

Solicitation (IFB, RFP, RFQ) No. **62-05052009**

Bidder/Offeror: _____

**THIS PAGE IS TO BE FILLED OUT AND RETURNED WITH YOUR BID. FAILURE TO DO SO
MAY SUBJECT YOUR BID TO REJECTION.**

ATTENTION

Federal Employer Identification Number or alternate identification number
(e.g., Social Security Number) is used for internal processing, including bid tabulation.

Enter ID number here: _____

Pursuant to N.C.G.S. 132-1.10(b) this identification number shall not be released to the public.

This page will be removed and shredded, or otherwise kept confidential,
before the procurement file is made available for public inspection.

University of North Carolina School of the Arts 1533 S. Main Street Winston Salem, NC 27127	INVITATION FOR BIDS NO. 62-05052009 Bids will be publicly opened: June 2, 2009 Contract Type: Open Market
Refer ALL Inquiries to: Tarinda Chappell Telephone No.336-770-3319	Commodity: Pest Control Services
E-Mail: chappellt@unca.edu	Using Agency Name: University of NC School of the Arts
(See page 2 for mailing instructions.)	Agency Requisition No.

NOTICE TO BIDDERS

Sealed bids, subject to the conditions made a part hereof, will be received at this office **Tuesday, June 2, 2009, at 2:00 p.m.** on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Refer to page 2 for proper mailing instructions.

Bids submitted via telegraph, facsimile (FAX) machine, telephone, and electronic means, including but not limited to e-mail, in response to this Invitation for Bids will not be acceptable. Bids are subject to rejection unless submitted on this form.

EXECUTION

In compliance with this Invitation for Bids, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this bid, I certify that this bid 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.

Failure to execute/sign bid prior to submittal shall render bid invalid. Late bids are not acceptable.

BIDDER:.		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO (800)
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO BIDDERS ITEM #21):		
PRINT NAME & TITLE OF PERSON SIGNING:		FAX NUMBER:
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:

Offer valid for 45 days from date of bid opening unless otherwise stated here: ____ days (See Instructions to Bidders, Item 6). Prompt Payment Discount: _____ % _____ days (See Instructions to Bidders, Item 7).

ACCEPTANCE OF BID

If any or all parts of this bid are accepted, an authorized representative of _____ shall affix their signature hereto and this document and the provisions of the Instructions to Bidders, special terms and conditions specific to this Invitation for Bids, the specifications, and the North Carolina General Contract Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful bidder(s).

FOR UNCSA USE ONLY

Offer accepted and contract awarded this _____ day of _____, 20____, as indicated on attached certification,
by _____ (Authorized representative of UNCSA.

In an effort to support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort.

It is desirable that all responses meet the following requirements:

- All copies are printed **double sided**.
- All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
- Unless absolutely necessary, all bids and copies should **minimize or eliminate use of non-recyclable or non reusable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
- Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.

MAILING INSTRUCTIONS: Mail only one fully executed bid document, unless otherwise instructed, and only one bid per envelope. Address envelope and insert bid number as shown below. It is the responsibility of the bidder to have the bid in this office by the specified time and date of opening.

<u>DELIVERED BY US POSTAL SERVICE</u>	<u>DELIVERED BY ANY OTHER MEANS</u>
BID NO. 62-05052009 University of North Carolina School of the Arts 1533 S. Main Street Winston-Salem, NC 27127 Attn: Purchasing Department	BID NO. 62-05052009 University of North Carolina School of the Arts 1708 Chapel St. Winston-Salem, NC 27127 Attn: Purchasing Department

TABULATIONS

The Division has implemented an Interactive Purchasing System (IPS) that allows the public to retrieve bid tabulations electronically from our Internet web site: <http://www.doa.state.nc.us/pandc/>. Click on the IPS BIDS icon, click on Search for Bid, enter the bid number, and then search. Tabulations will normally be available at this web site not later than one working day after opening. Lengthy tabulations may not be available on the Internet, and requests for these verbally or in writing cannot be honored.

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/>.

ATTENTION: This contract is not included in e-procurement. Paragraphs #19 and #20 of the North Carolina General Contract Terms and Conditions do NOT apply.

MANDATORY PRE-BID CONFERENCE:

There will be a **mandatory** pre-bid conference on Thursday, May 21, 2009 at 9:00 a.m. to be held at Facilities Management , located at 303 Waughtown St., Winston Salem, NC 27127. If you have questions or need directions, please contact Chris Grubbs at 336-631-1528.

SCOPE:

This is a contract is to furnish pest control services, which include all labor, materials and incidentals in planned treatment for pest eradication and control in all campus buildings and the Stevens Center for the University of North Carolina School of the Arts.

Eradication to include all hallways bathrooms, closets, kitchens, mechanical rooms, elevator shafts, basements, lobbies, lounges, offices, crawl spaces, plumbing voids, storage closets, housekeeping closets, maintenance areas and incinerator areas.

Pest's target for treatment shall include roaches, gnats, silverfish, spiders, fleas, rodents, and all other pests such as termites, birds and snakes that shall appear.

TERM:

This agreement shall begin July 1, 2009 and end on June 30, 2010 with the option to renew for two (2) additional one year periods, if mutually agreeable to both parties.

MATERIALS:

1. All materials used in these pest controls services and their method of application shall CONFORM TO Federal, State, and Local Laws and shall be acceptable to UNCSA's representative.
2. Rodenticides and avicides shall be used with due precautions to obviate the possibility of accidents to humans and domestic animals.
3. The contractor shall furnish the owner's representative with a certified list of materials used for pest control along with instructions for proper antidote.
4. No pest materials may be stored in any of the areas except during the treatments and while contractor personnel are on site.
5. No pest control materials shall be allowed to contact any food or utensils in which food is contained.
6. No pest control materials shall be used that will cause damage to asphalted, MASTIC, OR LINOLEUM FLOOR SURFACES AND SHALL NO STAIN OR DISCOLOR WALLS, CEILINGS, FLOORS, OR BASEBAORDS.
7. For elimination of rodents, only methods utilizing mechanical traps, glue boards, bats or tracking power approved by the North Carolina Department of Agriculture will be allowed.
8. A list of pest control materials planned for use under the terms of this contract must be submitted with this bid. The EPA must approve all items on the list for this type of use and the contractor must certify that fact on the list.

EQUIPMENT:

The use of ULV machines, space spraying, aerosolized products or liquids will not be allowed without the written consent of the University of North Carolina School of the Arts.

CONTRACTOR AND PERSONNEL:

The successful contractor shall have been licensed for general by the State of North Carolina for at least five (5) years.

1. The contractor shall insure that all applicators performing treatments or other work relating to this contract have a current state license from the state of North Carolina.
2. Contractor and personnel working on UNCSA property must conform to Federal, State and Local Ordinances and Laws governing qualifications and/or license of Representatives or persons employed by the Contractor to apply chemicals.
3. Contractor shall have personnel familiar with services required of contractor by contract and building locations to provide continuous service as set forth in this contract. UNCSA's representative shall assist the contractor when possible, and when assistance is requested and the contractor, in familiarizing new or additional personnel with locations and contract conditions.

- a. Contract will provide one (1) technician for regular services
 - b. Contractor must have qualified back up personnel for the purpose of substitution.
 - c. UNCOSA reserves the right to have UNCOSA's representative accompany the contractor or representative while on campus performing services provided by this contract.
4. All contractors' service vehicles shall carry a logbook or file containing the current EPA-approved labels and MSDS for all pesticides carried on the vehicle and shall be equipped with appropriate and adequate pesticide spill control equipment. The vehicles will be kept secure at all times while on University property.
5. The contractor shall provide a master log book for the University. University personnel shall provide space in the Master Log Books for the logging of problem areas. The Master Log Book shall consist of the following items. A duplicate Master Log Book shall be provided to the contract administrator and be kept up-to-date.
 - a. Specifications
 - b. Agreement
 - c. Photocopy of license/certification cards of all Contractors' employees who perform pest control services at the University
 - d. Regular monthly schedule
 - e. A current list of all pesticides, rodenticides, etc. used at the University along with specimen labels and MSDS for these products.
 - f. Phone numbers for emergency contacts, including University Public Safety, University Environmental Health and Safety and emergency contact for the Contractor as well as the current official North Carolina Poison Control Center.
6. The contractor shall ensure that any additional services, if required to contract infestation shall be rendered at no additional cost. Fogging shall be performed in building or parts of building only when other pest controls have been deemed unsuccessful.
7. The Contractor shall provide termite, bird and snake control services only upon request and shall separately identify the charges on the monthly invoice. Bird and snake control measure will conform to the regulation of the North Carolina Wildlife Resources Commission regarding the taking of wildlife and the need for any permits to take such vertebrates.

TREATMENT:

Contractor shall inspect and treat as necessary at least twelve (12) times per year in all areas for all targeted pests. The areas, but not limited to, shall include all hallways and restrooms with one of the above mentioned residual insecticides. Any area where food is authorized to be prepared or stored will be treated at this time (i.e. break rooms, coffee preparation areas, drink machines, etc). The lounges in the various buildings and hallways, showers, and restrooms in the residence halls will be treated monthly. This is a minimum service and warranty callbacks will be counted in this minimum. Contractor shall have written documentation in each area at time of treatment for verification that area has been treated in accordance with these specifications.

All treatment dates, times, and warranty callbacks shall be approved /requested by the Director of Residence Life, Director of Purchasing, Insurance & Contracts, or the Associate Vice Chancellor for Facilities Management or their designated contact person.

The successful contractor shall provide a written warranty, guaranteeing the elimination of all pests targeted above. In the event of a reported pest infestation, the contractor shall respond with twenty-four (24) hours for re-treatment of the affected area. Re-treatment shall continue until the infestation is eradicated. Pretreatment shall be at no additional charge to the University of North Carolina School of the Arts.

There shall be two (2) cleanouts per year of the residence halls and the Bailey Street Apartment. The first cleanout shall be done during **Spring Break** (usually 2nd or 3rd week in March) yearly and the second cleanout shall be done during the month of **August yearly**. The cleanout shall consist of a combination of a flushing agent and a residual spray to be applied to all residence hall rooms and apartments while they are unoccupied.

UNCSA reserves the right to add, delete or change locations as specified on the cost proposal below.

BILLING:

The contractor will receive a purchase order for the pest control service. The purchase order number should be put on all invoices. Please submit all invoices and statements to:

University of North Carolina School of the Arts
Facilities Management
303 Waughtown St.
Winston-Salem, NC 27127
Attn: Diane Millette

Billing shall be monthly in arrears with each invoice equaling 1/12 of the annual contract amount. The bill will be broken down by location as specified below in the cost proposal section.

PEST CONTROL COST PROPOSAL					
Location	Responsible	Year Built	Gross Square Footage	Cost Per Month	Cost Per Year
Chancellor's Condo-Off Campus	Facilities	2006	7,932		
Administration Annex	Facilities	1973	11,194		
Design & Production Bldg.	Facilities	1946	74,457		
Design & Production Metal Bldg.	Facilities	1940	4,000		
Aquarius Bldg.	Facilities	1950	2,760		
Film School	Facilities	1962	5,350		
Sculpture Studio	Facilities	1999	5,234		
Wig & Make-Up	Facilities	2005	15,507		
Costume Collection	Facilities	1935	12,930		
Pierce Bldg.	Facilities	1935	16,000		
Chamber Music Hall	Facilities	2003	36,000		
Performance Place	Facilities	1988	36,275		
Transmission Shop & D & P Film Storage	Facilities	1961	5,350		
Facilities Management	Facilities	1945	37,490		
Surplus Property Warehouse	Facilities	1960	3,834		
Welcome Center	Facilities	2004	16,500		
Workplace West Kindergarten	Facilities	1956	1,300		
Workplace West III	Facilities	1986	14,268		
Workplace West Church & Gym	Facilities	1956	20,203		
Workplace West IV	Facilities	1956	6,510		
Workplace Bldg.	Facilities	1978	97,049		

Location	Responsible	Year Built	Gross Square Footage	Cost Per Month	Cost Per Year
Workplace Annex	Facilities	1978	6,188		
Gray Building	Facilities	1929	94,888		
Demille Theater	Facilities	1950	26,382		
Student Activity Center Hanes Commons	Facilities	2003	49,070		
Film Archives	Facilities	2004	19,258		
Film Exhibition Bldg #1	Facilities	1997	38,837		
Film Admin/Prod #2	Facilities	1997	38,837		
Film Scoring Bldg #3	Facilities	1997	4,528		
Buck Bldg.	Facilities	1999	9,238		
311 Bldg Sound Stage –High Point	Facilities	1970	18,022		
Acadia Bldg.	Facilities	1960	18,840		
1605 Chapel Street	Facilities	1962	2,117		
1704 Chapel Street	Facilities	1945	772		
1708 Chapel Street	Facilities	1950	1,428		
1712 Chapel Street	Facilities	1925	1,522		
1804 Chapel Street	Facilities	1905	1,108		
1806 Chapel Street	Facilities	1949	1,184		
1832 Chapel Street	Facilities	1950	1,024		
1840 Chapel Street	Facilities	1905	1,231		
1844 Chapel Street	Facilities	1950	982		
1803 Sunnyside Avenue	Facilities	1910	2,560		
1809 Sunnyside Avenue	Facilities	1920	1,468		

Location	Responsible	Year Built	Gross Square Footage	Cost Per Month	Cost Per Year
1811 Sunnyside Avenue	Facilities	1960	2,270		
1903 Sunnyside Avenue	Facilities	1914	4,684		
1915 Sunnyside Avenue	Facilities	1920	2,800		
1707 South Main Street	Facilities	1912	1,522		
1711 South Main Street	Facilities	1963	800		
1903 South Main Street.	Facilities	1910	5,349		
1919 South Main Street	Facilities	1910	4,798		
Sanford Residence Hall	Residence Life	1965	22,945		
Connector Building	Residence Life	2004	7,270		
Moore Residence Hall	Residence Life	1965	22,945		
Residence Halls A,B,C,D,E,F	Residence Life	1969	63,632		
Bailey St Aparts 1,2,3,4,5,6	Residence Life	1984	25,632		
Center Stage Apartments	Residence Life	2002	26,682		
Fitness Center	Student Life	1999	21,587		
Stevens Center	Stevens Center	1929	77,150		
GRAND TOTAL FOR ONE YEAR					

REFERENCES:

Bidders must demonstrate that he has a successful record of experience in the type of service specified. Otherwise, the bid may not be considered.

List at least three (3) references of accounts of comparable size that you are now serving.

Reference 1

Vendor Name: _____

Contact Person: _____

Phone Number: _____ Email Address: _____

Number of Employees: _____ Contract Period: _____

Reference 2

Vendor Name: _____

Contact Person: _____

Phone Number: _____ Email Address: _____

Number of Employees: _____ Contract Period: _____

Reference 3

Vendor Name: _____

Contact Person: _____

Phone Number: _____ Email Address: _____

Number of Employees: _____ Contract Period: _____

Reference 4

Vendor Name: _____

Contact Person: _____

Phone Number: _____ Email Address: _____

Number of Employees: _____ Contract Period: _____

Reference 5

Vendor Name: _____

Contact Person: _____

Phone Number: _____ Email Address: _____

Number of Employees: _____ Contract Period: _____

INSTRUCTIONS TO BIDDERS

1. **READ, REVIEW AND COMPLY:** It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
2. **NOTICE TO BIDDERS:** All bids are subject to the provisions of the Instructions to Bidders, special terms and conditions specific to this Invitation for Bids, the specifications, and the North Carolina General Contract Terms and Conditions.
University of North Carolina School of the Arts objects to and will not evaluate or consider any additional terms and conditions submitted with a bidder response. This applies to any language appearing in or attached to the document as part of the bidder's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.**
By execution and delivery of this document, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.
3. **DEFINITIONS:**
 - **BIDDER:** Company, firm, corporation, partnership, individual, etc., submitting a response to an Invitation for Bids.
 - **TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities only.
 - **STATEWIDE TERM CONTRACT:** A Term Contract for all agencies, unless exempted by statute, rule, or special term and condition specific to this bid.
 - **AGENCY SPECIFIC TERM CONTRACT:** A Term Contract for a specific agency.
 - **OPEN MARKET CONTRACT:** A contract for the purchase of a commodity not covered by a term contract.
4. **EXECUTION:** Failure to sign under EXECUTION section will render bid invalid.
5. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this bid, the order of precedence shall be (1) special terms and conditions specific to this bid, (2) specifications, (3) North Carolina General Contract Terms and Conditions, and (4) Instructions to Bidders.
6. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, bidder's offer shall be valid for 45 days from the date of bid opening. Preference may be given to bids allowing not less than 45 days for consideration and acceptance.
7. **PROMPT PAYMENT DISCOUNTS:** Bidders are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
8. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and bidder will be held responsible therefore. Deviations shall be explained in detail. **The bidder shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**
9. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidder is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this bid, each bidder must submit with their bid sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection.
10. **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective.
We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use.
Companies are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.
11. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum. The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.
12. **ACCEPTANCE AND REJECTION:** University of North Carolina School of the Arts reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the bidder, to accept any item in the bid. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
13. **REFERENCES:** University of North Carolina School of the Arts reserves the right to require a list of users of the exact item offered University of North Carolina School of the Arts. may contact these users to determine acceptability of the bid. Such information may be considered in the evaluation of the bid.

14. **TAXES:**

- **FEDERAL:** All agencies participating in this contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the contractor will be executed and returned by the using agency.
- **OTHER:** Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.

15. **AWARD OF CONTRACT:** As directed by statute, qualified bids will be evaluated and acceptance may be made of the lowest and best bid most advantageous to University of North Carolina School of the Arts as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the bidders; the substantial conformity with the specifications and other conditions set forth in the bid; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by University of North Carolina School of the Arts to be pertinent or peculiar to the purchase in question. Unless otherwise specified by University of North Carolina School of the Arts or the bidder, University of North Carolina School of the Arts reserves the right to accept any item or group of items on a multi-item bid.

In addition, on TERM CONTRACTS, r University of North Carolina School of the Arts reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by University of North Carolina School of the Arts to be pertinent or peculiar to the purchase in question.

16. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, University of North Carolina School of the Arts invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.

17. **CONFIDENTIAL INFORMATION:** As provided by statute and rule, the University of North Carolina School of the Arts will consider keeping trade secrets which the bidder does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the bidder. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.

18. **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the bidder's expense. Request for the return of samples must be made within 10 days following date of bid opening. Otherwise the samples will become University of North Carolina School of the Arts property. Each individual sample must be labeled with the bidder's name, bid number, and item number. A sample on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.

19. **PROTEST PROCEDURES:** When a bidder wants to protest a contract awarded by the Secretary of Administration or by an agency over \$25,000 resulting from this solicitation, they must submit a written request to the State Purchasing Officer at Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305. This request must be received in the Division of Purchase and Contract within thirty (30) consecutive calendar days from the date of the contract award. When a bidder wants to protest a contract awarded by an agency or university resulting from this solicitation that is over \$10,000 but less than \$25,000 for any agency, or any contract awarded by a university, they must submit a written request to the issuing procurement officer at the address of the issuing agency. This request must be received in that office 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. Bid 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.)

20. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.

21. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident bidders. The "Principal Place of Business" is defined as the principal place from which the trade or business of the bidder is directed or managed.

NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS

1. **DEFAULT AND PERFORMANCE BOND:** In case of default by the contractor, University of North Carolina School of the Arts may procure the articles or services from other sources and hold the contractor responsible for any excess cost occasioned thereby. The University of North Carolina School of the Arts reserves the right to require performance bond or other acceptable alternative guarantees from successful bidder without expense to . University of North Carolina School of the Arts

In addition, in the event of default by the Contractor under this contract, the State may immediately cease doing business with the Contractor, immediately terminate for cause all existing contracts the State has with the Contractor, and de-bar the Contractor from doing future business with the State.

Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the State may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the State, and de-bar the Contractor from doing future business with the State.

2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the contractor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. The University of North Carolina School of the Arts reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
3. **AVAILABILITY OF FUNDS:** Any and all payments to the contractor are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this agreement.
4. **TAXES:** Any applicable 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 bid document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.

5. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **GOVERNING LAWS:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
7. **INSPECTION AT CONTRACTOR'S SITE:** The University of North Carolina School of the Arts reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to contract award, and during the contract term as necessary for The University of North Carolina School of the Arts determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract.
8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.
9. **AFFIRMATIVE ACTION:** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.
10. **CONDITION AND PACKAGING:** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.
11. **STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.
12. **PATENT:** The contractor shall hold and save The University of North Carolina School of the Arts, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, on account of any copyrighted material, patented or

unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by the government.

13. **ADVERTISING:** Contractor agrees not to use the existence of this contract or the name of the State of North Carolina as part of any commercial advertising.
14. **ACCESS TO PERSONS AND RECORDS:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7.
15. **ASSIGNMENT:** No assignment of the contractor's obligations nor the contractor's right to receive payment hereunder shall be permitted.
However, upon written request approved by the issuing purchasing authority and solely as a convenience to the contractor, The University of North Carolina School of the Arts may:
 - a. Forward the contractor's payment check directly to any person or entity designated by the contractor, and
 - b. Include any person or entity designated by contractor as a joint payee on the contractor's payment check.In no event shall such approval and action obligate the State to anyone other than the contractor and the contractor shall remain responsible for fulfillment of all contract obligations.
16. **INSURANCE:**
COVERAGE - During the term of the contract, the contractor 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 contractor shall provide and maintain the following coverage and limits:
 - a. **Worker's Compensation** - The contractor 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 \$150,000.00, covering all of contractor's employees who are engaged in any work under the contract. If any work is sublet, the contractor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the contract.
 - b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
 - c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.**REQUIREMENTS:** Providing and maintaining adequate insurance coverage is a material obligation of the contractor 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 contractor 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 contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.
17. **YEAR 2000 COMPLIANCE/WARRANTY:** Vendor shall ensure the product(s) and service(s) furnished pursuant to this agreement ("product" shall include, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) which perform any date and/or time data recognition function, calculation, or sequencing, will support a four digit year format, and will provide accurate date/time data and leap year calculations on and after December 31, 1999, at the same level of functionality for which originally acquired without additional cost to the user. This warranty shall survive termination or expiration of the agreement.
18. **GENERAL INDEMNITY:** The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.
19. **ELECTRONIC PROCUREMENT (APPLIES TO ALL CONTRACTS THAT INCLUDE E-PROCUREMENT AND ARE IDENTIFIED AS SUCH IN THE BODY OF THE SOLICITATION DOCUMENT):** Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Service. The contractor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of this contract.

THE SUCCESSFUL BIDDER(S) SHALL PAY A TRANSACTION FEE OF 1.75% (.0175) ON THE TOTAL DOLLAR AMOUNT (EXCLUDING SALES TAXES) OF EACH PURCHASE ORDER ISSUED THROUGH THE STATEWIDE E-PROCUREMENT SERVICE This applies to all purchase orders, regardless of the quantity or dollar amount of the purchase order. The transaction fee shall not be stated or included as a separate item on the invoice. There are no additional fees or charges to the contractor for the services rendered by the Supplier Manager under this contract. Contractor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the contractor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the contractor's failure to perform or comply with specifications or requirements of the contract.

Contractor or its Authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Contractor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Contractor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Contractor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, contractor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which payment of the related goods by the governmental purchasing entity has not been received by the Contractor. If payment of the transaction fee is not received by the State within this payment period, it shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the contractor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.

The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate contractor on State Contract. The State or State approved user, not the Supplier Manager, shall be responsible for the solicitation, bids received, evaluation of bids received, award of contract, and the payment for goods delivered.

Contractor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a contractor is a corporation, partnership or other legal entity, then the contractor may authorize its employees to use its password. Contractor shall be responsible for all activity and all charges by such employees. Contractor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the contractor's account, contractor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Contractor shall cooperate with the State and the Supplier Manager to mitigate and correct any security breach.

20. **ELECTRONIC PROCUREMENT (APPLIES ONLY TO STATEWIDE TERM CONTRACTS):** Within ten (10) calendar days of notice, the contractor shall provide supplier information, contract pricing and other product-related information requested by the State or the Supplier Manager. This information shall include such information as contractor name, SKU, brand/manufacture, product name and a brief description, unit of measure, price, and other similar information properly requested by the State or the Supplier Manager to facilitate purchasing from the contract. This information shall be posted by the contractor in the format provided by the Supplier Manager, or as otherwise provided in a template or format required by the State. No costs or expenses associated with providing this information shall be charged to the State, its agents (including Supplier Manager) or State approved users of the contract. For the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to use, reproduce, transmit, distribute and publicly display this information. In addition, for the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to reproduce and display contractor's trademarks, service marks, logos, trade dress or other branding designation that identifies the goods available under the contract. The Supplier Manager shall create and maintain, with contractor's timely assistance, web-based placement of contract information, where appropriate, that includes the contract items distributed by the contractor within the appropriate contract categories. The State shall provide any price adjustment/product modification information that it has approved during the course of the contract, to the Supplier Manager immediately upon such change.

If the contractor is not the manufacturer, then it shall be the contractor's responsibility to obtain authorization from the manufacturer to comply with the provisions of this contract, including any appropriate intellectual property rights of the manufacturer. If the contractor is the manufacturer, then the manufacturer shall only authorize dealers, outlets, distributors, value added resellers, etc. (together, "Authorized Resellers") within their network that can comply with the provisions of this contract.

CONTRACTOR IS AND SHALL REMAIN RESPONSIBLE FOR PAYING THE TRANSACTION FEE ON BEHALF OF ITS AUTHORIZED RESELLERS IN THE EVENT THAT THE AUTHORIZED RESELLER(S) DEFAULTS.

21. **CANCELLATION (TERM CONTRACTS ONLY):** All contract obligations shall prevail for at least 90 days after the effective date of the contract. After that period, in addition to the provisions of the paragraph entitled Price Adjustments, for the protection of both parties, this contract may be canceled in whole or in part by either party by giving 30 days prior notice in writing to the other party.
22. **QUANTITIES (TERM CONTRACTS ONLY):** The award of a term contract neither implies nor guarantees any minimum or maximum purchases thereunder.

23. **PRICE ADJUSTMENTS (TERM CONTRACTS ONLY):** Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the contractor to other customers.
- a. **Notification:** Must be given to The University of North Carolina School of the Arts, in writing, concerning any proposed price adjustments. Such notification shall be accompanied by copy of manufacturer's official notice or other acceptable evidence that the change is general in nature.
 - b. **Decreases:** The University of North Carolina School of the Arts shall receive full proportionate benefit immediately at any time during the contract period.
 - c. **Increases:** All prices shall be firm against any increase for 180 days from the effective date of the contract. After this period, a request for increase may be submitted with The University of North Carolina School of the Arts reserving the right to accept or reject the increase, or cancel the contract. Such action by The University of North Carolina School of the Arts shall occur not later than 15 days after the receipt by The University of North Carolina School of the Arts of a properly documented request for price increase. Any increases accepted shall become effective not later than 30 days after the expiration of the original 15 days reserved to evaluate the request for increase.
 - d. **Invoices:** It is understood and agreed that orders will be shipped at the established contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item.

8/01/2008