



**University of North Carolina at Charlotte
REQUEST FOR PROPOSALS**

RFP #66-160083 SB

TITLE: Mobile Payment Application for Parking Fees

USING DEPARTMENT: Parking and Transportation Services (PaTS)

ISSUE DATE: March 8, 2016

CLOSING DATE: Tuesday, March 29, 2016 @ 2:00 PM

ISSUING AGENCY: UNC Charlotte
Purchasing Department

Sealed Proposals subject to the conditions made a part hereof will be received until **2:00 PM, Tuesday, March 29, 2016** for furnishing services described herein. Proposals are subject to rejection unless submitted on the form(s) provided. This proposal as well as any addenda is posted to the North Carolina Interactive Purchasing website at <https://www.ips.state.nc.us/IPS/Default.aspx>. It is the vendor's responsibility to check for updates and include them with their proposal.

SEND ALL PROPOSALS DIRECTLY TO THE ADDRESS SHOWN BELOW:

**RFP # 66-160083 SB
UNC Charlotte
Purchasing Department (Reese Bldg.)
9201 University City Blvd
Charlotte, NC 28223**

IMPORTANT NOTE: Indicate firm name and RFP number on the front of your sealed proposal package, along with the closing date for receipt of proposals as specified above.

RFP's submitted via fax machine, telephone, and/or e-mail, in response to this Request for Proposals will not be acceptable.

Direct ALL inquiries concerning this RFP to: Scott Brechtel, Purchasing Manager
sjbrecht@uncc.edu

Questions concerning this RFP must be received via email no later than: March 16, 2016 @ 2:00PM

The Proposal Process

The University of North Carolina at Charlotte, hereinafter to be referred to as the 'University' or 'UNC Charlotte', invites vendors, hereafter referred to as 'Contractor' or 'Offeror', to submit responses to this Request for Proposals (RFP) in accordance with the terms, conditions, and specifications that are included herein.

The following is a general description of the process by which a firm will be selected to provide this service.

1. Request for Proposals (RFP) is issued.
2. A pre-proposal conference and/or deadline for written questions is set.
3. Proposals -- **one (1) original and one (1) electronic version on a flash drive or CD, along with any required samples** -- will be received from each offeror in a sealed envelope or package. The proposal shall be signed and dated by an official authorized to bind the firm. Unsigned proposals will not be considered. Faxed or emailed proposals will not be considered.
4. All proposals must be received by the issuing agency not later than the date and time specified on the cover sheet of this RFP.
5. At that date and time the package containing the proposals from each responding firm will be opened publicly and the name of the offeror will be announced. Interested parties are cautioned that the proposals and their components are subject to further evaluation for completeness and will not be made public until after award of contract.
6. At their option, the evaluators may request oral presentations or discussion with any or all offerors for the purpose of clarification or to amplify the materials presented in any part of the proposal. Contractors are cautioned that the University is not obligated to ask for, nor accept, after the closing date for receipt of proposals, data which is essential for a complete and thorough evaluation of the proposal. The University may award a contract based on initial offers received without the discussion of such offers. Accordingly, each initial proposal should be submitted on the most favorable and complete pricing and technical terms possible.
7. Proposals will be evaluated according to completeness, content, and experience with similar projects, ability of the offeror and its staff, and cost. Award of a contract to one offeror does not mean that the other proposals lacked merit, but that, all factors considered, the selected proposal was deemed most advantageous to the University.
8. Offerors are cautioned that this is a request for offers, not a request to contract, and this solicitation does not commit The University of North Carolina at Charlotte or the State of North Carolina to award a contract, to pay any costs incurred in the preparation of a proposal, or to procure or contract for the articles of goods or services. The University reserves the right to accept or reject any or all proposals received as a result of this request and to cancel in part or in its entirety this request for proposals, if it is in the best interest of the University to do so.

Prohibited Communications: FROM THE ISSUANCE DATE OF THIS RFP THROUGH THE DATE THE CONTRACT IS AWARDED, EACH OFFEROR (INCLUDING ITS SUBCONTRACTORS AND/OR SUPPLIERS) IS PROHIBITED FROM HAVING ANY COMMUNICATIONS WITH A PERSON AT THE UNIVERSITY CONNECTED TO THIS SOLICITATION DISCUSSING THE CONTENT OF OFFEROR'S PROPOSAL OR QUALIFICATIONS, THE CONTENTS OF ANOTHER OFFEROR'S PROPOSAL, ANOTHER OFFEROR'S QUALIFICATIONS OR ABILITY TO PERFORM THE CONTRACT, AND/OR THE TRANSMITTAL OF ANY OTHER COMMUNICATION OF INFORMATION THAT HAS THE EFFECT OF DIRECTLY OR INDIRECTLY INFLUENCING THE EVALUATION OF PROPOSALS AND/OR THE AWARD OF THE CONTRACT. OFFERORS NOT IN COMPLIANCE WITH THIS PROVISION SHALL BE DISQUALIFIED FROM CONTRACT AWARD, UNLESS IT IS DETERMINED THAT THE BEST INTEREST OF THE STATE WOULD NOT BE SERVED BY THE DISQUALIFICATION. AN OFFEROR'S PROPOSAL MAY BE DISQUALIFIED IF ITS SUBCONTRACTORS OR SUPPLIERS ENGAGE IN ANY OF THE FOREGOING COMMUNICATIONS DURING THE TIME THAT THE PROCUREMENT IS ACTIVE (I.E., THE ISSUANCE DATE OF THE PROCUREMENT TO THE DATE OF CONTRACT AWARD). ONLY THE DISCUSSIONS, COMMUNICATIONS OR TRANSMITTALS OF INFORMATION AUTHORIZED IN THIS RFP OR GENERAL INQUIRIES TO THE PURCHASING AGENT REGARDING THE STATUS OF THE CONTRACT AWARD ARE EXEMPT FROM THIS PROVISION. ALL COMMUNICATION DURING THE PROCUREMENT PROCESS MUST BE DIRECTED TO THE PURCHASING AGENT LISTED ON THE FIRST PAGE OF THIS DOCUMENT.

GENERAL INSTRUCTIONS FOR SUBMITTING PROPOSALS

1. **EXCEPTIONS:** All proposals are subject to the terms and conditions outlined herein. All responses shall be controlled by such terms and conditions and the submission of other terms and conditions, price lists, catalogs, and/or other documents as part of an offeror's response will be waived and have no effect either on this Request for Proposals or on any contract that may be awarded resulting from this solicitation.

Offeror specifically agrees to the conditions set forth in the above paragraph by signature to the proposal.

2. **CERTIFICATION:** By executing the proposal, the signer certifies that this proposal is submitted competitively and without collusion (G.S. 143-54), 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 (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.
3. **ORAL EXPLANATIONS:** The University shall not be bound by oral explanations or instructions given at any time during the competitive process or after award.
4. **REFERENCE TO OTHER DATA:** Only information which is received in response to this RFP will be evaluated; reference to information previously submitted shall not be evaluated.
5. **ELABORATE PROPOSALS:** Elaborate proposals in the form of brochures or other presentations beyond that necessary to present a complete and effective proposal are not desired.
6. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by offerors in preparing or submitting offers are the offerors' sole responsibility; the University will not reimburse any offeror for any costs incurred prior to award.
7. **TIME FOR ACCEPTANCE:** Each proposal shall state that it is a firm offer which may be accepted within a period of 45 days. Although the contract is expected to be awarded prior to that time, the 45 day period is requested to allow for unforeseen delays.
8. **TITLES:** Titles and headings in this RFP and any subsequent contract are for convenience only and shall have no binding force or effect.
9. **CONFIDENTIALITY OF PROPOSALS:** In submitting its proposal the offeror agrees not to discuss or otherwise reveal the contents of the proposal to any source outside of the using or issuing agency, government or private, until after the award of the contract. Offerors not in compliance with this provision may be disqualified, at the option of the University, from contract award. Only discussions authorized by the issuing agency are exempt from this provision.
10. **RIGHT TO SUBMITTED MATERIAL:** All responses, inquiries, or correspondence relating to or in reference to the RFP, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the offerors shall become the property of the University when received.
11. **OFFEROR'S REPRESENTATIVE:** Each offeror shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.
12. **SUBCONTRACTING:** Offerors may propose to subcontract portions of the work provided that their proposals clearly indicate what work they plan to subcontract and to whom and that all information required about the prime contractor is also included for each proposed subcontractor.
13. **PROPRIETARY INFORMATION:** Trade secrets or similar proprietary data which the offeror does not wish disclosed to other than personnel involved in the evaluation or contract administration will be kept confidential to the extent permitted by NCAC T01:05B.1501 and G.S. 132-1.3 if identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL". Any section of the proposal which is to remain confidential shall also be so marked in boldface on the title page of that section. Cost information may not be deemed confidential. In spite of what is labeled as confidential, the determination as to whether or not it is shall be determined by North Carolina law.
14. **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.

15. **PROTEST PROCEDURES:** When an offeror wants to protest a contract awarded by the University resulting from this solicitation, they must submit a written request to the Director of Materials Management, UNC Charlotte, 9201 University City Blvd, Charlotte, NC, 28223. This request must be received within thirty (30) consecutive calendar days from the date of the contract award. Protest letters must contain specific 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. Contract status and Award notices are posted on the Internet at <http://www.doa.state.nc.us/pandc/>. 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. (See Protest Information at <http://www.doa.state.nc.us/PandC/protests.pdf> for more information.)
16. **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System. Online registration and other purchasing information are available on our Internet web site: <http://www.doa.state.nc.us/pandc/>.
17. **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 offerors. The "Principal Place of Business" is defined as the principal place from which the trade or business of the offeror is directed or managed.
18. **QUESTIONS CONCERNING THE RFP** – All questions or requests for clarification or interpretation of this RFP and its associated documents shall be identified by UNC Charlotte's RFP number and must be received in writing via e-mail. All questions are to be directed to the Purchasing Agent listed on the first page of this document and must be received by the stated deadline.
- All responses to these questions will be in the form of an addendum to be shared equally with all offerors, as appropriate. UNC Charlotte will not be responsible for oral instructions.
19. **EXECUTION** - An official authorized to bind the company must sign the Proposal Response. Failure to sign under the EXECUTION section will render proposal invalid.
20. **OBLIGATIONS OF THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE** – Neither the transmission of this RFP to a prospective offeror nor the acceptance of a reply should imply any obligation or commitment on the part of UNC Charlotte. Specifically, there will be no obligations to pay for proposal preparation work, site visits, pre-project work or any obligation to enter into a contract or agreement. UNC Charlotte reserves the right to accept or reject any offer submitted.

THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE
REQUEST FOR PROPOSAL #66-160083 SB
Mobile Payment Application for Parking Fees

1) BACKGROUND

The University of North Carolina at Charlotte was established in 1965 by the North Carolina General Assembly which transformed Charlotte College, with beginnings in 1946, into a campus of The University of North Carolina. It is organized into the following seven colleges: College of Arts & Architecture, College of Liberal Arts & Sciences, College of Business, College of Education, College of Engineering, College of Health and Human Services, and the College of Computing and Informatics. It offers a broad array of degree programs at the undergraduate, graduate, and doctoral levels and also in graduate certificate programs.

Enrollment is approximately 27,000 with 19 percent of the students pursuing graduate degrees. The University is expected to reach enrollment of 35,000 students by the year 2020.

2) INVITATION

The University of North Carolina at Charlotte (“University”; “UNC Charlotte”) invites respondents to provide a Mobile Payment Application to integrate with UNC Charlotte’s existing parking system operated by Parking and Transportation Services (PaTS). The University has issued this RFP to define the University's minimum service requirements, detail proposal requirements, and outline the University’s process for evaluating proposals and selecting the contractor.

Responses are expected to define the systems/tools, implementation methodology, timing, resource needs, etc. to be used to provide a comprehensive and integrated solution to address the University’s mobile parking payment needs. UNC Charlotte is seeking a comprehensive system as well as deployment of the proposed solution; proposals that do not include implementation and support will not be considered for award. As indicated in the General Instructions above, vendors may sub-contract for services included in implementation, however, all subcontractors and their respective project roles should be clearly identified in the proposal.

This project will be designed and delivered in communication and collaboration with the UNC Charlotte Parking and Transportation Services (PaTS), Business Services, eCommerce and any other pertinent stakeholders identified by that work group.

It is important for the University to have a solution that will allow for scalability for the growth in size and complexity into the future, as well as something that can be deployed effectively and expeditiously in the current environment.

Respondents may be asked to come to campus for on-site meetings to discuss their proposals, provide clarifications, and if necessary, to provide a demonstration of the software. On-site meetings are at the sole discretion of the University, so respondents are encouraged to submit a complete, accurate, and thoroughly written proposal containing their best possible offer.

Any costs incurred in preparing or submitting responses are the offeror’s sole responsibility as the University will not reimburse any costs incurred including travel to Charlotte, NC, or any costs associated with any demonstration or presentation. The University reserves the right to distribute a second RFP should it be deemed necessary, at the sole discretion of the University.

3) SCOPE OF WORK

UNC Charlotte seeks to implement a mobile payment application to integrate with existing applications operated by PaTS. The mobile payment application or Pay by Phone application will allow students, faculty, staff and visitors to pay for parking in visitor designated lots. The application will be required to report legally parked vehicles in real-time to parking control officers.

Current Environment

UNC Charlotte currently operates ten (10) parking decks (garages), five (5) of which are managed by 3M's Enterprise Facilities Management Software (EFMS), formerly Federal APD. These five (5) visitor facilities allow patrons to enter via a mag-stripe ticket dispenser and charge for services upon exit. UNC Charlotte wishes to capitalize on the latest technologies to reduce transaction time in exit lanes.

UNC Charlotte also manages three (3) LUKE II machines. The LUKE II was manufactured by Digital Payment Technologies but is currently supported by T2 Systems. These multi-space meters allow patrons to pay for parking in advance via coin, Visa, MasterCard or American Express, Discover, Diners Club, and JCB. Proposal responses must list card types that they can accept. Both the 3M and T2 systems are purchased through and serviced by our Value Added Reseller (VAR), Southern Time Equipment Company.

The combined count of visitor spaces in both environments is 1,223 and turn over several times per day.

To better understand the campus and its parking facilities, a map is provided at pats.uncc.edu. Visitor revenue generating parking facilities include:

3M EFMS	T2 LUKE II
East Deck	Lot 4
South Deck	Lot 28
Cone Deck	Lot 30
Union Deck	
CRI Deck	

PaTS manages its parking enforcement using Cardinal Tracking, Inc.'s parking management software, TickeTrak. The TickeTrak software manages citations issued to vehicles in violation of the parking ordinance and Parking Control Officers patrol parking facilities with a Trimble Nomad Wi-Fi device. Since Wi-Fi communication is not available in many parking facilities, however, PaTS will be upgrading to cellular communication to provide real-time data transmission between the enforcement server and the handhelds.

Parking Control Officers must also be able to identify whether a vehicle has an active session when parked in a LUKE II managed parking space.

PaTS would encourage a ticketless system for its visitor decks. Currently, mag strip tickets are issued upon entry and then used at a Pay on Foot Machine or Exit Verifier in the lane. A desired solution would provide an alternative method of identifying the customer in and out of a parking facility.

PaTS uses Click & Park for its on-campus football games. PaTS wishes to integrate a mobile application into this platform to give customers other convenient ways to purchase services. As with traditional parkers, PaTS would need to identify vehicles with active sessions in appropriate parking facilities.

Customer training is essential for the success of this program. The offeror must provide appropriate signage to provide the customer with easy to follow instructions from application installation on smart devices to beginning a transaction. The offeror's proposal should include sample signage. Upon award, offeror will be familiarized with the University branding specifications and shall follow them accordingly.

UNC Charlotte has an eCommerce oversight department and their personnel will have the final word in determining whether PCI-DSS certificates, dataflow diagrams and other documentation are satisfactory before an offeror is awarded the contract. It is recommended that extra attention to detail be a primary focus in this area.

The RFP response must outline how funds are handled between the customer, the vendor and UNC Charlotte. Please indicate if the offeror or University will be the Merchant of Record and how convenience fees, when applicable, are handled in both instances. The offeror must be able to set a minimum fee to be charged at the discretion of UNC Charlotte.

New Solution Requirements

In addition to the architecture considerations noted above, the new mobile payment solution must be flexible and scalable to allow for the changing nature of a university environment. The table in Appendix A provides technical requirements, features, and preferences to be assessed for the Parking Mobile Payment Application. The following requirement categories are used:

Priority

- **Mandatory (M)**: These requirements are mandatory.
- **Desired (D)**: These requirements are high-priority requirements. However, there might be workarounds that satisfy these requirements or they may not be as time critical.

Respondents are required to self-assess how their proposed solution meets or does not meet the requirements.

- **Full**: The requirement is met through out-of-the-box (OOB) functionality (configurations or set-ups only, no custom programming)
- **Partial**: The requirement can be met with some custom development
- **None**: The requirement is not supported

PLEASE NOTE: Proposals without a completed requirements self-assessment (Appendix A) will not be considered for award.

Pricing:

All submissions must contain a complete pricing breakdown as follows:

- A summarized price schedule that clearly describes each of the software and hardware components, professional services, training, support and maintenance the University will be required to purchase/lease to obtain a complete solution. Please include anticipated annual costs over a five-year period.
- A detailed schedule of all software costs for this project.
- A detailed schedule of all hardware costs required for this project. Where appropriate, please include relevant specifications.
- A detailed schedule of all professional service requirements needed to complete this project.
 - By phase, provide project roles, resource level (e.g., manager, developer, trainer, etc.), estimated rate if applicable, and estimated hours.
 - If a fixed-price agreement is being proposed for professional services, please provide the scope and timing basis for the arrangement.
- A detailed schedule of all training costs.
- A detailed schedule of all software maintenance and support costs whether one-time or annual, including any tiered costing scenarios related to volume and throughput of hosted or leased solutions.
- Software licenses, including a clear definition of user license type (enterprise, concurrent, etc.), the licensing cost schedule and potential costs over time as use of the system increases. Please also include a copy of your end-user license agreement (EULA).
- The Vendor's standard software maintenance and support agreement.
- Any costs passed to the customer as a convenience fee.
- Any other miscellaneous costs associated with installation and/or training, including travel, etc.

Due to special circumstances which may delay a decision, the University asks that prices be held firm for ninety (90) calendar days from the closing date specified for the receipt of proposals. Please indicate that your pricing will stand until this date. A pricing grid has been supplied as Appendix B to standardize submissions.

NOTE: If applicable, vendor may provide detailed cost schedules for all possible solution deliveries (e.g., hosted vs. on-premises, etc.) Please use a separate pricing grid for each offered solution and clearly label each.

4) PROPOSAL CONTENTS

RFP Format & Submission – It is imperative that your proposal be submitted according to the following instructions. All materials must be provided in the designated format(s); failure to do so may result in the removal of your proposal from consideration.

Responses must be in **one (1) fully executed original and one (1) electronic version on a flash drive or CD, along with any required samples** delivered to the address listed on page #1. **ELECTRONIC VERSION MUST BE INCLUDED, NO EXCEPTIONS.**

RFP Responses will require supporting documentation in addition to the return of the completed **Execution of Proposal, Service Locations, and Vendor Information** forms contained in this document. Please ensure that all such information is included with your proposal. These forms are provided to allow the University to more easily analyze the pertinent qualitative and quantitative facts of each proposal objectively.

In order to be considered for award, proposal submissions must contain, at minimum, the following:

A. Executive Summary: The executive summary shall consist of the proposal cover letter highlighting the contents of the proposal.

B. Corporate Background and Qualifications: Provide qualifications and evidence of financial soundness/viability as an ongoing business concern, along with proof of having been in business for a minimum of five (5) years. This section shall include background information on the organization's qualifications to undertake this project and certification that the company has the resources available to fully complete this project. All respondents are also required to show proof of experience in higher education environments and information technology. It is preferable that a company has conducted projects for institutions that are similar in demographics and mission to UNC Charlotte.

C. Points of Contact for UNC Charlotte: Provide the names, qualifications, experience, and resumes for the project manager and key project personnel who will be assigned to UNC Charlotte for technical support and customer service. These individuals will be considered part of the proposal and any replacements to this group of professionals due to unforeseen or extenuating circumstances must have equal or greater qualifications as the person(s) replaced. All changes to the main points of contact must be approved by authorized representatives of UNC Charlotte.

D. References: Three (3) references from clients for whom the company has provided a mobile payment solution similar in scope and size to that described in this RFP must be provided in order to be considered for award. References must include client name, contact information (name, title, phone number, and email address), and a brief description of the project. Higher education references are strongly preferred.

E. Software Functionality and Applicability to Requirements: This section should include a detailed and comprehensive presentation of the proposed solution. The response and the completed self-assessment in Appendix A should present a clear sense of the solution functionality and characteristics, its applicability and adaptability to the UNC Charlotte environment, and its features to support ease-of-use. It should be clearly evident how the proposed solution addresses each listed requirement and which requirements (if any) the solution either does not address or requires custom development to address. This section may also include any innovations or other helpful information that could enhance the successful use of the solution, even if such details are not mentioned or required in Appendix A or elsewhere in the RFP.

Respondents should describe their integration with both T2 Systems LUKE II units as well as 3M PARCS units (type of integration, mode of operation, how long the integration has been live to customers, etc.). Respondents should also list any other single- or multi-space meter and PARCS manufacturers with which

they currently have similar integrations.

F. Technical Description and Deployment. This section should present details for the technical (hardware and software) infrastructure required for the solution. Offerors should include an overview of the proposed technical architecture, a description of the solution's technical characteristics, and information on the solution's technical deployment. If software other than that provided by the respondent is required, please provide information on the needed version and configuration dependencies; include a list of all software that is compatible with this tool. Please be sure to indicate hosting options (e.g., cloud-based and/or on premises) for the software solution, including if applicable, the considerations for deploying a hybrid (hosted and on-premises) alternative, or for switching from one deployment architecture to another. Respective estimated costs for deployment options should be included in the pricing section. This section and the responses to Appendix A will be used for assessing the overall technical fit of the solution.

G. Payment Card Processing. This section should detail:

- If each transaction entered through the mobile application is unique and separate from the third party Parking solution (e.g., 3M vs. LUKE II pay stations).
- Gateway(s) utilized.
- Payment types accepted and ability to add or modify payment types.
- Merchant account to be utilized for card processing.
 - If UNC Charlotte merchant account is to be used:
 - TouchNet Information Systems, Inc. must be utilized as the gateway platform. Vendor must disclose if they are an existing TouchNet Ready Partner and utilize the T-Link for that integration. If the Vendor is not an existing TouchNet Partner but is willing to integrate with the TouchNet platform and cover the costs associated with that integration, that must be disclosed; a time frame for accomplishing that integration must be provided.
 - Specify the processing platforms to which the gateway boards (e.g., First Data Nashville, First Data North).
 - Specify the capabilities of the administrative tool (e.g., real time payment activity, error codes, refund transactions, adjust batch times, adjust reports by batch time, etc.). Dependence on connected systems to define batch close times, refund transactions, or perform other basic management functions must be disclosed.
 - If the Vendor's merchant account is to be used:
 - Transactions must be funded to an approved state bank account within 24 hours of settlement. Vendor must verify and detail how that requirement will be met.
 - Details of the reporting tool capabilities must be provided.
- Transaction processing fees for the account option to be used.
- Business continuity provisions

H. PCI-DSS Compliance: This section should present details of how credit card data is managed and provide proof of compliance with the Payment Card Industry Data Security Standards (PCI-DSS) and associated Standards. Submissions must present a detailed CHD flow diagram and a unified, complete, network architectural diagram. Diagrams must specify each entity through which the transaction/CHD is routed, gateways utilized, and processor details, as well as the location of the servers used. CHD flow diagrams must detail where the Primary Account Number (PAN) is captured, what portion of the PAN is retained, in what format it is retained, and where it is retained. If card data is transmitted to any other entity, specifics are required on each entity through which the transaction is routed and responsible party. If any outside entities' applications or servers are utilized, they must be disclosed. Chained Third Party Service Providers (TPSPs) must be clearly identified, if used. The diagrams must provide a clear picture of the CHD flow, what data is stored at each location, and the responsibilities of each party. Tokenization and/or encryption technologies used to secure data are to be documented with the dataflow diagram.

Documentation must include:

- Cardholder Data Flow Diagram
- Network Architecture Diagram
- PCI Certifications:
 - PCI-DSS Attestation of Compliance (AOC) that provides Qualified Security Assessor (QSA) used for validation
 - Network scan compliance reports by Approved Scanning Vendor (ASV)
 - Payment Application Data Security Standard (PA-DSS) validation, if appropriate
 - Application version number validated and to be utilized
 - Appropriate validation reports for chained Third Party Service Providers (TPSPs)
- Statement or matrixes which detail the PCI-DSS requirements managed by the Vendor as well as scanning responsibilities for UNC Charlotte.

Respondents should be Validated Level 1 Service Providers and listed on the Visa Global Registry of Service Providers.

Respondents must agree to:

- Acknowledge their responsibility for the security of all Cardholder Data (CHD) and all Personally Identifiable Information (PII) in their possession.
- Use Cardholder Data only for assisting cardholders in completing a transaction, supporting a loyalty card program, providing fraud control services, or for other uses specifically required by law.
- Use two factor authentication for remote access, if remote access for system operation, maintenance, or trouble-shooting is needed. That access must only be enabled when needed. Time outs should be required on remote sessions, and remote sessions deactivated after a specified period of inactivity. Remote access accounts may be monitored when in use.
- Continue to safeguard Cardholder Data after the negotiated agreement terminates or expires.
- Cooperate with UNC Charlotte on future PCI-DSS documentation requirements.
- Cooperate with representatives or agents of the payment card industry and/or UNC Charlotte in conducting a thorough security review of Vendor's operations, systems, records, procedures, rules, and practices in the event of a security intrusion in order to validate Vendor's compliance with PCI-DSS.
- Provide compliance validations annually or upon request.

I. Additional Features/Options: This section should detail any additional features or options available within the mobile payment solution that could be of additional benefit to the University, such as parking validations, electronic wallets, EV charging station payments, etc.

J. Proposed Implementation Plan: This section should propose a high-level anticipated plan and estimated schedule for full implementation. All proposed project phases should be presented with their respective timing and resource requirements from both the vendor and UNC Charlotte. If phasing alternatives are available, such as with a proof-of-concept-first approach, please identify your recommendation for such options and the associated timing. Respondents are asked to provide information about their ability to 1) implement the functionality of the solution; and 2) the availability of vendor resources to begin performing the work efforts of the implementation within two weeks of contract award.

K. Training: This section should provide information about the training options available for University personnel on the new solution. Please identify the training groups that are typical for an implementation of this kind (e.g., central Information Technology administrators, developers to maintain custom content/programs, departmental system administrators, etc.). Please include method, timeframe, location, etc. for training these groups; costs associated with such training should be identified in the Pricing section.

L. Licensing, Maintenance, and Support: The University is seeking an enterprise license that will cover all applicable members and hardware of the University community. Please include your company's terms for such a licensing arrangement. If an enterprise license is not available, please provide information on the license arrangement for the software to be provided. This section should also provide information about maintenance and support that is available to the University for the solution, including Service Level Agreements (SLA's) available. The pricing structure for the licensing, maintenance and support agreements, including applicable fees for renewal in subsequent years, should be presented in the Pricing section.

M. Work Samples: Examples of documentation (data repositories, templates, report examples, etc.) from previously completed successful projects similar in size and scope may be included in this section. This may include letters from contractors, clients, project managers, etc. indicating successful completion and implementation of a project.

N. Pricing Breakdown: Complete breakdown of all costs associated with all proposed solution options. A standardization grid has been provided as Appendix B.

O. Appendices: Completed copies of Appendix A and B must be included with your response.

5) EVALUATION CRITERIA

UNC Charlotte has established a committee which will evaluate all submissions and supporting documentation provided. Evaluation of each proposal relative to the others shall be given due consideration according to the following selection criteria below.

Proposals received will be evaluated under the provisions of a 'Best Value' procurement. Best Value procurement means the selection of a contractor is based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor. The award decision will be made based on multiple factors including, but not limited to, overall cost and the probability of performing the stated requirements on time with high quality results. Therefore, the lowest price offered does not guarantee an award.

Contractors are cautioned that the University is not obligated to ask for, nor accept, after the closing date for receipt of proposals, data which is essential for a complete and thorough evaluation of the proposal. The University may award a contract based on initial offers received without the discussion of such offers. Accordingly, each initial proposal should be submitted on the most favorable and complete pricing and technical terms possible.

Selected Finalists may be asked to meet with the evaluation committee for oral presentations. The evaluation committee may also request a review of the Contractor's business operations and plant facilities.

A contract will be awarded to the vendor whose proposal best meets the University's mission, goals, and business objectives by providing the best overall value and most benefits with the least amount of risk.

1. Background/Qualifications /References 20%
 - Years in business including mergers/acquisitions (five (5) years minimum).
 - Size of organization with details on resources available for project.
 - Three (3) references that demonstrate knowledge and experience with providing similar solutions to institutions similar in size and scope (**higher education references preferred**).
 - Qualifications including company literature and attachments (contractor newsletters, published articles concerning company/staff/equipment, sample reports, press releases, etc.).
2. Requirements Assessment/Technical Fit 40%
 - The extent the software addresses the requirements as described in this RFP.
 - The extent the solution meets the requirements in Appendix A (vendor self-assessment).
 - Solution fit and qualities: robust, customizable, adaptable, ease of use, etc.
 - Technical/software fit and infrastructure requirements.
 - Scope of software that is compatible with the proposed solution.
 - PCI-DSS documentation demonstrates all requirements will be met
3. Implementation and Support Plan/Schedule 20%
 - Method and timeline for full implementation of the software, including training.
 - Ability to implement the components of the pay stations in visitor parking facilities in production.
 - Plan for ongoing customer service and support needs.
 - Anticipated resource needs from UNC Charlotte both during and post implementation.
4. Pricing 20%
 - All project costs explained in detail and listed on Appendix B
 - Costs will be compared to costs received from other respondents

EXECUTION OF PROPOSAL

By submitting this proposal, the potential contractor certifies the following:

This proposal is signed by an authorized representative of the firm.

It can obtain insurance certificates as required within 10 calendar days after notice of award.

The cost and availability of all equipment, materials, and supplies associated with performing the services described herein have been determined and included in the proposed cost.

All labor costs, direct and indirect, have been determined and included in the proposed cost.

The potential contractor has read and understands the North Carolina General Contract Terms & Conditions (North Carolina T&C's) incorporated herein and agrees to them with no exceptions. UNC Charlotte is not authorized to amend any of the North Carolina T&C's or to agree to any terms that conflict with the North Carolina T&C's. Therefore, if a potential contractor takes exception to any of the North Carolina T&C's or requests additional terms, a copy of such exceptions and terms must be included with the proposal response. Inclusion of such exceptions and additional terms in the proposal response does not imply that UNC Charlotte will accept them. Rather, UNC Charlotte will review those exceptions and terms to determine whether they in fact would amend or conflict with the North Carolina T&C's. Please note that potential contractors that agree to the North Carolina T&C's without exception or request for additional terms will be given preferential consideration for the contract award.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Furthermore, by executing this proposal, I certify that I, and each of my subcontractors for any contract awarded as a result of this solicitation, complies with the requirements of Article 2 of Chapter 64 of the North Carolina 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.

OFFEROR: _____

ADDRESS: _____

CITY, STATE: _____

COUNTY, ZIP: _____

TELEPHONE NUMBER: _____ FAX: _____

FEDERAL EMPLOYER IDENTIFICATION NUMBER: _____

E-MAIL: _____

BY: _____ TITLE: _____ DATE: _____
(Signature)

(Typed or printed name)

ACCEPTANCE OF PROPOSAL FOR UNC CHARLOTTE

BY: _____ TITLE: _____ DATE: _____

THIS PAGE MUST BE SIGNED AND INCLUDED IN YOUR PROPOSAL.

Unsigned proposals will not be considered.

SERVICE LOCATIONS

In accordance with NC General Statute 143-59.4 (Session Law 2005-169),
this form is to be completed and submitted with the offeror's proposal.

Issuing Agency: UNC CHARLOTTE

Solicitation 66-160083 SB

Parking Mobile Payment Application

OFFEROR: _____

City & State: _____

Location(s) from which services will be performed by the contractor:

Service	City/Province/State	Country
_____	_____	_____
_____	_____	_____
_____	_____	_____

Location(s) from which services are anticipated to be performed outside the U.S. by the contractor:

_____	_____	_____
_____	_____	_____

Location(s) from which services will be performed by subcontractor(s):

Service	Subcontractor	City/Province/State	Country
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Location(s) from which services are anticipated to be performed outside the U.S. by the subcontractor(s):

_____	_____	_____	_____
_____	_____	_____	_____

(Attach additional pages if necessary.)

University of North Carolina at Charlotte

Vendor Information Form (aka Taxpayer Information Form)

PAYMENTS WILL NOT BE RELEASED UNTIL THIS FORM IS COMPLETED AND RETURNED.

We are required by federal law to obtain this information for each person to whom the University makes a payment. Failure to provide this information may result in payments being subject to 28% backup withholding and penalties imposed by the IRS. Once the form is completed, fax to 704-687-1450, or mail to UNC Charlotte, Travel & Complex Payments, 9201 University City Blvd, Reese Building, 3rd Floor, Charlotte, NC 28223. Completed forms containing an Employer Identification Number (EIN) may be emailed to ImageNowVend@unccl.edu. **This form is for U.S. persons only.** A resident alien is considered a U.S. person for tax purposes. If you are a foreign person, complete Vendor Information Form-Foreign Persons (Form W-8BEN) and the Foreign National Information Form-Visitor Version (<http://finance.unccl.edu/forms/travel-complex-payments>). For questions regarding any of these forms, please contact vendor-setup@unccl.edu or 704-687-5764.

Requesting Department: _____ **Contact name:** _____ **Contact Phone:** _____
Purpose of Payment: _____

Part 1: TAX STATUS (complete the section that applies)

US Individuals: (Form 1099 reportable) (Individuals are *not* a "doing business as", a company name, or alternative)

Individual Name (as shown on your tax return): _____

Individual Social Security Number: (If providing SSN, DO NOT EMAIL FORM) _____

US Sole Proprietor: (Form 1099 reportable) (A sole proprietorship may have a "doing business as" trade name, but the legal name is the business owner).

If you supplied your personal SSN as the Tax ID, you must provide your name as it is issued with your SSN. If you provided an EIN provided to you by the IRS for your business, you must provide the legal business name registered for EIN.

Business Owner's Name (as shown on your tax return): _____

Business Owner's Social Security Number: (PLEASE DO NOT EMAIL FORM) _____

Business or Trade Name: _____

Business EIN: _____

US Partnership, Limited Liability Partnership, Limited Liability Company or Trust, etc.: (Form 1099 reportable) (Non-corporations)

Name of Partnership/Company Name (as shown on your tax return): _____

Partnership's/Company's Employer Identification Number: _____

US Corporation (must be a "C" or "S" corporation only), Exempt organization, or Federal, State or Local Government Agency:

Name of Corporation or Entity (as shown on your tax return): _____

Employer identification Number: _____

Required: Check the correct status below. If a status is not selected, a 1099 will be issued regardless of status.

- _____ Corporation, not medical, healthcare or legal service provider
 _____ Corporation, medical, healthcare or legal services (all 1099 reportable)
 _____ Tax exempt organization under 501(a), or IRA
 _____ The United States or any of its agencies or instrumentalities
 _____ A state, the District of Columbia, a possession of the United States, or any of their political subdivisions
 _____ A foreign government or any of its political subdivisions located in the U.S. or U.S. Territories

Part 2: ADDRESS

Order address or physical address if the remit to address is a PO Box	Payment Remittance (Remit to) Address
Address Line 1: _____	_____
Address Line 2: _____	_____
City, State, Zip Code: _____	_____
Country: _____	_____
Phone Number: _____	_____
Fax Number: _____	_____
Email Address: _____	_____
Contact Person's Name: _____	_____

Part 3: OTHER INFORMATION

Business Classification (Check all that apply)

_____ Asian American	_____ African American	_____ Hispanic American
_____ Disabled Owned	_____ American Indian	_____ Women Owned

Does your company accept Purchase Orders? ☐ Yes ☐ No
 If so, please provide your preferred method. ☐ Email ☐ Fax ☐ CXML

UNC Charlotte Payment Terms are Net30.

If alternate terms have been approved through contract with the University, indicate those terms here _____ (Purchasing Approval required)

Part 4: CERTIFICATION Signature (NOT a typed name) is required.

Under penalties of perjury, I certify that (1) the number shown above is my correct taxpayer identification number; (2) I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the IRS that I am subject to backup withholding; (3) I am a U.S. person (including a U.S. Resident Alien); and (4) the information provided is complete and accurate as of this date.

Signature: _____

Date: _____

Printed Name: _____

North Carolina Information Technology General Terms and Conditions for Goods and Related Services

Definitions: As used herein;

Purchasing State Agency or Agency shall mean the Agency purchasing the goods or services.

State shall mean the State of North Carolina, the Office of Information Technology Services as an Agency or in its capacity as the Award Authority.

1) Standards: Manufactured items and/or fabricated assemblies comprising Deliverables shall meet all requirements of the Occupational Safety and Health Act (OSHA), and State and federal requirements relating to clean air and water pollution, if applicable. Vendor will provide and maintain a quality assurance system or program that includes any Deliverables and will tender to the State only those Deliverables that have been inspected and found to conform to the requirements of this Contract. All manufactured items and/or fabricated assemblies comprising Deliverables are subject to operation, certification or inspection, and accessibility requirements as required by:

- State or Federal Regulation,
 - The Chief Information Officer's (CIO) policy or regulation, or
 - Acceptance with appropriate standards of operations or uses of said Deliverables as may be shown by identification markings or other means of the appropriate certifying standards organization.
- a) **Site Preparation:** Vendors shall provide the Purchasing State Agency complete site requirement specifications for the Deliverables, if any. These specifications shall ensure that the Deliverables to be installed shall operate properly and efficiently within the site environment. The Vendor shall advise the State of any site requirements for any Deliverables required by the State's specifications. Any alterations or modification in site preparation which are directly attributable to incomplete or erroneous specifications provided by the Vendor and which would involve additional expenses to the State, shall be made at the expense of the Vendor.
- b) **Goods Return:** Deliverables and any other goods or materials furnished by the Vendor to fulfill technical requirements shall be in good working order and be maintained in good working order by Vendor for the duration of the Contract; unless otherwise provided in a separate maintenance agreement or in the Solicitation Documents. Deliverables failing to meet the State's technical requirements shall be considered non-conforming goods and subject to return to the Vendor for replacement at the State's option, and at the Vendor's expense. The State is responsible for the return costs related to the termination of a Contract, including deinstallation, and freight to destinations within the Continental United States; except in the case of default by the Vendor or delivery of non-conforming goods by Vendor. Shipping or freight charges, if any, paid by the State for non-conforming goods will be reimbursed to the State.
- c) **Specifications:** The apparent silence of the specifications as to any detail, or the apparent omission of detailed description concerning any point, 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. Upon any notice of noncompliance provided by the State, Vendor shall supply proof of compliance with the specifications. Vendor must provide written notice of its intent to deliver alternate or substitute products, goods or Deliverables. Alternate or substitute products, goods or Deliverables may be accepted or rejected in the sole discretion of the State; and any such alternates or substitutes must be accompanied by Vendor's certification and evidence satisfactory to the State that the function, characteristics, performance and endurance will be equal or superior to the original Deliverables specified.

2) Warranties: The Vendor warrants to the State that all items furnished will be new (unless otherwise requested in this bid), of good material and workmanship, and agrees to replace any items which fail to comply with the specifications by reason of defective material or workmanship under normal use, free of State's negligence or accident for a minimum of 90 days from date of acceptance. Such replacement shall include transportation costs free of any charge to the State. This statement is not intended to limit any additional coverage, which may normally be associated with a product. Vendor shall assign all applicable third party warranties for Deliverables to the Purchasing State Agency.

3) Personnel: Vendor shall not substitute key personnel assigned to the performance of this Contract without prior written approval by the Agency Contract Administrator. Any desired substitution shall be noticed to the Agency's Contract Administrator accompanied by the names and references of Vendor's recommended substitute personnel. The Agency will approve or disapprove the requested substitution in a timely manner. The Agency may, in its sole discretion, terminate the services of any person providing services under this Contract. Upon such termination, the Agency may request acceptable substitute personnel or terminate the contract services provided by such personnel.

- a) Vendor personnel shall perform their duties on the premises of the State, during the State's regular work days and normal work hours, except as may be specifically agreed otherwise, established in the specification, or statement of work.
- b) This contract shall not prevent Vendor or any of its personnel supplied under this Contract from performing similar services elsewhere or restrict Vendor from using the personnel provided to the State, provided that:
 - i) Such use does not conflict with the terms, specifications or any amendments to this Contract, or
 - ii) Such use does not conflict with any procurement law, regulation or policy or
 - iii) Such use does not conflict with any non-disclosure agreement, or term thereof, by and between the State and Vendor or Vendor's personnel.

4) Subcontracting: The Vendor may subcontract the performance of required services with other Vendors or third parties, or change subcontractors, only with the prior written consent of the contracting authority. Vendor shall provide the State with

complete copies of any agreements made by and between Vendor and all subcontractors. The selected Vendor remains solely responsible for the performance of its subcontractors. Subcontractors, if any, shall adhere to the same standards required of the selected Vendor. Any contracts made by the Vendor with a subcontractor shall include an affirmative statement that the State is an intended third party beneficiary of the contract; that the subcontractor has no agreement with the State; and that the State shall be indemnified by the Vendor for any claim presented by the subcontractor. Notwithstanding any other term herein, Vendor shall timely exercise its contractual remedies against any non-performing subcontractor and, when appropriate, substitute another subcontractor.

5) Outsourcing: Any vendor or subcontractor providing call or contact center services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided. If, after award of a contract, the contractor wishes to outsource any portion of the work to a location outside the United States, prior written approval must be obtained from the University. Vendor must give notice to the University of any relocation of the vendor, employees of the vendor, subcontractors of the vendor, or other persons performing services under a state contract outside of the United States.

6) Vendor's Representation: Vendor warrants that qualified personnel will provide services 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 information technology industry. Vendor agrees that it will not enter any agreement with a third party that might abridge any rights of the State under this Contract. Vendor will serve as the prime Vendor under this Contract. Should the State approve any subcontractor(s), the Vendor shall be legally responsible for the performance and payment of the subcontractor(s). Names of any third party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Third party subcontractors, if approved, may serve as subcontractors to Vendor. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

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

b) Inherent Services. If any Services, Deliverables, functions, or responsibilities not specifically described in this Contract are required for Vendor's proper performance, provision and delivery of the Service and Deliverables pursuant to this Contract, or are an inherent part of or necessary sub-task included within the Service, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract. Unless otherwise expressly provided in the Contract, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and Deliverables.

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

d) Warranty as to Equipment; Hardware. Vendor warrants that the equipment and hardware that it provides pursuant to this Contract shall be free from defects in materials, in good working order and be maintained in good working order.

7) Software License (for internal embedded software, firmware and unless otherwise provided in the State's solicitation document, or in an attachment hereto): Deliverables comprising goods, equipment or products (hardware) may contain software for internal operation, or as embedded software or firmware that is generally not sold or licensed as a severable software product. Software may be provided on separate media, such as floppy diskettes or CD-ROM, or may be included within the hardware at or prior to delivery. Such software is proprietary, copyrighted, and may also contain valuable trade secrets and may be protected by patents. Vendor grants the State a license to use the Code (or any replacement provided) on, or in conjunction with, only the Deliverables purchased, or with any system identified in the solicitation documents. The State shall have a worldwide, nonexclusive, non-sublicensable license to use such software and/or documentation for its internal use. The State may make and install copies of the software to support the authorized level of use. Provided, however that if the hardware is inoperable, the software may be copied for temporary use on other hardware. The State shall promptly affix to any such copy the same proprietary and copyright notices affixed to the original. The State may make one copy of the software for archival, back-up or disaster recovery purposes. The license set forth in this Paragraph shall terminate immediately upon the State's discontinuance of the use of the equipment on which the software is installed. The software may be transferred to another party only with the transfer of the hardware. If the hardware is transferred, the State shall i) destroy all software copies made by the State, ii) deliver the original or any replacement copies of the software to the transferee, and iii) notify the transferee that title and ownership of the software and the applicable patent, trademark, copyright, and other intellectual property rights shall remain with Vendor, or Vendor's licensors. The State shall not disassemble, decompile, reverse engineer, modify, or prepare derivative works of the embedded software, unless permitted under the solicitation documents.

8) Maintenance/Support Services: Unless otherwise provided in the State's solicitation document, or in an attachment hereto, for the first year and all subsequent Contract years, Vendor agrees to provide the following services for the current version and one previous version of any Software provided with the Deliverables, commencing upon installation of the Deliverables or delivery of the Software:

a) Error Correction. Upon notice by State of a problem with the Software (which problem can be verified), Vendor shall use reasonable efforts to correct or provide a working solution for the problem. The State shall comply with all reasonable instructions or requests of Vendor in attempts to correct an error or defect in the Program. Vendor and the State shall act promptly and in a reasonably timely manner in communicating error or problem logs, other related information, proposed

solutions or workarounds, and any action as may be necessary or proper to obtain or affect maintenance services under this Paragraph.

- b) Vendor shall notify the State of any material errors or defects in the Deliverables known, or made known to Vendor from any source during the Contract term that could cause the production of inaccurate or otherwise materially incorrect, results. Vendor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.
- c) Updates. Vendor shall provide to the State, at no additional charge, all new releases and bug fixes (collectively referred to as "Changes") for any Software Deliverable developed or published by Vendor and made generally available to its other customers at no additional charge. All such Updates shall be a part of the Program and Documentation and, as such, be governed by the provisions of this Contract.
- d) Telephone Assistance. Vendor shall provide the State with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Software problems, during normal business hours, 8:00 AM - 5:00 PM Eastern Standard Time, Monday-Friday. Vendor shall respond to the telephone requests for Program maintenance service, within four hours, for calls made at any time.

9) Travel Expenses: All travel expenses should be included in the Vendor's proposed costs. Separately stated travel expenses will not be reimbursed. In the event that the Vendor may be eligible to be reimbursed for travel expenses arising under the performance of this Contract, reimbursement will be at the out-of-state rates set forth in GS §138-6; as amended from time to time. Vendor agrees to use the lowest available airfare not requiring a weekend stay and to use the lowest available rate for rental vehicles. All Vendor incurred travel expenses shall be billed on a monthly basis, shall be supported by receipt and shall be paid by the State within thirty (30) days after invoice approval. Travel expenses exceeding the foregoing rates shall not be paid by the State. The State will reimburse travel allowances only for days on which the Vendor is required to be in North Carolina performing services under this Contract.

10) Governmental Restrictions: In the event any restrictions are imposed by governmental requirements that necessitate alteration of the material, quality, workmanship, or performance of the Deliverables offered prior to delivery thereof, the Vendor shall provide written notification of the necessary alteration(s) to the Agency Contract Administrator. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract. The State may advise Vendor of any restrictions or changes in specifications required by North Carolina legislation, rule or regulatory authority that require compliance by the State. In such event, Vendor shall use its best efforts to comply with the required restrictions or changes. If compliance cannot be achieved by the date specified by the State, the State may terminate this Contract and compensate Vendor for sums due under the Contract.

11) Prohibition Against Contingent Fees and Gratuities: Vendor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the State for the purpose of obtaining any contract or award issued by the State. Vendor further warrants that no commission or other payment has been or will be received from or paid to any third party contingent on the award of any contract by the State, except as shall have been expressly communicated to the State Purchasing Agent in writing prior to acceptance of the Contract or award in question. Each individual signing this submission warrants that he or she is duly authorized by their respective Party to sign this Contract and bind the Party to the terms and conditions of this Contract. Vendor and their authorized signatory further warrant that no officer or employee of the State has any direct or indirect financial or personal beneficial interest, in the subject matter of this Contract; obligation or contract for future award of compensation as an inducement or consideration for making this Contract. Subsequent discovery by the State of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts. Violations of this provision may result in debarment of the Vendor(s) as permitted by 9 NCAC 06B.1207, or other provision of law.

12) Availability of Funds: Any and all payments to Vendor are expressly contingent upon and subject to the appropriation, allocation and availability of funds to the Agency for the purposes set forth in this Contract. If this Contract or any Purchase Order issued hereunder is funded in whole or in part by federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Contract or Purchase Order. If the term of this Contract extends into fiscal years, subsequent to that in which it is approved, such continuation of the Contract is expressly contingent upon the appropriation, allocation and availability of funds by the N.C. Legislature for the purposes set forth in the Contract. If funds to effect payment are not available, the Agency will provide written notification to Vendor. If the Contract is terminated under this paragraph, Vendor agrees to take back any affected Deliverables and software not yet delivered under this Contract, terminate any services supplied to the Agency under this Contract, and relieve the Agency of any further obligation thereof. The State shall remit payment for Deliverables and services accepted prior to the date of the aforesaid notice in conformance with the payment terms.

13) Payment Terms: Payment terms are Net 30 days after receipt of correct invoice or acceptance of the Deliverables, whichever is later; unless a period of more than thirty (30) days is required by the Agency. The Purchasing State Agency is responsible for all payments under the Contract. No additional charges to the Agency will be permitted based upon, or arising from, the Agency's use of a Business Procurement Card. The State may exercise any and all rights of Set Off as permitted in Chapter 105A-1 et. seq. of the N.C. General Statutes and applicable Administrative Rules. Upon Vendor's written request of not less than 30 days and approval by the State or Agency, the Agency may:

- a) Forward the Vendor's payment check(s) directly to any person or entity designated by the Vendor, or
- b) Include any person or entity designated in writing by Vendor as a joint payee on the Vendor's payment check(s), however
- c) In no event shall such approval and action obligate the State to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations.

14) Acceptance Criteria: In the event acceptance of Deliverables is not described in additional Contract documents, the State shall have the obligation to notify Vendor, in writing ten calendar days following installation of any Deliverable described in the Contract if it is not acceptable. The notice shall specify in reasonable detail the reason(s) a deliverable is unacceptable. Acceptance

by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for installation and/or testing of Deliverables. Final acceptance is expressly conditioned upon completion of all applicable inspection and testing procedures. Should the Deliverables fail to meet any specifications or acceptance criteria the State may exercise any and all rights hereunder, including such rights provided by the Uniform Commercial Code as adopted in North Carolina. Deliverables discovered to be defective or failing to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Deliverables or non-compliance with the specifications was not reasonably ascertainable upon initial inspection. If the Vendor fails to promptly cure the defect or replace the Deliverables, the State reserves the right to cancel the Purchase Order, contract with a different Vendor, and to invoice the original Vendor for any differential in price over the original Contract price. When Deliverables are rejected, the Vendor must remove the rejected Deliverables from the premises of the State Agency within seven (7) calendar days of notification, unless otherwise agreed by the State Agency. Rejected items may be regarded as abandoned if not removed by Vendor as provided herein.

15) Equal Employment Opportunity: Vendor shall comply with all Federal and State requirements concerning fair employment and employment of the disabled, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or physical disability.

16) Inspection at Vendor's Site: The State reserves the right to inspect, during Vendor's regular business hours at a reasonable time, upon notice of not less than two (2) weeks, and at its own expense, the prospective Deliverables comprising equipment or other tangible goods, or the plant or other physical facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary or proper to ensure conformance with the specifications/requirements and their adequacy and suitability for the proper and effective performance of the Contract.

17) Advertising/Press Release: The Vendor absolutely shall not publicly disseminate any information concerning the Contract without prior written approval from the State or its Agent. For the purpose of this provision of the Contract, the Agent is the Purchasing Agency Contract Administrator unless otherwise named in the solicitation documents.

18) Confidentiality: In accordance with 9 NCAC 06B.0103, 06B.0207 and 06B.1001 and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in N.C. Gen. Stat. §132-1 et. seq. Such information may include trade secrets defined by N.C. Gen. Stat. §66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. §132-1.2. Vendor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "**CONFIDENTIAL**". By so marking any page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors, that the portions marked confidential meet the requirements of the Rules and Statutes set forth above. *However, under no circumstances shall price information be designated as confidential.* The State may serve as custodian of Vendor's confidential information and not as an arbiter of claims against Vendor's assertion of confidentiality. If an action is brought pursuant to N.C. Gen. Stat. §132-9 to compel the State to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Vendor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Vendor with respect to the disclosure of Vendor's confidential information ordered by a court of competent jurisdiction pursuant to N.C. Gen. Stat. §132-9 or other applicable law.

a) Care of Information: Vendor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or the Agency during performance of any contractual obligation from loss, destruction or erasure.

b) Vendor warrants that all its employees and any approved third party Vendors or subcontractors are subject to a non-disclosure and confidentiality agreement enforceable in North Carolina. Vendor will, upon request of the State, verify and produce true copies of any such agreements. Production of such agreements by Vendor may be made subject to applicable confidentiality, non-disclosure or privacy laws; provided that Vendor produces satisfactory evidence supporting exclusion of such agreements from disclosure under the N.C. Public Records laws in NCGS §132-1 et. seq. The State may, in its sole discretion, provide a non-disclosure and confidentiality agreement satisfactory to the State for Vendor's execution. The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC 6103 and IRS Publication 1075, (Tax Information Security Guidelines for Federal, State, and Local Agencies), HIPAA, 42 USC 1320(d) (Health Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Office of Information Technology Services or the N.C. Department of Revenue pursuant to future statutory or regulatory requirements.

c) Nondisclosure: Vendor agrees and specifically warrants that it, its officers, directors, principals and employees, and any subcontractors, shall hold all information received during performance of this Contract in the strictest confidence and shall not disclose the same to any third party without the express written approval of the State.

19) Deliverables: Deliverables, as used herein, shall comprise all project materials, including goods, software licenses, data, and documentation created during the performance or provision of services hereunder. Deliverables are the property of the State of North Carolina. Proprietary Vendor materials licensed to the State shall be identified to the State by Vendor prior to use or provision of services hereunder and shall remain the property of the Vendor. Embedded software or firmware shall not be a severable Deliverable. Deliverables include "Work Product" and means any expression of Licensor's findings, analyses, conclusions, opinions, recommendations, ideas, techniques, know-how, designs, programs, enhancements, and other technical information; but not source and object code or software. All Software source and object code is the property of Licensor and is

licensed nonexclusively to the State, at no additional license fee, pursuant to the terms of the software license contained herein, and in the Supplemental Terms and Conditions for Software and Services or the License Agreement if incorporated in the Solicitation Documents.

20) Late Delivery, Back Order: Vendor shall advise the Agency contact person or office immediately upon determining that any Deliverable will not, or may not, be delivered at the time or place specified. Together with such notice, Vendor shall state the projected delivery time and date. In the event the delay projected by Vendor is unsatisfactory, the Agency shall so advise Vendor and may proceed to procure substitute Deliverables or services.

21) Patent, Copyright, and Trade Secret Protection:

- a) Vendor has created, acquired or otherwise has rights in, and may, in connection with the performance of services for the State, employ, provide, create, acquire or otherwise obtain rights in various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and general purpose consulting and software tools, utilities and routines (collectively, the "Vendor Technology"). To the extent that any Vendor Technology is contained in any of the Deliverables including any derivative works, the Vendor hereby grants the State a royalty-free, fully paid, worldwide, perpetual, non-exclusive license to use such Vendor Technology in connection with the Deliverables for the State's purposes.
- b) Vendor shall not acquire any right, title and interest in and to the copyrights for goods, any and all software, technical information, specifications, drawings, records, documentation, data or derivative works thereof, or other work products provided by the State to Vendor. The State hereby grants Vendor a royalty-free, fully paid, worldwide, perpetual, non-exclusive license for Vendor's internal use to non-confidential Deliverables first originated and prepared by the Vendor for delivery to the State.
- c) The Vendor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the services or Deliverables supplied by the Vendor, or the operation of such Deliverables pursuant to a current version of Vendor-supplied software, infringes a patent, or copyright or violates a trade secret in the United States. The Vendor shall pay those costs and damages finally awarded against the State in any such action. Such defense and payment shall be conditioned on the following:
 - i) That the Vendor shall be notified within a reasonable time in writing by the State of any such claim; and,
 - ii) That the Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise provided, however, that the State shall have the option to participate in such action at its own expense.
- d) Should any services or software supplied by Vendor, or the operation thereof become, or in the Vendor's opinion are likely to become, the subject of a claim of infringement of a patent, copyright, or a trade secret in the United States, the State shall permit the Vendor, at its option and expense, either to procure for the State the right to continue using the goods/hardware or software, or to replace or modify the same to become noninfringing and continue to meet procurement specifications in all material respects. If neither of these options can reasonably be taken, or if the use of such goods/hardware or software by the State shall be prevented by injunction, the Vendor agrees to take back such goods/hardware or software, and refund any sums the State has paid Vendor less any reasonable amount for use or damage and make every reasonable effort to assist the State in procuring substitute Deliverables. If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other items of Deliverables acquired from the Vendor under this Contract impractical, the State shall then have the option of terminating the Contract, or applicable portions thereof, without penalty or termination charge. The Vendor agrees to take back such Deliverables and refund any sums the State has paid Vendor less any reasonable amount for use or damage.
- e) Vendor will not be required to defend or indemnify the State if any claim by a third party against the State for infringement or misappropriation (i) results from the State's alteration of any Vendor-branded product or Deliverable, or (ii) results from the continued use of the good(s) or Services and Deliverables after receiving notice they infringe a trade secret of a third party.
- f) Nothing stated herein, however, shall affect Vendor's ownership in or rights to its preexisting intellectual property and proprietary rights.

22) Access to Persons and Records: Pursuant to N.C. General Statute 147-64.7, the Agency, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Vendor insofar as they relate to transactions with any department, board, officer, commission, institution, or other Agency of the State of North Carolina pursuant to the performance of this Contract or to costs charged to this Contract. The Vendor shall retain any such books, records, and accounts for a minimum of three (3) years after the completion of this Contract. Additional audit or reporting requirements may be required by any Agency, if in the Agency's opinion, such requirement is imposed by federal or state law or regulation.

23) Assignment: Vendor may not assign this Contract or its obligations hereunder except as permitted by 09 NCAC 06B.1003 and this Paragraph. Vendor shall provide reasonable notice of not less than thirty (30) days prior to any consolidation, acquisition, or merger. Any assignee shall affirm this Contract attorning to the terms and conditions agreed, and that Vendor shall affirm that the assignee is fully capable of performing all obligations of Vendor under this Contract. An assignment may be made, if at all, in writing by the Vendor, Assignee and the State setting forth the foregoing obligation of Vendor and Assignee.

24) Care of Property: The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished it for use in connection with the performance of this contract or purchased by it for this contract and will reimburse the State for loss of damage of such property.

25) Insurance Coverage: During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Vendor shall provide and maintain the following coverage and limits:

- a) **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sublet, the Vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the Contract ; and
- b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$2,000,000.00 Combined Single Limit (Defense cost shall be in excess of the limit of liability); and
- c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$1,000,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$5,000.00 medical payment; and
- d) Providing and maintaining adequate insurance coverage described herein is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Vendor 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 Contract. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract.

26) Dispute Resolution: The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to the Agency Contract Administrator for decision. A claim by the State shall be submitted in writing to the Vendor's Contract Administrator for decision. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

27) Default: In the event any Deliverable furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract specifications, notice of the failure is provided by the State and if the failure is not cured within thirty (30) days, or Vendor fails to meet the requirements of Paragraph 14) herein, the State may cancel and procure the articles or services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 30) and 31) and the obligation to informally resolve disputes as provided in Paragraph 26) of these Terms and Conditions. Default may be cause for debarment as provided in 09 NCAC 06B.1206. The State reserves the right to require performance guaranties pursuant to 09 NCAC 06B.1207 from the Vendor without expense to the State. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

- a) If Vendor fails to deliver Deliverables within the time required by this Contract, the State may provide written notice of said failure to Vendor, and by such notice require payment of a penalty.
- b) Should the State fail to perform any of its obligations upon which Vendor's performance is conditioned, Vendor shall not be in default for any delay, cost increase or other consequences due to the State's failure. Vendor will use reasonable efforts to mitigate delays, costs or expenses arising from assumptions in the Vendor's bid documents that prove erroneous or are otherwise invalid. Any deadline that is affected by any such failure in assumptions or performance by the State shall be extended by an amount of time reasonably necessary to compensate for the effect of such failure.
- c) Vendor shall provide a plan to cure any default if requested by the State. The plan shall state the nature of the default, the time required for cure, any mitigating factors causing or tending to cause the default, and such other information as the Vendor may deem necessary or proper to provide.

28) Waiver of Default: Waiver by either party of any default or breach by the other Party shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be a modification or novation of the terms of this Contract, unless so stated in writing and signed by authorized representatives of the Agency and the Vendor, and made as an amendment to this Contract pursuant to Paragraph 40) herein below.

29) Termination: Any notice or termination made under this Contract shall be transmitted via US Mail, Certified Return Receipt Requested. The period of notice for termination shall begin on the day the return receipt is signed and dated.

- a) The parties may mutually terminate this Contract by written agreement at any time.
- b) The State may terminate this Contract, in whole or in part, pursuant to Paragraph 27), or pursuant to the Special Terms and Conditions in the Solicitation Documents, if any, or for any of the following:
 - i) **Termination for Cause:** In the event any goods, software, or service furnished by the Vendor during performance of any Contract term fails to conform to any material requirement of the Contract, and the failure is not cured within the specified time after providing written notice thereof to Vendor, the State may cancel and procure the articles or services from other sources; holding Vendor liable for any excess costs occasioned thereby, subject only to the limitations provided in Paragraphs 30) and 31) herein. The rights and remedies of the State provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. Vendor shall not be relieved of liability to the State for damages sustained by the State arising from Vendor's breach of this Contract; and the State may, in its discretion, withhold any payment due as a setoff until such time as the damages are finally determined or as agreed by the parties. Voluntary or involuntary Bankruptcy or receivership by Vendor shall be cause for termination.
 - ii) **Termination For Convenience Without Cause:** The State may terminate service and indefinite quantity contracts, in whole or in part by giving thirty (30) days prior notice in writing to the Vendor. Vendor shall be entitled to sums due as compensation for Deliverables provided and services performed in conformance with the Contract. In the event the

Contract is terminated for the convenience of the State the Agency will pay for all work performed and products delivered in conformance with the Contract up to the date of termination. *This paragraph doesn't apply to bids involving a lease term. If this bid has a lease term, then reserve it; otherwise un-highlight it and leave in.*

30) Limitation of Vendor's Liability:

- a) Where Deliverables are under the State's exclusive management and control, the Vendor shall not be liable for direct damages caused by the State's failure to fulfill any State responsibilities of assuring the proper use, management and supervision of the Deliverables and programs, audit controls, operating methods, office procedures, or for establishing all proper checkpoints necessary for the State's intended use of the Deliverables.
- b) The Vendor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall be limited to two times the value of the Contract.
- c) The foregoing limitation of liability shall not apply to the payment of costs and damage awards referred to in the Paragraph entitled "Patent, Copyright, and Trade Secret Protection", to claims covered by other specific provisions calling for liquidated damages or specifying a different limit of liability, or to claims for injury to persons or damage to property caused by Vendor's negligence or willful or wanton conduct. This limitation of liability does not apply to the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract.

31) Vendor's Liability for Injury to Persons or Damage to Property:

- a) The Vendor shall be liable for damages arising out of personal injuries and/or damage to real or tangible personal property of the State, employees of the State, persons designated by the State for training, or person(s) other than agents or employees of the Vendor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Vendor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Vendor.
- b) The Vendor agrees to indemnify, defend and hold the Agency and the State and its Officers, employees, agents and assigns harmless from any liability relating to personal injury or injury to real or personal property of any kind, 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, whether tangible or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors, in the performance of this Contract.
- c) Vendor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Vendor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the Vendor's goods.

32) General Indemnity: The Vendor 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. The foregoing indemnification and defense by the Vendor shall be conditioned upon the following:

- a) The Agency shall give Vendor written notice within thirty (30) days after it has actual knowledge of any such claim(s) or action(s) filed; and
- b) The Vendor shall have the sole control of the defense of any such claim(s) or action(s) filed and of all negotiations relating to settlement or compromise thereof, provided, however, that the Agency or State shall have the option to participate at their own expense in the defense of such claim(s) or action(s) filed.

33) Changes: This Contract and subsequent purchase order(s) is awarded subject to shipment of quantities, qualities, and prices indicated by the order or Contract, and all conditions and instructions of the Contract or proposal on which it is based. Any changes made to this Contract or purchase order proposed by the Vendor are hereby rejected unless accepted in writing by the Agency or State Award Authority. The State shall not be responsible for Deliverables or services delivered without a purchase order from the Agency or State Award Authority.

34) Stop Work Order: The State may issue a written Stop Work Order to Vendor for cause at any time requiring Vendor to suspend or stop all, or any part, of the performance due under this Contract for a period up to ninety (90) days after the Stop Work Order is delivered to the Vendor. The ninety (90) day period may be extended for any further period for which the parties may agree.

- a) The Stop Work Order shall be specifically identified as such and shall indicate that it is issued under this term. Upon receipt of the Stop Work Order, the Vendor shall immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the Stop Work Order during the period of work suspension or stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Vendor, or within any extension of that period to which the parties agree, the State shall either:
 - i) Cancel the Stop Work Order, or
 - ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Vendor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
 - i) The Stop Work Order results in an increase in the time required for, or in the Vendor's cost properly allocable to the performance of any part of this Contract, and

- ii) The Vendor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
 - c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for Convenience of the State, the State shall allow reasonable direct costs resulting from the Stop Work Order in arriving at the termination settlement.
 - d) The State shall not be liable to the Vendor for loss of profits because of a Stop Work Order issued under this term.
- 35) Time is of the Essence.** Time is of the essence in the performance of this Contract.
- 36) Date and Time Warranty:** The Vendor warrants that any Deliverable, whether hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interface therein which performs any date and/or time data recognition function, calculation, or sequencing, will provide accurate date/time data and leap year calculations. This warranty shall survive termination or expiration of the Contract.
- 37) Independent Contractors:** Vendor and its employees, officers and executives, and subcontractors, if any, shall be independent Vendors and not employees or agents of the State. This Contract shall not operate as a joint venture, partnership, trust, agency or any other business relationship.
- 38) Transportation:** Transportation of Deliverables 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 Purchasing State Agency. In cases where parties, other than the Vendor 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.
- 39) Notices:** Any notices required under this Contract should be delivered to the Contract Administrator for each party. Unless otherwise specified in the Solicitation Documents, any notices shall be delivered in writing by U.S. Mail, Commercial Courier or by hand.
- 40) Titles and Headings:** Titles and Headings in this Contract are used for convenience only and do not define, limit or proscribe the language of terms identified by such Titles and Headings.
- 41) Amendment:** This Contract may not be amended orally or by performance. Any amendment must be made in written form and signed by duly authorized representatives of the State and Vendor in conformance with Paragraph 33) herein.
- 42) Taxes:** The State of North Carolina is exempt from Federal excise taxes and no payment will be made for any personal property taxes levied on the Vendor or for any taxes levied on employee wages. Agencies of the State may have additional exemptions or exclusions for federal or state taxes. Evidence of such additional exemptions or exclusions may be provided to Vendor by Agencies, as applicable, during the term of this Contract. Applicable State or local sales taxes shall be invoiced as a separate item.

G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.

43) Governing Laws, Jurisdiction, and Venue:

- a) This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. The place of this Contract or purchase order, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation and enforcement shall be determined. Vendor agrees and submits, solely for matters relating to this Contract, to the jurisdiction of the courts of the State of North Carolina, and stipulates that Wake County shall be the proper venue for all matters.
 - b) Except to the extent the provisions of the Contract are clearly inconsistent therewith, the applicable provisions of the Uniform Commercial Code as modified and adopted in North Carolina shall govern this Contract. To the extent the Contract entails both the supply of "goods" and "services," such shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when deeming such services as "goods" would result in a clearly unreasonable interpretation.
- 44) 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, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
- 45) Compliance with Laws:** The Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority. In providing Services and Deliverables, and without limiting or modifying in any respect the Vendor's obligations, Vendor shall comply, and shall cause each of its employees and subcontractors to comply at all times, with State policies that are of general application to State contractors or that Vendor has otherwise agreed to, comply with, including, without limitation, the Statewide Information Security Manual and ITS Security Standards and Policies.
- 46) Severability:** In the event that a court of competent jurisdiction holds that a provision or requirement of this Contract 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 Contract 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.

47) Federal Intellectual Property Bankruptcy Protection Act: The Parties agree that the Agency shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365(n), and any amendments thereto.

48) Entire Agreement: This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This Request for Proposals, any addenda thereto, and the offeror's proposal are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

49) By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental University; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24."

North Carolina Office of Information Technology Supplemental Terms and Conditions for Software and Services

1) Supplement: The additional terms and conditions set forth herein shall supplement the North Carolina Information Technology Procurement Office General Terms and Conditions for Goods and Related Services. In the event of a conflict between this Supplement and the General Terms and Conditions, or any other document, the order of precedence shall be determined by the State's solicitation document(s).

2) License Grant: This paragraph recites the scope of license granted, if not superseded by a separate licensing agreement as follows:

a) Vendor grants to the State, its Agencies and lawful customers a non-exclusive, non-transferable and non-sublicensable license to use, in object code format, Vendor's software identified in the solicitation documents, Vendor's Statement of Work (SOW), or an Exhibit thereto executed by the parties ("Software"), subject to the restrictions set forth therein, such as the authorized computer system, the data source type(s), the number of target instance(s) and the installation site. Use of the Software shall be limited to the data processing and computing needs of the State, its Agencies and lawful customers. This license shall be perpetual or for the term of the contract (*pick one, delete the other*), unless terminated as provided herein. The State agrees not to distribute, sell, sublicense or otherwise transfer copies of the Software or any portion thereof. For purposes of this Agreement, a State Entity shall be defined as any department or agency of the State of North Carolina, which is controlled by or under common control of the State or who is a lawful customer of the State pursuant to Article 3D of Chapter 147 of the General Statutes.

b) Vendor shall provide all encryption or identification codes or authorizations that are necessary or proper for the operation of the licensed Software.

c) The State shall have the right to copy the Software, in whole or in part, for use in conducting benchmark or acceptance tests, for business recovery and disaster recovery testing or operations, for archival or emergency purposes, for back up purposes, for use in preparing derivative works if allowed by the solicitation documents or statements of work, or to replace a worn copy.

d) The State may modify non-personal Software in machine-readable form for its internal use in merging the same with other software program material. Any action hereunder shall be subject to uses described in this paragraph, the restrictions imposed by Paragraph 3, and applicable terms in the solicitation documents or statements of work.

3) Restrictions: State's use of the Software is restricted as follows:

a) The license granted herein is granted to the State and to any political subdivision or other entity permitted or authorized to procure Information Technology through the Office of Information Technology. If the License Grant and License Fees are based upon the number of Users, the number of Users may be increased at any time, subject to the restrictions on the maximum number of Users specified in the solicitation documents.

b) No right is granted hereunder to use the Software to perform services for commercial third parties (so-called "service bureau" uses). Services provided to other State Departments, Agencies or political subdivisions of the State is permitted.

c) The State may not copy, distribute, reproduce, use, lease, rent or allow access to the Software except as explicitly permitted under this Agreement, and State will not modify, adapt, translate, prepare derivative works (unless allowed by the solicitation documents or statements of work,) decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Software or any internal data files generated by the Software.

d) State shall not remove, obscure or alter Vendor's copyright notice, trademarks, or other proprietary rights notices affixed to or contained within the Software.

4) Vendor's Retained Rights: Subject only to the rights granted to State hereunder, Vendor retains all right, title and interest in and to the Software and all copies of the Software, including without limitation all modifications, enhancements, upgrades and new versions with respect to any of the foregoing, all patent rights, copyrights and trade secret rights embodying any of the foregoing, and all know-how, concepts, inventions and ideas related to the foregoing. State shall provide Vendor with access to State's facilities, at reasonable times and upon reasonable notice, to verify State's compliance with the terms of this Agreement.

5) Support or Maintenance Services: This paragraph recites the scope of maintenance services due under the license granted, if not superseded by a separate licensing and maintenance agreement or as may be stated in the solicitation documents. Subject to payment of a Support Service or Maintenance Fee stated in the solicitation documents for the first year and all subsequent years, if requested by the State, Vendor agrees to provide the following support services ("Support Services") for the current version and one previous version of the Software commencing upon delivery of the Software:

a) Error Correction: If the error conditions reported by the State pursuant to the General Terms and Conditions are not corrected in a timely manner, the State may request a replacement copy of the licensed Software from Vendor. In such event, Vendor shall then deliver a replacement copy, together with corrections and updates, of the licensed Software within 24 hours of the State's request at no added expense to the State.

b) Other Agreement: This Paragraph 5 may be superseded by agreement provided that: Support and maintenance services shall be fully described in a separate agreement annexed hereto and incorporated herein

c) Temporary Extension of License: If any licensed Software or CPU/computing system on which the Software is installed fails to operate or malfunctions, the term of the license granted shall be temporarily extended to another CPU selected by the State and continue until the earlier of:

i) Return of the inoperative CPU to full operation, or

ii) Termination of the license.

d) Encryption Code: Vendor shall provide any temporary encryption code or authorization necessary or proper for operation of the licensed Software under the foregoing temporary license. The State will provide notice by expedient means, whether by telephone, e-mail or facsimile of any failure under this paragraph. On receipt of such notice, Vendor shall issue any temporary encryption code or authorization to the State within twenty-four (24) hours; unless otherwise agreed.

e) Updates. Vendor shall provide to the State, at no additional charge, all new releases and bug fixes (collectively referred to as "Updates") for any Software Deliverable developed or published by Vendor and made generally available to its other customers at no additional charge. All such Updates shall be a part of the Program and Documentation and, as such, be governed by the provisions of this Contract.

f) Telephone Assistance. Vendor shall provide the State with telephone access to technical support engineers for assistance in the proper installation and use of the Software, and to report and resolve Software problems, during normal business hours, 8:00 AM - 5:00 PM Eastern Time, Monday-Friday. Vendor shall respond to the telephone requests for Program maintenance service, within four (4) hours or eight (8) hours or next business day, etc. *(edit this time to what you want your response time to be)*, for calls made at any time

6) Termination of Support or Maintenance: If the State fails to pay Support or Maintenance Services for the Software or choose not to pay for Support or Maintenance Services, the State may continue to use the Software pursuant to the license granted hereunder, but will not be entitled to receive routine Support Services for such Software. If the State does not subscribe or purchase Support or Maintenance Services effective with the date of this Contract, Support or Maintenance Services may be subsequently subscribed or purchased at any time during the term of this Contract by payment of Support Service or Maintenance Fees at Vendor's then current prices. During the term of this Agreement, the State may also purchase implementation services, consulting and training from Vendor at Vendor's then current prices.

7) Program Retirement: Vendor retains the right to retire a version of the Program and stop providing Maintenance, Updates or Services, upon providing one hundred and eighty (180) days written notice to the State of its intent to do so. The decision to stop maintaining a version of the Program is the sole business discretion of Vendor and shall not be deemed a breach of contract. If Vendor retires the version of the Program provided to the State and if the State has paid all applicable annual Maintenance Fees subsequent to executing this Agreement, the State shall be entitled to receive, at no additional charge, a newer version of the Program that supports substantially the same functionality as the licensed version of the Program. Newer versions of the Program containing substantially increased functionality will be made available to the State for an additional fee.

8) Applies if marked: ☐ **Services Provided by Vendor:** Vendor shall provide the State with implementation services as specified in a Statement of Work ("SOW") executed by the parties. This Agreement in combination with each SOW individually comprises a separate and independent contractual obligation from any other SOW. A breach by Vendor under one SOW will not be considered a breach under any other SOW. The services intended hereunder are related to the State's implementation and/or use of one or more Software Deliverables licensed hereunder or in a separate software license agreement between the parties ("License Agreement").

9) Payment Terms: The total License Fee and the Support Service or Maintenance Fee (provided the State subscribes or purchases such services) for the first year shall be invoiced upon delivery of the Software. The Support Service or Maintenance Fee for subsequent contract years, if any, will be invoiced annually 60 days prior to the anniversary date beginning each subsequent year. Increases in Vendor's Contract price for Support Services or Maintenance shall not exceed five percent (5%) per year following the first Contract year. Payment terms for software are Net 30 days after receipt of correct invoice or acceptance of software, whichever is later. Payment terms for services are due and payable the month following the month for which charges accrue, or in accordance with the contract payment schedule. The using agency is responsible for all payments under the contract.

10) Acceptance: Acceptance testing is required for all Vendor supplied software unless provided otherwise in the solicitation documents or a Statement of Work. The State may define such processes and procedures as may be necessary or proper, in its opinion and discretion, to ensure compliance with the State's specifications and Vendor's technical representations. Acceptance of software or services may be controlled by amendment hereto, or additional terms as agreed by the parties. In the event acceptance of software or services is not described in additional contract documents, the State shall have the obligation to notify Vendor, in writing and within a reasonable time following installation of any software deliverable described in the contract if it is not acceptable. The notice shall specify in reasonable detail the reason(s) a deliverable is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for installation and/or testing of software.

11) Warranty Terms: Notwithstanding anything in this Contract or Exhibit hereto to the contrary, Vendor shall assign warranties for any Deliverable supplied by a third party to the State.

a) Vendor warrants that any Software or Deliverable will operate substantially in conformity with prevailing specifications as defined by the current standard documentation (except for minor defects or errors which are not material to the State) for a period of ninety (90) days from the date of acceptance ("Warranty Period"), unless otherwise specified in the Solicitation Documents. If the Software does not perform in accordance with such specifications during the Warranty Period, Vendor will use reasonable efforts to correct any deficiencies in the Software so that it will perform in accordance with or substantially in accordance with such specifications.

b) Vendor warrants to the best of its knowledge that:

i) The licensed Software and associated materials do not infringe any intellectual property rights of any third party;

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

iii) The licensed 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 State's information systems.

iv.) The licensed 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.

c) UNLESS MODIFIED BY AMENDMENT OR THE SOLICITATION DOCUMENTS, THE WARRANTIES IN THIS PARAGRAPH ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OR WHETHER ARISING BY COURSE OF DEALING OR PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR PROFESSION OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND NO OTHER REPRESENTATIONS OR WARRANTIES HAVE FORMED THE BASIS OF THE BARGAIN HEREUNDER.

12) Applies if marked: ☐ **Escrow of Code:** Vendor has established an Escrow Agreement (“Escrow Agreement”) with a third party escrow agent acceptable to the State, as required in the solicitation documents. Within thirty days from the Effective Date of the Agreement, Vendor will add the State as a beneficiary to such Escrow Agreement. In the event (i) this Agreement is terminated due to insolvency or the filing of involuntary bankruptcy proceedings pursuant to Chapter 7 of the U.S. Bankruptcy Code and (ii) Vendor no longer offers support or maintenance services for the Software (both (i) and (ii) constituting the release condition (“Release Condition”) under the Escrow Agreement), the Software code deposited in accordance with the Escrow Agreement (the “Deposit Materials”) shall be delivered to the State and the State shall be granted a license to use the Deposit Materials solely to repair, maintain and support the Software licensed to State pursuant to this Agreement. The license to the Deposit Materials under this Section shall terminate upon the termination or cure of the Release Condition.

13) Confidentiality: Vendor shall employ security measures and standards, including encryption technologies, as may be necessary or proper, and as mutually agreed by the State and Vendor during performance of this Agreement. Vendor and its agents, if any, shall not have access to any information except as required to perform Vendor’s obligations under this Contract.

14) State Property and Intangibles Rights: The parties acknowledge and agree that the State shall own all right, title and interest in and to the copyright in any and all software, technical information, specifications, drawings, records, documentation, data and other work products first originated and prepared by the Vendor for delivery to the State (the “Deliverables”). To the extent that any Vendor Technology is contained in any of the Deliverables, the Vendor hereby grants the State a royalty-free, fully paid, worldwide, perpetual, non-exclusive license to use such Vendor Technology in connection with the Deliverables for the State’s internal business purposes. Vendor shall not acquire any right, title and interest in and to the copyrights for goods, any and all software, technical information, specifications, drawings, records, documentation, data or derivative works thereof, or other work products provided by the State to Vendor. The State hereby grants Vendor a royalty-free, fully paid, worldwide, perpetual, non-exclusive license to non-confidential Deliverables first originated and prepared by the Vendor for delivery to the State.

15) License Rights: All licenses granted to either party include the right to make, have made, use, have used, import, offer to sell, sell, lease or otherwise transfer any apparatus, or practice and have practiced any method and shall include the right to grant, directly or indirectly, revocable or irrevocable sublicenses to affiliates of such party; and nothing contained in this contract shall be deemed to grant any license under any other patents or patent applications arising out of any other inventions of either party.

16) Default: If the prescribed acceptance testing stated in the Solicitation Documents or performed pursuant to Paragraph 13 of the General Terms and Conditions for Goods and Related Services is not completed successfully, the State may request substitute Software, cancel the portion of the Contract that relates to the unaccepted Software, or continue the acceptance testing with or without the assistance of Vendor. These options shall remain in effect until such time as the testing is successful or the expiration of any time specified for completion of the testing. If the testing is not completed after exercise of any of the State’s options, the State may cancel any portion of the contract related to the failed Software and take action to procure substitute software. If the failed software (or the substituted software) is an integral and critical part of the proper completion of the work for which the Deliverables identified in the solicitation documents or statement of work were acquired, the State may terminate the entire contract pursuant to the Default terms in the General Terms and Conditions.

17) Limitation of Liability for Software Deliverables:

a) Where equipment is under the State’s exclusive management and control, Vendor shall not be liable for any damages caused by the State’s failure to fulfill any State responsibilities including, without limitation, those relating to assuring the proper use, management and supervision of the equipment and programs, audit controls, operating methods, office procedures or for establishing all property checkpoints necessary for the State’s intended use of the machines.

b) The Vendor’s liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall not exceed two times the value of the contract, but in no event shall the liability for damages be less than the total value of the contract.

c) WITH THE EXCEPTIONS OF INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT ACTIONS, THE STATE’S CONSTITUTIONAL RIGHTS AS A SOVEREIGN, AND PENALTIES IMPOSED UPON THE STATE BY ANY FEDERAL ENTITY OR EXPENDITURES OF PUBLIC FUNDS REQUIRED OR RESULTING FROM AN OPERATIONAL FAILURE OF THE DELIVERABLE(S) OR SERVICES PROVIDED HEREUNDER, BUT NOTWITHSTANDING ANY OTHER TERM TO THE CONTRARY CONTAINED IN THIS CONTRACT, NEITHER PARTY NOR THEIR RESPECTIVE AFFILIATES SHALL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES (I) FOR ANY CLAIM BASED UPON ANY THIRD PARTY CLAIM, (II) FOR ANY CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST SAVINGS OR OTHER ECONOMIC CONSEQUENTIAL DAMAGES, WHETHER RESULTING FROM DELAYS, LOSS OF DATA, INTERRUPTION OF SERVICE OR OTHERWISE, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (III) FOR ANY PUNITIVE OR EXEMPLARY DAMAGES OF ANY NATURE WHATSOEVER.

18) Vendor Obligations: In the event the State does not perform the State Obligations in a timely manner; Vendor may revise the applicable SOW and/or amount it is charging for Services, and present it as a Change pursuant to Paragraph 31 of the General Terms and Conditions for Goods and Related Services, or terminate this Agreement, at Vendor’s option. For each SOW, Vendor will designate one (1) Vendor point of contact who shall be responsible for responding to the State’s questions and issues relating to

the Services. The State understands and agrees that Vendor may subcontract with third parties to perform all or part of the Services in conformance with Paragraph 4 of the General Terms and Conditions for Goods and Related Services.

19) Qualified Personnel: Each party shall provide sufficient, qualified, knowledgeable personnel capable of:

(i) performing obligations set forth in this Agreement and each SOW; (ii) making timely decisions necessary to move the Services forward; (iii) participating in the project and assisting Vendor in rendering the Services; and (iv) facilitating development, testing and implementation of Vendor software, if applicable. Vendor warrants that qualified personnel will perform the services in a professional manner. As used in this Paragraph, “professional manner” means that the personnel performing the services will be of a skill and competence consistent with prevailing norms of company providers in the information technology industry.

20) Vendor shall not be responsible for any alleged breach of the foregoing Paragraph 16 that is attributable to

(i) misuse or modification of Vendor’s Software by or on behalf of the State, (ii) the State’s failure to use corrections or enhancements made available by Vendor, (iii) the quality or integrity of data from other automated or manual systems with which the Vendor’s Software interfaces, (iv) errors in or changes to third party software or hardware implemented by the State or a third party (including the vendors of such software or hardware) that is not a subcontractor of Vendor or that is not supported by the Deliverables, or (vi) the operation or use of the Vendor’s Software not in accordance with the operating procedures developed for the Vendor’s Software or otherwise in a manner not contemplated by this Agreement.

21) Transportation: Transportation of software shall be FOB Destination unless delivered by internet or file transfer as agreed by the State, or otherwise specified in the solicitation document or purchase order.

Revised 10/25/2010

11/07/2013

08/06/14

08/22/14

01/29/15

Appendix A: Requirements Listing

Please enter your response to each requirement in the “Vendor Self- Assessment” blanks to the right of each item – Full, Partial, or None.

How achieved:

- Full = OOB or Configuration Only
- Partial = Needs Custom Development
- None = Not Supported

	Description of Requirement	Priority	Vendor Self-Assessment (Full, Partial, None) Vendor may add comments
(1) System Configuration and Software Application Requirements			
1.1	System shall offer the ability to provide applications for Android, iOS and Windows mobile devices.	M	
1.2	System will allow non-smart phone users to obtain services via text or other dial up method.	M	
1.3	System will function in both Pay by Space and Pay by Plate environments in LUKE II managed spaces.	M	
1.4	Stored information within the users’ device is secured.	M	
1.5	Credit Card transactions use a tokenized process.	D	
1.6	System will comply with dynamic fee schedules.	M	
1.7	System shall be capable of running in a high availability continuous operation.	M	
1.8	System shall not process any fee below a minimum threshold set by UNC Charlotte.	M	
1.9	System shall provide validated parking and discounted/coupon parking options.	M	
1.10	Data is owned by UNC Charlotte regardless of on-premises or hosted model.	M	
1.11	System can be hosted by vendor. Detail costs in the attached pricing grid	D	
(2) Integration			
2.1	System will report in real time to LUKE II multi-space meter if a vehicle has a current session whether Pay by Space or Pay by License is used.	M	
2.2	System will validate the users’ entry ticket upon payment to allow exit of a gated facility.	M	
2.3	System will provide the user with a method of exit from a 3M controlled (gated) facility with unique bar code or QR code.	D	
2.4	System will provide data to enforcement officers and Call Center personnel through existing web access	M	
2.5	System will allow enforcement officers to	M	

	verify vehicle session using existing hardware listed in the “Current Environment” section of “Scope of Work.”		
2..6	Bar Code/QR Code readers will interact with 3M hardware.	D	
2.7	System will manage dynamic fee schedules in LUKE II managed spaces.	M	
2.8	System shall pull hourly fee tables from T2 Digital Iris (for LUKE IIs) and 3M EFMS (for PARCS equipment) and utilize them for PBP fee tables. Managing “mirrored” fee tables separately in the mobile payment system is not desired.	D	
2.9	Ability to provide a payment option at electric vehicle charging stations (universal to EVCS manufactures)	D	
2.10	Ability to integrate with on-line web reservation systems to provide a pre-paid event parking option through mobile payment application.	M	
2.11	Space counting (estimates) data available via rest web service for real-time reporting to private or public webpages.	D	
(3) PCI DSS Documentation			
3.1	Cardholder Data Flow Diagram	M	
3.2	Network Architecture Diagram	M	
3.3	PCI-DSS Attestation of Compliance with QSA information	M	
3.4	PCI-DSS Scan Report from ASV	M	
3.5	PA-DSS validation	M	
3.6	Vendor is listed on Visa Global Registry of Service Providers	M	
(4) Reporting			
4.1	System will provide transaction details per day/week/month. (Detail and Summary formats)	M	
4.2	System shall offer audit trail information that can be reported on.	M	
4.3	System shall provide customer usage report.	D	
4.4	System must provide detailed reconciliation reports that match up with either the money being deposited in to the University’s account (Vendor as MoR) or the invoice sent from the vendor to the University requesting payment of collected transaction fees (University as MoR). These reports must be emailed to the proper university staff before the deposit or invoice is sent as well as be available on demand via an online web reporting portal.	M	
4.5	Provide examples of all canned/standard reports.	M	
4.6	UNC Charlotte uses Webfocus for Business intelligence and reporting. Please describe how UNC Charlotte can facilitate a database connection this with your system or how 3rd	D	

	party reporting can be facilitated and all costs associated.		
(5) Customer Experience			
5.1	Application is free to download for all users	M	
5.2	Application will allow the user to create an account with an easy to use process.	M	
5.3	User will not need to key in credit card data or license plate information for each transaction.	M	
5.4	Smartphone application which is associated with the device natively, providing the ability for the device's GPS to navigate customer to the closest available parking.	M	
5.5	Application is multi-lingual.	D	
5.6	Signage is easy to understand.	M	
5.7	Signage contains a QR Code to install the application.	D	
5.8	Signage conforms to UNC Charlotte branding standards.	M	
5.9	Signage must be provided at no additional charge to the university (university will assist with install).	D	
5.10	System shall text the customer if prepaid services are about to expire. Customer can extend prepaid time by reply to text if dynamic fee schedule allows.	M	
5.11	System shall provide a stop watch function if prepaid services are purchased.	D	
5.12	Application shall provide way finding function when returning to their vehicle.	D	
5.13	System will allow customer to use a ticketless system in its visitor decks. Customer can create its own bar/QR code for tracking	D	
5.14	Vendor has existing business relationship within ¼ mile of UNC Charlotte Center City Building – 320 E 9 th Street, 28202	M	
5.15	System will offer PayPal as alternative to credit card	D	
(6) Maintenance and Support			
6.1	Software service as needed	D	
6.2	Vendor shall provide software updates	M	
6.3	A Service Level Agreement shall be offered to support extended hours and/or quicker response times to tech support requests	D	
6.4	Vendor shall provide multiple ways to initiate a support request including email, web page and/or voice mail	D	
6.5	Vendor will provide PCI-DSS documentation annually, if there is a change in status, and upon request	M	
6.6	UNC Charlotte will be alerted when there are service interruptions	M	
6.7	Vendor shall have service escalation process	D	

Appendix B: Pricing

The below grid is being used to standardize presentation of costs to UNC Charlotte and allow it to accurately compare proposal costs from all offerors. The chart may be expanded to include additional item descriptions, but should not deviate from the format. If multiple solutions are proposed, a separate grid must be submitted for each solution.

Qty	Description	One-Time Costs		Recurring Costs		
		Unit Cost	Extension	Per Transaction	Monthly	Annual
	Application Interface – T2 LUKE II MSMs					
	Application Interface – 3M PARCS					
	Application Interface – Cardinal Tracking, Inc. – TickeTrak Enforcement System					
	Application Interface – On-line Web Reservation Integration					
	Application Interface – Electric Vehicle Charging Station Payment Option					
	Application Feature – Validations & Coupons					
	Application Feature – Customer eWallet					
	Application Feature – White Label					
	Parking Facility Signage	INC	INC	INC	INC	INC
	Other Interface / Feature Option 1 (provide description of option here)					
	Other Interface / Feature Option 2					
	Other Interface / Feature Option 3					
	Other Interface / Feature Option 4					
	Hardware 1 (provide description of hardware here)					
	Hardware 2					
	Hardware 3					
	Hardware 4					
	License – Purchase (seat license / site license / concurrent license)					
	License – Hardware (per device)					
	License – Reoccurring annual cost					
Total:						

	Transaction fee paid by UNC Charlotte (Percentage of total fee)					
	Transaction fee paid by UNC Charlotte (Per transaction)					

	Service Call per hour					
	Service Maintenance Agreement - 1 Year					
	Service Maintenance Agreement - 3 Year (paid per year)					
	Service Maintenance Agreement - 5 Year (paid per year)					
	Training Costs					
	Hosted Environment Costs					