

## 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 comply with all requirements specified herein.
2. **NOTICE TO BIDDERS:** All bids are subject to the provisions of the Instructions to Bidders, special terms and conditions specific to this Request for Quotation, the specifications, and the North Carolina State University General Contract Terms and Conditions.  
The University objects to and will not evaluate or consider any additional terms and conditions submitted with a bidder 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. **DEFINITIONS:**
  - **BIDDER:** Company, firm, corporation, partnership, individual, etc., submitting a response to an Invitation for Bids.
  - **TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities only.
  - **STATEWIDE TERM CONTRACT:** A Term Contract for all agencies, unless exempted by statute, rule, or special term and condition specific to this bid.
  - **AGENCY SPECIFIC TERM CONTRACT:** A Term Contract for a specific agency.
  - **OPEN MARKET CONTRACT:** A contract for the purchase of a commodity not covered by a term contract.
4. **EXECUTION:** Failure to sign under EXECUTION section will render bid invalid.
5. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this bid, the order of precedence shall be (1) special terms and conditions specific to this bid, (2) specifications, (3) North Carolina State University General Contract Terms and Conditions, and (4) Instructions to Bidders.
6. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, bidder's offer shall be valid for 45 days from the date of bid opening. Preference may be given to bids allowing not less than 45 days for consideration and acceptance.
7. **PROMPT PAYMENT DISCOUNTS:** Bidders are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
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 bidder will be held responsible therefore. 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. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidder is to 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.
10. **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective. We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use. Companies are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.
11. **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. 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.
12. **ACCEPTANCE AND REJECTION:** The University reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the bidder, to accept any item in the 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.
13. **REFERENCES:** The University reserves the right to require a list of users of the exact item offered. The quote evaluators may contact these users to determine acceptability of the bid. Such information may be considered in the evaluation of the bid.

14. **TAXES:**
- **FEDERAL:** All agencies participating in this contract are exempt from Federal Taxes, such as excise and transportation. Exemption is claimed under Registry No. 56-70-0047K as provide by Chapter 32 of the Internal Revenue Code.
  - **OTHER:** Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
15. **AWARD OF CONTRACT:** As directed by statute, qualified bids will be evaluated and acceptance may be 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. 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. The University reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by the University to be pertinent or peculiar to the purchase in question.
16. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, the University invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
17. **CONFIDENTIAL INFORMATION:** Contractors should give specific attention to the identification of those portions of their proposals that they deem to be trade secrets and provide any justification why such materials, upon request, should not be disclosed. However, if the information you deem confidential is NOT a trade secret then the information will be released. The University may only keep information confidential to the extent permitted by NCAC T01:05B.1501 and G.S. 132-1.3.
- Contractors shall clearly identify each and every section that is deemed to be confidential, proprietary or a trade secret (it is **NOT** sufficient to preface your proposal with a proprietary statement, or to use a page header or footer that arbitrarily marks **all** pages as confidential). Any individual section of the proposal that is not labeled as confidential with an accompanying statement concerning the rationale for its claimed confidentiality shall be considered public information.
18. **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 the University's 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 contract is completed, and then returned, if requested, as specified above.
19. **PROTEST PROCEDURES:** A party wanting to protest a contract award pursuant to this solicitation must submit a written request to the Director of Purchasing, North Carolina State University, Purchasing Department, Campus Box 7212, Raleigh, NC 27695-7212. This request must be received in the University Purchasing Department within thirty (30) consecutive calendar days from the date of the contract award, and must contain specific sound reasons and any supporting documentation for the protest. NOTE: Contract award notices are sent **only** to those actually awarded contracts, and not to every person or firm responding to this solicitation. Offerors may call the purchaser listed on the first page of this document to obtain a 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.
20. **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.
21. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident bidders. The "Principal Place of Business" is defined as the principal place from which the trade or business of the bidder is directed or managed.
22. **ENTERPRISE-LEVEL IT SYSTEMS OR TECHNOLOGIES:** The University is committed to promote and integrate universal IT accessibility in the delivery of its resources and to develop innovative solutions to accessibility challenges for students, faculty and staff. Vendors must:
- a. Assure all features, components and sub-systems of the software or IT System contained on this RFQ **fully comply** with Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), (<http://www.section508.gov>);
- OR
- Detail why any feature, component or sub-system contained in this RFQ doe s not **fully comply** with Section 508, and the way in which the proposed product is out of compliance;

- b. If the Voluntary Product Accessibility Templates (VPAT) (<http://www.access-star.org/ITI-VPAT-v1.2.html>) are used, they must include compliance checklists for:
  - 1. Technical Standards,
  - 2. Function and Performance Criteria
  - 3. Documentation and Support
- c. The product offered in response to this RFQ is subject to an accessibility evaluation by the University.

**NORTH CAROLINA STATE UNIVERSITY  
PURCHASING DEPARTMENT  
RENTAL OF EQUIPMENT  
GENERAL CONTRACT TERMS AND CONDITIONS**

1. **GOVERNING LAW:**

This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.

2. **SITUS:**

The place of this contract, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.

3. **TERM OF CONTRACT:**

This Contract and Agreement is effective from the date of contract award and shall be in effect for a period of twelve (**12 months**) from the date that a machine is installed and accepted by the University subject to all terms and conditions and contained herein.

4. **CONTRACT CONTINUATION:**

The University may at its option extend this Contract, as provided for in the bidding documents, beyond the initial contract period subject to the Terms and Conditions as provided for herein.

5. **IMPLEMENTATION:**

This Contract shall be implemented by Purchase Order(s). For purpose of construing a transaction as an integrated Contract the following shall be considered a single transaction and legal and binding agreement:

- a. The Lease/Rental Agreement, reviewed and executed by authorized vendor and University officials.
- b. The Terms and Conditions contained in the Bid.
- c. A Purchase Order(s) that references the bidding document.

6. **DEFINITIONS:**

For purposes of this Contract and related documents, the listed definitions will apply.

- a. **EQUIPMENT:** The goods enumerated on the attached Purchase Order(s) and including replacement, repair parts, additional attachments and accessories.
- b. **ACCEPTANCE:** The written acknowledgement by the University that the equipment is installed and is performing satisfactorily.
- c. **ACCEPTANCE DATE:** Date when equipment is operating satisfactorily as certified by the University.
- d. **ASSIGNEE:** The person(s) to whom Contractor transfer rights of payment only pursuant to part 11 entitled **ASSIGNMENT**.
- e. **PURCHASE ORDER:** The document signed by the University which authorizes the installation of equipment by the University, describes the Contract terms for that equipment, and the University's obligations with respect to payment.

7. **AFFIRMATIVE ACTION:**

The successful contractor will take affirmative action in complying with all federal and state requirements concerning fair employment and employment of the handicapped and concerning the treatment of all employees, without regard or discrimination by reason of race, color, religion, sex, national origin or physical handicap.

8. **AMOUNT AND TIME OF PAYMENT:**

Monthly Charges will be invoiced in advance as of the first of each month or post monthly. If applicable, additional Use Charges and Monthly Use Charges will be invoiced in the month following the month in which they are incurred. When a machine model changes or feature is installed for a part of a calendar month, the Monthly Charges will be prorated on the basis of a 30-day month. Additional Use Charges will be prorated in accordance with Contractor's established practices. Payment will be made within 30 days after the date of invoice. All other charges due hereunder are payable as specified in the invoice.

9. **PRICE PROTECTION PERIOD:**

- a. The monthly rates for leased machines shall not be subject to any increase during the University's 12-month fiscal year in which notice is given for the machines installed during the fiscal year. The University's fiscal year is from July 1 to June 30.
- b. Any rate reductions which might be generally available during the contract period on the part of the Contractor to other state and local government customers will be passed on to the University, when effective, at any time during the contract period.
- c. Price increases may be allowed, subject to the following:
  1. Notification must be submitted in writing to the using department and the North Carolina State University Purchasing Department at least 90 days prior to the effective date of increase.
  2. The University reserves the right to accept the price increase, or terminate the Contract as provided.

10. **SITE PREPARATION:**

Site preparation specifications shall be furnished in writing by the Contractor in conjunction with the bidding documents. These specifications shall be in such detail as to ensure that the equipment to be installed shall operate efficiently from the point of view of environment. The Contractor shall advise as to the adequacy of the University's planned layout of the equipment.

The University will prepare the site as its own expense and in accordance with specifications as furnished by the Contractor.

Any alterations or modification in site preparation which are directly attributable to incomplete or erroneous specifications provided by the Contractor and which would involve additional expenses to the University, shall be made at the expense of the Contractor.

11. **ASSIGNMENT:**

The University agrees not to sell, assign, lease, pledge or otherwise encumber or suffer a lien upon or against any interest in this agreement or the equipment or to remove the equipment from its place of installation without the Contractor's prior written consent. Consent to any one of the foregoing actions applies only in the given instance and is not a consent to any subsequent like acts by the University or any other person. The Contractor agrees not to assign, lease or pledge this equipment. The University recognizes that the Contractor may assign his right to receive payment under this Contract with written permission of the University. In no event does the recognition of assignment of the Contractor's right to receive payments obligate the University to anyone except the Contractor. The University merely recognizes financial assignment as a convenience to the Contractor and will hold the Contractor responsible for fulfillment of all contract obligations. Payments under an assignment of financial rights must be in accordance with the General Statutes of North Carolina as follows:

- a. Check made payable to the Contractor and Contractor endorses it over to the Assignee.
- b. Check made payable to the Contractor and forwarded directly to Assignee.
- c. Check made payable jointly to the Contractor and Assignee and forwarded directly to the Assignee.

12. **CONTRACT TERMINATION:**

This Contract is effective from the date of acceptance by the University until terminated, in whole or in part, as provided below:

- a. **TERMINATION FOR NON-AVAILABLE FUNDS:** The University's obligations to pay any amounts due under the proposed Contract are contingent upon availability and continuation of funds for that purpose. In the event of non-available funds, the University may terminate this Contract by giving the Contractor thirty (30) days prior written notice. All payment obligations of the University and interests in the equipment will cease upon the date of termination. Notwithstanding the foregoing, the University agrees (i) not to effect termination of the Contract under this provision if funds are available to continue the Contract for this or functionally similar equipment; and (ii) that it will use its best efforts to obtain approval of the necessary funds to continue the Contract by taking appropriate action to request adequate funds to continue the Contract in force.
- b. **ACTIVITY DISCONTINUANCE:** This Contract may be terminated with thirty (30) days written notice to the Contractor if the organizational activity within the University Department using the equipment is discontinued or disestablished.
- c. **TERMINATION AFTER INITIAL CONTRACT PERIOD:** The University may, at its discretion, terminate this Contract at the end of the initial contract period stated in part 1 of this Contract for any reason including, but not limited to, an indication that revision(s) in equipment would be to the University's advantage; cancellation of or changes in the intended project or other determination that the equipment is no longer needed; the limitation or lack of personnel for operations; or a general market or technology change that would make termination more advantageous to the University.

Unless otherwise indicated in the bid, such termination of the Contract would be without additional cost.

- d. **CONTRACT CONVERSION:** After having served written notification of termination, the University, upon notice to the Contractor, shall have the right to rent the equipment on a month-to-month basis at the Contractor's then current commercial rates.

- e. **PENALTY CHARGES:** Unless otherwise indicated in the bid, in any case of termination, as stated above, the University shall not be obligated to pay charges of any type for termination or penalty.
- f. Termination of the Contract must be accompanied by evidence of approval of the North Carolina State University Purchasing Department.
13. **DEFAULT AND REMEDIES:**
- DEFAULT:** Any of the following events will constitute an Event of Default under this Contract:
- a. The University fails to make any payment required when due and such failure continues after written notice by the Contractor for a period of thirty (30) days after the written notice is given and the Contractor is not himself in default.
- b. The University fails to observe or perform any other covenants, conditions or agreements of the Contract and such failure continues for thirty (30) days without cure after the Contractor provides the University written notice of the failure.
- c. The Contractor fails to apply any payment required to be paid under this Agreement towards retirement of the University's obligation hereunder.
- d. The Contractor fails to comply with this Agreement, or otherwise observe, keep or perform any provision of this Agreement required to be observed, kept or performed by Contractor.
- e. **EXCEPTIONS:** Except with respect to defaults of subcontractors, the Contractor shall not be liable for a failure to comply with this Agreement which arises out of causes beyond the control of and without the fault or negligence of the Contractor. If the failure is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs.
14. **REMEDIES:** In the event of default as specified above, failure by either the Contractor or the University to remedy such default within a period of thirty (30) days from receipt of written demand by either party, the Contractor or the University may, at its respective option as may be applicable, take any of the following actions:
- a. Proceed by appropriate court action(s) to enforce performance of the applicable covenants of this Contract or to recover damages for breach.
- b. The University may terminate said Contract and direct the Contractor to remove all equipment at the Contractor's expense with no cost to be incurred by the University.
15. **FURTHER REMEDIES:** All remedies of the Contractor and the University are cumulative and may be exercised concurrently or separately. The exercise of any other remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy.
- In addition, in the event of default by the Contractor under this contract, the State may immediately cease doing business with the Contractor, immediately terminate for cause all existing contracts the State has with the Contractor, and de-bar the Contractor from doing future business with the State.
- Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the State may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the State, and de-bar the Contractor from doing future business with the State.
16. **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 by an act of war, hostile foreign action, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
17. **OPERATIONAL USE TIME:**
- Unless otherwise indicated in the bid, lease rates as bid shall allow unlimited use of the equipment at the convenience of the University, and shall not be restricted to consecutive hours, length of personnel shifts, or any other reason.
18. **TRANSPORTATION CHARGES:**
- Transportation charges will be prepaid by the Contractor and invoiced to the University as a separate item. Rigging and drayage charges will be the responsibility of the University.
19. **EQUIPMENT RETURN:**
- The University is responsible for the return costs related to the termination of equipment except in the case of default by the Contractor, including de-installation, rigging, drayage and freight to destination within the Continental United States.

20. **NON-PERFORMANCE:**

Equipment and programming aids furnished by the Contractor to fulfill technical requirements shall be in good working order and be maintained in good working order for the duration of the Contract. If during the period while equipment is under Full Service Maintenance the University determines the equipment is not rendering satisfactory service, the Contractor will review with the University the service activity of such equipment and determine an action to satisfy the University.

21. **GENERAL INDEMNITY:**

The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses, with the exception of consequential damages, accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

22. **PATENT INDEMNITY:**

The Contractor will defend, at its own expense, any action brought against the University to the extent that it is based on a claim that the machines (or programming) supplied by the Contractor infringe a United States Patent, and the Contractor will pay any costs which are attributable to any such claims, but such defense and payments are conditioned on the following: (a) that the Contractor shall be notified promptly in writing by the University of any notice of such claim; and (b) that the Contractor shall have sole control of the defense of any action on such claim and all negotiation for its settlement or compromise; and (c) should the machines become or in the Contractor's opinion be likely to become, the subject of a claim of infringement of a United States Patent, that the University shall permit the Contractor, at its option and expense, either to procure for the University the right to continue using the machines, to replace or modify the same so that they become non-infringing, or to discontinue the machines and accept their return. The Contractor shall have no liability to the University under any provisions of this clause with respect to any claim of patent infringement which is based upon combination of machines or programming supplied hereunder with machines or devices or programming not supplied by the Contractor. The foregoing states the entire liability of the Contractor with respect to infringement of patents by the machines or any parts thereof.

23. **INSTALLATION AND DELIVERY:**

- a. The Contractor shall install equipment ready for use by the installation dates specified.
- b. Installation dates may be changed by mutual consent of the University and the Contractor.
- c. The University agrees to have the site prepared in accordance with the Contractor's written minimum site and environmental requirements by the facility readiness date, but not later than 30 days prior to the installation date.
- d. If the equipment is certified to be ready for use prior to the installation date, the University, at its option, may elect to use the equipment and change the installation date accordingly.
- e. The method of shipment shall be consistent with the nature of the machines and hazards of transportation.
- f. Installation shall be performed in a professional and workmanlike manner and conform with all recommendations of the manufacturer, and good construction and engineering practices.
- g. During the period of installation the facilities may be in use by the user. The Contractor shall schedule and coordinate the work with the user to cause the least possible interference with or interruption of the user's activities in and around the facilities. It is intended that work within the building be performed during normal working hours of the user.
- h. The Contractor shall be completely responsible for any damages caused solely by the Contractor or its agent(s) to the building, its contents, or the surrounding grounds as a direct result of the installation of any equipment.
- i. Upon completion of the work, the Contractor shall clean up all debris, cartons, etc., which was caused specifically by the Contractor or its agent(s) and shall maintain all exit ways free and clear at all times.

24. **INSPECTION:**

The University will allow the Contractor to enter the premises where the equipment is located during normal business hours subject to the University Security Policies for the purposes of inspecting the equipment and determining whether the University is in compliance with its responsibilities. All University parking is restrictive.

25. **TITLE:**

Title to the equipment is to be conveyed to the University effective upon University's exercising of any available purchase option. Title will remain with Contractor until that time.

26. **SECURITY INTEREST:**

Contractor retains a security interest in the equipment. The University will not change or remove any insignia or lettering which Contractor may place on the equipment to indicate its interest therein. The University will keep the equipment free from any lien, encumbrance or legal process and the University will discharge such claims as it is responsible for creating or causing. The Contractor will release its security interest in the equipment upon exercising of any available purchase option by the University.

27. **FILING:**

The University authorizes the Contractor to make Contractor's security interest a matter of public record by the filing of contract documents.

28. **PERSONAL PROPERTY:**

The equipment will remain personal property and shall not be affixed to realty so as to change its character to that of a fixture.

29. **WARRANTIES AND REPRESENTATIONS OF THE UNIVERSITY:**

The University represents and warrants to Contractor and so long as this Contract is in effect or any part of University obligations to Contractor remain unfulfilled, shall continue to warrant at all times that:

- a. The University is a fully organized and validly existing political subdivision or agency of the State of North Carolina thereof and has the power and authority to enter into the Transaction Documents to which it is party and to carry out the terms thereof.
- b. The Contract and all other Transaction Documents and the performance of University's obligations thereunder have been duly and validly authorized and approved under all laws and regulations and procedures applicable to the University; the consent of all necessary persons or bodies has been obtained, and; all of the Transaction Documents executed by the University have been duly and validly executed and delivered by authorized representatives of the University and constitute valid, legal and binding obligations of the University enforceable against the University in accordance with their respective terms.

30. **RISK OF LOSS OR DAMAGE:**

Unless otherwise indicated in the bid, risk of loss or damage shall be on the University, after the date of installation or completion of the standard of performance if required by the specifications.

31. **PAYMENTS:**

All payments due under this Contract are solely the responsibility of the using department; the North Carolina State University Purchasing Department is responsible for awarding the contract and enforcing its terms, conditions, and other stated provisions, but has no liability with respect to payments, breaches, or penalties.

32. **WAIVER:**

No delay or omission by Contractor in exercising any right in any of the Transaction Documents shall operate as a waiver of that or any other right and no single or partial exercise of any right shall preclude Contractor from any or further exercise of any right or remedy.

33. **HEADINGS:**

All section headings contained herein are for clarification and convenience of reference only and are not intended to limit the scope of any provision of this Contract.

34. **SEVERABILITY:**

In the event any portion of this Contract shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed void and the remainder of this Contract shall continue in full force and effect.

35. **MAINTENANCE OF EQUIPMENT:**

a. **GENERAL**

- (1) The Contractor shall keep the equipment in good operating condition and shall always be responsive to the maintenance requirements of the University. For this purpose, the Contractor shall have full access to the equipment subject to the security policies and procedures of the University. Maintenance of equipment shall be provided on an "on call" basis. All University parking is restrictive.
- (2) Upon request, the Contractor shall specify the preventive maintenance schedule required for each system. The University will allow the Contractor time for preventive maintenance. Preventive maintenance will normally be performed at a time mutually agreed to by the University and the Contractor.

- (3) All remedial maintenance will be performed promptly after notification of equipment becoming inoperative. Contractor shall provide the University with a designated point of contact and shall make arrangements to enable its maintenance representative to receive such notification.
- (4) There will be no charge for travel expense associated with maintenance service under this Agreement except that actual travel expenses shall be charged in those instances where the site at which the machine is located is not normally accessible by private automobile or scheduled public transportation.
- (5) The University agrees to pay, at Contractor's applicable time and material rates then in effect, all charges for maintenance and other service activities, or to pay for loss of or damage to machine, caused by (1) use of the machine for other than the purposes for which it was designed, or (2) alterations and attachments. The University also agrees to pay, at Contractor's applicable time and material rates then in effect all charges for repair of damage, replacement of parts (due to other than normal wear) or repetitive service calls caused by the use of supplies.
- (6) All maintenance and other service activities (including but not limited to activities related to pre-installation planning, inspections, relocation of machines, and engineering changes) which may be made available by Contractor to the University at no additional charge, or at Contractor's then applicable time and material charges, in connection with any machines or programming supplied under this Agreement shall be subject to the terms and conditions of the Agreement unless such activities are provided under another written agreement signed by the University and Contractor.

b. **REPLACEMENT PARTS**

There will be no extra charge for replacement parts, except as provided in Paragraph (5) above.

c. **MAINTENANCE CHARGES**

Unless otherwise indicated in the bid, the basic use charges and extra use charges described in the bid include all maintenance costs, and the University will pay no separate maintenance charges for use or extra use.

d. **MAINTENANCE LOG**

For remedial maintenance activity, the Contractor shall, upon request, provide the following information on a University sponsored maintenance log jointly maintained by the Contractor and the University.

- 1. Time of arrival
- 2. Time of repair completed
- 3. General description of repair action

e. **MAINTENANCE FACILITIES**

The University will provide adequate storage space for spare parts, and adequate working space, including heat, light, ventilation, electric current (120 VAC, 60 Hz, 20 amp only) and outlets, for the use of the Contractor's maintenance personnel. These facilities will be within a reasonable distance of the equipment to be serviced and shall be provided at no charge to the Contractor.

36. **NEED FOR EQUIPMENT DUE TO EMERGENCY:**

- a. The Contractor shall make every effort to assist the University in procuring use of equipment compatible with that used by the University to meet emergencies, such as a major breakdown, unforeseen peakloads, etc.
- b. The University, at its option, may accept or reject the offer of use of emergency equipment. If accepted, the charge for such use, if any, shall be a separate arrangement between the requesting department and the University Purchasing Department or the commercial concern providing the machine time.

37. **ADDITIONAL EQUIPMENT AND MAJOR FIELD MODIFICATIONS:**

- a. Additions or replacements of equipment under this Agreement shall be made only upon the prior written approval of the University and acceptance by the Contractor.
- b. The contractor may provide for major on-site field modification of equipment. Contractor shall use its best efforts to effect such modifications with minimum disruption of University's operating schedule. It is agreed that any Contractor initiated engineering changes shall be installed at a time mutually agreeable to University and Contractor.

38. **ALTERATIONS AND ATTACHMENTS:**

An alteration is defined as any change to a machine which deviates for Contractor's physical, mechanical or electrical machine design whether or not additional devices or parts are required. An attachment is defined as the mechanical, electrical or electronic interconnection to a machine which is not supplied by Contractor. An alteration or attachment to a machine may be made only upon approval by the Contractor, which approval shall not be unreasonably withheld. The University agrees to pay all charges related to the alteration or attachment as described in Paragraph 33 "Maintenance of Equipment". The University further agrees to remove any alteration or attachment and to restore the machine to its normal, unaltered condition prior to its return to Contractor, or upon notice from Contractor that the alteration or attachment creates a safety hazard or renders maintenance of the machine impractical.

39. **INSURANCE:**

The University is covered under a program of self insurance. The University will provide to Contractor a letter or other document from its insuring authority evidencing the existence of the continuing self-insurance program insuring the full insurable value of each commercial unit of the equipment against loss from fire and hazards. The University will provide a minimum of ten (10) days written notice to Contractor of any change or cancellation of said self insurance program.

In the event the University is not covered under a program of self insurance or the University's self insurance program is unavailable or terminated, the University agrees to procure and maintain with a carrier authorized to do business in North Carolina and acceptable to Contractor, which acceptance shall not be unreasonably withheld, such fire, theft, and extended coverage insurance on the equipment as is necessary to insure the full insurable value of each commercial unit of the equipment against risk of loss of damage, and providing for a minimum of ten (10) days written notice of change or cancellation to Contractor. Each policy of insurance shall be endorsed with such insurance coverage. This Agreement does not provide for or require any insurance coverage for bodily injury and property damage to others.

40. **RESALE PRICE MAINTENANCE:**

The State of North Carolina has no Fair Trade Law, and this or any type of resale price maintenance exercised in prices offered will be subject to appropriate legal remedies.

41. **CONDITION AND PACKAGING:**

Unless otherwise indicated in the bid, it is understood and agreed that any item offered or shipped on this bid shall be new and in first class condition, that all containers shall be new and suitable for storage or shipment, and that prices include standard commercial packaging.

42. **MANUFACTURER'S NAMES:**

Any manufacturers' names, trade names, brand names, information and/or catalog numbers used herein are for purposes(s) of description and establishing general quality levels. Such references are not intended to be restrictive and products of any manufacturer may be offered.

43. **SPECIFICATIONS:**

Any deviation from specifications indicated herein must be clearly pointed out; other, it will be considered that items offered are in strict compliance with these specifications, and the successful bidder will be held responsible therefore. Deviations must be explained in detail on an attached sheet(s).

44. **SAFETY STANDARDS:**

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 the appropriate safety standard organization, such as the American Society of Mechanical Engineers for pressure vessels; the Underwriter's 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(s) of devices offered and furnished. Further, all items furnished by the successful bidder shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

All contractors must comply with *North Carolina Occupational Safety and Health Standards for General Industry, 29CFR 1910*. Construction contractors must comply with *North Carolina Occupational Safety and Health Standards for the Construction Industry, 29CFR 1926*. In addition, contractors shall comply with all applicable occupational health and safety and environmental rules and regulations.

Contractors shall effectively manage their safety and health responsibilities including:

1. **ACCIDENT PREVENTION**

Prevent injuries and illnesses to their employees and others on or near their job site. Contractor managers and supervisors shall ensure employer's personnel safety by strict adherence to established safety rules and procedures.

2. **ENVIRONMENTAL PROTECTION**

Protect the environment on, near, and around their work site by compliance with all applicable environmental regulations.

3. **EMPLOYEE EDUCATION AND TRAINING**  
Provide education and training to all contractors employees before they are exposed to potential workplace or other hazards as required by specific OSHA Standards.
45. **INFORMATION AND DESCRIPTIVE LITERATURE:**  
Bidders are to furnish all information requested in the spaces provided on the bid form. Further, as may be specified elsewhere, each bidder must submit with his proposal cuts, sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid does not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection.
46. **AWARD AND PAYMENT:**  
As directed by statutes, all qualified bids will be evaluated and award will be made to the lowest and best bid(s) deemed most advantageous to the University. Acceptance is to be confirmed by purchase order(s) issued on the part of the using department, including shipping and billing instructions; the department is responsible for all payments under the award, to be based on the contract price(s) in effect on the date the order is placed.
47. **GOVERNMENTAL RESTRICTIONS:**  
In the event any governmental restrictions may be imposed which should necessitate alteration of the material, quality, workmanship or performance of the items procured under this Contract prior to their delivery, it shall be the responsibility of the Contractor to notify the University at once, indicating in his letter the specific regulation which required such alterations. The University reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
48. **ADVERTISING:**  
Contractor shall not use the existence of this contract or the name of the State of North Carolina or North Carolina State University as part of any advertising.
49. **LIST OF BIDDERS:**  
Prospective bidders may be included on or removed from bid lists after taking into consideration responsiveness as a bidder and other factors as listed in the N.C. Administrative Code, Section 5B.0302.
50. **ADMINISTRATIVE CODE:**  
Bids, proposals, and awards are subject to applicable provisions of the North Carolina Administrative code.
51. **OPTION TO PURCHASE:**  
The University shall have the option of purchasing the equipment at any time during the term of this Contract in accordance with the terms of the Option to Purchase section of the bidding documents. The University will issue a change to the purchase order to exercise the purchase option.
52. **ACCESS TO PERSONS AND RECORDS:** The State or university auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Further, the University Internal Auditor shall have the same access to persons and records.
53. **YEAR 2000 COMPLIANCE/WARRANTY:** Vendor shall ensure the product(s) and service(s) furnished pursuant to this agreement ("product" shall include, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) which perform any date and/or time data recognition function, calculation, or sequencing, will support a four digit year format, and will provide accurate date/time data and leap year calculations on and after December 31, 1999, at the same level of functionality for which originally acquired without additional cost to the user. This warranty shall survive termination or expiration of the agreement.
54. **DEBARMENT CERTIFICATION:** Offeror certifies to the best of its knowledge and belief, that it nor any of its principals a) are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contract by any Federal agency; b) have not within a three year period preceding this award been convicted of or had a civil judgment rendered against them for: commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to this submission of offers; or commission of embezzlement, theft, forgery, bribery, falsifications or destruction of records, making false statements, or receiving stolen property; and c) are not presently indicted for, or otherwise criminally or civilly charged by a government entity with, commission of any of these offenses enumerated herein. The offer certifies that they have not, within a three year period preceding this offer, had one or more contracts terminated for default by any federal agency.

“Principals” for the purpose of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segments, and similar positions.)

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution. Certification of this provision is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the University, the University may terminate this agreement for default.

Offeror hereby certifies these conditions and does so by signing the execution page of this quote document.

55. **PERSONAL IDENTIFIERS:** If the University provides the Contractor with personal identifiers as listed in North Carolina General Statute 131-1.10 or any other legally confidential information, Contractor hereby certifies that, pursuant to NCGS 132-1.10, collection of social security number information or other legally confidential information from University is necessary for the performance of Contractor duties and responsibilities on behalf of the University. Contractor further certifies that it shall maintain the confidential and exempt status of any such social security number information, as required by subsection (c)(1) of the statute.

YOUR COMPANY NAME \_\_\_\_\_

### REFERENCES

OFFERORS MUST LIST THREE (3) REFERENCES FOR WHOM THEY HAVE PERFORMED SIMILAR WORK DURING THE PAST THREE (3) YEARS.

(1) FIRM'S NAME \_\_\_\_\_

BUSINESS ADDRESS \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_

TELEPHONE # \_\_\_\_\_

(2) FIRM'S NAME \_\_\_\_\_

BUSINESS ADDRESS \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_

TELEPHONE # \_\_\_\_\_

(3) FIRM'S NAME \_\_\_\_\_

BUSINESS ADDRESS \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_

TELEPHONE # \_\_\_\_\_

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR QUOTATION.**

**EXECUTION OF QUOTATION**

**Date:** \_\_\_\_\_

The potential Contractor certifies the following by placing an "X" in all blank spaces:

- \_\_\_\_\_ That this proposal was signed by an authorized representative of the firm.
- \_\_\_\_\_ That the potential Contractor has determined the cost and availability of all materials and supplies associated with performing the services outlined herein.
- \_\_\_\_\_ That all labor costs associated with this project have been determined, including all direct and indirect costs.
- \_\_\_\_\_ That, if required, the potential Contractor has attended the pre-quotation conference and is aware of the prevailing conditions associated with performing these services.
- \_\_\_\_\_ That the potential Contractor agrees to the conditions set forth in this Request for Quotation with no exceptions, and that the proposing vendor has made no changes to the original requirements or terms of the RFQ.
- \_\_\_\_\_ That the potential Contractor can obtain a performance bond, if required herein, and insurance as specified.
- \_\_\_\_\_ That the proposal is submitted competitively and without collusion, that none of our 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.G.S. §143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I Felony.

Therefore, in compliance with the foregoing Request for Quotation, and subject to all terms and conditions thereof, the undersigned offers and agrees, if this proposal is accepted within thirty (30) days from the date of the opening, to furnish the services for the prices quoted within ten (10) days of receipt of order.

CONTRACTOR \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY AND STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ PHONE \_\_\_\_\_

BY \_\_\_\_\_ TITLE \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
TYPED OR PRINTED NAME                      FEDERAL IDENTIFICATION #

\*\*\*\*\*  
ACCEPTANCE OF QUOTATION (NC State Use Only)                      DATE: \_\_\_\_\_

AGENCY \_\_\_\_\_ CITY AND STATE \_\_\_\_\_

BY \_\_\_\_\_ TITLE \_\_\_\_\_  
(Signature)

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS PART OF YOUR QUOTATION.**