

COASTAL CAROLINA UNIVERSITY STANDARD PURCHASE TERMS AND CONDITIONS

This document contains standard terms and conditions that apply to all solicitations and procurements made by Coastal Carolina University (University). When so accepted, this document represents the complete and final agreement with the seller with regard to the goods and services specified. Any seller-provided terms and conditions included with seller's quote, invoice, or other documents shall be of no effect. Instructions and terms specific to an individual solicitation will also apply and are considered in addition to these standard terms. In case of conflict between terms of a specific solicitation and this document, the terms of the specific solicitation shall prevail.

ASSIGNMENT: The order is not assignable by the seller without the prior written consent of the University.

CHOICE OF LAW: The order shall be governed in all respects by the laws of the State of South Carolina. The order shall not be modified except by written agreement of the University and seller. Jurisdiction and venue shall reside in the State of South Carolina.

CONTRACT ADMINISTRATION: Questions or problems arising after award of this order shall be directed to Coastal Carolina University, Procurement Services, PO Box 261954, Conway SC 29528. The office of Procurement Services is located in Atlantic Hall, 642 Century Circle, Conway SC.

COMPLIANCE WITH LAWS: The seller, by acceptance of the order, will be deemed to represent that it has complied, or will comply, with all applicable Federal, State and local laws and ordinances and all lawful orders, rules and regulations there under.

DELIVERY: Subject to conditions beyond the control of the seller, delivery of completion must actually be affected within the time stated on the order. If, for any reasons whatsoever, including conditions beyond the control of seller, completion is not timely, the University reserves the right to obtain the goods or services elsewhere and to charge seller with any loss incurred as a result thereof or, as its option, to cancel the order.

EQUAL OPPORTUNITY: The University is an Equal Opportunity Employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, handicap or veteran status. The successful vendor will comply with all Federal and State requirements concerning fair employment of the handicapped, and concerning the treatment of all employees and applicants for employment without discrimination by reason of race, color, religion, sex, national origin, age, handicap or veteran status.

EXCESS QUANTITY: Any materials shipped in excess of the quantity specified in the order may, at the University's option, be returned to the seller at seller's expense. The University will not be obligated to pay for services or labor provided in excess of that specified in the order.

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA): Seller warrants that it will not make available or distribute any student education records it receives from the University in violation of the federal Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. section 1232g. Seller agrees to limit access to records provided by the University to its employees with a legitimate need to know in order for the seller to fulfill its obligations under this agreement. Seller warrants that it has procedures in place to prevent unauthorized access to data provided by the University, and the procedures will be documented and available to the University upon request. Seller will notify the University immediately in the event of a security breach that could or does impact the University records or data. Seller agrees that University data will not be shared or sold to third parties without prior written authorization from the University. Seller agrees to notify the University immediately if it receives a subpoena, court order or other request for University data so the University can take appropriate action if needed.

HOLD HARMLESS: The University, its officers, agents, and employees shall be held harmless from liability from any claims, damages, and actions of any nature arising from the use of any materials furnished by the seller, provided that such liability is not attributable to negligence on the part of the University or failure of the University to use the materials in the manner outlined by the seller in descriptive literature or specifications submitted with the seller's proposal.

IMPORTED GOODS: Whenever seller acts as the University's agent in importing goods from other countries, the seller agrees to show on its invoices the amount of any customs or import duties paid to the United States government as a separate item.

INSPECT/REJECT: The University reserves the right to inspect any equipment offered or completed service and to reject equipment or service if it is not acceptable as determined by the University.

INVOICE ITEMIZATION: All transportation, insurance, crating and /or packing charges are to be entered as separate items on seller's invoice, unless goods are sold F.O.B. destination or such charges are included in seller's price.

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CONTRACTOR'S LIABILITY INSURANCE: (a) Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees or subcontractors. (b) Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.

(2) Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(b) The University, and its officers, officials, employees and volunteers, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used. **The endorsement must contain the following language:**

"Coastal Carolina University, including its current and former trustees, officers, directors, employees, volunteer workers, agents, assigns and students, is added to this policy as additional insured."

(c) For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the State, the University, and the officers, officials, employees and volunteers of any of them. Any insurance or self-insurance maintained by the State, the University, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.

(d) Prior to commencement of the work, the Contractor shall furnish the University with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the University before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The University reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(e) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the University immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(f) Contractor hereby grants to the State and the University a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or the University by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or the University has received a waiver of subrogation endorsement from the insurer.

(g) Any deductibles or self-insured retentions must be declared to and approved by the University. The University may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(h) The University reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

LICENSES AND PERMITS: During the term of the contract, the seller shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in the order. Note: The University campus is located within the city limits of Conway, South Carolina. Questions regarding business license requirements should be directed to City of Conway, Business License Office, 1000 2nd Ave., Conway SC 29526, telephone 843-488-7631, fax 843-248-1718.

NON-INDEMNIFICATION: Any term or condition is void to the extent it requires the University to indemnify anyone.

ORDER: Seller shall not provide any goods or services prior to the receipt of an official order from the University. The University may order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

PURCHASING CARD: Seller agrees to accept payment by the University Purchasing Card for no extra charge. The University Purchasing Card is issued by Visa through a statewide program offered to state agencies which allows agencies to make authorized purchases from a vendor without the requirement to issue a purchase order.

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PUBLICITY: The seller shall not publish any comments or quotes made by University employees, or include the University in news releases, published client lists, or other such media, without the prior written approval of the University's offices of Procurement Services and University Communication.

SHIPPING / RISK OF LOSS: F.O.B. Destination. Destination is the shipping dock of the University's designated receiving site, or other location, as may be specified on the order.

TERMINATION DUE TO UNAVAILABILITY OF FUNDS: For orders involving payment and performance obligations beyond one fiscal period, such payments and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, seller will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Seller will not be reimbursed any costs amortized beyond the initial contract term.

UNIVERSITY POLICIES: The seller agrees to comply with all other applicable University policies as provided through this web site: <http://www.coastal.edu/policies/>

WARRANTIES: In addition to any expressed or implied warranties provided by applicable law, the seller hereby represents and warrants that the goods delivered or services performed on this order will be in accordance with the University's specifications, drawings, or samples, if such were submitted, and if any goods or workmanship proves defective within one year from delivery or completion, or is not in accordance with specifications, drawings or samples, the University may cancel this order and return this order or correct the defective goods or work at seller's expense. The foregoing representations and warranties shall survive acceptance of the goods or services.