the revocation or suspension of any license or certification, the levying of any monetary penalties or fines, and the issuance of any written warnings;
- d) Any **regulatory investigations** pending against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies of which Vendor has knowledge or a statement that there are none.

- e) Any **civil litigation**, arbitration, proceeding, or judgments pending against Vendor during the three (3) years preceding submission of its proposal herein or a statement that there are none.

Vendor's response to these requests shall be considered a continuing representation, and Vendor's failure to notify the State within thirty (30) days of any criminal litigation, investigation or proceeding involving Vendor or its then current officers, directors or persons providing Services under this Contract during its term shall constitute a material breach of contract. The provisions of this paragraph shall also apply to any subcontractor utilized by Vendor to perform Services under this Contract.

4.7.1 GENERAL INFORMATION

It is the policy of the State to provide a safe environment for State Government employees to work. Due to the Contract requirements, the State requires criminal background checks of awarded Vendors, including but not limited to: owners, employees, agents, representatives, subcontractors, and all personnel of their respective companies. All costs and expenses associated with criminal background checks are the responsibility of the Vendor.

The following requirements must be met:

- a) Criminal background checks shall be current and completed within ninety (90) days of the Contract effective date.
- b) The criminal background check shall include a social security verification/check, felonies, misdemeanors, and traffic records covering a minimum of the last seven (7) years for all states and countries where the individual has resided. The criminal background check information shall be first thoroughly reviewed by the Vendor and then sent to the Contract Administrator for review and approval. Out of state searches shall be required for persons living in the state of NC for fewer than seven (7) years. Fingerprint background checks may be required in some instances depending on the facility requirements.
- c) A criminal background check on the awarded Vendor and its employees shall be provided by the Vendor prior to Contract effective date. Copies of the original criminal background check shall be sent to the Contract Administrator for evaluation. In some cases, badging cannot take place until after the evaluation and approval of the Vendor's criminal checks.
- d) When a new employee or individual is identified to perform Services on this Contract, the Vendor shall provide the Contract Administrator with a criminal background check before the individual can be approved for work. Persons without approved criminal background checks shall not be allowed to work in the relevant buildings until proper documentation is submitted and approved.
- e) The State may require the Vendor to exclude the Vendor's employees, agents, representatives, or subcontractors based on the background check results. Discovery that one or more employees have convictions does not disqualify the Vendor from award.
- f) Additionally, the State may use The North Carolina Department of Public Safety Offender Public Information or similar Services to conduct additional background checks on the Vendor's proposed employees.

4.7.2 BACKGROUND CHECK REQUIREMENTS

As part of Vendor's criminal background checks, the details below must be provided to the State:

- a) Any **criminal felony conviction**, or conviction of any crime involving moral turpitude, including but not limited to fraud, misappropriation or deception, of Vendor, its officers or directors, or any of its employees or other personnel to provide Services on this project of which Vendor has knowledge, or provide a statement that Vendor is aware of none;
- b) Any **criminal investigation** for any offense involving moral turpitude, including, but not limited to fraud, misappropriation, falsification or deception pending against Vendor of which it has knowledge, or provide a statement Vendor is aware of none;
- c) Any **regulatory sanctions** levied against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies within the past three years or a statement that there are none. As used herein, the term "regulatory sanctions" includes the revocation or suspension of any license or certification, the levying of any monetary penalties or fines, and the issuance of any written warnings;
- d) Any **regulatory investigations** pending against Vendor or any of its officers, directors or its professional employees expected to provide Services on this project by any state or federal regulatory agencies of which Vendor has knowledge, or provide a statement that there are none.
- e) Any **civil litigation**, arbitration, proceeding, or judgments pending against Vendor during the three (3) years preceding submission of its proposal herein, or provide a statement that there are none.

4.7.3 BACKGROUND CHECK LIMITATIONS

Any individual representing the Vendor, who:

- a) In his/her lifetime, has been adjudicated as a habitual felon as defined by GS 14-7.1 or a violent habitual felon as defined by GS 14-7.7, shall not be allowed to work in buildings occupied by State Government employees.
- b) During the last seven (7) years has been convicted of any criminal felony or misdemeanor sexual offense or a crime of violence shall not be allowed to work in buildings occupied by State Government employees.
- c) At any time has an outstanding warrant or a criminal charge for a crime described in (b) above shall not be allowed to work on State property.
- d) The Vendor must ensure that all employees have a responsibility to self-report to the Vendor within twenty-four (24) hours any arrest for any disqualifying offense. The Vendor must notify the Contract Administrator within twenty-four (24) hours of all details concerning any reported arrest.
- e) Upon the request of the Contract Administrator, the Vendor will re-screen any of its employees, agents, representatives, and subcontractors during the term of the Contract.
- f) Vendor's responses to these background check requests shall be considered a continuing representation, and Vendor's failure to notify the State within thirty (30) days of any criminal charge, investigation, or proceeding involving Vendor or its then-current officers, directors or persons providing Services under this Contract during its term shall constitute a material breach of contract. The provisions of this paragraph shall also apply to any subcontractor utilized by Vendor to perform Services under this Contract.
- g) If there are problems or delays with performance associated with the completion and compliance with this background check requirements, any Vendor's performance bond could be used to complete these Services.

4.7.4 DOCUMENT REQUIREMENTS

Required documentation to be submitted prior to date Contract is effective and for performing any Services on State property shall include:

- a) A cover letter by the Vendor on company letterhead with a list of the full names matching a required government issued photo ID, addresses, and birth dates of each person representing the contracting company.
- b) Vendor shall also provide a photocopy of the required State or Federal government issued picture ID or Driver License.
- c) A letter on company letterhead is not acceptable proof in itself but can be used to further clarify information on the criminal background check submitted. All documentation shall be submitted at the same time. Submit documents which are clear and legible.
- d) Background checks consisting of:
 - 1. Original unaltered criminal background check from the organization providing the background check.
 - 2. The background check provider's company name, company mailing address, and contact phone numbers.
 - 3. The full name of the individual, which matches the government issued photo ID.
 - 4. The current address of individual being checked.
 - 5. The date the criminal background check search was conducted.

4.7.5 VENDOR BACKGROUND CHECK AGREEMENT

Vendor agrees to conduct a criminal background check per the specifications above in this section on all employees proposed to work under this Contract, at its expense, and provide the required documentation to the State in order to perform Services under this Contract:

☐ YES ☐ NO

4.8 PERSONNEL

Vendor warrants that qualified personnel shall provide Services under this Contract in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the industry. Vendor will serve as the prime contractor under this Contract and shall be responsible for the performance and payment of all subcontractor(s) that may be approved by the State. Names of any third-party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

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

4.9 VENDOR'S REPRESENTATIONS

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

5.0 CONTRACT ADMINISTRATION

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

5.1 CONTRACT MANAGER AND CUSTOMER SERVICE

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

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

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

Customer Service Point of Contact	
Name:	
Office Phone #:	
Mobile Phone #:	
Email:	

5.2 POST AWARD PROJECT REVIEW MEETINGS

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

5.3 CONTINUOUS IMPROVEMENT

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

5.4 PERIODIC [WEEKLY, MONTHLY] STATUS REPORTS

The Vendor shall be required to provide Management Reports to the designated Contract Lead on a to be determined basis. This report shall include, at a minimum, information concerning the overall performance of the operation. These reports shall be well organized and easy to read. The Vendor shall submit these reports electronically using the format required by the Purchasing Agency. The Vendor shall submit the reports in a timely manner and on a regular schedule as agreed by the parties.

Within [written number (x)] business days of the award of the Contract the Vendor shall submit a final work plan and a sample report, both to the designated Contract Lead for approval.

5.5 ACCEPTANCE OF WORK

Performance of the work and/or delivery of Goods shall be conducted and completed at least in accordance with the Contract requirements and recognized and customarily accepted industry practices. Performance shall be considered complete when the Services or Goods are approved as acceptable by the Contract Administrator.

Acceptance of Vendor's work product shall be based on the following criteria:

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

5.6 TRANSITION ASSISTANCE

If a Contract results from this solicitation, and the Contract is not renewed at the end of the last active term, or is canceled prior to its expiration, for any reason, Vendor shall provide transition assistance to the State, at the option of the State, for up to ____ *[insert number - max of six months]* months to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees. If the State exercises this option, the Parties agree that such transition assistance shall be governed by the terms and conditions of the Contract (notwithstanding this expiration or cancellation), except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall agree to pay Vendor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for performance of the Services or other resources utilized.

5.7 DISPUTE RESOLUTION

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

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

5.8 CONTRACT CHANGES

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

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7.0 ATTACHMENTS

[Specify the attachments that should be included in the Vendor's response. Generally, the items listed below should be returned. Edit the Proposal Contents section above to match the below.]

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

ATTACHMENT A: PRICING (OR COST PROPOSAL)

Complete and return the Pricing associated with this RFP, which can be found at the following link *OR* in the table below:

ATTACHMENT B: INSTRUCTIONS TO VENDORS

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

ATTACHMENT C: THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL GENERAL TERMS & CONDITIONS

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

ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION

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

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

ATTACHMENT E: CUSTOMER REFERENCE FORM

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

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

ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR

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

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

ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION

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

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

LOBBYING ACTIVITY CERTIFICATION FOR FEDERAL GRANTS

The Certification for Contracts, Grants, Loans, and Cooperative Agreements and the OMB Standard Form LLL are separate documents that can be found at the following link:

<https://ncadmin.nc.gov/documents/vendor-forms>

***** Failure to Return the Required Attachments May Eliminate
Your Response from Further Consideration *****

ATTACHMENT B: INSTRUCTIONS TO VENDORS

1. **READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Vendors or elsewhere in this RFP document.
2. **LATE PROPOSALS:** Late proposals, regardless of cause, will not be opened or considered, and will automatically be disqualified from further consideration. It shall be the Vendor's sole responsibility to ensure delivery at the designated office by the designated time.
3. **ACCEPTANCE AND REJECTION:** The University reserves the right to reject any and all proposals, to waive any informality in proposals and, unless otherwise specified by the Vendor, to accept any item in the proposal. If either a unit price or an extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
4. **BASIS FOR REJECTION:** Pursuant to 01 NCAC 05B .0501, the University reserves the right to reject any and all offers, in whole or in part, by deeming the offer unsatisfactory as to quality or quantity, delivery, price or service offered, non-compliance with the requirements or intent of this solicitation, lack of competitiveness, error(s) in specifications or indications that revision would be advantageous to the University, cancellation or other changes in the intended project or any other determination that the proposed requirement is no longer needed, limitation or lack of available funds, circumstances that prevent determination of the best offer, or any other determination that rejection would be in the best interest of the University.
5. **EXECUTION:** Failure to sign EXECUTION PAGE in the indicated space will render proposal non-responsive, and it shall be rejected.
6. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this solicitation or in any contract arising from it, the order of precedence shall be (high to low) (1) any special terms and conditions specific to this RFP, including any negotiated terms; (2) requirements and specifications in Sections 4, 5 and 6 of this RFP; (3) University Contract Terms and Conditions attached as ATTACHMENT B; (4) Instructions in ATTACHMENT A: INSTRUCTIONS TO VENDORS; and (5) Vendor's Proposal.
7. **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor shall furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this proposal, each Vendor must submit with their proposal sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous proposal or available elsewhere will not satisfy this provision. Proposals that do not comply with these requirements shall be subject to rejection.
8. **SUSTAINABILITY:** Reserved
9. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute §143-48 and Executive Order #150 (1999), 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.
10. **RECIPROCAL PREFERENCE:** G.S. §143-59 establishes a reciprocal preference requirement to discourage other states from favoring their own resident Vendors by applying percentage increases to any proposal by a North Carolina resident Vendor. The "Principal Place of Business" is defined as the principal place from which the trade or business of the Vendor is directed or managed.
11. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, the University will maintain confidential trade secrets that the Vendor does not wish disclosed. As a condition to confidential treatment, each page containing trade secret information shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the Vendor, with specific trade secret information enclosed in boxes or similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what a Vendor may label as a trade secret, the determination whether it is or is not entitled to protection will be determined in accordance with G.S. §132-1.2. Any material labeled as confidential constitutes a representation by the Vendor that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under G.S. §132-1.2. Vendors are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible.

12. **PROTEST PROCEDURES:** When a Vendor wishes to protest the award of a contract resulting from this solicitation, the Vendor shall submit a written request addressed to the University purchasing officer that issued the award. The protest request must be received in the proper office within thirty (30) consecutive calendar days from the date of the contract award. Protest letters **shall** contain specific grounds and reasons for the protest, how the protesting party was harmed by the award made and any documentation providing support for the protesting party's claims. **Note:** A contract award notice (purchase order) is sent only to the Vendor actually awarded the contract, and not to every person or firm responding to a solicitation. All protests will be handled pursuant to the North Carolina Administrative Code, 01 NCAC 05B .1519.
13. **MISCELLANEOUS:** The singular of any word or phrase shall be read to include the plural and vice versa.
14. **COMMUNICATIONS BY VENDORS:** In submitting its proposal, the Vendor agrees not to discuss or otherwise reveal the contents of its proposal to any source, government or private, outside of the University until after the award of the contract or cancellation of this RFP. All Vendors are forbidden from having any communications with the University, or any other representative of the University concerning the solicitation, during the evaluation of the proposals (i.e., after the public opening of the proposals and before the award of the contract), unless the University directly contacts the Vendor(s) for purposes of seeking clarification or another reason permitted by the solicitation. A Vendor shall not: (a) transmit to the University any information commenting on the ability or qualifications of any other Vendor to provide the advertised good, equipment, commodity; (b) identify defects, errors and/or omissions in any other Vendor's proposal and/or prices at any time during the procurement process; and/or (c) engage in or attempt any other communication or conduct that could influence the evaluation and/or award of the contract that is the subject of this RFP. Vendors not in compliance with this provision may be disqualified, at the option of the University, from the contract award. Only those communications with the University authorized by this RFP are permitted.
15. **WITHDRAWAL OF PROPOSAL:** a Proposal may be withdrawn only in writing and actually received by the office issuing the RFP prior to the time for the opening of Proposals identified on the cover page of this RFP (or such later date included in an Addendum to the RFP). A withdrawal request must be on Vendor's letterhead and signed by an official of the Vendor authorized to make such request. Any withdrawal request made after the opening of Proposals shall be allowed only for good cause shown and in the sole discretion of the Division of Purchase and Contract.
16. **INFORMAL COMMENTS:** The University shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of the University during the competitive process or after award. The University is bound only by information provided in this RFP and in formal Addenda issued through IPS.
17. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by Vendor in preparing or submitting offers are the Vendor's sole responsibility; the University of North Carolina at Chapel Hill will not reimburse any Vendor for any costs incurred prior to award.
18. **VENDOR'S REPRESENTATIVE:** Each Vendor shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
19. **SUBCONTRACTING:** Unless expressly prohibited, a Vendor may propose to subcontract portions of the work to identified subcontractor(s), provided that its proposal clearly describe what work it plans to subcontract and that Vendor includes in its proposal all information regarding employees, business experience, etc. for each proposed subcontractor that is required to be provided for Vendor itself.
20. **INSPECTION AT VENDOR'S SITE:** The University reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective Vendor prior to contract award, and during the contract term as necessary for the University 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 contract.

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THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL**GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF
PRODUCTS AND SERVICES**

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 these 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) “University” means The University of North Carolina at Chapel Hill and its successors and assigns.
- (j) “Supplier” means the Party providing the Products and/or Services to the University under this Agreement, 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 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, nontransferable 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. Removed**6. CONDITION AND PACKAGING.** Removed**7. STANDARDS.**

- (a) *Manufacturing Requirements.* Removed
- (b) *Energy Star Compliance.* Removed
- (c) *Quality Assurance.* Removed
- (d) *Site Preparation.* Removed
- (e) *Specifications.* Removed
- (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/departments/strategic-sourcing-payment/procurement/accountspayable-travel-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.** Removed
- 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. NON-SOLICITATION TERMS.** The University rejects and disaffirms any non-solicitation provision or other similar term contained in any material related to this procurement that requires that the Parties refrain from recruiting or hiring the employees of the other Party, unless the non-solicitation provision complies with applicable law and is expressly agreed to in a writing signed and specifically initialed by an authorized University representative.
- 16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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).

22. 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.

23. 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

24. 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 (919962-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, nontransferable, 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 comply with the Supplier's obligations under such laws and regulations, including but not 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.

25. IMPLEMENTATION; CONFLICTS/INCONSISTENCIES. This Agreement shall be implemented by a University Purchase Order. 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) these NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS, 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.

- 26. 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.
- 27. 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 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.
- 28. 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 or 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.
- 29. 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 (<http://www.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.
- 30. EXPORT CONTROL.** Removed
- 31. EQUAL OPPORTUNITY.** The Supplier shall abide by the requirements of 41 C.F.R. 601.4(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.
- 32. 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.
- 33. 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.
- 34. 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.
- 35. 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 1321 *et seq.*, typically five years), the State Auditor and the

University's internal auditors 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), § 14764.7. 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 such 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.

36. 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 N.C. Gen. Stat. § 55A-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.

37. 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.

38. 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.

39. 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) if any of the services to be performed under this Agreement will be performed outside the United States by the Supplier or the Supplier's subcontractors, the Supplier has disclosed such information in writing to the University (N.C. Gen. Stat. § 143-59.4); (f) 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 (g) 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. § 14786.80 et seq.). False certification may constitute a Class I felony under North Carolina law.

40. CERTIFICATIONS UNDER FEDERAL LAW. Removed

41. 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.

42. 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 Section 508 of the Rehabilitation Act of 1973, as amended (<http://section508.gov/>), and the best practices outlined in the W3C Web Accessibility Initiative reference: <http://www.w3.org/WAI/>.

43. 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.

44. 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.

45. 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.

46. 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.

47. 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.

48. 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.

49. 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.

50. 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.

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

52. 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.

53. 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.