

**NEW JERSEY CITY UNIVERSITY FOUNDATION INC.  
TERMS AND CONDITIONS**

The following terms and conditions apply to all contract or purchase agreements made with New Jersey City University Foundation, Inc. ("Foundation") unless specifically deleted on the Foundation's proposal form. Vendors submitting offers to the Foundation must clearly cross out any paragraph they do not agree to meet. Any redaction or change in the Foundation terms and conditions will be factored into the determination of an award of a contract or purchase agreement and must be agreed to by the Foundation.

Bidders are notified by this statement that all terms and conditions will become part of any contract(s) or order(s) awarded as a request for proposal whether stated in part, in summary, or by reference. In the event a vendor's terms and conditions conflict with the Foundation's, the Foundation terms and conditions shall prevail.

**1. MANDATORY COMPLIANCE BY ALL VENDORS**

- 1.1. **ANTI-DISCRIMINATION** – All parties to any contract with the Foundation agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through 10:2-4, N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued there under.
- 1.2. **AFFIRMATIVE ACTION** – All parties to any contract with the Foundation must comply with P.L. 1975, C. 127.
- 1.3. **THE WORKER AND COMMUNITY RIGHT TO KNOW ACT** – (P.L.1983. c. 315: N.J.S.A. 34:5A-1 at seq) requires employers to label all containers of hazardous substances by March 1, 1985. By August 29, 1986, employers must label all containers on Foundation premises. Under the terms of the Act, the Foundation is considered employer, therefore, all goods offered for purchase to the Foundation must be labeled in compliance with the provisions of the Act.
- 1.4. **COMPLIANCE-STATE LAWS** – It is agreed and understood that any contracts and/or orders placed as a result of this proposal shall be governed and construed and the rights and obligations of the parties here to shall be determined in accordance with the laws of the STATE OF NEW JERSEY.
- 1.5. **COMPLIANCE LAWS** – The vendor must comply with all local, state and federal laws, rules and regulations applicable to the contract and to the work to be done here under.

**2. LIABILITIES**

- 2.1. **LIABILITY-COPYRIGHT** – The Contractor shall hold and save the Foundation its officers, agents, students, servants and employees, harmless from liability of any nature of kind for or on account of the use of any copyrighted or uncopied composition secret process, patented or unpatented invention, article or appliance furnished or used in the performance of his contract.
- 2.2. **INDEMNIFICATION** – The contractor shall assume all risk of and agrees to indemnify, defend, and save harmless the Foundation, its officers, agents, students, servants and employees from and against any and all claims, demands, suits, actions, recoveries, judgment and costs and expenses on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or materials supplied under the contract. This indemnification obligation is not limited by, but is in addition to the insurance obligations contained in this agreement.
- 2.3. **INSURANCE** – The successful bidder shall secure and maintain in force for the term of the contract liability insurance as provided herein. The successful bidder shall provide the Foundation with current certificates of insurance showing New Jersey City University Foundation, Inc. as an additional insured for all coverage and renewals thereof which must

contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after thirty days written notice to the Foundation, Procurement Services Department.

The insurance to be provided by the successful bidder shall be as follows:

1. Commercial General Liability insurance written on an occurrence form including independent contractor liability, products/completed operations liability, contractual liability, covering but not limited to the liability assumed under the indemnification provisions of this contract. Coverage for bodily injury and property damage claims arising out of the professional acts of the general contractor and subcontractors shall also be included. The policy shall not include any endorsement that restricts or reduces coverage as provided by the ISO CG0001 form without the approval of the Foundation. The minimum limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence, three million dollars (\$3,000,000) general aggregate, three million dollars (\$3,000,000) product/completed operations aggregate. A "per project endorsement" shall be included, so that the general aggregate limit applies separately to the project that is the subject of this contract.
2. Sexual Abuse Liability: \$1 Mil Occurrence/\$5 Mill Aggregate – If included in CGL, must be specifically stated on the certificate of insurance.
3. Employee Dishonesty/Crime: \$2 Mil per Claim – Include theft of property, monies and securities of client, its employees, students, faculty, visitors and guests.
4. Environmental/Pollution Liability: \$5 Mil Occurrence – Institution endorsed as an additional insured.
5. Network Security & Privacy Liability: \$3 Mil per occurrence/aggregate (small companies, under \$250 Mil in revenue); \$5 Mil per occurrence/aggregate (mid-size companies, between \$250 Mil and \$1 Billion in revenue); \$10 Mil per occurrence/aggregate (large companies, over \$1Billion in revenue). – If using Foundation computer or printing systems.
6. Comprehensive General Automobile Liability policy covering owned, non-owned, and hired vehicles with minimum limits of \$1,000,000.00 combined single limits.
7. Compensation insurance applicable to laws of the State of New Jersey and Employer's Liability insurance with a limit of not less than \$1,000,000.00.

Upon request, the successful contractor will provide certificates of such insurance to the Foundation, Procurement Services Department prior to the start of the contract and periodically during the course of a multi-year contract.

### **3. TERMS GOVERNING ALL PROPOSALS TO NEW JERSEY CITY UNIVERSITY FOUNDATION, INC (Unless Otherwise Specified in Bid Specifications)**

- 3.1. **SELECTION OF WINNING BIDDER** - The Foundation does not provide an explanation to any of the bidders for the selection of the successful vendor nor does the Foundation provide an explanation to any bidder as to why their bid was not selected.
- 3.2. **SUBCONTRACTING OR ASSIGNMENT** – The contract may not be subcontracted or assigned by the contractor, in whole or in part, without the prior written consent of the Foundation. Such consent, if granted, shall not relieve the contractor of any of his/her responsibilities under the contract.

In the event that the bidder proposes to subcontract for the services to be performed under the terms of the contract award, a list of said subcontractors and an itemization of the services to be supplied by them must be stated and attached to the bid for approval.

Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the Foundation.

- 3.3. **PERFORMANCE GUARANTEE OR BIDDER** – The bidder hereby certifies that: The equipment offered is standard new equipment, as is the manufacturer's latest model in production, with parts regularly used for the type of equipment substituted or applied contrary to manufacturer's recommendations and standard practice.

All equipment supplied to the Foundation and operated by electrical current is UL approved.

All new machines are to guarantee for a minimum period of one year from time of delivery and/or installation and prompt service rendered without charge regardless of geographic location.

Sufficient quantities of parts necessary for proper service to equipment will be maintained to distribution points and service headquarters.

Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request may originate within a forty-eight (48) hour period or within the time accepted as industry practice.

The contractor shall immediately replace any material which is rejected for failure to meet the requirements of the Foundation.

All services rendered to the Foundation shall be performed in strict and full accordance with the specifications as agreed to in the contract. A service contract shall not be considered complete until final approval by the Foundation is rendered. Payment to vendors for services rendered may not be made until final Foundation approval is given.

- 3.4. **DELIVERY GUARANTEES** – Deliveries shall be made at the time and in such quantities as ordered in strict accordance with conditions contained in proposal.

The vendor shall be responsible for the delivery of material in first class condition to the Foundation or the purchaser under this contract, and in accordance with good commercial practice.

Items delivered must be strictly in accordance with bid specifications.

In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the specifications, the Foundation may be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor failing to meet his commitments.

- 3.5. **LIQUIDATED DAMAGES** – In the event that the Contractor shall fail to comply with any of the conditions herein provided and as covered by the contract, the Director of Purchasing shall notify the Contractor of such failure or default and demand that the same be remedied within five (5) days. In the event of the failure of the Contractor to remedy the same within this period, the Director of Purchasing may take steps to terminate the contract. In this event, the Director may authorize the services to be performed by any available means, the difference between the actual

cost paid and the bid of the defaulting Contractor to be deducted from any monies due the defaulting Contractor.

The Contractor will not be liable for circumstances beyond its control. However, any substantial or continuing failure to fully perform any or all of the services herein agreed to be performed by the Contractor, or any event, regardless of cause, which results in a substantial interruption of service, shall entitle the Foundation to terminate this Agreement as for cause. However, any right of termination which will arise from any cause beyond the Contractor's reasonable control, or which the Contractor could not reasonably have anticipated or avoided, may be exercised by the Foundation with agreed upon payment of termination charges.

- 3.6. **FOUNDATION'S RIGHT TO INSPECT BIDDER'S FACILITIES** – The Foundation reserves the right to inspect the bidder's establishment before making an award.
- 3.7. **MAINTENANCE OF RECORDS** – The contractor shall maintain records for products and/or services delivered against the contract for a period of three (3) years from the date of final payment. Such records shall be made available to the Foundation upon request.
- 3.8. **CONFIDENTIALITY CLAUSE** – The Foundation and the Contractor agree as part of this award each party shall, and shall cause its personnel, officers, agents, and representatives, to hold and deal with in strict confidence the other party's confidential information. The Foundation's confidential information includes all matters relating to its business, including, but not limited to, materials and data that have been disclosed by the Foundation to the Contractor and that are not publicly available at the time they are disclosed to Contractor, more specifically, including but not limited to, any and all technical and commercial information, market plans, strategy, personnel data (including, but not limited to census, salary and benefits information), benefits programs, tax filings, any information relating to the drafting of benefit plans, computer programs relating to the above described items, and new products (collectively hereinafter referred to as "Confidential Information").

Contractor's confidential information includes all Contractor's Know-how, Work Product, Deliverables, pricing structures, and other business strategies, and all other matters that the Contractor deems confidential. These confidentiality obligations shall not apply to any information that is now or becomes publicly available other than by a breach of the terms of this Agreement, was known by a party prior to its receipt from the other party, is developed by the recipient independently of any disclosures previously made under this Agreement of such information, or is required to be disclosed by legal process. Except in connection with the performance of services contemplated herein, the Contractor shall not use any trademark or service mark of the Foundation or of any parent, subsidiary, or affiliate of the Foundation in any published form, literature, or other documents without the express written consent of Client or its affiliates. The Contractor shall not give any press release or press interview on any matter pertaining to the Foundation without first obtaining the written consent of the Foundation.

The Contractor agrees to hold in trust and confidence all information obtained directly or indirectly in or through the files or records of the Foundation, or disclosed in connection with this Agreement, and to disclose and utilize such information only in connection with and to the extent necessary for the accomplishment of the work required hereunder; provided, however, the Contractor shall not disclose any such information to a third party without the prior written consent of the Contracting Officer or his duly authorized representative.

**4. TERM RELATING TO PRICE QUOTATION**

- 4.1. **PRICE FLUCTUATIONS DURING CONTRACT** – All prices quoted shall be firm and not subject to increase during the period of contract.

In the event of a manufacturer’s price decrease during the contract period, the Foundation shall receive the full benefit of such price reduction of any undelivered purchase order and on any subsequent order placed during the contract period. The Foundation must be notified in writing of any price reduction with five (5) days of the effective date.

- 4.2. **DELIVERY COSTS** – Unless noted otherwise in the specifications all prices for items in bid proposals are to be submitted F.O.B. Destination. Proposals submitted other than F.O.B. Destination may not be considered. Regardless of the method of quoting shipment, the vendors shall assume all liability and responsibility for the delivery of merchandise in good condition to the Foundation of designated purchaser unless otherwise specified.

F.O.B. Destination does not cover “spotting” but does not include delivery on the receiving platform of the Foundation unless otherwise specified. No additional charges will be allowed for any transportation costs resulting from partial shipment made at vendors’ convenience when a single shipment is ordered. The weights and measures of the Foundation receiving the shipment shall govern.

- 4.3. **COD TERMS** – Unless otherwise stated in the RFP, C.O.D. terms are not acceptable as part of a bid proposal, and are cause for automatic rejection of a bid.
- 4.4. **CREATIVE MATERIAL** - All content, concepts, designs, findings, and files developed by the vendor for the Foundation shall remain the property of the Foundation.
- 4.5. **TAX CHARGES** –The Foundation is a 501(c) (3) tax-exempt organization.
- 4.6. **PAYMENT TO VENDORS** – Payments for goods and/or services purchased by the Foundation will only be made against the contractor’s invoice. The contractor’s invoice form in duplicate together with the original Bill of Lading receipt and other related papers must be sent to the consignee on the date of each delivery.

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AUTHORIZED SIGNATURE

\_\_\_\_\_  
NAME

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TITLE

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

\_\_\_\_\_  
DATE