VIII. TERMS AND CONDITIONS:

SPECIAL TERMS AND CONDITIONS

A. **ADVERTISING**: In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to the College will be used in product literature or advertising. The Contractor shall not state in any of its advertising or product literature that the College has purchased or uses its products or services without the prior written approval from the College.

B. **ADDITIONAL GOODS AND SERVICES**: The contract should include provisions to acquire other goods or services that the supplier provides than those specifically solicited. The provision should include additional goods and/or services under the same pricing, terms and conditions to make modifications or enhancements to the existing Goods and Services. Such additional Goods and Services may include other products, components, accessories, subsystems or related services that are newly introduced during the term, and should be provided at favored nations pricing, terms and conditions.

C. **ALTERATIONS TO PROPOSALS**: Prior to submission of proposals, alterations may be made, but they must be initialed by the person signing the proposal. The proper procedure is to draw a single line through the information to be changed, insert the desired information, and initial the change. Erasures, typewriter strike-overs, or the use of correction fluid on proposal form that affect unit price, quantity, quality, or delivery may result in the rejection of the line item involved in the proposal.

D. **RIGHT OF AUDIT**: The College reserves the right to audit or cause to be audited the Selected Firm's books and accounts regarding the College's account at any time during the term of this Agreement and for five years thereafter. The Selected Firm will make available to the College all books and records relating to performance of this Agreement as may be requested during said period. This specifically includes, but is not limited to, the right of the College to require that the Selected Firm perform self-audits within reasonable parameters established by the College.

E. **AVAILABILITY OF FUNDS**: It is understood and agreed between the parties herein that the College shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

F. **IDENTIFICATION OF PROPOSAL ENVELOPE**: The signed proposal should be returned in a separate envelope or package, sealed and identified as directed on Page 1 of the solicitation.

If a proposal is not contained and identified in the separate envelope is mailed, the Offeror takes the risk that the envelope may be inadvertently opened and the information compromised which may cause the proposal to be disqualified. Proposals may be hand delivered to the designated location in the Office of Procurement. No other correspondence or other proposals should be placed in the envelope.

G. **LATE PROPOSALS**: To be considered for selection, proposals must be received by the Office of Procurement prior to the designated date and hour. The official time used in the receipt of proposals is that time on the automatic time stamp machine in the Office of Procurement. Proposals received in the Office of Procurement after the date and hour designated are automatically disqualified and will not be considered. The College is not responsible for delays in the delivery of mail by the U.S. Postal Service, express services, or the internal College mail system. **It is the sole responsibility of the Offeror to ensure that its proposal reaches the Office of Procurement by the designated date and hour.**

Proposal receipts and openings scheduled during a period of suspended state business operations will be rescheduled for processing at the same time on the next regular business day.

H. **OFFEROR UNDERSTANDING OF REQUIREMENTS**: It is the responsibility of each Offeror to inquire about and clarify any requirements of this solicitation that are not understood. The College will not be bound by oral explanations as to the meaning of specifications or language contained in this solicitation. Therefore, all inquiries deemed to be substantive in nature must be in writing and submitted to the
responsible buyer in the Office of Procurement. Offerors must ensure that written inquiries reach the buyer at least five (5) days prior to the time set for receipt of proposals. A copy of all inquiries and the respective response will be provided in the form of an addendum to all Offerors who have indicated an interest in responding to this solicitation. Your signature on your proposal certifies that you fully understand all facets of this solicitation. These questions may be sent by FAX to 757-221-3959 using, the Understanding of Requirements form included in the solicitation.

I. **OFFER ACCEPTANCE PERIOD**: Any offer in response to this solicitation shall be valid for 90 days. At the end of the 90 days, the offer may be withdrawn at the written request of the Offeror. If the offer is not withdrawn at that time, it remains in effect until an award is made or the solicitation is canceled.

J. **CONFLICT OF INTEREST**: The Offeror represents to the College that its entering into this agreement with the College does not entail any violation of the Virginia Conflict of Interest Act.

K. **CANCELLATION OF CONTRACT**: The College reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, approximately 60 days written notice to the Contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period approximately 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

L. **INDEMNIFICATION**: Contractor agrees to indemnify, defend and hold harmless the College of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of materials, goods, or equipment of any kind or nature furnished by the Contractor/any services of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the using agency to use the materials, goods, or equipment in the manner already and permanently described by the Contractor on the materials, goods or equipment delivered.

M. **INDEPENDENT CONTRACTOR**: The selected Offeror shall not be an employee of the College, but shall be an independent Contractor. The Contractor shall indemnify and hold the College harmless with respect to all withholding, social security, unemployment compensation and all other taxes or amounts of any kind relating to employment of any labor or other persons providing services to the College under this agreement. Nothing in this agreement shall be construed as authority for the Contractor to make commitments which shall bind the College or to otherwise act on behalf of the College, except as the College may expressly authorize in writing.

N. **PRIME CONTRACTOR RESPONSIBILITIES**: The contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime contractor. The contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

O. **STANDARDS OF CONDUCT**: The Contractor shall be responsible for controlling employee conduct, for assuring that its employees are not boisterous or rude, and assuring that they are not engaging in any destructive or criminal activity.

P. **SUBCONTRACTS**: No portion of the work shall be subcontracted without prior written consent of the college. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the College the names, qualifications and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.

Q. **TERMINATION**: If the Contractor fails to provide quality goods or services in a professional manner, solely as determined by the College, and, upon receipt of notice from the College, does not correct the deficiency, to the College’s satisfaction within a reasonable period of time, not to exceed five calendar days unless otherwise agreed to by both parties in writing, the College reserves the right to terminate this Agreement upon written notice to the Contractor.
R. **TERMINATION FOR CONVENIENCE:** This Contract may be terminated, in whole or in part, upon sixty (60) days advance written notice by the College. There are no additional costs for financial obligations to the College upon termination for convenience.

S. **TERMINATION FOR CONVENIENCE OF INDIVIDUAL ORDER:** Any individual Order placed under this Agreement may be terminated, in whole or in part, by the College for its convenience, at any time up to thirty (30) days advance written notice to the Contractor. There are no other costs or obligations for termination for convenience.

T. **CONTRACTOR LICENSE REQUIREMENT:** By my signature on this solicitation, I certify that this firm/individual is properly licensed for providing the good/services specified.

U. **WORK SITE DAMAGES:** Any damages to existing utilities, equipment, finished surfaces and to the College’s property caused by the acts of omissions of the Contractor’s agents, employees or invites shall be repair/restored to the College’s satisfaction at the Contractor’s expense.

V. **VIRGINIA FREEDOM OF INFORMATION ACT:** Except as provided below, once an award is announced, all proposals submitted in response to the RFP will be open to the inspection of any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by firms as part of its proposal will not be subject to the public disclosure under the Virginia Freedom of Information Act; however, the firm must invoke the protections of this section prior to or upon submission of its proposal, and must identify the specific data or other materials to be protected and state the reasons why protection is necessary. Firms may not request that its entire proposal be treated as proprietary information.

W. **eVA BUSINESS-TO-GOVERNMENT CONTRACTS AND ORDERS:** The solicitation/contract may result in multiple purchase order(s) with the eVA transaction fee specified below assessed for each order.

   a. For orders issued July 1, 2011 thru June 30, 2013, the Vendor Transaction Fee is:
      i. DMBE-certified Small Businesses: 0.75%, Capped at $500 per order.
      ii. Businesses that are not DMBE-certified Small Businesses: 0.75%, Capped at $1,500 per order.

   b. For orders issued July 1, 2013, and after, the Vendor Transaction Fee is:
      i. DMBE-certified Small Businesses: 1%, Capped at $500 per order.
      ii. Businesses that are not DMBE-certified Small Businesses: 1%, Capped at $1,500 per order.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

The eVA Internet electronic procurement solution, website portal [www.eva.virginia.gov](http://www.eva.virginia.gov), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following:

If this solicitation is for a term contract, failure to provide an electronic catalog (price list) or index page catalog for items awarded will be just cause for the Commonwealth to reject your offer or terminate this contract for default. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from [www.eVA.virginia.gov](http://www.eVA.virginia.gov). Contractors should email Catalog or Index Page information to [eVA-catalog-manager@dgs.virginia.gov](mailto:eVA-catalog-manager@dgs.virginia.gov).