



**University of North Carolina at Chapel Hill
Procurement Services**
 CB#1100, 104 Airport Drive Suite 2700
 Chapel Hill, NC 27599-1100
Telephone 919-962-2251 FAX 919-962-0636

**BID NUMBER MUST APPEAR ON ALL
QUOTATIONS
AND RELATED CORRESPONDENCE**

INVITATION FOR BIDS

Refer ALL Inquiries To	Lynn Barello	Issue Date:	03/15/24	BID NUMBER
Phone Number	919/962-0265	Requisition:	1000931822	3000011670
				OPENING DATE
				03/25/24

NOTICE TO BIDDERS

Bids must be sealed. Bids are subject to the conditions made a part hereof and will be received at this office until 3:00 PM on the opening date shown above and will then be opened.

Bids will include the supplies, materials, and/or services as described below, delivered "FOB destination Chapel Hill, NC" with all transportation charges prepaid and included in the bid price, Requested delivery date : 04/26/2024

Bids and/or addenda submitted via facsimile (FAX) machine in response to this Invitation for Bids will not be acceptable. Bids are subject to rejection unless submitted on this form.

Offer shall be valid for 60 days from date of bid opening unless otherwise stated here ----- days
Prompt Payment Discount ----- % ----- days

DELIVERY: Early delivery is requested and bidder is urged to state earliest guaranteed delivery. Delivery will be made from -----(city and state) within -----days after receipt of order
LIST: Name, address and telephone number from which service and parts are available.

YES NO **Mandatory Site Visit/Pre-bid Conference**

Date: 03/15/2024
 Time: 6:38:57 AM Eastern Time

Instructions: It shall be MANDATORY that each Vendor representative be present for a pre-bid site visit on _____. Attendees must meet promptly at _____ Eastern Time at _____. All attendees must sign in upon arrival, and on-time attendance will be strictly enforced. Bids received from prospective Vendors that were not present for the entire site visit/pre-bid conference may be disqualified from award consideration. The purpose of this visit is for all prospective Vendors to apprise themselves with the conditions and requirements which will affect the performance of the work called for by this IFB. No allowances will be made for unreported conditions that a prudent Vendor would recognize as affecting the work called for or implied by this bid. Vendors are cautioned that any information relayed to attendees during the site visit, other than that involving the physical aspects of the facility referenced above, and which conflicts with, supersedes, or adds to requirements in this IFB, must be confirmed by written addendum before it can be considered to be a part of this bid.



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EXECUTION

Certification: By executing this bid, the undersigned Vendor certifies that: (i) this bid is submitted competitively and without collusion (G.S. 143-54), (ii) 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), (iii) it is not an ineligible vendor as set forth in G.S. 143-59.1, (iv) 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 this IFB, or in awarding or administering the contract to result from this IFB, or in inspecting or supervising the services to be rendered (G.S. 133-32), (v) if any of the services to be performed under this IFB will be performed outside the United States by the Vendor or Vendor's subcontractors, Vendor has disclosed such information in writing to the University (G.S. 147-33.97); (vi) it acknowledges that the University's internal auditor and State of North Carolina auditors have the right under North Carolina law to access upon request the Vendor's records and representatives to audit fees and performance associated with procurement contracts (G.S. 147-64.7), (vii) it and each of its subcontractors for any contract resulting from this IFB 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 (G.S. §143-48.5). False certification may constitute a Class I felony under North Carolina law.

Failure to execute/sign bid prior to submittal shall render bid invalid and it WILL BE REJECTED. Late bids cannot be accepted.

BIDDER CARL ZEISS MEDITEC USA INC	FEDERAL TAX ID NUMBER 852194142
STREET ADDRESS 1 NORTH BROADWAY, SUITE 1501	PO BOX NUMBER
CITY & STATE WHITE PLAINS NY	TELEPHONE NUMBER
ZIP 10601	
TYPE OR PRINT NAME & TITLE OF PERSON SIGNING	TOLL FREE TELEPHONE NUMBER
AUTHORIZED SIGNATURE	DATE
	FAX NUMBER

Offer valid for at least 60 days from date of bid opening, unless otherwise stated here: _____ days. After this time, any withdrawal of offer shall be made in writing, effective upon receipt by the University.



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UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

IFB # 3000011670

For internal processing, please provide your company's Federal Employer Identification Number or alternate identification number (e.g. Social Security Number). Pursuant to North Carolina General Statute 132-1.10(b) this identification number shall not be released to the public. **This page will be removed and shredded, or otherwise kept confidential**, before the procurement file is made available for public inspection.

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

ID Number:

Federal ID Number or Social Security Number

Vendor Name

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1.0 PURPOSE AND BACKGROUND

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

2.0 GENERAL INFORMATION

2.1 INVITATION FOR BIDS DOCUMENT

The IFB is comprised of the main body of this IFB document, plus the attachments, and any addenda released before contract award. All attachments and addenda released for this IFB in advance of any contract award are incorporated herein by reference. All terms in this IFB shall be enforceable as contract terms. The use of phrases such as "shall," "must," and "requirements" are intended to create enforceable contract conditions.

2.2 IFB SCHEDULE

Event	Responsibility	Date and Time
Issue IFB	University	3.15.2024
Hold Pre-bid Meeting/Site Visit	University	NA
Submit Written Questions	Vendors	3.19.2024 3:00PM (EST)
Provide Response to Questions	University	3.21.2024
Submit Bids	Vendors	3.25.2024 3:00PM (EST)
Contract Award	University	TBD <i>(date subject to change)</i>

2.3 BID QUESTIONS

Upon review of the IFB, Vendors may have questions regarding the IFB. Vendors shall submit any such questions by the above due date listed in the section titled "IFB Schedule" above.

Written questions shall be e-mailed to lynnbare@email.unc.edu by the date and time specified above. No phone calls will be accepted. Vendors should enter "IFB #3000011670: Questions" as the subject for the email. Questions submittals should include a reference to the applicable IFB section and be submitted in a format shown below:

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

Questions received prior to the submission deadline date, the University's response, and any additional terms deemed necessary by the University will be posted in the form of an addendum to the Interactive Purchasing System (IPS), <http://www.ips.state.nc.us>, and shall become an Addendum to this IFB. No information, instruction or advice provided orally or informally by any University personnel, whether made in response to a question or otherwise in connection with this IFB, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in an Addendum to this IFB.

2.4 BID SUBMITTAL

Electronic bid submission only. Please disregard the below information pertaining to section 2.4.

Mailing address for delivery of bid via US Postal Service	Office Address of delivery by any other method (special delivery, overnight, or any other carrier)
IFB NUMBER: 3000011670 University of North Carolina – CH Procurement Services 104 Airport Drive Suite 2700 Chapel Hill, NC 27599-1100	IFB NUMBER: 3000011670 University of North Carolina – CH Procurement Services 104 Airport Drive Suite 2700 Chapel Hill, NC 27599-1100

IMPORTANT NOTE: All bids shall be delivered to the office address listed above on or before the bid deadline in order to be considered timely. All risk of late arrival due to unanticipated delay—whether delivered by hand, U.S. Postal Service, courier or other delivery service is entirely on the Vendor. All Vendors are urged to take the possibility of delay into account when submitting a bid. **Attempts to submit a bid via facsimile (FAX) machine, telephone or electronic means, including but not limited to e-mail, in response to this IFB shall NOT be accepted.**

- Submit one (1) signed, original executed bid response, ___photocopies, and ___electronic copy on CD, DVD or flash drive.
- Submit your bid in a sealed package. Clearly mark the package with: (1) Vendor name; (2) the IFB number; and (3) the due date. Address the package for delivery as shown in the table above. If Vendor is submitting more than one (1) bid, each bid shall be submitted in separate sealed envelopes and marked accordingly. For delivery purposes, separate sealed envelopes from a single Vendor may be included in the same outer package. Bids are subject to rejection unless submitted with the information above included on the outside of the sealed bid package.
- The electronic copy of your bid must be provided on separate read-only CD's, DVD's or flash drives. The electronic files **must NOT** be password protected and must be capable of being copied to readable media such as Microsoft Word or Microsoft Excel.

2.5 BID CONTENTS

Vendors shall complete all of the applicable portions of this IFB that require the Vendor to provide information and include an authorized signature where indicated.

- Completed and signed version of EXECUTION PAGE, and signed receipt pages of any addenda released in conjunction with this IFB
- Completed version of ATTACHMENT A: LOCATION OF WORKERS UTILIZED BY VENDOR
- ATTACHMENT B: INSTRUCTIONS TO BIDDERS
- Completed and signed version of ATTACHMENT C: DESCRIPTION OF EXECUTIVE ORDER #50 form that confirms that a price matching opportunity is requested

- e) ATTACHMENT D: PRICING FORM
- f) ATTACHMENT E: CERTIFICATION OF FINANCIAL CONDITION

2.6 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

- a) **CONTRACT LEAD:** Representative of the University who corresponds with potential Vendors in order to identify and contract with that Vendor providing the greatest benefit to the University and who will administer the contract for the University.
- b) **END USER DEPARTMENT:** The department or unit of the University that receives the products procured from the Vendor.
- c) **FOB-DESTINATION:** Title transfers from Vendor to purchaser at the destination point of the shipment; Vendor owns commodity in transit and files any claims, and Vendor pays all freight and any related transportation charges. A solicitation may request Vendors to separately identify freight charges in their bid, but no amount or charge not included as part of the total bid price will be paid.
- d) **IFB:** Invitation for Bids.
- e) **QUALIFIED BID:** A responsive bid submitted by a responsible Vendor.
- f) **STATE:** The State of North Carolina, including any of its sub-units recognized under North Carolina law.
- g) **UNIVERSITY:** The University of North Carolina at Chapel Hill.
- h) **VENDOR:** The supplier, bidder, proposer, company, firm, corporation, partnership, individual or other entity submitting a response to this Invitation for Bids.

2.7 NOTICE TO VENDORS REGARDING TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions, the University's terms and conditions, all relevant exhibits and attachments, and any other components made a part of this IFB, and comply with all requirements and specifications herein. Vendors also are responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this IFB.

If Vendors have questions, issues, or exceptions regarding any term, condition, instruction or other component within this IFB, those must be submitted as questions in accordance with Section 2.4 BID QUESTIONS. If the University determines that any changes will be made as a result of the points raised, then such decisions will be communicated in the form of an IFB addendum. The University may also elect to leave open the possibility for later negotiation of specific components of the contract that have been addressed during the question and answer period. Other than through this process, the University will reject and shall not be required to evaluate or consider any additional or modified terms and conditions or Instructions to Bidder submitted with Vendor's response. This applies to any language appearing in or attached to the document as part of the Vendor's response that purports to vary any terms and conditions or Vendors' instructions herein or to render the bid non-binding or subject to further negotiation. By execution and delivery of a bid in response to this Invitation for Bids, Vendor agrees that any additional or modified terms and conditions, including Instructions to Bidders, whether submitted purposely or inadvertently, or any purported condition to the offer shall have no force or effect, and will be disregarded. Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's bid as nonresponsive.

If a Vendor desires modification of the terms and conditions of this solicitation, it is urged and cautioned to inquire during the question period, in accordance with the instructions in Section 2.4 BID QUESTIONS, about whether a specific, proposed modification is acceptable to or will be considered by the University. Identification of objections or exceptions to the University's terms and conditions in the bid itself shall not be allowed and shall be disregarded or the bid rejected. By executing and submitting its bid in response to this IFB, Vendor understands and agrees that the University may exercise its discretion not to consider any and all proposed modifications a Vendor may request.

3.0 METHOD OF AWARD AND BID EVALUATION PROCESS

3.1 METHOD OF AWARD

The University may obtain bids from one or more potential vendors. All bids will be evaluated and award will be based *on lowest responsive bid meeting specifications*

While the intent of this IFB is to award a contract to single vendor for all line items, the University 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 IFB in its entirety without awarding a contract, if it is considered to be most advantageous to the University to do so.

If a Vendor selected for award is determined by the University to be a non-resident of North Carolina, all responsive bids will be reviewed to determine if any of them were submitted by a North Carolina resident Vendor who requested an opportunity to match the price of the winning bid, pursuant to Executive Order #50 and G.S. 143-59 (for more information, please refer to ATTACHMENT C: DESCRIPTION OF EXECUTIVE ORDER #50 AND CERTIFICATION. If such bid(s) are identified, the University will then determine whether any such bid falls within the price-match range, and, if so, make a contract award in accordance with the process that implements G.S. 143-59 and Executive Order #50.

3.2 BID EVALUATION PROCESS

1. Bids are requested for the items as specified, or item(s) equivalent in design, function and performance. The University reserves the right to reject any bid on the basis of fit, form and function as well as cost. All information furnished on this bid may be used as a factor in determining the award of this contract.
2. At that date and time specified as the bid opening, the package containing the bids from each responding firm will be opened publicly and the name of the Vendor and the price(s) bid announced.
3. The University shall review all Vendor responses to this IFB to confirm that they meet the specifications and requirements of the IFB. The University reserves the right to waive any minor informality or technicality in bids received.
4. For all responses that pass the initial review process, the University will review and assess the Vendors' pricing. The University may request additional formal responses or submissions from any or all Vendors for the purpose of clarification or to amplify the materials presented in any part of the bid. Vendors are cautioned, however, that the University is not required to request clarification, and often does not. Therefore, all bids should be complete and reflect the most favorable terms available from the Vendor. Prices bid cannot be altered or modified as part of a clarification.
5. Bids will be evaluated, based on the award criteria identified in Section 3.1 METHOD OF AWARD.

Upon completion of all evaluations, the University will make award(s) based on the evaluation and post the award(s) to IPS under the IFB number for this solicitation. Award of a contract to one Vendor does not mean that the other bids lacked merit, but that, all factors considered, the selected bid was deemed most advantageous and represented the best value to the University. Vendors are cautioned that this is an invitation for bids, not a request or an offer to contract, and the University 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 University.

4.0 REQUIREMENTS

This Section lists the requirements related to this IFB. By submitting a bid 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 IFB. If a Vendor is unclear about a requirement or specification or believes a change to a requirement would allow for the University to receive a better bid, the Vendor is urged and cautioned to submit these items in the form of a question during the question and answer period in accordance with Section 2.4.

4.1 PRICING

Bid price shall constitute the total cost to End User Department for delivery fully assembled and ready for use, including all applicable charges for shipping, delivery, handling, administrative and other similar fees. Vendor shall not invoice for any amounts not specifically allowed for in this IFB. Complete ATTACHMENT D: PRICING FORM and include with Bid.

4.2 PRODUCT IDENTIFICATION

[] MAKE AND MODEL

Manufacturer's name and model/catalog numbers used are for the sole purpose of identification and to establish general quality level desired. Such references are not intended to be restrictive and comparable products of other manufacturers will be considered. However, Vendors are cautioned that any deviation from specifications must be pointed out in its bid. Also Vendor must include with its bid sufficient documentary evidence to demonstrate the qualitative, functional, operational, organizational and conformational equivalence of the bid item to the specified item.

OR

[x] BRAND SPECIFIC

Manufacturer(s) name and product descriptions used in this solicitation are product specific. The items offered in response to this



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solicitation must be the manufacturer and type specified. These specific products are needed due to compatibility and continuity of support. Failure to comply with this requirement shall be a sufficient basis for disqualifying a bid from further consideration.

4.3 TRANSPORTATION AND IDENTIFICATION

The Vendor shall deliver Free-On-Board (FOB) Destination to any location requested by the University with all transportation costs included in the total bid price.

The purchase order number shall be shown on all packages and shipping manifests to ensure proper identification and payment of invoices. A complete packing list shall accompany each shipment. Vendors shall not ship any products until they have received an order.

4.4 DELIVERY

The Vendor shall deliver Free-On-Board (FOB) Destination to the following location(s):

2226 Nelson Highway
Kittner Eye Center-209
CHAPEL HILL, NC 27517
USA

Successful Vendor must complete delivery within _____ consecutive calendar days after receipt of purchase order.
For completion by Vendor: Delivery will be made from _____ (city, state) within _____ consecutive calendar days after receipt of purchase order. Promptness of delivery may be used as a factor in the award criteria.

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

4.5 WARRANTY

Manufacturer's standard warranty shall apply. Vendors shall include a copy of the manufacturer's standard warranty with the bid response.

Vendor warrants that all equipment furnished under this IFB will be new, of good material and workmanship. The warranty will be for a minimum period of twelve (12) months from date equipment is put into operation. Such warranty shall cover the cost of all defective parts replacement, labor, freight, and technicians travel at no additional cost to the University.

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

Vendor is authorized by manufacturer to repair equipment offered during the warranty period? YES NO

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

Contact information for warranty service provider:

Company Name: _____

Company Address: _____

Contact Person (name): _____

Contact Person (phone number): _____

Contact Person (email): _____

4.6 [] REFERENCES

Vendors shall provide at least three (3) references for which your company has provided goods and services of substantially the

same features and quantity to those solicited herein.

4.7 SAMPLES/DEMONSTRATION/DESCRIPTIVE LITERATURE

SAMPLE

Sample of items offered must be furnished, free of expense, and if not destroyed will, upon request, be returned at the Vendor's expense. A written request for return must be made no later than thirty (30) days after the bid award, and Vendor must provide prepaid, pre-addressed shipping label suitable for return of the sample(s). Otherwise the samples will become University property. Each individual sample must be labeled with the Vendor's name, bid number, and item number. A sample on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.

Forward samples to:

BID NUMBER: 3000011670

Attention: _____

Vendor requests samples be returned after evaluation and/or contract completion? YES NO

If return is requested, Vendor must provide prepaid, pre-addressed shipping label with bid.

Samples are not required prior to bid opening date; however, if required later, Vendor agrees to furnish samples of items offered at no expense to the University within _____ consecutive calendar days after request is made by the University. Vendors who do not comply with this requirement are subject to having their bids rejected without further consideration.

DEMONSTRATION

The University reserves the right to require a demonstration of the exact model of equipment offered for the purpose of assessing suitability of the offered equipment for the intended use. Such demonstration will be performed at user's facility by Vendor or his authorized representative before award of contract, upon request by and without charge to the University. Failure of Vendor or his authorized representative to perform a satisfactory demonstration (if requested) in accordance with these requirements shall be a sufficient basis for rejection of the bid. The results of such demonstration will be considered in the award of contract.

DEMONSTRATION

Vendor must be capable of demonstrating proposed equipment within _____ consecutive calendar days after notification to do so, at no additional cost to the University. If required, this will be a comprehensive demonstration at a site designated by the University with hands-on participation by University operator(s) if necessary or appropriate. Failure of Vendor or his authorized representative to perform a satisfactory demonstration (if requested) in accordance with these requirements shall be a sufficient basis for rejection of the bid. The results of such demonstration will be considered in the award of contract.

DESCRIPTIVE LITERATURE/CERTIFICATION

Each bid must be accompanied by complete descriptive literature, specifications, certifications, and all other pertinent data necessary for thorough evaluation of the item(s) bid and sufficient to determine compliance of the item(s) with the specifications. Failure to include such information shall be a sufficient basis for rejection of the bid.

4.8 INVOICES

Invoices must include detailed line item information to allow End User Department to verify pricing at point of receipt matches the correct price from the original date of order. At a minimum, the following fields must be included on all invoices:

Vendor's Billing Address, Vendor's Federal ID Number, Order Date, Manufacturer Part Numbers, Vendor Part Numbers, Item Descriptions, Price, Quantity, and Unit of Measure.

- a) Invoices must be submitted to the End User Department at the following address:

University of North Carolina at Chapel Hill
104 Airport Dr
Campus box 1220
Chapel Hill, NC 27599-1220

- b) Invoices should bear the purchase order number to ensure prompt payment. The Vendor's failure to include the correct purchase order number shall cause delay in payment.

ATTACHMENT A: 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 University 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 University, 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 B: INSTRUCTIONS TO BIDDERS

1. **READ, REVIEW AND COMPLY:** It shall be the Bidder's responsibility to read this entire document, review all enclosures and attachments, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Bidders or elsewhere in this IFB document.
2. **NOTICE TO BIDDERS:** All bids are subject to the provisions of the General Terms and Conditions for Commodities and Services/Procurements of Information Technology Goods, and the specifications. The University objects to and will not evaluate or consider any additional terms and conditions submitted with a Bidder's response. This applies to any language appearing in or attached to the document as part of the Bidder's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.** By execution and delivery of this document, the Bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.
3. **EXECUTION:** Failure to sign the EXECUTION or Signature section will render bid invalid and it shall be rejected.
4. **TABULATIONS:** Written or verbal tabulations of the bids and award information may be obtained by contacting the purchaser named on the cover page. It shall be within the discretion of the named purchaser to format and present the tabulation and award information.
5. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, Bidder's offer shall be valid for 60 days from the date of bid opening. Preference may be given to the bids allowing not less than 60 days for consideration and acceptance.
6. **PROMPT PAYMENT DISCOUNTS:** Bidders are urged to compute all discounts into the price offered. The University's standard payment terms are net, 30 days. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
7. ****DISREGARD**MAILING INSTRUCTIONS:** Mail only one fully executed bid document, unless otherwise instructed, and only one bid per envelope. Address envelope and insert bid number as shown below: **Bid No 3000011670**
UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, PURCHASING SERVICES, 104 AIRPORT DR,
SUITE#2700, CB 1100, CHAPEL HILL, NC 27599-1100. **It is the responsibility of the Bidder to have the bid in this office by the specified time and date of opening.**
8. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and the Bidder will be held responsible. Deviations shall be explained in detail. **The Bidder shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**
9. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this solicitation or in any resulting contract, the order of precedence shall be (high to low) (1) any special terms and conditions specific to this IFB, including any negotiated terms; (2) specifications, and (3) the University of North Carolina at Chapel Hill Terms and Conditions noted on the IFB.
10. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidder shall furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this bid, each Bidder must submit with their bid sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection.
11. **RECYCLING AND SOURCE REDUCTION:** It is the policy of this University to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable and less toxic to the extent that the purchase or use is practicable and cost-effective. The University encourages and promotes 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 Bidder remains responsible for providing packaging that will adequately protect the commodity and contain it for its intended use. Bidders are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.
12. **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:
 - 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%.



University of North Carolina at Chapel Hill
Procurement Services

CB#1100, 104 Airport Drive Suite 2700
Chapel Hill, NC 27599-1100

Telephone 919-962-2251 FAX 919-962-0636

BID NUMBER MUST APPEAR ON ALL
QUOTATIONS
AND RELATED CORRESPONDENCE

- Unless absolutely necessary, all quotes 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.
 - 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.
13. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from the University's Procurement Services. The Bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.
14. **REFERENCES:** The University reserves the right to require a list of users of the exact item offered. The University may contact these users concerning these items. Such information may be considered in the evaluation of the bid.
15. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order 150 (1999), the University invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled business enterprises and non-profit work centers for the blind and severely disabled.
16. **AWARD OF CONTRACT:** Qualified bids will be evaluated and acceptance made of the lowest and best bid most advantageous to the University as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the Bidders; the substantial conformity with the specifications and other conditions set forth in the bid; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by the University to be pertinent or peculiar to the purchase in question. The University reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the Bidder, to accept any item in the bid. Unless otherwise specified by the University or the Bidder, the University reserves the right to accept any item or group of items on a multi-item bid. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
17. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, the University will maintain confidential trade secrets that the Bidder 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 Bidder, with specific trade secret information enclosed in boxes or similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what a Bidder may label as a trade secret, the determination whether it is or is not entitled to protection will be determined in accordance with G.S. 132-1.2. Any material labeled as confidential constitutes a representation by the Bidder 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. Bidders are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible. The obligations of non-disclosure shall not apply to the following:
- Information which, at the time of disclosure is in the public knowledge;
 - Information which, after disclosure becomes part of the public knowledge by publication or otherwise, except by breach of this agreement;
 - Information which was in possession of the University at the time of disclosure and which was not acquired, directly or indirectly by the recipient from the disclosing party, and which prior possession can be proven by documentary evidence;
 - Information received from third parties, provided such information was not obtained to their knowledge by said third parties, directly or indirectly, on a confidential basis;
 - Information which is independently developed by the University's personnel not privy to the information.
18. **TAXES:** Except for construction bids, taxes shall not be included in bid prices. Prices offered shall not include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue. The University of North Carolina at Chapel Hill, being an agency of the State of North Carolina, is exempt from the Federal Excise Tax.
19. **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the Bidder's expense. Request for the return of samples must be made within 10 days following date of bid opening. Otherwise the samples will become University property. Each individual sample must be labeled with the Bidder's name, bid number and item number. A sample on which an award is made, will be retained until the purchase order is completed, and then returned, if requested, as specified above.



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20. **MANUFACTURER'S NAMES:** Except for requirements identified as "brand specific" any manufacturers' names, trade names, brand names, information and/or catalog numbers used herein are for the purpose(s) of description and establishing general quality levels. Such references are not intended to be restrictive and products of any manufacturer may be offered.
21. **OWNERSHIP:** For printing services, all copy, art, negatives, photos, etc., that are required for this job remain or become the property of the University and shall be returned to the University upon request in excellent reusable condition. Any charge for this shall be included in all prices quoted herein. Printer shall be held liable for any/all damages to materials.
22. **PROTEST PROCEDURES:** A party wanting to protest a contract award pursuant to this solicitation must submit a written request to the Associate Vice Chancellor for Finance at the address given in the instruction above entitled "Mailing Instructions." This request must be received in the University Procurement Services within thirty (30) consecutive calendar days from the date of contract award, and must contain specific sound reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts and not to every person or firm responding to the solicitation. Offerors may call the purchaser listed on the first page of this document to obtain verbal status of contract award. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519.

If a ground of a protest is based on a challenge to the qualification of a North Carolina resident Bidder awarded a contract pursuant to Executive Order #50 (price-matching preference), the Associate Vice Chancellor for Finance may request the North Carolina resident Bidder to produce documentation substantiating the North Carolina resident Bidder's qualification for the subject preference. The Associate Vice Chancellor for Finance should request the supporting documentation within the 10-day period he or she has to make the decision on whether to deny or grant a protest meeting and the protest meeting should be scheduled after the anticipated receipt of the documents from the North Carolina resident Bidder. Pursuant to Paragraph 23 below, the North Carolina resident Bidder is required to produce to the University the requested documentation within five (5) business days of the University's request and failure to produce the documents by the end of that time period may result in the cancellation of the contract. Also note that any tax, financial, accounting or banking documents the North Carolina resident Bidder submits to the University in connection with the resolution of a protest shall not be disclosed to the protester pursuant to G.S. § 132-1.1 and 105-259(b) and the University shall preserve the confidentiality of such documents.

23. **CONFIDENTIALITY OF BIDS:** In submitting its bid, the Bidder agrees not to discuss or otherwise reveal the contents of its bid to any source outside of the using or issuing agency, government or private, until after the award of the contract. All Bidders are advised that they are not to have any communications with the using or issuing agency 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's purchaser contacts the Bidder(s) for purposes of seeking clarification. A Bidder shall not: transmit to the issuing and/or using agency any information commenting on the ability or qualifications of any other Bidder to provide the advertised good, equipment, commodity; defects, errors and/or omissions in any other Bidder's bid and/or prices at any time during the procurement process; and/or engage in any other communication or conduct attempting to influence the evaluation and/or award of the contract that is the subject of this IFB. Bidders not in compliance with this provision may be disqualified, at the option of the University, from the contract award. Only those communications with the using agency or issuing agency authorized by this IFB are permitted.
24. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.
25. **INFORMAL COMMENTS:** The University shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of the University during the competitive process or after award. The University is bound only by information provided in this IFB and in formal Addenda issued.
26. **COST FOR QUOTE PREPARATION:** Any costs incurred by Bidder in preparing or submitting quotes are the Bidder's sole responsibility; the University will not reimburse any Bidder for any costs incurred prior to award.
27. **BIDDER'S REPRESENTATIVE:** Each Bidder shall submit with its quote the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's quote.
28. **INSPECTION AT BIDDER'S SITE:** The University reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective Bidder prior to Contract award, and during the Contract term as necessary for the University determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.

**ATTACHMENT C: DESCRIPTION OF EXECUTIVE ORDER #50 AND CERTIFICATION
NORTH CAROLINA RESIDENT VENDORS TAKE NOTE:**

Pursuant to North Carolina General Statute §143-59 and Executive Order No. 50 (issued February 17, 2010, entitled "Enhanced Purchasing Opportunities for North Carolina Businesses"), a North Carolina resident Vendor may receive an opportunity to obtain an award by agreeing to match the final price(s) of the lowest Vendor on a contract for the purchase of goods, **if** that lowest price is offered by a non-North Carolina resident Vendor. This opportunity arises when a North Carolina resident Vendor offers a price that is the lowest among all bids by qualified in-State resident Vendors and also is within five percent (5%) or \$10,000 (whichever is less) of the non-resident Vendor's overall lowest price. This price-match opportunity applies to a contract awarded under this solicitation.

G.S. §143-59(c) (1) defines a "resident Vendor" as a "Vendor that has paid unemployment taxes or income taxes in this State **and** whose principal place of business is located in this State." All other Vendors are considered to be non-resident Vendors. G.S. §143-59(c)(3) defines a "principal place of business" as the "principal place from which the trade or business of the Vendor is directed or managed." This refers to overall operations for the entire business entity, not merely a division or office location.

In order to qualify for this preference, a resident Vendor shall: (1) request the price-match opportunity by marking the appropriate checkbox, below; (2) provide all information requested; and (3) complete and sign the "Resident Vendor's Certification for Price-Matching Preference under Executive Order #50" (hereinafter the "Certification") included at the end of this Section. The Certification may not be submitted after the public opening of the bids. By executing the Certification, the Vendor affirms that the information provided is accurate and agrees to provide any additional information or documentation requested by the University to confirm the above certifications and statements within five (5) business days of request (including but not limited to income tax or unemployment tax returns, reports and/or filings (annual and/or quarterly); banking statements or financial/accounting statements reflecting Vendor's payment of income taxes or unemployment taxes to the State of North Carolina and such other information regarding Vendor's management or directors of its business or trade of its principal place of business).

Requesting a price-match opportunity below does not require any resident Vendor to match the lowest price in the event a Vendor qualifies for receiving the opportunity.

The University will evaluate the bids in accordance with the award criteria stated in this IFB to determine the lowest Vendor meeting the requirements of the IFB without regard to any Vendor's residency. If the Vendor with the lowest price is a North Carolina resident Vendor, then no consideration of the price-matching procedure is necessary. If the lowest bid by a Vendor meeting all requirements was submitted by a non-resident Vendor and there are no North Carolina resident Vendors that submitted a price bid that was within 5% or \$10,000 of the non-resident Vendor's price, then none of the North Carolina resident Vendors qualify for the price-matching preference and no review of a resident Vendor's Certification is required.

If the lowest price bid by a Vendor meeting requirements was submitted by a non-resident Vendor and there are one or more North Carolina resident Vendors that submitted a price bid that was within 5% or \$10,000 of the non-resident Vendor's price, then the University will determine if the Vendor has requested a price-matching opportunity, review the Certification(s) of the resident Vendor(s) to determine whether the resident Vendors have properly executed the Certification and ensure that the information and documentation provided in or with the Certification or otherwise submitted to the University supports the resident Vendor(s) qualification to exercise the price-match opportunity. The University may seek clarification of the Certification and/or information in a resident Vendor's Certification and request additional information and documentation, if needed. If any resident Vendor's award is challenged in a bid protest, based on the accuracy of that Vendor's claim of qualification for the price-matching, the resident Vendor shall provide additional information and/or documents to the University within five (5) business days of receiving a request from the University for such information and/or documentation, or its award shall be subject to cancellation.

Pursuant to G.S. §132-1.1, §105-259(b) and Paragraph 13 of the Instructions to Bidders, the University is prohibited from making public disclosure of the Vendor's tax information and documents submitted (subject to those exceptions set out in G.S. §105-259 (b)) and the University shall preserve the confidentiality of the tax information and/or documents received in response to a request for clarification or to resolve a bid protest challenging a resident Vendor's qualification for the price-matching preference in accordance with applicable law. In order to further preserve the confidentiality of any Vendor's tax information and documentation provided to the University, the Vendor shall comply with Paragraph 12 of the Instructions to Bidders and mark "CONFIDENTIAL" at the top and bottom of each page of such information and documentation. After review of all relevant material, the University shall include in its recommendation for award a finding that the North Carolina resident Vendor(s) is or is not qualified for the price-matching opportunity.

If more than one North Carolina resident Vendor qualifies for the price-matching opportunity, then the University will prioritize the qualified North Carolina resident Vendors according to the prices bid, from lowest to highest, so that the qualified North Carolina resident Vendor that submitted the lowest bid receives the first opportunity to match the bid price of the lowest non-resident Vendor that met all IFB requirements. If the lowest qualified North Carolina resident Vendor that met all IFB

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requirements declines to accept contract award, then the contract will be offered to the next lowest qualified North Carolina resident Vendor meeting all IFB requirements and continue in this manner until either a qualified North Carolina resident Vendor accepts the contract award or the award is made to a non-resident Vendor if no qualified North Carolina resident Vendor agrees to match the lowest price bid.

If two resident Vendors qualify for the price-matching opportunity, and both score the same on price, then the University may: (1) consider the information provided in those Vendors' Certifications or publicly available information to determine with which Vendor the contract award would have a greater impact of stimulating or sustaining the North Carolina economy and/or is most likely to create or save jobs (e.g., if the choice is between a resident broker and a resident manufacturer of the subject goods, then the contract will be awarded to the resident manufacturer); (2) consider the unemployment rates in the municipality or county where each Vendor's principal place of business is located; (3) seek clarification from the Vendors to ascertain the impact on their respective businesses if offered the award of the contract; or (4) utilize any other approved method of deciding between equal bids.

If a resident Vendor requests and qualifies for the price-matching preference, the resident Vendor will be notified of its opportunity to agree to match the lowest price and receive contract award, and it will have two (2) business days from the date and time of such notification to indicate its response, either agreeing or declining to match the lowest responsible non-resident Vendor's price and receive the contract award based on that price match. If the IFB requests bids on alternative configurations or components, then the price match shall apply to the actual alternative chosen by the University.

If at any time during or after the procurement process (including but not limited to clarifications and resolution of bid protests) the University determines that: any certifications or information in the Certification is false, substantially inaccurate, materially misleading or that the Vendor failed to provide, within the specified time period, any additional information requested, then the University may:

- (1) Cancel any award, contract and/or purchase order that was awarded to such Vendor based on the price-matching preference, and the resident Vendor shall be liable for all costs incurred as a result of the cancellation, including any increased costs the University may incur as a result of awarding the contract to another Vendor;
- (2) Bar the Vendor from all price-matching opportunities in future University procurements for a period of time not to exceed three (3) years, exclusive of any debarment period;
- (3) Take action against the Vendor under the False Claims Act, G.S. §1-605 through §1-617, inclusive, for submitting a false Certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties); and/or
- (4) Debar Vendor from doing business with the State of North Carolina for a period of time not to exceed three years, as determined by the University. Any such debarment period shall not begin to run until all damages, costs and penalties as may be assessed against such Vendor have been fully paid.

ALL VENDORS (BOTH RESIDENT AND NONRESIDENT) SHOULD ANSWER QUESTION #1. A RESIDENT VENDOR REQUESTING A PRICE-MATCHING OPPORTUNITY MUST ANSWER BOTH QUESTIONS:

1. **Vendor is a resident of North Carolina as defined in G.S. §143-59?** [] YES [] NO
2. **Resident Vendor requests a price-matching opportunity?** [] YES [] NO

The following Sections shall be completed if a resident Vendor is requesting a price-matching opportunity:

a) PART I – EO50

Please check the applicable boxes below, in order to be considered for the price-matching preference under Executive Order #50 and G.S. §143-59(c)(1).

- I hereby certify that the Vendor paid unemployment taxes to the State of North Carolina for the most recent quarter or annually, and has specifically done so for the last such payment period.
- I hereby certify that the Vendor paid income taxes to the State of North Carolina each calendar quarter, or otherwise annually, and has specifically done so for the last such payment period.

b) PART II – EO50

1. I hereby certify that the Vendor's principal place of business is located in North Carolina.

A. Business Type (Please check the applicable box):

- Corporation (all types)
- Limited Liability Company
- General Partnership
- Limited Partnership
- Limited Liability Partnership
- Sole Proprietorship
- Individual
- Unincorporated Association
- Other: _____

B. Provide address of principal place of business:

Street Address (no P.O. Box number)

City, State, Zip Code

Is the above address the location of Vendor's headquarters? YES NO

If Vendor has a public website, provide the link/address: _____

- C. ATTACH A COPY OF VENDOR'S MOST RECENT FILINGS WITH THE NORTH CAROLINA SECRETARY OF STATE** (such as Vendor's Certificate of Authority, Annual Report or such other filing that discloses a North Carolina business address for the Vendor).

OR (check the box below)

- Vendor certifies that its business is **not** required to make filings with the North Carolina Secretary of State.



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RESIDENT VENDOR'S CERTIFICATION FOR PRICE-MATCHING OPPORTUNITY

UNDER EXECUTIVE ORDER #50

NOTICE: The Price-Matching Opportunity will only be given to Vendors that fully complete this affidavit (i.e., all information must be provided, all supporting documents must be attached, the affidavit must be signed by an authorized representative of the Vendor and the affidavit must be notarized) and demonstrate their qualifications for the Price-Matching Preference through the certification and information provided in this affidavit and any other required information.

Affidavit of _____ (name of resident Vendor, hereinafter the "Vendor").

The undersigned hereby certifies that he or she has read this certification, that all information provided in Part I and Part II, above, is true and accurate, and that he or she is an officer, member, partner, owner or such managing employee of the Vendor (the "Authorized Representative") that is authorized to execute this affidavit and to bind the Vendor to the certifications, statements and agreements herein.

Name of Authorized Representative: _____

Signature: _____

Title: _____

Date: _____

NOTARY:

State of _____, County of _____

[Stamp]

Subscribed and sworn to before me this _____ day of _____ 20_____

Notary Public: _____ My commission expires _____

ATTACHMENT D: PRICING FORM

FURNISH AND DELIVER THE FOLLOWING

Item	Quantity	Unit	Description	Unit Price	Total Price	Vendors Response (for University use only)	Products/ Services offered meets specifications (for University use only)
			THE UNIVERSITY'S GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF COMMODITIES AND SERVICES (00000223.DOC 12) GOVERN THIS PROCUREMENT.				
			***FOR BID RESULTS REGARDING THIS IFB GO TO THE STATE OF NORTH CAROLINA ELECTRONIC VENDOR PORTAL (eVP): https://evp.nc.gov/ ***				
			THIS INVITATION-FOR-BIDS REQUIRES AN ELECTRONIC BID RESPONSE ONLY, EMAIL BID RESPONSES WILL NOT BE ACCEPTED.				
			QUESTIONS ABOUT THIS INVITATION-FOR-BID MAY BE EMAILED TO LYNNBARE@EMAIL.UNC.EDU. PLEASE INCLUDE 65-3000011670 QUESTIONS IN THE EMAIL SUBJECT LINE. THE DEADLINE FOR SUBMITTING QUESTIONS FOR THIS INVITATION-FOR-BID IS 03-19-2024 AT 3:00PM EST.				
			PLEASE NOTE OUR ORDERS ARE FOB CHAPEL HILL, NC TO INCLUDE ALL COSTS OF DISTRIBUTION, FREIGHT, AND HANDLING. PLEASE INCLUDE ALL SUCH COSTS IN YOUR QUOTATION. DELIVERY: UNLESS OTHERWISE STATED BY THE BIDDER ON THE EXECUTION PAGE OF THE BID/QUOTE, SUCCESSFUL BIDDER WILL COMPLETE DELIVERY PER REQUESTED DELIVERY DATE.				
1	1.00	EA	HFA3 MODEL 860			[Y] [N]	[Y] [N]
2	1.00	EA	FREIGHT			[Y] [N]	[Y] [N]

VENDORS SHALL REFER TO THE SPECIFICATIONS NOTED BELOW --

Brand: Carl Zeiss

Equipment Description: Humphrey Field Analyzer 3 (HFA3)

Model: 860

Must have: Unit must be calibrated and certified for patient use out of the box.

Used Equipment: If unit is pre owned/used, warranty must be 3 years parts and labor.

BEST PRACTICEPLEASE CHANNEL ALL COMMUNICATIONS THROUGH PURCHASING AGENT AND HAVE NO DIRECT CONVERSATIONS WITH UNC-CH DEPARTMENT(S) TO AVOID DISQUALIFICATIONS.



Bid Number: 3000011670

ATTACHMENT E: CERTIFICATION OF FINANCIAL CONDITION

Name of Vendor: *CARL ZEISS MEDITEC USA INC*

The undersigned hereby certifies that: [check all applicable]

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 shall constitute 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 forgoing boxes is NOT checked, Vendor shall explain the reason in the space below:

Signature: _____ Date: _____

Printed Name: _____ Title: _____

[This certification must be signed by an individual authorized to sign/execute for the Vendor.]

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 of 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.