



UNIVERSITY OF SOUTH CAROLINA

AMENDMENT NO. 3 TO SOLICITATION

TO: ALL VENDORS

FROM: Charles Johnson, Procurement Manager

SUBJECT: SOLICITATION NUMBER: USC-RFP-2527-CJ

DESCRIPTION: Management Services for the Colonial Center at The University of South Carolina

DATE: February 19, 2014

This Amendment **No.3** modifies the Requests for Proposals only in the manner and to the extent as stated herein.

Attachments

BIDDER SHALL ACKNOWLEDGE RECEIPT OF AMENDMENT **NO. 3** IN THE SPACE PROVIDED BELOW AND RETURN IT WITH THEIR BID RESPONSE. FAILURE TO DO SO MAY SUBJECT BID TO REJECTION.

Authorized Signature

Name of Offeror

Date

(c) Awards. Notwithstanding any rights of USCAD to compensation for or in lieu of condemnation or taking, Volume may proceed against the condemning authority for a separate condemnation award for any losses occasioned by such condemnation, whether incurred for expenses or income prior to or subsequent to the commencement thereof, together with its relocation costs.

SECTION XVII TERMINATION

17.1 When Terminated. Unless sooner terminated or extended as provided in this Agreement, this Agreement shall terminate at the expiration of the Term.

17.2 Termination for Cause. If a representation or warranty of either party in this Agreement is false or misleading in any material respect, or if either party breaches a material provision of this Agreement ("Cause"), the non-breaching party shall give the other party written notice of such Cause. If such Cause is not remedied within ten (10) days after receipt of such notice, in the case of failure to make any payment due, or thirty (30) days after receipt of such notice, in the case of any other Cause (unless, with respect to those Causes which cannot be reasonably corrected or remedied within such thirty (30) day period, the breaching party shall have commenced to correct or remedy the same within such thirty (30) day period and thereafter shall proceed with all due diligence to correct or remedy same), the party giving notice shall have the right to terminate this Agreement upon the expiration of such ten- or thirty-day period.

17.3 Rights and Duties Upon a Termination. The following provisions shall apply in the event of a termination of this Agreement for any reason whatsoever, excluding the expiration of the Term:

(a) Amortization. In the event that Volume has not fully amortized the Investment pursuant to Section XI, Volume shall submit to USCAD a statement of the total amount outstanding and USCAD shall pay such amount to Volume within forty-five (45) days after receipt of such statement.

(b) Final Accounting. Volume shall deliver to USCAD, within thirty (30) days after the date of termination, a final accounting setting forth all commissions due to USCAD, and shall remit to USCAD all amounts owed to USCAD, after setting off any amounts owed by USCAD to Volume.

(c) Delivery of Premises. After Volume has been paid any amount owing to it pursuant to subsection (a) above, Volume shall remove its property from the Facility and shall deliver to USCAD the Food Service Premises and all property thereon belonging to USCAD.

SECTION XVIII NOTICES

18.1 Requirements for Notice. All notices required by this Agreement, including any notice as to changes of address, shall be in writing and shall be delivered personally, or by overnight courier, registered or certified mail, return receipt requested, or confirmed facsimile to:

If to USCAD:

University of South Carolina Athletics Department
Rex Enright Athletic Center
Columbia, SC 29208
Attention: Director of Athletics
Facsimile: 803-777-8226

With a copy to:

Office of the General Counsel
University of South Carolina
109 Osborne Administration Building
Columbia, SC 29308
Attention: General Counsel
Facsimile: 803-777-9500

If to Volume:

Volume Services, Inc.
d/b/a Volume Services America
201 East Broad Street
Spartanburg, South Carolina 29306
Attention: General Counsel
Facsimile: 864-598-8694

18.2 When Given. Notices complying with the requirements of Section 18.1 shall be deemed given on the date delivered, in the case of personal delivery, overnight courier or confirmed facsimile, or three (3) days after deposit in the mails, in the case of delivery by mail.

SECTION XIX ASSIGNMENT AND BINDING EFFECT

19.1 Assignment. Neither party may assign its rights or obligations under this Agreement, in whole or in part, without the prior written consent of the other party, which consent may not be unreasonably withheld; provided, however, that Volume may pledge, assign or transfer this Agreement to an affiliate, to Volume's primary lender or to an assignee or transferee of all or substantially all of the business of Volume, or any part thereof, whether by contract or by operation of law. For purposes of this Section, an "affiliate" shall mean an entity which, directly or indirectly, controls, is controlled by or is under common control with, Volume.

19.2 Binding Effect. Subject to Section 19.1, this Agreement shall binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

SECTION XX MISCELLANEOUS

20.1 Entire Agreement. The Agreement of the parties consists of this Agreement and incorporates by reference State of South Carolina Request for Proposal 00-S3210 issued April 24, 2000, as amended by Amendment - 1 issued May 14, 2000, and Volume's Proposal in response dated May 29, 2000 (collectively the "Documents"). In case of conflicts among these Documents, they shall govern in this order: First, this Agreement; Second, Request for Proposal 00-3210; Third, Volume's Proposal. These Documents constitute the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersede all previous communications, representations, agreements, promises or statements, whether oral or written, by any party or between the parties.

20.2 Modification. No modification of any of the terms or conditions of this Agreement shall be effective unless such modification is expressed in writing and signed by the party against whom enforcement of such modification is sought.

20.3 Headings. The section headings in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

20.4 Waiver. The failure of either party to exercise any right under this Agreement on one or more occasions shall not constitute a waiver of such right or any other right hereunder.

20.5 Relationship of Parties. Volume is an independent contractor. Nothing herein shall be construed to create a partnership, joint venture or agency relationship between the parties.

20.6 Remedies. Except for arbitration, which shall be the exclusive procedural remedy available to the parties, no remedy provided herein shall be exclusive of any other remedy provided in this Agreement or by law, but each shall be cumulative and in addition to every other remedy.


20.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without giving effect to its conflicts of law rules.

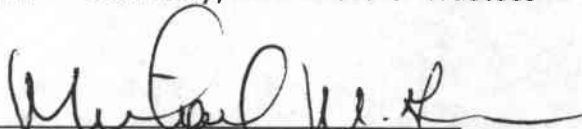
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

VOLUME SERVICES, INC.
d/b/a Volume Services America

By: 
Name: Kenneth R. Frick
Title: Vice President & CFO

University of South Carolina Athletics Department

By: 
Name: Thomas L. Stepp
Title: Secretary, USC Board of Trustees

And: 
Name: Michael B. McGee
Title: Director of Athletics

ARENA NAMING RIGHTS AND SPONSORSHIP AGREEMENT

This Arena Naming Rights and Sponsorship Agreement ("Agreement") is made and entered into as of the 7th day of October, 2003 ("Effective Date"), by and between Colonial Life & Accident Insurance Company ("Colonial"), Action Sports Media, Inc. ("ASM"), and the University of South Carolina, acting by and through its Department of Athletics ("University").

Recitals

WHEREAS, the University is the owner and operator of a new multi-purpose arena ("Arena") constructed by the University in Columbia, South Carolina; and

WHEREAS, pursuant to a Marketing Services Agreement dated August 1, 2000 between ASM and the University ("MSA"), and subject to the approval of the University, ASM has the exclusive right to sell the naming rights to the Arena and the exclusive right to market and sell signage, advertising and other sponsorship benefits at the Arena, Williams-Brice Stadium, and other locations where University athletic events occur (collectively "University Venues"); and

WHEREAS, Colonial desires to acquire the naming rights to the Arena and certain signage, advertising and other sponsorship benefits at University Venues, and ASM and the University desire to grant Colonial such rights and benefits, subject to the terms and conditions set forth herein; and

WHEREAS, the parties hereto understand and agree that by acquiring the naming rights and the signage, advertising and other sponsorship benefits set forth herein, Colonial shall assume no right or responsibility to, or liability for, the operation or management of the Arena;

NOW, THEREFORE, for good and valuable consideration, the parties mutually agree as follows:

1. Naming Rights. During the Term of this Agreement, which is defined below, Colonial shall be the sole and exclusive naming rights sponsor for the Arena, and the Arena shall be known as the "Colonial Center" or such other name as the parties mutually agree upon in writing by October 1, 2003 (collectively referred to herein as "Arena Name"). After October 1, 2003, the Arena Name cannot change or be altered in any way, except with the express written consent of the parties.
2. Additional Sponsorship Benefits. In addition to the naming rights granted herein, during the Term of this Agreement, Colonial shall be entitled to the signage, advertising and the other sponsorship benefits specified in the attached Exhibit A ("Additional Sponsorship Benefits"), which is incorporated herein by reference.

3. Consideration.

- (a) During the Term of this Agreement, and in consideration for the rights being granted herein, Colonial agrees to pay a fee ("Naming Rights Fee") as follows:

Contract Year	Naming Rights Fee
1 (10/1/03 to 9/30/04)	\$ 425,000
2 (10/1/04 to 9/30/05)	\$ 425,000
3 (10/1/05 to 9/30/06)	\$ 432,500
4 (10/1/06 to 9/30/07)	\$ 440,150
5 (10/1/07 to 9/30/08)	\$ 447,953
6 (10/1/08 to 9/30/09)	\$ 455,912
7 (10/1/09 to 9/30/10)	\$ 464,030
8 (10/1/10 to 9/30/11)	\$ 472,311
9 (10/1/11 to 9/30/12)	\$ 480,757
10 (10/1/12 to 9/30/13)	\$ 489,372
11 (10/1/13 to 9/30/14)	\$ 498,159
12 (10/1/14 to 9/30/15)	\$ 507,123
Total	\$5,538,267

- (b) Colonial shall pay the annual Naming Rights Fee to the University in two equal installments on January 1st and June 1st of each Contract Year. The University and ASM agree that the University's receipt of the Naming Rights Fee from Colonial shall not modify the terms of the MSA or the rights of either party to the revenue distribution set forth therein.
- (c) In addition to the Naming Rights Fee and as additional consideration for rights being granted herein, Colonial agrees to lease a suite at Williams-Brice Stadium during the Term of this Agreement for the annual sum of Thirty Thousand (\$30,000) Dollars, payable to the University in two equal installments on January 1st and June 1st of each Contract Year.
- (d) The University acknowledges that Colonial has made an advance payment of the Naming Rights Fee ("Advance Payment") in the sum of Five Hundred Fifty Thousand (\$550,000) Dollars. The parties hereto agree that such Advance Payment shall be used to offset and reduce Colonial's annual Naming Rights Fee payment obligation, as referred to in Paragraphs 3(a) and (b) herein, as follows ("Offset Amount"):

Contract Year	Offset Amount
1 (10/1/03 to 9/30/04)	\$ 75,000
2 (10/1/04 to 9/30/05)	\$ 75,000
3 (10/1/05 to 9/30/06)	\$ 50,000

4 (10/1/06 to 9/30/07)	\$ 50,000
5 (10/1/07 to 9/30/08)	\$ 50,000
6 (10/1/08 to 9/30/09)	\$ 50,000
7 (10/1/09 to 9/30/10)	\$ 50,000
8 (10/1/10 to 9/30/11)	\$ 50,000
9 (10/1/11 to 9/30/12)	\$ 50,000
10 (10/1/12 to 9/30/13)	\$ 50,000
11 (10/1/13 to 9/30/14)	\$ 0
12 (10/1/14 to 9/30/15)	\$ 0
Total	\$550,000

The Offset Amount shall be applied in two equal installments on January 1st and June 1st of each Contract Year.

4. Term.

- (a) This Agreement shall commence on October 1, 2003 and shall continue through September 30, 2015 ("Term"), subject to earlier termination in accordance with the provisions of Paragraph 11 herein. For purposes of this Agreement, a Contract Year shall be from October 1 to September 30.
- (b) Colonial shall have the first right to negotiate for an extension of the term of this Agreement for an additional twelve (12) year period. Colonial's first right to negotiate shall expire on August 1, 2015, or upon the early termination of this Agreement as described in Paragraph 11 herein. Further, in the event Colonial receives notification that it is in breach of this Agreement pursuant to Paragraph 11(b) or 11(c) herein, Colonial may not exercise its right to negotiate for an extension of the term of this Agreement until such time as it has cured such breach as reasonably determined by ASM and the University.
- (c) Upon the expiration or early termination of this Agreement, all naming rights and additional sponsorship benefits and opportunities provided to Colonial pursuant to this Agreement, including Exhibit A attached hereto, shall immediately terminate.

5. Exclusivity. During the Term of this Agreement, ASM and the University agree not to sell signage at the Arena, including advertising on the video board, or public address announcements at the Arena, to any insurance company that sells life, accident or health insurance without the prior written consent of Colonial. Colonial understands and agrees that no rights of exclusivity are granted to Colonial with regard to any University Venue other than the Arena.

6. Trademarks/Logos. The parties acknowledge and agree that the University shall own the Arena Name, any logo designed for the Arena ("Arena Logo"), and all other associated intellectual property, including, without limitation, trademarks, logos, designs

and service marks. The University will design the Arena Logo in consultation with Colonial, and shall provide Colonial with a proposed Arena Logo on or before October 1, 2003. Colonial shall have the right to review and approve the design. Colonial shall be entitled to make reasonable use of the Arena Name, any Arena Logo, and all other associated intellectual property, including, without limitation, trademarks, logos, designs and service marks in connection with advertising by Colonial. Colonial shall further be entitled to make reasonable use of the University's and Gamecock logos; provided, however, that Colonial shall only do so with the prior written approval of the University's athletic director or his designee.

7. Design/Content.

- (a) The University and ASM, as signage rights holder pursuant to the MSA, shall have approval rights with respect to the design, content and installation of all signage and advertising to be located in the Arena and other University Venues, and all promotional activities and other recognitions and exposures accorded Colonial pursuant to this Agreement.
- (b) Subject to the provisions of this Agreement, the University and ASM shall retain exclusive control and supervision over the maintenance and removal of all signage and over the location on which signage is displayed.
- (c) With respect to any signage or advertising bearing Colonial's name and/or logo, Colonial shall be responsible for providing necessary artwork or graphics to ASM in a condition ready to use and at the time requested by ASM. If Colonial fails to comply with this obligation to provide necessary artwork or graphics to ASM in a condition ready to use and at the time requested by ASM, Colonial shall be deemed to have waived any claim for breach of this Agreement or for credits or financial rebates related to the failure of ASM to provide and/or display such signage or advertising as required by this Agreement.
- (d) If requested by Colonial, any changes in signage or advertising previously provided by Colonial and/or approved by the parties shall be at Colonial's expense.

8. Indemnification.

- (a) Colonial shall defend, indemnify and hold harmless ASM and the University, and their employees, officers, directors, shareholders, affiliates, representatives and agents, from and against any and all claims, damages, causes of action, judgments, liens, losses and costs and liabilities including, without limitation, reasonable attorney fees and other litigation expenses arising from Colonial's acts, omissions or breach(es) of this Agreement and/or any litigation, arbitration, hearings, governmental inquiry or investigation or other proceeding initiated by any third party alleging or

arising from claims of wrongful conduct or omission by Colonial related to this Agreement, including, but not limited to, negligence, libel, slander, improper trade practice, illegal competition, copyright infringement, trademark infringement, license infringement, breach of warranty, and unsafe, hazardous or defective product or service, except to the extent that such damages, causes, losses and judgments and costs incident thereto are caused by the negligence or intentional misconduct of any party seeking indemnification hereunder. In connection with Colonial's indemnification obligation hereunder, it is understood and agreed that by acquiring the naming rights and the signage, advertising and other sponsorship benefits set forth herein, Colonial shall assume no right or responsibility to, or liability for, the operation or management of the Arena.

- (b) ASM shall defend, indemnify and hold harmless Colonial and its employees, officers, directors, shareholders, affiliates, representatives and agents from and against any and all claims, damages, causes of action, judgments, liens, losses and costs and liabilities including, without limitation, reasonable attorney fees and other litigation expenses arising from ASM's acts, omissions or breach(es) of this Agreement or the MSA and/or any litigation, arbitration, hearings, governmental inquiry or investigation or other proceeding initiated by any third party alleging or arising from claims of wrongful conduct or omission by ASM related to this Agreement or the MSA, including, but not limited to, negligence, libel, slander, improper trade practice, illegal competition, copyright infringement, trademark infringement, license infringement, breach of warranty, and unsafe, hazardous or defective product or service, except to the extent that such damages, causes, losses and judgments and costs incident thereto are caused by the negligence or intentional misconduct of any party seeking indemnification hereunder.
- (c) The indemnified party shall notify the indemnifying party immediately upon its receipt of notice of a claim to which this paragraph may apply. After accepting the defense of the claim of the indemnified party, the indemnifying party shall have sole control of the defense of the claim and all negotiations for the settlement or compromise thereof at its own cost and expense, including the cost and expense of attorney fees and disbursement in connection with such defense, settlement or compromise; provided, however, the indemnified party shall be entitled to participate in the same, at its own expense and with counsel of its choice, and no settlement or compromise shall be completed in the absence of the prior written consent of the indemnified party, which consent shall not be unreasonably withheld or delayed. Further, the indemnifying party shall provide the indemnified party with reports regarding all significant developments regarding its defense of any applicable claim. The mutual obligations under this paragraph shall survive for three (3) years after the termination or expiration of this Agreement.

- (d) Nothing in this Paragraph 8 shall limit any party's right to proceed against another party or parties, or their successors, in the event of a breach of the terms and conditions of this Agreement by such party or parties.

9. Insurance.

- (a) With respect to Colonial's occupancy or use of the Arena pursuant to the rights granted Colonial in Exhibit A, Section E(7) hereto, Colonial agrees to maintain general liability insurance acceptable to ASM and the University with a minimum combined personal injury and property damage limit of at least two million dollars (\$2,000,000). Such policy shall name ASM and the University as additional insureds. Colonial shall furnish ASM and the University with a certificate of such insurance not later than thirty (30) days prior to any such use of the Arena.
- (b) With respect to Colonial's occupancy or use of any room, suite or other area in any University Venue (other than as set forth in Paragraph 9(a) herein) pursuant to the rights granted Colonial as set forth in Exhibit A hereto, Colonial shall maintain such general liability insurance as may be reasonably required by ASM and the University consistent with the insurance obligations imposed upon other third parties making use of such rooms, suites or areas.

10. Review of Performance. The parties hereto agree to meet not less than quarterly during each Contract Year to review each party's performance hereunder. At such meetings, if rights, benefits and opportunities are identified that have not been timely provided to any party as required by this Agreement, including Exhibit A attached hereto, the parties shall in good faith attempt to negotiate a mutually acceptable resolution of such matters.

11. Termination. This Agreement may only be terminated in accordance with the following provisions:

- (a) As to ASM, this Agreement shall automatically terminate upon the termination or expiration of the MSA between ASM and the University; provided, however, this Agreement shall continue in full force and effect as between the University and Colonial and shall be subject to the terms of Paragraph 23 herein.
- (b) ASM and/or the University may terminate this Agreement if Colonial fails to pay the Naming Rights Fee as required hereunder, and such payment remains unpaid for thirty (30) days after written notice; provided, however, the 30-day cure period will only apply once in any twelve (12) month period.