

**Delaware Technical Community College (DTCC)
Request for Proposals – Professional Services
Owens and Terry Campuses**

General

Delaware Technical Community College (DTCC) is soliciting proposals for the operation of its cafeteria services at the Owens (Georgetown, DE) and Terry (Dover, DE) campuses during the upcoming academic year 2014. DTCC will also make available to the successful candidate(s) the kitchen/eating facilities for certain preapproved catering functions that occur throughout the year. It is anticipated that DTCC may choose one or two vendors as the successful bidders based on the criteria outlined in the Request for Proposal (RFP). Therefore, interested vendors may respond to one of three options: (1) Owens Campus operation only; (2) Terry Campus operation only; and (3) Operating both Owens and Terry Campus Cafeterias. A Committee will review all proposals and evaluate based on criteria outlined in Section V of the Scope of Services and Proposal Requirements.

Summary of Project

The following paragraphs provide a brief overview of the two campus operations. It should be noted that **DTCC currently has an exclusive beverage agreement with Pepsi.** Vendors will be required to serve Pepsi beverages only in its operation throughout the year. The term of the agreement will be for three (3) years with a two (2) year option to renew at the discretion of DTCC.

OWENS CAMPUS

The Owens Campus is located in Georgetown, DE with the cafeteria operations being in the Student Services Center. The Campus also operates a coffee shop known as Java 101 which serves beverages (hot and cold) and various pastries. Cold sandwiches are also sold in the Campus Bookstore located in the Jason Technology Center. The campus's credit enrollment during the Fall, 2013 semester was 4,199. Non-credit students during the 2012 academic year were 14,181.

Catering services for the campus are operated out of the kitchen facilities at the Student Services Center and will include both casual and formal affairs which may consist of breakfast, lunch and/or dinner. DTCC reserves the right to obtain third party caterers to provide catering services for its annual fundraising events including, but not limited to, the Starry, Starry Nights Gala, Board of Trustees events, President's Council meetings, etc. The Campus does not have a Culinary Arts Programs for its students but does operate a learning lab for its business and food technology programs through its student-run Java 101 coffee shop located in the Student Services Center.

Student Services Center Location

Fall and Spring Semesters Hours of operation:
Monday-Thursday: 8:00 am to 8:00 pm
Friday: 8:00 am to 1:30 pm

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Summer Semester:

Monday-Thursday: 8:00 am to 1:30 pm

Friday: 8:00 am to 1:00 pm

Carter Partnership Center:

Lunch Only, Tuesdays 11:00 am to 1:00 pm

The successful vendor will be provided a copy of DTCC's Academic Calendar each year with updates as needed. The first day of classes for the 2014 Academic Year is August 26, 2013.

TERRY CAMPUS

The Terry Campus is located in Dover, DE with the cafeteria operations being located in the Terry Building. The Campus also operates a restaurant through its Culinary Arts Program located in the Education and Technology Building (ETB). The campus's credit enrollment during the Fall, 2012 semester was 3,002. Non-credit students during the 2012 academic year were 7,265.

Catering services for the campus are operated out of the kitchen facilities at the Terry Building and will include both casual and formal affairs which may consist of breakfast, lunch and/or dinner. DTCC reserves the right to obtain third party caterers (including its culinary arts program staff, students and alumni) to provide catering services for its annual fundraising events including, but not limited to, the Gourmet Gala, Board of Trustees events, President's Council meetings, etc.

Hours of operation will be:

Monday-Thursday: 8:00 am to 2:00 pm

Friday: 8:00 am to 1:00 pm

The successful vendor will be provided a copy of DTCC's Academic Calendar each year with updates as needed. The first day of classes for the 2014 Academic Year is August 26, 2013.

SCOPE OF SERVICES AND PROJECT REQUIREMENTS

I. SCOPE OF WORK

- A. FULL SERVICE CAFETERIA- OWENS CAMPUS
STUDENT SERVICE CENTER and TERRY CAMPUS
TERRY BUILDING. LIMITED SERVICE IN
PARTNERSHIP CENTER AT OWENS**

**GENERAL SPECIFICATIONS FOR CAFETERIA FOOD
SERVICES**

Operate a cafeteria style self-bussing dining hall to sell food products and non-alcoholic beverages on DTCC's Jack F. Owens Campus premises in Georgetown, DE and Charles L. Terry Campus in Dover, DE. The food service consists of breakfast, lunch, dinner and catering.

A full service cafeteria must be available on all full days of classes, exams, and registration. Management for this service will be on the Campus. Senior management for supervision of local services must be headquartered within a reasonable distance of the Campus. Contractor must show evidence of local purchasing power, i.e., quantity discounts from purveyors serving other local contractor operated cafeterias.

Policy

It is the policy of the Campus Administration to provide the Campus students and staff with a wide choice of quality food at a cost reasonable to students.

Specifications:

1. The Campus will approve all prices and portion sizes of food products sold in the Dining Hall after consultation with the Vendor.
2. The Campus may have a standing Food Service Committee which may meet with the Vendor as required to assess Vendor's performance and make comments and recommendations.
3. Breakfast food shall be available by 8:00 a.m. and on special order through the noon lunch period (noon lunch period is defined at 11:00 a.m. - 2:00 p.m.).
4. Lunch service in the William A Carter Partnership Center at the Owens Campus shall be available on Tuesdays only between 11:00 am to 1:00 pm.
5. Hours of operation may be extended at the Vendor's discretion.
6. The accounting period for the food service contract will be on the basis of a 12-month fiscal year with monthly accounting periods.
7. Cafeteria hours of operation are:
Fall and Spring Semesters
Owens Campus:
Monday – Thursday 8:00 am to 8:00 pm
Friday: 8:00 am to 1:30 pm
Terry Campus
Monday-Thursday 8:00 am - 2:00 pm
Friday: 8:00 am to 1:00 pm

Summer Semester

Owens Campus:

Monday – Thursday 8:00 am to 1:30 pm

Friday: 8:00 am to 1:00 pm

Terry Campus

Monday-Thursday 8:00 am - 2:00 pm

Friday: 8:00 am to 1:00 pm

8. The Cafeteria will be closed during the Campus's winter break. Food service will be available Monday through Friday during the hours specified unless modified in writing by the Business Manager or Vice President and Campus Director.
 - a. Campus calendars will be provided by the Registrar's Office for the dining hall manager's use. Notice of any deviations will be given in writing one week in advance, when possible.
 - b. When the Campus is closed for vacation periods, holidays, inclement weather and emergencies, no food service will be required. The dining hall manager will be notified by such closings by Campus designee at each campus.
 - c. Hours of operation during student breaks and during the summer sessions when faculty and staff are present will be as follows: Monday through Friday from 8:00 a.m. to 1:30 p.m. unless altered by agreement between the Campus and the Vendor.
 - d. The Campus reserves the right to use the dining hall facility and/or kitchen for special events by providing a verbal notice to the Vendor.
 - e. A bond can be negotiated between any outside party using the dining hall facility and/or kitchen and the Vendor to insure proper use of Vendor's equipment.

Responsibility of Vendor

1. Provide trained management and staff at a level consistent with good management practices to enable the Vendor to operate the cafeteria food service.
2. Order and obtain all food products, paper products, dairy products, cleaning supplies and miscellaneous expendable items, etc. necessary for the operation of the dining service. Vendor is responsible for the preparation and serving of such food under the conditions as noted in Statement of Work above.

3. The Vendor, as a direct cost of operation, will maintain any chinaware, glassware and silverware furnished by the Campus and, when necessary, add to such inventory at the expense of the Vendor. Such added inventory will be the property of the Vendor at the termination of the contract. The Vendor will assure that said initial inventory is returned to the Campus.
4. At termination of contract, all food and supply inventory on hand will be the property of the Vendor.
5. Develop and maintain a menu that recognizes the changing tastes of the students and staff and their growing concern about nutrition.
6. Submit menus and price lists to Vice President and Campus Director for review and approval of the Administrative Council. All prices shall be at mutually agreeable rates and shall not be increased during the year without the consent of the Vice President and Campus Director. Regular service menus and prices must be submitted for approval to the Vice President and Campus Director by July 15 of each year and published in the Dining Hall and on the College website by August 1.
7. Provide special reports if requested by the Campus on sales volume customer count and product sales and expenses.
8. All cash receipts obtained through daily sales will be under the control of the Vendor, who will pay all invoices for food, labor and general supplies.
9. The Vendor shall not permit any smoking by its employees or representatives on any location on the Campus.
10. The Vendor will keep the kitchen, serving areas, and eating areas cleaned in a manner considered acceptable by the Campus in the Campus's sole judgment.

Responsibility of the Campus

1. The Campus will provide kitchens and eating areas for cafeteria service in the Student Services Center and William Carter Partnership Center at the Owens Campus and Terry Building at the Terry Campus.

2. The Campus will provide all utilities except telephone and computer line charges.
3. The Campus will arrange for the removal of trash and garbage from the kitchen dumpsters.

Vending

1. Soft Drinks Delaware Tech has an exclusive contract with Pepsi Cola and only Pepsi products can be sold on campus. Commission from the Pepsi vending machines is retained by the college.
2. Snacks Delaware Tech has a contract with Canteen Vending for snack vending. The successful foodservice vendor will work with Canteen and the Business Manager regarding managing vending services.
3. The college reserves the right to sell food and drinks in the College bookstore and at Java 101 at the Owens Campus.

A. **GENERAL SPECIFICATIONS FOR CATERING SERVICES**

Provide catered services consisting of snacks, beverages, light lunches, dinners, and hors d'oeuvres for meetings, receptions, group dinners, group lunches, and small and large parties.

General

1. Vendor will provide an array of menus and prices to include per person prices for served and buffet events.
2. For special catered orders, a price quote must be provided in writing within three (3) working days of the request. All additional costs such as equipment rental or additional labor must be itemized and included with the per person quote.
3. Events will be served in specified meeting rooms, picnic area, dining area, lobby, or at another designated location.
4. Vendor will bill organization requesting catered services. Payment will be disbursed directly from the recipient to the Vendor.
5. The Campus reserves the right to accept or reject the site and time for catered events.
6. The Vendor will not cater events under the aegis of the Campus without consent of the Campus.

7. Facilities usage for all outside catered events will be coordinated with the Vendor through the Office of Corporate and Community Programs. No fund raising events for religious or political groups are permitted.
8. Should a client require service items outside the normal Campus kitchen inventory and these items must be rented by the Vendor, it will be the responsibility of the Vendor to notify client.
9. Alcoholic beverages may only be served in accordance with the Campus policy, which requires prior approval from the Vice President and Campus Director.
10. Vendor will, at the request of the client, provide appropriate decorations. The Campus reserves the right to allow College and outside groups the option of supplying decorations.
11. The Campus reserves the right to allow Campus clubs and/or Campus organizations to provide their own food or light refreshments. Approval of any waiver must be submitted by the appropriate Dean/Director to the Vice President and Campus Director and/or Designee for approval. In addition, the Campus reserves the right to engage a caterer other than the Vendor when deemed appropriate.
12. Vendor will do set-ups, take-downs, and remove trash from catered events.
13. Vendor will provide a checklist for all contracted events to prevent shortages.
14. Vendor will provide appropriate staff for all contracted events (one person minimum on-site at all times).
15. Standard catering service menus and prices must be submitted for approval to the Vice President and Campus Director by July 15 of each year and published in the Dining Hall and on the College website by August 1.
16. Any changes to the August 1 published prices must be approved in writing by the Vice President and Campus Director prior to changes being implemented.
17. The Campus reserves the right to engage another caterer under special circumstances and in cases when a mutually agreeable price cannot be reached for special catered orders.

18. A calendar for the year of closings and reduced hours of food service must be approved by July 15 by the Vice President and Campus Director and published in the Dining Hall and on the College website by August 1.

FINANCIAL RESPONSIBILITIES OF THE VENDOR

1. Vendor will be responsible for paying:
 - a. Wages for labor in the employ of Vendor at the Campus.
 - b. Actual cost of statutory contributions, assessments, taxes, or insurance for mandatory benefits required by federal, state and local laws and regulations.
 - c. Services for all corporate executive officers and consultants.
 - d. Home office general and administrative services including accounting, finance, insurance, legal marketing, dietary, office, and personnel services.
 - e. All other home office expenses including postage, telephone, and per diem costs for temporary assignments.
 - f. Salaries for supervisory and administrative personnel in the employ of Vendor working full-time at the Campus.
 - g. All other items that are not a direct Cost of Operations as defined in Section 2, below.
2. Direct Cost of Operations
 - a. The Vendor will pay the Cost of Operation hereinafter defined: The term "Cost of Operation" shall mean all costs necessary and reasonable incurred by Vendor in the performance of this work and shall include the items set forth below.
 - b. Actual costs of benefits from statutory contributions as supplied by Vendor for Vendor's employees on the Campus's premises.
 - c. All direct costs of food net of discounts and rebates.
 - d. All supplies as used on the Campus's premises to operate a cafeteria food service.
 - e. Sales, use and similar taxes imposed by any governmental authority on the Campus approved expenditures.
 - f. Costs of permits, governmental fees, and licenses required.

- g. All cleaning expenses and supplies for the kitchen and eating areas.
- h. All reasonable laundry expenses for Vendor's uniformed employees working at the Campus if such uniforms are required.
- i. All other items of Vendor's direct cost of operations expenses not noted above but which are prior approved by the Campus and required for the operation of the cafeteria food services.
- j. The Vendor will pay telephone and computer line costs.

II. SPECIAL TERMS AND CONDITIONS

- A. **Ownership of Material:** Ownership of all data, materials and documentation originated and prepared for the College pursuant to this RFP, shall belong to the College, except that Vendor may designate any portion of the Response to the RFP as a trade secret or proprietary data.
- B. **Obligation of Vendor:** By submitting a proposal, the Vendor covenants and agrees that it has satisfied itself, from its own investigation of conditions to be met, that it fully understands its obligation and that he will not make any claim for, or have right to cancellation or relief from the contract because of any misunderstanding or lack of information.
- C. **Offer Binding:** The proposal shall be binding upon the Vendor for ninety (90) calendar days following the proposal opening date.

III. REQUIRED INFORMATION FROM VENDOR

Each proposal should contain the following information in the order listed below:

- A. **Experience and qualifications.** Each proposal must contain a description of the qualifications and experience of the Vendor, the on site manager and any staff critical to daily operations for both cafeteria operations and catering services. Vendor should be prepared to demonstrate that it has a thorough understanding of the mission of the College and be prepared to be a visible partner with the College in providing for the food service and catering needs of the College's students, staff, instructors, administration and Board of Trustees as well as those of the community the College serves.
- B. **Proposed menus including prices to be charged.** The menu shall identify portion size (quantifiable criteria for each item) and

include offerings from each of the following categories: breakfast foods, grilled and baked, lunch selections including hot and cold sandwiches, grill items, soup and salad, beverages (non-alcoholic), snacks and deserts and dinner selections including. Menus should be provided for both cafeteria and catering service. Catering service menus should include formal and informal examples and describe holiday and other special event selections.

C. Optional daily lunch specials. If the Vendor intends to propose daily lunch specials, the proposal should include a sample menu of daily lunch specials with prices.

D. Proposed business plan. Each proposal must contain a business plan that reflects the Vendor's understanding of the revenue and expenses connected to a food service and catering operation, the nature of the State of Delaware Division of Accounting practices, the use of vending machines in complementing the services to be provided, staffing levels to deal with peak and non-peak service, ability to accommodate the College's scheduled and unscheduled closures and so forth. The business plan must reflect an understanding of the scope of work and include a description of staffing levels during peak and non-peak periods, methods of displaying and serving food description of sanitation and quality assurance practices, Vendor's marketing techniques and accounting practices. Vendor will be expected to provide a detailed plan projecting startup costs and schedule.

E. References. A minimum of three references that have had the opportunity to use Vendor's relevant services.

F. Evidence of financial responsibility. Vendor must be prepared to demonstrate that it has the capital necessary to defray anticipated startup costs or that it can readily obtain credit to meet a reasonable portion of the costs. Use of past experience to support not only start up projections but anticipated operating expenses and revenues is strongly recommended.

G. Pricing Proposal. Vendor must complete the Pricing Plan Bid Form attached to this RFP (Attachment A). In addition to price, the respondent may also provide other "valued added" donations either in kind, monetary or product to the College and/or its Educational Foundation. These may be in the form of student scholarships, sponsorship of fundraising events, etc.

H. Agreement. The attached (Attachment B) agreement will be used.

IV. PROCEDURE FOR EVALUATION OF RESPONSES

1. After the receipt of the responses to the request for proposal the selection committee will review the credentials of all firms. Firms will be shortlisted based on the criteria outlined in Section V and selected for an interview.
2. Selected firms will make presentations to and will be interviewed by a committee which will evaluate, select and recommend the firm deemed best qualified to undertake a project of this size and scope. Key staff members, in addition to principals, are expected to participate in the interview.
3. DTCC will negotiate with the firm selected for professional services at compensations that DTCC determines to be fair and reasonable. If negotiations with the selected firm cannot be consummated to the satisfaction of DTCC, then the firm will be so notified in writing, and negotiations may be initiated with other firms recommended by the committee.

V. EVALUATION CRITERIA

A Committee appointed according to College Administrative Guidelines for the Selection and Acquisition of Professional Services will evaluate responses to this Request for Proposals. The following criteria are required considerations under Delaware Law and College policy:

- a. Experience and reputation (25%);
- b. Prior experience working with the College (15%)
- c. Capacity to meet requirements (size, financial condition, etc. (5%)
- d. Geographical Location—response time to site (10%)
- e. Overall price and contributions to the College (45%)

Other criteria the Committee will evaluate are:

- Methodology and approach proposed to accomplish the tasks specified in the Scope of Work: to be selected a vendor must be able to satisfy the selection committee that it understands the market it will be serving, that it can operate within the constraints of a government supported institution and that it is committed to customer satisfaction to a degree equal to that of the College's commitment and that it can meet the startup date

- Similar services currently or recently performed for other clients, with contact names and telephone numbers;
- The evaluation committee will interview selected candidates and pose questions the answer to which will be considered in the selection process

VI. CONTRACT AWARD

The successful vendor shall execute a contract in the form attached as Exhibit B, which is incorporated herein by reference. Vendor shall execute and return the contract to the College within ten (10) days of being notified of their award by the College.

VII. DOCUMENTS INCORPORATED BY REFERENCE

The terms and condition contained in this Request for Proposals—Professional Services are incorporated herein by reference. Proposals must be received by **June 21, 2013 at 1:00 p.m (EST)**. **The College reserves the right to extend the date and time of opening on not less than two calendar day’s notice, by facsimile machine or other electronic means to those bidders who obtained copies of these specifications.**

Other Information

There will be a pre-proposal meeting and a tour of the Terry Campus cafeteria operations on Thursday, June 6, 2013 at 10:00 a.m. in Room 217 of the Terry Building at the Terry Campus of DTCC. Interested firms should contact Gerard M. McNesby at 302-739-4057 or gmcnesby@dtcc.edu to be included in the meeting and a tour of the Terry Campus Cafeteria. Tours of the Owens Campus cafeteria will be arranged at a later date. The pre-proposal meeting is not mandatory, but future escorted tours of the Terry Campus cafeteria operations will be limited so interested parties are encouraged to attend. All responses to the RFP will become the property of DTCC and will not be returned.

DUE DATE FOR PROPOSALS

Interested firms shall submit seven (7) copies of their replies on or before 1:00 p.m. (EST) on Friday June 21, 2013 to **Gerard M. McNesby, Vice President for Finance, Delaware Technical & Community College, Office of the President, 100 Campus Drive, P.O. Box 897, Dover, DE 19903**. The Central Finance Office is located in modular offices behind the Education and Training Building on the Terry Campus. Respondent bears the risk of late delivery. Any proposals received after the stated time will be returned unopened.

ATTACHMENT A

PRICING PROPOSAL FORM Pricing Sheet for Cafeteria Services Request for Proposal

Option #1: Operate the Owens Campus Only

Management Fee: Annual fee paid on a quarterly basis to vendor to operate the cafeteria and provide catering services exclusive of any subsidy for operating expenses.

Year 1: _____

Year 2: _____

Year 3: _____

Subsidy: Amounts paid to vendor for operating losses, exclusive of management fee, capped at the following amounts:

Year 1: _____

Year 2: _____

Year 3: _____

Optional: Other Financial Contributions and/or notes to proposal regarding payments to vendors (use additional pages if needed):

Option #2: Operate the Terry Campus Only

Management Fee: Annual fee paid on a quarterly basis to vendor to operate the cafeteria and provide catering services exclusive of any subsidy for operating expenses.

Year 1: _____

Year 2: _____

Year 3: _____

Subsidy: Amounts paid to vendor for operating losses, exclusive of management fee, capped at the following amounts:

Year 1: _____

Year 2: _____

Year 3: _____

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Optional: Other Financial Contributions and/or notes to proposal regarding payments to vendors (use additional pages if needed):

Option #3: Operate BOTH the Owens and Terry Campus Cafeterias

Management Fee: Annual fee paid on a quarterly basis to vendor to operate the cafeteria and provide catering services exclusive of any subsidy for operating expenses.

Year 1: _____
Year 2: _____
Year 3: _____

Subsidy: Amounts paid to vendor for operating losses, exclusive of management fee, capped at the following amounts:

Year 1: _____
Year 2: _____
Year 3: _____

Optional: Other Financial Contributions and/or notes to proposal regarding payments to vendors (use additional pages if needed):

EXHIBIT B

FOOD SERVICE AGREEMENT

THIS AGREEMENT, is made this _____ day of August, ___ by and between DELAWARE TECHNICAL AND COMMUNITY COLLEGE, _____ Campus, _____, an institution of higher education existing under the laws of the State of Delaware (hereinafter referred to as "Delaware Tech" or "College"), and _____, having its principal place of business at _____ (hereinafter referred to as "Contractor").

WITNESSETH:

Whereas, Delaware Tech wishes to provide nutritious, reasonably priced, food service on Campus and in connection with Campus sponsored activities; and

Whereas, Delaware Tech has chosen Contractor based on the representations contained in its Proposal dated _____ to provide food service and catering operations at the Delaware Tech _____ Campus located in _____, DE; and

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

- 1.0 Delaware Tech hereby grants the exclusive right, subject to Sections 1.1 1.2 and 1.3 of this Agreement, to provide food service at the Delaware Tech _____ Campus located in Dover, Delaware as more fully set forth herein. Contractor shall have exclusive rights to provide food service at the _____ Building (the "Premises") (excluding vending machine service) and to provide catering service for events occurring on the _____ Campus at mutually agreeable times and locations.
- 1.1 **EXCLUSIVITY EXCEPTION:** Delaware Tech reserves the right to engage another food service provider for catered events if: (a) the external organization has specifically requested its own caterer; or (b) the College determines, after negotiations, that it cannot reach agreeable terms, including price, with Contractor. Only the Vice President and Campus Director is authorized to determine that a Food Service operator other than Contractor will be engaged pursuant to the terms of this paragraph. He/she will apprise Contractor of such a decision in writing and will identify the basis for it.
- 1.2 **EXCLUSIVITY EXCEPTION:** Delaware Tech reserves the right to allow campus clubs and organizations to bring their own (prepare themselves, have donated, or for resale as fundraiser) food or light refreshment when catered service is not appropriate. The appropriate Dean/Director must submit a request for this exception to the Vice President and Campus Director or designee for approval. Contractor will be informed when such approval is granted.
- 1.3 **EXCLUSIVITY EXCEPTION:** Delaware Tech reserves the right to sell food and drinks in the Campus Bookstore. The College also retains the right to contract vendors to provide snack and soft drink vending machines throughout the campus.

- 1.4 **EXCLUSIVITY EXCEPTION:** Delaware Tech reserves the right to obtain third party caterers to provide catering services for Client's annual fundraising events, including, events catered by the Campus Culinary Arts Department (Board of Trustees event(s)).
- 1.5 **VENDING AND POURING RIGHTS:** Contractor acknowledges that vending and pouring rights are not covered by this agreement, and that Delaware Tech has entered into exclusive agreements with other vendors for those services. Contractor further acknowledges that Delaware Tech has an existing contractual agreement that obligates the College to sell only Pepsi products on campus, and agrees that he will abide by the terms of those agreements as communicated to him by Delaware Tech from time to time.
- 2.0 **FACILITIES PREMISES AND EQUIPMENT:** During the term of this Agreement and any renewal or extensions thereof, Delaware Tech will provide Contractor with all facilities for food service (including adequate sanitary toilet facilities, office space equipped with office equipment, including a networked computer with access to the Internet and furniture in the _____ Building, dressing rooms and areas for Contractor employees in a close and convenient location with regard to Premises), completely equipped and ready to operate together with such heat, fuel, refrigeration, and utility services reasonably required for efficient operation.
- 2.1 (A) **MAINTENANCE/REPAIR/REPLACEMENT:** Provided that Contractor gives reasonable and prompt notice to Delaware Tech as to the need for maintenance and repair, Delaware Tech shall make all equipment repairs and will furnish building and maintenance services for the Premises. The cost of any equipment that must be replaced will be divided equally between the parties.
- 2.1 (B) **HEALTH AND SAFETY REGULATIONS:** Delaware Tech shall be responsible for compliance with all Federal, State, and local health and safety regulations pertaining to the facilities and Premises provided by Delaware Tech as further set out in Section 2.2. Delaware Tech will provide an adequate initial inventory of small expendable equipment (pots, pans, dishes, silverware, etc), and will provide replacements to maintain the inventory level for items that are lost, damaged or stolen through no fault of Contractor. Contractor will be responsible for obtaining and maintaining a State of Delaware and local permits to operate a public eating place and for routine cleaning and housekeeping in the food preparation and service areas (defined as all areas behind the doors/retractable gate) as required by the Food Code of the State of Delaware. Contractor will maintain high standards of sanitation in compliance with all applicable laws and regulations. For the assignment of responsibilities, please refer to the Division of Costs and Responsibilities in Addendum A, attached hereto and specifically made part of this agreement.
- 2.2 **CONDITIONS OF PREMISES AND EQUIPMENT:** The Premises and equipment provided by Delaware Tech for use in the food service operation will be initially provided in good condition and maintained by Delaware Tech to ensure compliance with applicable laws concerning building conditions, sanitation, safety and health (including but not limited to OSHA regulations) subject to the Division of Costs and Responsibilities reflected in Addendum A. Delaware Tech further agrees that any modifications or alterations to the facilities or Premises (whether structural or non-structural) necessary to comply with any statute or regulation will be the responsibility of Delaware Tech and will be at Delaware Tech's expense.

- 3.0 TERM OF AGREEMENT: The term of this Agreement commences on _____ and continues through _____, subject to mutual agreement of Contractor and Delaware Tech to extend the Agreement for successive one year (1) year periods commencing _____ unless terminated as provided herein.
- 3.1 (A) FOOD SERVICE: Contractor agrees to provide food service upon its own credit, furnishing Delaware Tech with wholesome, palatable food for its employees, staff, students, on all days upon which the College is open.
- 3.1 (B) HOURS OF OPERATION: Hours of operation shall be from _____ (Monday – Thursday) and _____ (Friday) while classes are in session and from _____ (Monday – Friday) when classes are not in session.
- 3.1 (C) COMPLAINT RESOLUTION: Delaware Tech will promptly report to Contractor any complaint or concern it deems material regarding the quality or quantity of food provided by Contractor. Contractor agrees to consider and respond to such complaints or concerns in a commercially reasonable manner and to apprise Delaware Tech as promptly as feasible of actions taken in response to complaints or concerns.
- 3.2 (A) PERSONNEL: Contractor agrees at all times to maintain an adequate staff of his own employees on duty at Delaware Tech's _____ Campus necessary for efficient operation, and to provide professional administration, dietetic, purchasing, equipment consulting, personnel advice and supervision. Contractor employees will adhere to Delaware Tech's regulations regarding personal behavior. All employees of Contractor shall be required at all times on campus to conspicuously display an identification badge issued by the _____ Campus Office of Public Safety. Contractor agrees to cooperate with Delaware Tech in the event it undertakes an internal investigation into allegations regarding an employee of Contractor while on College property or during a College-sponsored event. Contractor agrees to remove from duty any employee deemed unacceptable to Delaware Tech.
- 3.2 (B) NON-DISCRIMINATION: Contractor affirms that it is an equal opportunity employer. It is Contractor's policy that no person shall be discriminated against in employment related activities because of race, color, religion, sex, age, national origin, disability, sexual orientation or status as a Veteran. Contractor agrees to be bound by both Federal and State of Delaware non-discrimination Laws in during the term of this Agreement.
- 3.2 (C) CROSS-HIRE PROTECTION: Contractor agrees that no supervisory employees (salaried employees that are essential to Delaware Tech's core business) of Delaware Tech will be solicited or hired by Contractor without specific written permission of Delaware Tech during the term of this Agreement and one (1) year thereafter. Delaware Tech agrees that, without specific written permission of Contractor, former supervisory employees (salaried employees that are essential to Contractor core business of providing food service) of Contractor will neither be solicited or hired by Delaware Tech during the term of this agreement and one (1) year after this agreement is terminated.
- 3.2 (D) CROSS-HIRE PROTECTION: Contractor and Delaware Tech acknowledge that the restrictions contained in Section 3.2 (C) above are reasonable and necessary in order to

protect the legitimate interests of Contractor and Delaware Tech. Any violation of this paragraph will result in serious injury to the non-breaching party's business and the agree that in the event that one party violates the conditions set forth in the immediately preceding paragraph, then the party shall be entitled to seek injunctive relief against the breaching party. The provisions of Sections 3.2 (C) and 3.2 (D) shall survive the termination or expiration of this agreement.

3.2 (E) BOOKS AND RECORDS: Contractor further agrees at all times to maintain all necessary personal and payroll records for its employees, compute all wages and withhold applicable federal, state and local taxes and federal social security payments, remit employee withholdings to the proper governmental authority, make employer contributions for federal FICA and federal and state unemployment insurance payments, verify employment eligibility and identity of employees pursuant to the Immigration Reform and Control Act and comply with all federal, state and local laws, including but not limited to the provisions of any antidiscrimination act or statute and the Fair Labor Standards Act. Contractor agrees to indemnify, defend and hold Delaware Tech and its directors, officers and employees harmless against any liability or assessment, including related interest and penalties, arising from Contractor breach of its obligations set forth in Sections 3.2 (A) through (E), and Contractor will pay reasonable collection expenses, attorneys' fees and court costs incurred in connection with the enforcement of such indemnity. The provisions of this Section 3.2 (E) shall survive the termination of this Agreement.

3.3 HEALTH EXAMINATIONS: Contractor will cause all of its employees assigned to duty on the Delaware Tech's premises to submit to periodic health examinations, at least as frequent and as stringent as required by applicable law or regulation, and to submit satisfactory evidence of compliance with all health regulations to Delaware Tech's Human Resources department upon request.

3.4 (A) INSURANCE: Contractor will furnish Delaware Tech with a certificate in form acceptable to Delaware Tech, certifying that Contractor carries workers compensation insurance for Contractor employees at Delaware Tech, comprehensive (including products), bodily injury, and property damage liability insurance in the following minimum amounts:

- Worker's Compensation – Statutory requirements and benefits
- Employer's Liability - \$100,000
- General Liability - \$1,000,000 Combined Single Limit
- Automobile Liability - \$500,000 Combined Single Limit

The College shall be named as an additional insured. The coverage shall include Premises/Operations, Products/Completed Operations, Contractual, Independent Vendors, Owners and Vendors Protective, Personal Injury (libel, Slander, Defamation of Character, etc.).

3.4 (B) Delaware Tech will assume responsibility for fire and casualty according to the State of Delaware risk management requirements on the Premises and its property as well as bodily injury and premises liability insurance to cover its own negligence.

3.5 (A) INDEMNIFICATION: Each Party will indemnify the other for all liability, loss and expense resulting from the negligent acts or omissions of its respective agents,

- employees, subcontractors or assigns in performing this Agreement. Provided, however, Delaware Tech, as an instrumentality of the State of Delaware has no obligation nor will it assume any liability to indemnify Contractor for any acts or omissions by Delaware Tech where such are protected from suit, liability, damages or costs, at law or equity, under federal or state law providing immunity from or limitation on liability. The indemnification for liability, loss or expense as required and qualified by the above, includes settlements, judgments, court costs, expenses of defense and attorney fees incurred by the indemnified party in connection with a suit arising out of the Agreement. Delaware Tech's obligation to indemnify Contractor, if any, shall be restricted solely to any general liability policy procured by Delaware Tech and no other funds or assets of Delaware Tech shall be subject to any claim by Contractor or anyone claiming through or by it.
- 3.5 (B) NOTIFICATION OF CLAIMS; Delaware Tech and Contractor will notify the other party in writing immediately upon discovery of any claim or possible claim relating to the aforementioned insurance and indemnification provisions. The provisions of Section 3.4 and 3.5 shall survive termination of this Agreement.
- 3.6 RETURN OF EQUIPMENT: Contractor agrees to return to Delaware Tech at the expiration of this Agreement, the food service Premises and all equipment furnished by Delaware Tech in the condition in which received, except for ordinary wear and tear and except to the extent that said Premises or equipment may have been lost or damaged by fire, flood, or other unavoidable occurrence, or theft by persons other than employees of Contractor without negligence on the part of Contractor or its employees.
- 3.7 LICENSE FEES AND TAXES: Contractor agrees to secure and pay all federal, state, and local licenses, permits, taxes and fees required for the operation of and resulting from the food service provided for hereunder, as well as pay all sales, excise, franchise and slate income taxes attributable to the food service facilities operated by Contractor at Delaware Tech. Federal tax associated with earned income by Contractor at Delaware Tech will be the responsibility of Contractor.
- 3.8 MENU: Menu items, portion sizes and pricing shall be approved by Delaware Tech prior to implementation.
- 4.0 CONSIDERATION: Contractor shall be paid as follows:
- (describe basis of compensation, i.e., management fee, operating subsidy, etc.)

(A) PAYMENT FOR CATERING SERVICES PROVIDED BY CONTRACTOR TO DELAWARE TECH: No service charge for catering will be charged to Delaware Tech. Contractor agrees to submit an invoice to Delaware Tech for catering services rendered on the day of the event. Delaware Tech will make every effort to pay invoices in full within 30 days of receipt. In the event Delaware Tech invoices are not paid within thirty (30) days of the invoice date, Contractor may charge interest on an unpaid invoice at the rate of 1% per month, the maximum allowable by Delaware law as a charge to State Agencies, commencing no earlier than 45 days after the date of the invoice. For events invoiced between June and July of any year, Contractor agrees it will not charge interest on unpaid invoices due to the end-of-fiscal year limitations under which Delaware Tech operates. Where Delaware schedules an event at least 45 days in advance and the estimated cost of

the event will exceed \$3,000, Contractor may submit an invoice for 1/3 of the total price (actual or estimated) at the time the order is placed. Such an invoice will be processed as noted above with payment to be expected prior to the scheduled event. The balance of the total cost may be invoiced on the day of the event. For events where Contractor uses the College china, Contractor will not charge Delaware Tech an additional per person fee.

(B) PAYMENT FOR CATERING SERVICES PROVIDED BY CONTRACTOR FOR TO ALL OTHERS: Contractor may provide catering services to all others upon such terms and conditions as the parties shall agree. Contractor shall pay Delaware Tech twenty percent (20%) of his net revenue from all catering services provided to third parties on Delaware Tech's campus, or for food prepared using Delaware Tech's Premises.

- 5.0 **ACCESS AND RECORDS:** Delaware Tech shall have full access to the food service facilities and Premises with or without notice. Contractor shall keep full and accurate accounts and records in connection with the food service covered by this Agreement. All such records shall be retained for a period of two (2) years after the expiration or termination of this Agreement. Delaware Tech may audit all such records at any time during regular business hours. The provisions of Section 5.0 shall survive the termination or expiration of this Agreement.
- 6.0 **INVENTORY:** In the event this Agreement is terminated, the parties agree that Contractor shall be responsible for the payment and disposition of all food and supplies on hand and on order for the performance of this Agreement. Delaware Tech may elect to purchase all such food and supplies inventories at Contractor's cost.
- 7.0 **TERMINATION:** This agreement may only be terminated for cause. If one party (the "Offended Party") considers that other party (the Offending Party") to have breached one or more of its obligations hereunder, the Offended Party shall give the Offending Party written notice which shall specify the nature of the alleged breach. The Offending Party shall then have thirty (30) days after the receipt of such notice to remedy the alleged breach. If, at the end of such thirty-day period, the Offended Party considers the alleged breach not to have been cured, the Offended Party may thereupon terminate this Agreement by giving the Offending Party written notice of termination and, at the expiration of the tenth (10) day following the delivery of such notice, the Offended Party shall be relieved from the further performance of its obligations hereunder. The Parties agree that the thirty-day period herein shall be reduced to 10 days in the event that the breach in issue involves a matter of public health or safety.
- 8.0 **LIQUIDATED DAMAGES:** In the event Contractor terminates ceases performance of this Agreement prior to the end of the contract term, it will do so in such a manner as to avoid disruption of food service activities during a semester. Contractor further agrees that Delaware Tech is entitled to liquidated damages in the amount of \$10,000.00 the event of an early termination. The parties acknowledge and agree that the potential damages that will be suffered by Delaware Tech as a result of the violation of this section are uncertain and that the amount agreed upon is reasonable. Any financial consideration cannot be used to offset the liquidated damages associated with curly or improper termination of this agreement.

- 9.0 **FORM OF NOTICE AND DELIVERY:** Any notice required or permitted under this Agreement shall be in writing and shall be considered to have been given when sent by certified mail, with proper postage prepared, to the parties at the following addresses:

To Contractor:

To Delaware Tech:

- 10.0 **INDEPENDENT CONTRACTOR:** In connection with the provision of services Contractor shall not in any way be construed to be an employee of Delaware Tech. Because the obligations hereunder shall be the obligations of an independent contractor, Contractor agrees that, as such, it shall be solely responsible for the payment of all income and other taxes (federal, state, and local) with respect to compensation from Delaware Tech or food service operations hereunder.

All of Contractor employees furnishing services to Delaware Tech shall be deemed employees solely of Contractor and shall not be deemed for any purposes whatsoever employees or agents of, acting for on behalf, Delaware Tech nor or they entitled to any benefits that Delaware Tech provides to its employees. No acts performed or representations, whether oral or written, made by Contractor, with respect to third parties, shall be binding on Delaware Tech except as expressly provided herein.

GENERAL TERMS & CONDITIONS

- 11.0 **BINDING EFFECTS:** The provisions of this Agreement shall be binding upon and inure to each other of the Parties and their respective successors and assigns, provided, however, that neither Party may assign this Agreement without the prior written consent of the other.
- 11.1 **COMPLIANCE WITH LAWS:** Contractor and Delaware Tech shall comply with all applicable laws, ordinances, rules and regulations relating to their obligations hereunder, including but not limited to sanitation, safety and health. Each Party shall obtain the licenses and permits comply with its obligations hereunder. Each Party shall cooperate with the other to accomplish the foregoing.
- 11.2 **CONSTRUCTION:** The paragraph and section headings are used solely for convenience and shall neither be deemed to limit the subject of the paragraphs and sections not be considered in their interpretation.
- 11.3 **ENTIRE AGREEMENT:** Except as otherwise provided in this Agreement, this Agreement contains all the of the parties with respect to the subject matters contained herein, supersedes any prior agreements, and may not be changed by an agreement in writing signed by the parties hereto.
- 11.4 **FORCE MAJEURE:** Neither Contractor nor Delaware Tech shall be liable for the failure to perform its respective obligations under this Agreement when such failure is caused by fire, explosion, water, act of God, civil disorder or disturbance, labor dispute, vandalism, war, riot, sabotage, weather, and energy related closing, governmental rules and

Executive Orders, States of Emergency, unavailability of food and supplies or like causes beyond the reasonable control of such party, except for payment of monies owned.

- 11.5 GOVERNING LAW: This Agreement shall be construed in accordance with the laws of the State of Delaware.
- 11.6 ATTORNEYS FEES: If any action or proceeding is necessary to enforce the provisions of this Agreement, including any claim or demand, or to interpret this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which it may otherwise be entitled, whether or not such action or proceeding is prosecuted to judgment.
- 11.7 RESERVATION OF RIGHTS: A waiver of any failure to perform under this Agreement by either party shall neither be construed as nor constitute a waiver of any subsequent failure.
- 11.8 UNENFORCEABLE PROVISIONS: If any provision of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remaining terms of this Agreement shall continue in full force and effect.

IN WITNESS THEREOF, the parties hereto have set their hand and seal on the day and year set forth below.

DELAWARE TECHNICAL &
COMMUNITY COLLEGE

_____ (SEAL)

Date: _____

By:
President

CONTRACTOR

_____ (SEAL)

Date: _____

By:

| | | |
|--|------------|---------|
| | Contractor | College |
|--|------------|---------|

Addendum A
Division of Costs and Responsibilities

May, 2013: RFP Cafeteria Services

| | | |
|---|---|---|
| FOOD | | |
| Food Purchasing | X | |
| Processing of Invoices | X | |
| Payment of Invoices | X | |
| LABOR | | |
| Payment of Hourly Regular Full-Time Wages | X | |
| Payroll Taxes of Hourly Employees | X | |
| Fringe Benefits and Insurance of Hourly Employees | X | |
| Preparation of Hourly Employees Payroll | X | |
| Processing of Hourly Employees Payroll | X | |
| SUPPLIES | | |
| Detergent and Cleaning Supplies | X | |
| Paper Supplies | X | |
| Menu Paper and Printing | X | |
| Postage | X | |
| Taxes/Licenses | X | |
| Pest Control | | X |
| Utilities | | X |
| CLEANING | | |
| Ceiling, Light Fixtures and Fans | X | |
| Dishwashing | X | |
| Equipment | X | |
| Hoods | X | |
| Floors | X | |
| Rest Rooms | X | |
| Vents from Hoods to Outside | | X |
| Walls | | X |
| Kitchen/Serving Area | X | |
| Dining Area | | X |
| Outside Maintenance | | X |
| ADDITIONAL ITEMS | | |
| China/Silverware Glassware – Original Purchase to Inventory Level Required for Operation | | X |
| Telephone – Local | X | |
| Telephone – Long Distance | X | |
| Removal of Trash and Garbage from Kitchen | X | |
| Removal of Trash and Garbage from Eating Area | X | |
| Removal of Trash and Garbage from Premises | | X |
| Replacement of Expendable Equipment (pots, pans, etc.) | | X |
| Replacement of Non-Expendable Items | | X |
| Products and Public Liability Insurance | X | |
| Cost of Repairing Equipment | | X |
| Ticket Printing | X | |
| Travel (local) | X | |
| Uniforms for Employees | X | |
| Table Linens | X | |
| Vehicle for Food Transport including Maintenance | X | |
| Provisions for a fully equipped office including File Cabinets | | X |

Expenses and responsibilities for operation of the foo