



STATE OF NORTH CAROLINA

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

Request for Proposal #: 3000011888-EMB

Supplemental Police Support for Events

Date of Issue: 8/7/2024

Proposal Opening Date: 8/7/2024

At 11:00am ET

Direct all inquiries concerning this RFP to:

Edward (Ted) Bohlin

Contingent Workforce Program Manager

Email: bohlin@ad.unc.edu



STATE OF NORTH CAROLINA

Request for Proposal

3000011888-EMB

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 via the Electronic Vendor Portal (eVP) 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: <i>Ted Bohlin</i>	Request for Proposal #: 3000011888-EMB
	Proposals will be publicly opened: 8/21/2024
Using Agency: UNCCH	Commodity No. and Description:
Requisition No.: 1000972297	

EXECUTION

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

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

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

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

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

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

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

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

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

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

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

VALIDITY PERIOD

Offer shall be valid for at least sixty 60 days from date of bid opening, unless otherwise stated here: _____ 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)

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1.0 PURPOSE AND BACKGROUND

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

The UNC Chief of Police is charged with ensuring proper law enforcement staffing on campus for special events to include athletic events. The events that require the most staffing are Men's Basketball and Football. Currently we utilize assistance from the law enforcement agencies with UNC Hospitals, Orange County, the Town of Chapel Hill and Carrboro. The University reimburses those entities at the time and a half rate of those officers plus fringe benefits. UNC PD would like to contract with a company that can procure officers whose agencies, through agreement with UNC, have allowed those officers to work special events. All officers, absent UNC PD Officers, would be compensated at a standard rate. The service requirements we are looking for are as follows:

- Vendor has web-based mechanism which allows UNC PD to post assignments and allows eligible officers to sign up electronically
- Vendor has ability to directly pay individual officers
- Vendor has ability to calculate total cost for each event, including pre-determined administrative fees and bill UNC
- Vendor has 24/7 customer service capabilities
- Vendor provides supplemental insurance that covers general and professional liability
- Vendor maintains scheduling and event history that can be accessed electronically

This change in procurement will enable UNC to have more adequate staffing for university events and will also allow departments to better predict and budget for costs associated with these events.

1.1 CONTRACT TERM

The Contract shall have an initial term of *one (1)* year, beginning on the date of final Contract execution (the "Effective Date"), whichever is later.

At the end of the Contract's initial term, the State shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to four (4) additional one-year terms. The State will give the Vendor written notice of its intent to exercise each option no later than *sixty (60)* days before the end of the Contract's then-current term. In addition to any optional renewal terms, and with the Vendor's concurrence, the State reserves the right to extend the Contract after the last active term.

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

2.0 GENERAL INFORMATION

2.1 REQUEST FOR PROPOSAL DOCUMENT

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

2.2 E-PROCUREMENT FEE

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.

Event	Responsibility	Date and Time
Issue RFP	State	8/2/24 11:00am
Hold Pre-Proposal Meeting/Site Visit	State	N/A
Submit Written Questions	Vendor	8/19/24 12:00pm
Provide Response to Questions	State	ASAP
Submit Proposals	Vendor	8/21/24 12:00pm
Contract Award	State	ASAP

2.5 SITE VISIT or PRE-PROPOSAL CONFERENCE (THIS SECTION HAS BEEN DELETED)

2.6 PROPOSAL QUESTIONS

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

Written questions shall be emailed to bohlin@ad.unc.edu by the date and time specified above. Vendors should enter “RFP # **3000011888-EMB** Questions” as the subject for the email. Question submittals should include a reference to the applicable RFP section and be submitted in the format shown below:

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

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

2.7 PROPOSAL SUBMITTAL

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

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

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

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

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

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

2.8 PROPOSAL CONTENTS

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

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

- a) Cover Letter, which must contain the following: (i) a statement that confirms that the proposer has read the RFP in its entirety, including all links, and all Addenda released in conjunction with the RFP, (ii) a statement that the Vendor agrees to perform in accordance with the scope of work, requirements, and specifications contained herein; (iii) Vendor's agreement to comply with all instructions, terms and conditions, and attachments; and (iv) the Vendor's technical approach, qualifications and experience providing the services requested.
- b) Title Page: Include the company name, address, phone number and authorized representative along with the Proposal Number.
- c) Completed and signed version of all EXECUTION PAGES, along with the body of the RFP.
- d) Signed receipt pages of any addenda released in conjunction with this RFP, if required to be returned.
- e) Vendor's Proposal addressing all Specifications of this RFP.
- f) Completed version of ATTACHMENT A: PRICING
- g) Completed version of ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION
- h) Completed version of ATTACHMENT E: CUSTOMER REFERENCE FORM
- i) Completed version of ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR
- j) Completed and signed version of ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION
- k) Completed and signed version of ATTACHMENT H: ACKNOWLEDGMENT OF COVID-19 VACCINATION AND TESTING POLICY (if applicable)
- l) Completed and signed version of CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS and OMB STANDARD FORM LLL

2.9 ALTERNATE PROPOSALS

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

2.11 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS (DELETED)

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

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

3.2 CONFIDENTIALITY 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

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

EVALUTION METHOD: Narrative and by consensus of the evaluating committee, explaining the strengths and weaknesses of each proposal and why the recommended awardee(s) provide the best value to the State.

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

1. Vendor Technical Approach
2. Vendor Qualifications
3. Vendor Experience
4. Pricing

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.

Administrative Services

1. Engaging with individuals and representatives of companies, organizations, and institutions who wish to hire officers to work extra duty details and via phone, website interaction, or email to explain program rules and rates, vet new customers per University guidelines, execute the new customer process, receive requests for extra duty details, confirm extra duty details and to gather and communicate any related pertinent information and feedback.
2. Scheduling extra duty details with university personnel in a manner consistent with University rules implemented by the University. Communicate as needed with University personnel to confirm detail assignment scheduling and details worked.
3. Invoicing customers and following up on invoice collections in a manner agreed upon with the University.
4. Manage officer payment process in conjunction with the department's existing pay roll process cadence. Company will either pay the client for officer or pay client's officer's directly, as contractors to the company, via direct deposit. The chosen method is at discretion of the University.
5. Manage the feedback loop (i.e. initiate the field feedback from customers (good and bad) then share with the appropriate parties in a timely manner.
6. Provide department leadership with appropriate reporting and transparency into the program on an on-going basis.

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. The University requests a pricing schedule for all personnel which may be utilized under this contract at an hourly rate, plus any and all administrative fees.

4.2 INVOICES

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

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

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

4.3 FINANCIAL STABILITY

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

Each Vendor shall certify it is financially stable by completing ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential issues from contracting with a Vendor that is financially unstable. From the date of the Certification to the expiration of the Contract, the Vendor shall notify the State within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification. The Contract Manager may 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 REFERENCES, for which it has provided Services of similar size and scope to those proposed herein. The State *shall* 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* be considered in the evaluation of the Proposal.

4.7 BACKGROUND CHECKS

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

4.7.1 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.

4.10 QUESTIONS TO VENDORS (SECTION DELETED)

4.11 AGENCY INSURANCE REQUIREMENTS MODIFICATION

See Attachment C: General Terms and Conditions.

4.12 LOBBYING ACTIVITY CERTIFICATION FOR FEDERAL GRANTS (SECTION DELETED)

5.0 SPECIFICATIONS AND SCOPE OF WORK

See Section 4.0

6.0 CONTRACT ADMINISTRATION

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

6.1 CONTRACT MANAGER AND CUSTOMER SERVICE

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

Contract Manager Point of Contact	
Name:	Brian L. James
Office Phone #:	919-966-5730
Mobile Phone #:	919-966-5730
Email:	Brian.james@unc.edu

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:	
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6.2 POST AWARD PROJECT REVIEW MEETINGS

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

6.3 CONTINUOUS IMPROVEMENT

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

6.4 PERIODIC STATUS REPORTS

The Vendor shall be required to provide after-event Management Reports to the designated Contract Lead on the timetable of the Contract Manager Point of Contact. 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 **thirty (30)** 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.

6.5 ACCEPTANCE OF WORK

6.6 FAITHFUL PERFORMANCE (DELETED)

6.7 TRANSITION ASSISTANCE (DELETED)

6.8 DISPUTE RESOLUTION (DELETED)

6.9 CONTRACT CHANGES

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

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7.0 ATTACHMENTS

****IMPORTANT NOTICE****

RETURN THE REQUIRED ATTACHMENTS WITH YOUR RESPONSE

ATTACHMENT A: PRICING

Complete and return the Pricing associated with this RFP for all job titles, and include any and all fees in an MS Excel format.

ATTACHMENT B: INSTRUCTIONS TO VENDORS

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL INSTRUCTIONS TO VENDORS

I. READ, REVIEW AND COMPLY

It shall be the Vendor's responsibility to read this entire document; review all enclosures, attachments, and any Addenda; and comply with all requirements specified, whether appearing in these Instructions to Vendors or elsewhere in the Solicitation document.

Any gender-specific pronouns used herein, whether masculine or feminine, shall be read and construed as gender neutral, and the singular of any word or phrase shall be read to include the plural and vice versa.

II. REQUEST FOR OFFERS

Vendors are cautioned that this is a request for Offers, not an offer or request to contract, and the University reserves the unqualified right to reject any and all bids at any time if such rejection is deemed to be in the best interest of the University.

By submitting Your Bid or Proposal, You are offering to enter into a contract with the University.

The Contract is a separate document that represents the Vendor's and the University's entire agreement. If Your bid is accepted and results in a Contract, You will be expected to accept the UNC Chapel Hill General Terms And Conditions included in the Solicitation document as part of the Contract. Depending upon the good or service being offered, other terms and conditions may apply.

III. DUTY TO INQUIRE

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation for any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by Addendum. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the University's attention.

IV. DEFINITIONS, ACRONYMS AND ABBREVIATIONS

The following definitions, acronyms, and abbreviations may be used within the Solicitation document.

1. **AGENCY SPECIFIC TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities for a single entity.
2. **ADDENDUM:** a document issued to supplement or modify the original Solicitation document. Addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or work scope changes to the Solicitation.
3. **BAFO:** Best and Final Offer, submitted by a Vendor to alter its initial bid, made in response to a request by the issuing agency.
4. **BUYER:** The employee of the University or Other Eligible Entity that places an order with the Vendor.
5. **COMMUNITY COLLEGE:** Any of the fifty-eight (58) public North Carolina Community Colleges.
6. **CONTRACT:** A contract resulting from or arising out of Vendor responses to this Solicitation.
7. **CONTRACT ADMINISTRATOR:** A representative of the Agency who is responsible for the functions that are performed after all parties have signed a contract, including any modifications to the contract.
8. **CONTRACT MANAGER:** A representative of the agency or awarded vendor who ensures compliance with the contract terms and conditions while giving attention to the achievement of the stated output and outcome of the contract.
9. **Electronic Vendor Portal (eVP):** System for vendors to do business with the State of North Carolina, including registering to do business, responding to bid opportunities, and certifying as a HUB and/or NCSBE
10. **E-PROCUREMENT SERVICES:** The program, system, and associated services through which the University conducts electronic procurement.
11. **FOB-DESTINATION:** Title changes hand from Vendor to purchaser at the destination point of the shipment; Vendor owns the commodity in transit and files any claims. Vendor pays all freight and any related transportation charges. A Solicitation may request that a Vendor separately identify freight charges in its bid, but no amount or charge not included as part of the total bid price will be paid.
12. **HUB:** Historically Underutilized Business <https://ncadmin.nc.gov/businesses/hub>
13. **IFB:** Invitation for Bids (a type of Solicitation document)
14. **LOT:** A grouping of similar products within this Solicitation document.
15. **OFFER:** the bid or proposal submitted in response this Solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.
16. **OFFEROR:** the single legal entity submitting the Offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.
17. **ON-TIME DELIVERY:** The delivery of all items within a single order to the receiving point designated by the ordering entity within the delivery time required.
18. **PROCUREMENT LEAD:** Representative of the agency identified on the first page of the Solicitation document who will correspond with potential Vendors concerning Solicitation issues, will contract with the Vendor providing the best offer to the University, and is the individual who will administer the Contract for the University.
19. **QUALIFIED BID/PROPOSAL:** A responsive bid submitted by a responsible Vendor.
20. **RESPONSIBLE:** Refers to a Vendor who demonstrates in its Offer that it has the capability to perform the requirements of the Solicitation.
21. **RESPONSIVE:** Refers to an Offer that conforms to the Requirements of the Solicitation in all respects to be considered by the University for award.
22. **RFI:** Request for Information (an information gathering tool that does not result in a contract)

23. **RFP:** Request for Proposals (a type of Solicitation document)
24. **RFPQ:** Request for Pre-Qualifications (a type of Solicitation document)
25. **RFQ:** Request for Quotes (a type of Solicitation document)
26. **STATE:** The State of North Carolina, including any of its sub-units recognized under North Carolina law.
27. **STATE AGENCY:** Any of the more than 400 sub-units within the executive branch of the State, including its departments, institutions, boards, commissions, universities, and units of the State.
28. **STATE DEPARTMENTS:** Department of Administration, Department of Agriculture and Consumer Services, Department of Commerce, Department of Natural and Cultural Resources, Department of Environmental Quality, Department of Health and Human Services, Department of Information Technology, Department of Insurance, Department of Justice, Department of Labor, Department of Military and Veteran Affairs, Department of Public Instruction, Department of Public Safety, Department of Revenue, Department of State Treasurer, Office of the Secretary of the State, Department of Transportation, Wildlife Resources Commission, Office of Budget and Management, Office of the Governor, Office of the Lieutenant Governor, Office of The State Auditor, Office of the State Controller.
29. **VENDOR:** The supplier, bidder, proposer, company, firm, corporation, partnership, individual or other entity submitting a response to a Solicitation document. Following award of a contract, the term refers to an entity receiving such an award.
30. **WORK:** All labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.
31. **YOU** and **YOUR:** Offeror.

V. INTERPRETATION OF TERMS AND PHRASES

The Solicitation document serves to advise potential Vendors of the parameters of the solution being sought by the State. The use of phrases such as "shall," "must," and "requirements" are intended to create enforceable contract conditions. In determining whether bids should be evaluated or rejected, the University will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy the University's needs as described in the Solicitation. Except as specifically stated in the Solicitation, no one requirement shall automatically disqualify a Vendor from consideration. However, failure to comply with any single requirement, if determined to be essential under the circumstances then existing, may result in the University exercising its discretion to reject a bid in its entirety.

VI. BID SUBMISSION

1. **VENDOR'S REPRESENTATIVE:** Each Vendor shall submit with its bid the name, address, and telephone number of the person(s) with authority to bind the Vendor and answer questions or provide clarification concerning the Vendor's bid.
2. **SIGNING YOUR OFFER:** Every Offer must be signed by an individual with actual authority to bind the Offeror.
 - a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and University that the individual is doing business as a firm.
 - b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner.
 - c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign.
 - d) An Offer may be submitted by a joint venture involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c)

above for each type of participant.

- e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.
- 3. **EXECUTION:** Failure to sign the Execution Page (numbered page 1 of the Solicitation document) in the indicated space may render an Offer nonresponsive, and it may be rejected.
- 4. **STATE OFFICE CLOSINGS:** If an emergency or unanticipated event interrupts normal government processes so that Offers cannot be received at the State office designated for receipt of bids by the exact time specified in the Solicitation, the time specified for receipt of Offers will be deemed to be extended to the same time of day specified in the Solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Addendum may be issued to reschedule the bid opening. If State offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Addendum will be issued to reschedule the conference.
- 5. **BID IN ENGLISH and DOLLARS:** Offers submitted in response to this Solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.
- 6. **LATE BIDS:** Late bids, 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.
 - a) Vendor shall bear the risk for late submission due to unintended or unanticipated delay— whether submitted electronically, delivered by hand, U.S. Postal Service, courier or other delivery service. It is the Vendor's sole responsibility to ensure that its bid has been received by this Office by the specified time and date of opening. The date and time of submission will be marked on each bid when received, and any bid received after the bid submission deadline will be rejected.
 - b) For proposals submitted via U.S. mail, please note that the U.S. Postal Service generally does not deliver mail to a specified street address but to the University's Mail Service Center. Vendors are cautioned that proposals sent via U.S. Mail, including Express Mail, may not be delivered by the Mail Service Center to the agency's purchasing office on the due date in time to meet the proposal deadline. All Vendors are urged to take the possibility of delay into account when submitting a proposal by U.S. Postal Service, courier, or other delivery service.
- 7. **DETERMINATION OF RESPONSIVENESS:** Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements *of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the University cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer.*
- 8. **CONTENTS OF OFFER:**
 - a) Offers should be complete and carefully worded and should convey all of the information requested.
 - b) Offers should be prepared simply and economically, providing a straightforward, concise description of the Offeror's capabilities to satisfy the requirements of the Solicitation. Emphasis should be on completeness and clarity of content.
 - c) If Your Offer includes any comment over and above the specific information requested in the Solicitation, You are to include this information as a separate appendix to Your Offer. Offers which include either modifications to any of the Solicitation's contractual requirements or an Offeror's standard terms and conditions may be deemed non-responsive and not considered for award at the University's discretion.

9. **MULTIPLE OFFERS.** If specifically stated in the Solicitation document, Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements.
10. **CLARIFICATION:** The University may elect to communicate with You after bid opening for the purpose of clarifying either Your Offer or the requirements of the Solicitation. Such communications may be conducted only with Offerors who have submitted an Offer which obviously conforms in all material aspects to the Solicitation. Clarification of an Offer must be documented in writing and included with the Offer. Clarifications may not be used to revise an Offer or the Solicitation.
11. **ACCEPTANCE AND REJECTION:** The University reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the Vendor, to accept any item in the bid. 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. Regardless of error or omission, a Vendor shall not be permitted to increase its pricing after the deadline for submitting bids.
12. **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.
13. **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor shall furnish all information requested in the Solicitation document. Further, if required elsewhere in this bid, each Vendor shall submit with its bid any sketches, descriptive literature, and/or complete specifications covering the goods and services offered. Reference to literature submitted with a previous bid or available elsewhere will not satisfy this provision. **Do not submit bid samples or descriptive literature unless expressly requested.** Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the Solicitation. Failure to comply with these requirements shall constitute sufficient cause to reject a bid without further consideration.
14. **WITHDRAWAL OF BID OR PROPOSAL:** Proposals submitted electronically may be withdrawn at any time prior to the date for bid opening identified on the cover page of this Solicitation document (or such later date included in an Addendum). Proposals that have been delivered by hand, U.S. Postal Service, courier, or other delivery service may be withdrawn **only** in writing and if receipt is acknowledged by the office issuing the Solicitation document prior to the time for opening identified on the cover page of the Solicitation document (or such later date included in an Addendum). Written withdrawal requests shall be submitted on the Vendor's letterhead and signed by an official of the Vendor authorized to make such request. Any withdrawal request made after bid opening shall be allowed only for good cause shown and in the sole discretion of the Division of Purchase and Contract.
15. **COST FOR BID OR PROPOSAL PREPARATION:** Any costs incurred by Vendor in preparing or submitting Offers *are the Vendor's sole responsibility.*
16. **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's determination that such equipment, item, plant, or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.
17. **RECYCLING AND SOURCE REDUCTION:** It is the policy of the University to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable

and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will adequately protect the commodity and contain it for its intended use. Companies are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.

18. **CERTIFICATE TO TRANSACT BUSINESS IN NORTH CAROLINA:** As a condition of Contract award, each out-of-State Vendor that is a corporation, limited-liability company, or limited-liability partnership shall have received, and shall maintain throughout the term of The Contract, a Certificate of Authority to Transact Business in North Carolina from the North Carolina Secretary of State, as required by North Carolina law. A University contract requiring only an isolated transaction completed within a period of six months, and not in the course of a number of repeated transactions of like nature, shall not be considered transacting business in North Carolina and shall not require a Certificate of Authority to Transact Business.
19. **SUSTAINABILITY:** To support the sustainability efforts of the State of North Carolina we solicit Your cooperation in this effort. Pursuant to Executive Order 156 (1999), it is desirable that all responses meet the following:
 - a) If paper copies are requested, all copies of the bid are printed double sided. All submittals and copies are printed on recycled paper with a minimum post-consumer content of 30%.
 - b) Unless absolutely necessary, all bids and copies should minimize or eliminate use of non- recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
 - c) Materials should be submitted in a format which allows for easy removal, filing and/or recycling of paper and binder materials. Use of oversized paper is strongly discouraged unless necessary for clarity or legibility.
20. **HISTORICALLY UNDERUTILIZED BUSINESSES (HUB):** The University is committed to retaining Vendors from diverse backgrounds, and it invites and encourages participation in the procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. In particular, the University encourages participation by Vendors certified by the State Office of Historically Underutilized Businesses, as well as the use of HUB-certified vendors as subcontractors on University contracts.
21. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference requirement to discourage other states from favoring their own resident Vendors by applying a percentage increase to the price of any bid from a North Carolina resident Vendor. To the extent another state does so, North Carolina applies the same percentage increase to the bid of a Vendor resident in that state. Residency is determined by a Vendor's "Principal Place of Business," defined as that principal place from which the overall trade or business of the Vendor is directed or managed.
22. **INELIGIBLE VENDORS:** As provided in G.S. 147-86.59 and G.S. 147-86.82, the following companies are ineligible to contract with the State of North Carolina or any political subdivision of the State:
 - a) any company identified as engaging in investment activities in Iran, as determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, and
 - b) any company identified as engaged in a boycott of Israel as determined by appearing on the List of restricted companies created by the State Treasurer pursuant to G.S. 147-86.81.

A contract with the State or any of its political subdivisions by any company identified in a) or b) above shall be void ab initio. **VALID TAXPAYER INFORMATION:** All persons or entities desiring to do business with the University must provide correct taxpayer information on North Carolina specified forms. The Substitute W-9 and Instructions are here:

https://files.nc.gov/ncosc/documents/NCAS_forms/State_of_North_Carolina_Sub_W-9_01292019.pdf

23. **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** The North Carolina

electronic Vendor Portal (eVP) allows Vendors to electronically register free with the State to receive electronic notification of current procurement opportunities available as well as notifications of status changes to those Solicitations. Online registration and other purchasing information is available at the following website:

<https://evp.nc.gov>.

24. The status of a Vendor's E-Procurement Services account(s) shall be considered a relevant factor in determining whether to approve the award of a Contract resulting from this Solicitation document. Any Vendor with an E-Procurement Services account that is in arrears by 91 days or more at the time of bid opening may be suspended or deactivated, at the State's discretion, and may be disqualified from further evaluation or consideration.
25. **TABULATIONS:** Bid tabulations can be electronically retrieved at the Electronic Vendor Portal (eVP), **<https://evp.nc.gov>**. Tabulations will normally be available at this web site not later than one working day after the bid opening. If negotiation is anticipated under 01 NCAC 05B.0503, pricing may not be public until award. Lengthy or complex tabulations may be summarized, with other details not made available on eVP. Requests for additional details or information concerning such tabulations cannot be honored.
26. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, the University will maintain as confidential trade secrets in bids 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, marked in a distinctive color or by 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 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 to limit the marking of information as a trade secret or as confidential so far as is possible. If a legal action is brought to require the disclosure of any material so marked confidential, the University will notify Vendor of such action and allow Vendor to defend the confidential status of its information.
27. **COMMUNICATIONS BY VENDORS:** In submitting its bid, the Vendor agrees not to discuss or otherwise reveal the contents of its bid to any source, government or private, outside of the using or issuing agency until after the award of the Contract or cancellation of this Solicitation. All Vendors are forbidden from having any communications with the using or issuing agency, or any other representative of the University concerning the Solicitation, during the evaluation of the bids (i.e., after the public opening of the bids 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 issuing and/or using agency 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 bid 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 or award of a Contract related to this Solicitation. Failure to comply with this requirement shall constitute sufficient justification to disqualify a Vendor from a Contract award. Only those communications with the using agency or issuing agency authorized by this Solicitation are permitted.
28. **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 writing in this Solicitation document and in formal Addenda.
29. **PROTEST PROCEDURES:** When a Vendor wishes to protest a contract awarded by the University of North Carolina at Chapel Hill under our delegated purchasing authority, a Vendor shall submit a written request addressed to the Lead Contract Officer listed in the solicitation. 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.

30. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this Solicitation or those in any resulting Contract documents, the order of precedence shall be (high to low) (1) any special terms and conditions specific to this Solicitation document, including any negotiated terms, (2) requirements and specifications and administration, (3) The University of North Carolina Terms and Conditions as specified in the solicitation document, (4) Instructions To Vendors, (5) Pricing, and (6) Vendor's Bid.
31. **ADDENDA:** Critical updated information may be included in Addenda to the Solicitation. It is important that all Vendors bidding on the Solicitation periodically check 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 the Solicitation document and all Addenda thereto. Vendors are also responsible for obtaining and complying with all Addenda and other changes that may be issued concerning the Solicitation.
32. **ORAL EXPLANATIONS NON-BINDING:** Oral explanations or instructions will not be binding. Any information given a prospective Offeror concerning a Solicitation will be furnished promptly to all other prospective Offerors as an Addendum to the Solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective Offerors. See clause herein entitled "Duty to Inquire." The University will not identify You in its answer to Your question.
33. **MAXIMUM COMPETITION:** The University seeks to permit the maximum practicable competition. Offerors are urged to advise the University, as soon as possible, regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. If the University determines that any changes will be made resulting from the questions asked, then such decisions will be communicated in the form of an Addendum.
34. **FIRM OFFER:** Vendor's bid shall constitute a firm offer. By execution and delivery of a bid in response to a Solicitation, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposefully or inadvertently, shall have no force or effect, and will be disregarded. Any bid that contains language that indicates the bid is non-binding or subject to further negotiation before a contractual document may be signed shall be rejected.

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

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, non-transferable license to use such proprietary components of the deliverables and other functionalities, as provided under this Contract. Any technical and business information owned by Supplier or its suppliers or licensors made accessible or furnished to the University shall be and remain the property of the Supplier or such other party, respectively. Supplier agrees to perform under the Contract in at least the same or similar manner provided to comparable users and customers. The University shall notify the Supplier of any defects or deficiencies in performance or failure of deliverables to conform to the standards and specifications provided in this Contract. Supplier agrees to timely remedy defective performance or any nonconforming deliverables on its own or upon such notice provided by the University.

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

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

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

3. PAYMENT TERMS.

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

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

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

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

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

5. TRANSPORTATION OF PRODUCTS. Transportation of Products shall be FOB Destination unless otherwise specified in the Solicitation Document or Purchase Order. Freight, handling, hazardous material charges, and distribution and installation charges shall be included in the total price of each item. Any additional charges shall not be honored for payment unless authorized in writing by the University. In cases where parties other than the Supplier ship materials against this order, the shipper must be instructed to show the Purchase Order number on all packages and shipping manifests to ensure proper identification and payment of invoices. A complete packing list must accompany each shipment.

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

7. STANDARDS.

(a) *Manufacturing Requirements.* All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

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

(c) *Quality Assurance.* The Supplier will provide and maintain a quality assurance system or program that includes any Products and will tender to the University only those Products that have been inspected and found to conform to the requirements of this Agreement. All manufactured items and/or fabricated assemblies comprising

Products are subject to operation, certification, or inspection, and accessibility requirements as required by State or federal regulation.

(d) *Site Preparation.* The Supplier shall provide the University complete site requirement specifications for the Products, to the extent applicable. These specifications shall ensure that the Products to be installed shall operate properly and efficiently within the site environment. Any subsequent alterations or modifications required to be made to the site which are directly attributable to incomplete or erroneous specifications provided by the Supplier shall be made at the expense of the Supplier.

(e) *Specifications.* The apparent silence of the specifications in the Solicitation Document as to any detail concerning the Products shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality may be used. Unless otherwise specified in the University's Solicitation Document, the Products shall be new and not refurbished, field-upgraded, previously opened, or otherwise used.

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

8. TRAVEL EXPENSES. Unless otherwise agreed by the Parties, the Supplier may be reimbursed for documented travel expenses arising under the performance of this Agreement at the out-of-state rates set forth in N.C Gen. Stat. § 138-6, as amended from time to time. The Supplier personnel whose travel expenses are to be paid or reimbursed by University funds are subject to University travel regulations, which are located at <https://finance.unc.edu/departments/strategic-sourcing-payment/procurement/accounts-payable-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. The University reserves the right to inspect, at a reasonable time during normal business hours, the equipment/item, plant, or other facilities of a prospective vendor prior to Purchase Order award, and during the Purchase Order term as necessary for the University's determination that such equipment/item, plant, or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Agreement.

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

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

(a) *Generally.* Providing and maintaining adequate insurance coverage is a material obligation of the Supplier and is of the essence of this Agreement. All such insurance shall meet all laws of the State. Such insurance coverage shall be obtained from companies with an A.M. Best rating of not less than A-VII that are authorized to provide such coverage and that are authorized by the North Carolina Commissioner of Insurance to do business in the State. The Supplier shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Agreement. The minimum coverage limitations under each insurance policy indicated below shall not be interpreted as limiting the

Supplier's liability and obligations or the indemnification requirements under this Agreement.

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

- i. **For Small Purchases** as defined under North Carolina Administrative Code 01 NCAC 05A.0112 (35) and 05B.0301 (1), the minimum applicable insurance requirements for Worker's Compensation and Automobile Liability will apply as required by North Carolina law. The University may require Commercial General Liability coverage consistent with the assessed risks involved in the procurement.
- ii. **For contracts valued in excess of the Small Purchase threshold, but up to \$1,000,000.00, the following limits shall apply:**
 - a. Worker's Compensation - The Supplier shall provide and maintain Worker's Compensation Insurance, as may be required by the laws of North Carolina, as well as employer's liability coverage, with minimum limits of \$250,000.00, covering all of Supplier's employees who are engaged in any work under this Agreement. If any work is subcontracted, the Supplier shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under this Agreement.
 - b. Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. Defense costs shall be in excess of the limit of liability.
 - c. Automobile - Automobile Liability Insurance, to include liability coverage covering all owned, hired and non-owned vehicles, used within North Carolina in connection with the Contract. The minimum combined single limit shall be \$250,000.00 bodily injury and property damage; \$250,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.
 - d. Professional Liability (Errors and Omissions Liability), including Cyber Liability - Supplier, at its sole cost and expense, shall maintain Professional Liability insurance with the following minimum limits of liability: (i) \$1,000,000.00 per loss and (ii) \$1,000,000.00 per aggregate. This insurance shall provide coverage for: (A) liability arising from theft, dissemination, and/or use of Sensitive and Confidential Information; (B) network security liability arising from the unauthorized access to, use of, or tampering with computer systems; and (C) liability arising from the introduction of a computer virus into, or otherwise causing damage to a computer system, network or similar related property. If professional liability insurance is written on a claims-made basis, Supplier warrants that any retroactive date under the policy shall precede the effective date of this Agreement and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed. If such insurance is maintained on an occurrence form basis, Supplier shall maintain such

insurance for an additional period of one (1) year following termination of the Agreement. If such insurance is maintained on a claims-made basis, Supplier shall maintain such insurance for an additional period of three (3) years following termination of the Agreement.

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

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

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

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

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

16. AVAILABILITY OF FUNDS. Any and all payments to the Supplier shall be dependent upon and subject to the

availability of funds appropriated or allocated to the University for the purpose set forth in this Agreement.

17. GENERAL INDEMNITY.

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

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

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

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

18. INTELLECTUAL PROPERTY WARRANTY AND INDEMNITY.

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

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

- i. Performance under this Agreement does not infringe upon any intellectual property rights of any thirdparty; and
- ii. There are no actual or threatened actions arising from, or alleged under, any intellectual propertyrights of any third party.

(c) Should any deliverables supplied by Supplier become the subject of a claim of infringement of a patent, copyright, trademark, or a trade secret, the Supplier, shall at its option and expense, either procure for the University the right to continue using the deliverables, or replace or modify the same to become non-infringing. If neither of these options can reasonably be taken in Supplier's judgment, or if further use shall be prevented by injunction, the Supplier agrees to cease provision of any affected deliverables and refund any sums the University has paid Supplier for such deliverables and make every reasonable effort to assist the University in procuring substitute deliverables. If, in the sole opinion of the University, the cessation of use by the University of any such deliverables due to infringement issues makes the retention of other items acquired from the Supplier under this Agreement impractical, the University shall then have the option of terminating this Agreement, or applicable portions thereof,

without penalty or termination charge; and Supplier agrees to refund any sums the University paid for unused Services or other deliverables.

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

(e) Supplier will not be required to defend or indemnify the University to the extent any claim by a third party against the University for infringement or misappropriation results solely from the University's material alteration of any Supplier-branded deliverables or Services, or from the continued use of the Services or other deliverables after receiving written notice from the Supplier of the claimed infringement.

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

20. DEFAULT AND TERMINATION FOR CAUSE.

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

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

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

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

terminated by the University for convenience, the Supplier shall be paid for those items or services satisfactorily completed, less any payment or compensation previously made.

22. FORCE MAJEURE. Neither Party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, flood, power failures, acts or threats of war, acts or threats of terrorism, hostile foreign action, nuclear explosion, riot, strike, civil insurrection, pandemic, epidemic, quarantine, acts or regulations of public or University officials including measures to limit the spread of contagious disease, governmental acts, orders, or restrictions, national, regional, or local emergency, severely inclement weather, interruption or delay or transportation service, earthquake, hurricane, tornado, or other catastrophic natural event or Act of God; provided that such Party uses reasonable efforts, under the circumstances, to promptly notify the other Party of the cause of such delay and to resume performance as soon as possible in light of the circumstances giving rise to the force majeure event

23. CONFIDENTIALITY; CARE OF INFORMATION.

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

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

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

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

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

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

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

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

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

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

24. 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.

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

26. ASSIGNMENT OR DELEGATION OF DUTIES. This Agreement may not be assigned or delegated by Supplier without the written consent of the University. If Supplier requests any assignment, or delegation of duties, the Supplier shall remain responsible for fulfillment of all Agreement obligations. Upon written request, the University may, in its unfettered discretion, approve an assignment or delegation to another responsible entity acceptable to the University, such as the surviving entity of a merger, acquisition or a corporate reorganization if made as part of the transfer of all or substantially all of the Supplier's assets. 01 NCAC 05B.1507. Any purported assignment or delegation made in violation of this provision shall be void and a material breach of this Agreement. N.C. Gen. Stat. § 143-58.

27. AMENDMENTS/CONTRACT AUTHORIZATION.

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

(b) This Agreement is made subject to the shipment of quantities, qualities, and prices indicated on the Purchase Order and all conditions and instructions on the Purchase Order or the Solicitation Document, as applicable. Any changes made to this Agreement or Purchase Order proposed by the Supplier are hereby rejected unless accepted in writing by the University's Purchasing Services Department or the Vice Chancellor for Finance and Operations. The University shall not be responsible for products 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.

28. USE OF UNIVERSITY NAME AND TRADEMARK. The Supplier shall not appropriate or use the existence of this Agreement or the names, logos, photographs, images, property, service marks, or trademarks of the University or the State of North Carolina as a part of any marketing, advertising, endorsement, promotion, or otherwise, without express prior written approval of the University. Requests to use the University's names, logos, photographs, images, property, service marks, or trademarks should be directed to the University's Office of Trademarks and Licensing (<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.

29. EXPORT CONTROL.

(a) The Supplier agrees to comply with all applicable export control laws and regulations with jurisdiction over hardware, software, or technology used or accessed in connection with performing this Agreement, including but

not limited to, U.S. Export Control Regulations, including the Export Administration Regulations (15 C.F.R. 730-744), the International Traffic in Arms Regulations (22 C.F.R. 120-130), and the Office of Foreign Asset Controls regulations (31 C.F.R. 500-599) in all transactions required to fulfill the terms of this Agreement. Supplier agrees to cooperate with any recordkeeping, certification, license, security measure, or other action required to confirm or maintain compliance with export control regulations, including provision of personal information specifically required for such export compliance purposes.

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

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

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

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

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

34. ACCESS TO PERSONS AND RECORDS. During, and after the term hereof during the relevant period required for retention of records by State law (N.C. Gen. Stat. §§ 121-5 and 132-1 *et seq.*, typically five years), the State Auditor 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), § 147-64.7. However, if any audit, litigation, or other action arising out of or related in any way to this Agreement is commenced before the end of the 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.

35. SITUS, GOVERNING LAW, AND VENUE.

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

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

(c) Pursuant to 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.

36. SEVERABILITY. In the event that a court of competent jurisdiction holds that a provision or requirement of this Agreement violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Agreement shall remain in full force and effect. All promises, requirement, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statute, including statutes of repose or limitation.

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

38. CERTIFICATIONS UNDER STATE LAW. The Supplier certifies as follows: (a) its proposal was submitted competitively and without collusion (N.C. Gen. Stat. § 143-54); (b) none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (N.C. Gen. Stat. § 143-59.2); (c) it is not an ineligible vendor as set forth in N.C. Gen. Stat. § 143-59.1; (d) no gift has been offered, extended, or promised by any of its employees or representatives to any University employee associated with preparing plans, specifications, or estimates for the solicitation, or in awarding or administering this Agreement resulting from the solicitation, or in inspecting or supervising the services to be rendered (N.C. Gen. Stat. § 133-32); (e) the Supplier and each of its subcontractors for this Agreement comply with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system (N.C. Gen. Stat. § 143-48.5); and (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. § 147-86.80 et seq.). False certification may constitute a Class I felony under North Carolina law.

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

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

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

(ii) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Supplier shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," to the University.

(iii) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into

this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

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

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

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

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

41. WARRANTY TERMS.

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

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

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

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

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

(iv) Supplier represents and warrants to University that the Software demonstrated to University, to the extent applicable, during Supplier's on-campus demonstrations: (1) represents a generally available version of

the Software; and (2) was configured but not otherwise modified by Supplier or otherwise manipulated in any way to display features or functions that do not exist in a generally available version of the Software as of the date of the Supplier's demonstrations.

(v) Supplier represents and warrants to University that the Products and Services meet the accessibility requirements (to the extent applicable) outlined in 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/>.

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

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

44. GOVERNMENT RESTRICTIONS. In the event any governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship, or performance of the Products or Services offered, prior to acceptance, it shall be the responsibility of the Supplier to notify, in writing, the University's issuing purchasing officer at once, indicating the specific regulation which requires such alterations. The University reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Agreement.

45. GOVERNMENT REVIEW. To the extent required by applicable law and pursuant to written requests from any appropriate governmental authority, the Supplier and the University shall make available to such appropriate governmental authority this Agreement and any books, records, documents, and other records that are necessary to certify the nature and extent of the services provided and the costs claimed for services rendered pursuant to this Agreement or so as to otherwise comply with the requirements of any lawful agreement between the party and such governmental authority.

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

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

48. REJECTION OF NON-SOLICITATION. The University rejects and disaffirms any non-solicitation provision or other similar term contained in any material related to the Agreement that would require that the Parties refrain from recruiting or hiring the employees of the other Party unless the non-solicitation provision is expressly agreed to in a writing signed and specifically initialed by an authorized University representative and the Office of University Counsel.

49. HEADINGS, GENDER, AND NUMBER. The headings contained herein are not material parts of the Agreement

and should not be used to construe the meaning thereof. The singular of any word or phrase shall be read to include the plural and vice-versa.

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

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

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

Company Name: _____ UNC-Chapel Hill

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION

HISTORICALLY UNDERUTILIZED BUSINESSES

Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to G.S. 143B-1361(a), 143-48 and 143-128.4, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this RFP. Any questions concerning NC HUB certification, contact the [North Carolina Office of Historically Underutilized Businesses](#) at (919) 807-2330. The Vendor shall respond to question #1 and #2 below.

a) Is Vendor a Historically Underutilized Business? ☐ Yes ☐ No

b) Is Vendor Certified with North Carolina as a Historically Underutilized Business? ☐ Yes ☐ No

If so, state HUB classification: _____

ATTACHMENT E: CUSTOMER REFERENCES

Suppliers shall provide at least three (3) references for which your company has provided products and/or services of similar size and scope to that proposed herein. The University may contact these users to determine whether the products and/or services provided are substantially similar in scope to those proposed herein and Supplier's performance has been satisfactory. The information obtained may be considered in the evaluation of the proposal.

COMPANY NAME	CONTACT NAME	TELEPHONE NUMBER

ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR

In accordance with NC General Statute 143-59.4, the Vendor shall detail the location(s) at which performance will occur, as well as the manner in which it intends to utilize resources or workers outside of the United States in the performance of this Contract. The State will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award. Please complete items a, b, and c below.

a) Will any work under this Contract be performed outside the United States? ☐ YES ☐ NO

If the Vendor answered "YES" above, Vendor must complete items 1 and 2 below:

1. List the location(s) outside the United States where work under this Contract will be performed by the Vendor, any sub-Contractors, employees, or other persons performing work under the Contract:
2. Describe the corporate structure and location of corporate employees and activities of the Vendor, its affiliates or any other sub-Contractors that will perform work outside the U.S.:

- b) The Vendor agrees to provide notice, in writing to the State, of the relocation of the Vendor, employees of the Vendor, sub-Contractors of the Vendor, or other persons performing services under the Contract outside of the United States ☐ YES ☐ NO

NOTE: All Vendor or sub-Contractor personnel providing call or contact center services to the State of North Carolina under the Contract **shall** disclose to inbound callers the location from which the call or contact center services are being provided.

- c) Identify all U.S. locations at which performance will occur:

ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION

Name of Vendor: _____

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

- ☐ The Vendor is in sound financial condition and, if applicable, has received an unqualified audit opinion for the latest audit of its financial statements.

Date of latest audit: _____

- ☐ The Vendor has no outstanding liabilities, including tax and judgment liens, to the Internal Revenue Service or any other government entity.

- ☐ The Vendor is current in all amounts due for payments of federal and state taxes and required employment-related contributions and withholdings.

- ☐ The Vendor is not the subject of any current litigation or findings of noncompliance under federal or state law.

- ☐ The Vendor has not been the subject of any past or current litigation, findings in any past litigation, or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of this Contract.

- ☐ He or she is authorized to make the foregoing statements on behalf of the Vendor.

Note: This is a continuing certification and Vendor shall notify the Contract Lead within 15 days of any material change to any of the representations made herein.

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

Signature

Date

Printed Name

Title

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