

UNIVERSITY OF NEBRASKA
Standard Form Construction Agreement

THIS AGREEMENT made this <<Date>> day of <<Month>>, <<Year>> by and between

The Board of Regents of the University of Nebraska,

a public body corporate of the State of Nebraska, hereinafter called the OWNER, and

<<Legal Name of Company>>
<<Contractor Address>>
<<Contractor Address>>,

hereinafter called the CONTRACTOR.

The Owner and the Contractor for the consideration hereinafter stated agree as follows:

ARTICLE 1
THE WORK

§ 1.1 The Contractor shall furnish all the materials, labor, tools and transportation, and perform all of the Work necessary to complete the project of the Owner shown in the Drawings and described in the Specifications set forth in Article 2 and in all other Contract Documents. The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

§ 1.2 The project is entitled:

<<Project Title>>
NU Project Number: <<#####>>
NU Invitation Number: <<#####-##-#####>>
Project Address: << Address>>

As prepared by the Architect/Engineer: <<Legal Name of Firm>>
<<Address of Firm>>
<<City, State Zip>>

ARTICLE 2
THE CONTRACT DOCUMENTS

§ 2.1 The Contract Documents consist of this Agreement, the General Conditions of the Contract for Construction, the General Requirements, the Specifications, the Drawings, all Addenda issued prior to execution of this Agreement, and other documents listed in this Agreement. Said documents form the Contract between the parties and all are as fully a part of this Agreement as if attached hereto or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral.

§ 2.2 The following is an enumeration by title, date, and other description, of the Contract Documents.

§ 2.2.1 The Agreement is this University of Nebraska Standard Form Construction Agreement.

§ 2.2.2 The General Conditions are the General Conditions of the Contract for Construction set forth in section 00 72 13 of the Project Manual.

§ 2.2.3 The General Requirements and other Conditions of the Contract are those contained in the Project Manual dated <<Date >>, and are as follows. See Exhibit B attached.

§ 2.2.4 The Specifications are those contained in the Project Manual dated as in Section 2.2.3, and are as follows: (Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Title of Specifications exhibit: See Exhibit C attached.

§ 2.2.5 The Drawings are as follows, and are dated <<Date>> unless a different date is shown below: (Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Title of Drawings exhibit: See Exhibit D attached.

§ 2.2.6 The Addenda, if any, are as follows:

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 2.

§ 2.2.7 Other documents, if any, forming part of the Contract Documents are as follows:

(List here any additional documents that are intended to form part of the Contract Documents. The General Conditions provide that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

See Exhibit A attached.

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay to the Contractor the Contract Sum in warrants of the State of Nebraska for performance of the Work required by the Contract Documents. The Contract Sum shall be <<Printed Amount>> Dollars (U.S.), (<<\$Numerical Amount>>) which includes the base bid amount (edit this as necessary – "plus the following alternates, allowances and unit prices.":

(Use Allowances, Alternates and Unit Prices as required for the contract.)

Allowance 1: <<Very Brief Description>> \$

Allowance 2: <<Very Brief Description>> \$

Alternate 1: <<Very Brief Description>> \$

Alternate 2: <<Very Brief Description>> \$

Alternate 3: <<Very Brief Description>> \$

(If there is an agreement to hold alternate price(s) add "Contractor will hold bid price for Alternates <<List Alternates>>, according to the terms specified in the Bid Form, for 60 days following the bid date.")

In addition, the agreement shall include the following unit prices:

Unit Price 1: <<Very Brief Description>> \$

Unit Price 2: <<Very Brief Description>> \$

ARTICLE 4 PAYMENTS

§ 4.1 Progress Payments

§ 4.1.1 Based upon Applications for Payment submitted to the Owner by the Contractor, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 4.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 4.1.3 The Owner shall make payment, on the uncontested portion of the Application for Payment, to the Contractor not later than forty-five (45) days after the Owner receives the Application for Payment.

§ 4.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 4.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 4.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1** Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five percent (5%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 9.5 of the General Conditions;
- .2** Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of five percent (5%);
- .3** Subtract the aggregate of previous payments made by the Owner; and
- .4** Subtract amounts, if any, which the Owner has withheld, in addition to retention, pursuant to the Contract Documents.

§ 4.1.7 The progress payment amount determined, above, shall be further modified under the following circumstances:

- .1** Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
- .2** Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

§ 4.1.8 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 4.2 Final Payment

§ 4.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a Certificate of Final Completion has been issued by the Owner.

§ 4.2.2 The Owner's final payment to the Contractor shall be made no later than forty-five (45) days after the issuance of the Architect's final Certificate of Completion and Contractor's fulfillment of all remaining requirements of the Contract Documents.

ARTICLE 5 TIME OF COMMENCEMENT AND COMPLETION

§ 5.1 The date of commencement shall be as set forth in a written notice to proceed issued by the Owner. The Contractor shall commence the Work required by the Contract Documents within ten (10) consecutive calendar days after the date of issuance of written Notice to Proceed from the Owner, unless otherwise stated in such notice to proceed. The Contractor shall substantially complete all work required by the Contract Documents not later than 2:00 o'clock p.m. of the day that is <<number of days from bid form>> calendar days from the date of commencement. (Alternate: The Contractor shall substantially complete all work required by the Contract Documents not later <<Date>> at <<Time>>.)

(If a Final Completion Date is applicable to this Contract, specify here-below the Final Completion Date)

The Contractor shall finally complete all work required by the Contract Documents not later than 2:00 o'clock p.m. of the day that is <<Number of Calendar Days>> calendar days from the date established above for substantial completion, or as follows: (Insert here any alternate method of specifying Final Completion Date if number of calendar days is not used) (Alternate: The Contractor shall finally complete all work required by the Contract Documents not later than 2:00 o'clock p.m. on <<Date>>.)

Such time period shall be the Contract Time for Final Completion.

§ 5.2 The Substantial and Final Completion dates may be changed only by issuance of change order. All change orders on this project must define any changes in the stipulated completion date which may be caused by the changes in the work authorized by the change order.

§ 5.3 The date of Substantial Completion of Work or designated portion thereof is the Date certified by the Architect and **Owner's Representative** pursuant to § 9.8 of the General Conditions. The Contract Time shall be measured from the time of commencement.

§ 5.4 **Liquidated Damages.** Contractor and Owner agree that the following methods of calculating and determining Owner's damages resulting from Contractor's failure to achieve completion within the Contract Time: (Check applicable provision below)

- Actual damages incurred by Owner as a result of delay in achieving Substantial Completion and, if applicable, Final Completion. (No liquidated damages apply.)

If liquidated damages apply to this Contract, check one of the provisions, below, to specify liquidated damages amounts:

- Liquidated damages for delay in achieving Substantial Completion, as set forth in section 5.4.1 and 5.4.2 of this Agreement.

- Liquidated damages for delay in achieving Final Completion, as set forth in sections 5.4.1 and 5.4.3 of this Agreement.
- Liquidated damages for delay in achieving Substantial Completion and liquidated damages for delay in achieving Final Completion, as set forth in sections 5.4.1 and 5.4.4 of this Agreement.

§ 5.4.1 Contract Time Is of the Essence. Contractor acknowledges, recognizes, and agrees that (1) time is of the essence of this Agreement, (2) the Owner is entitled to full and beneficial occupancy and use of the completed Work following expiration of the Contract Time, and (3) if the Contractor fails to complete substantially, or cause substantial completion of any portion of the Work within the Contract Time, the Owner will sustain extensive damages and serious loss as a result of such failure. The exact amount of such damages will be extremely difficult, if not impossible, to ascertain. Accordingly, if Contractor fails to achieve Substantial Completion or Final Completion of the Work, or both, within the Contract Time, as required by this Agreement, Contractor shall be liable to Owner for Liquidated damages for unexcused delay as provided herein.

§ 5.4.2 For Delay in Substantial Completion. If the Contractor fails to achieve Substantial Completion of the Work within the Contract Time, the Owner shall be entitled to retain or recover from the Contractor as liquidated damages and not as a penalty, the sum of **<<Printed Dollar Amount>> and 00/100's dollars (U.S.) (\$<<Numerical Dollar Amount.00>>)** per calendar day commencing upon the first day following expiration of the Contract Time and continuing until the actual date of Substantial Completion. Contractor and Owner agree that all amounts payable hereunder by Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Agreement, as a result of delayed completion of the Work. When Owner reasonably believes that Substantial Completion will be inexcusably delayed, Owner shall be entitled, but not required, to withhold from any amounts otherwise due Contractor an amount then believed by Owner to be adequate to recover liquidated damages applicable to the delay in achieving Substantial Completion, or any part thereof. Any liquidated damages not so withheld shall be payable by Contractor to Owner upon demand by Owner plus interest from the date of demand at the highest legal rate.

§ 5.4.3 For Delay in Final Completion. If the Contractor fails to achieve Final Completion of the Work within the Contract Time specified in section 5.1 for Final Completion, the Owner shall be entitled to retain or recover from the Contractor as liquidated damages and not as a penalty, the sum of **<<Printed Dollar Amount>> and 00/100's dollars (U.S.) (\$<<Numerical Dollar Amount.00>>)** per calendar day commencing upon the first day following expiration of the Contract Time specified for Final Completion and continuing until the actual date of Final Completion. Contractor and Owner agree that all amounts payable hereunder by Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Agreement, as a result of delayed Final Completion of the Work. When Owner reasonably believes that Final Completion will be inexcusably delayed, Owner shall be entitled, but not required, to withhold from any amounts otherwise due Contractor an amount then believed by Owner to be adequate to recover liquidated damages applicable to the delay in achieving Final Completion, or any part thereof. Any liquidated damages not so withheld shall be payable by Contractor to Owner upon demand by Owner plus interest from the date of demand at the highest legal rate.

§ 5.4.4 For Both Delay in Substantial Completion and For Delay in Final Completion. If the Contractor fails to achieve Substantial Completion of the Work within the Contract Time for Substantial Completion, the Owner shall be entitled to retain or recover from the Contractor as liquidated damages and not as a penalty, the sum of **<<Printed Dollar Amount>> and 00/100's dollars (U.S.) (\$<<Numerical Dollar Amount.00>>)** per calendar day commencing upon the first day following expiration of the Contract Time for achieving Substantial Completion and continuing until the actual date of Substantial Completion. In addition to any liquidated damages for delay in achieving Substantial Completion, if the Contractor fails to achieve Final Completion of the Work within the Contract Time specified for Final Completion, the Owner also shall be entitled to retain or recover from the Contractor as liquidated damages and not as a penalty, the sum of **<<Printed Dollar Amount>> and 00/100's dollars (U.S.) (\$<<Numerical Dollar Amount.00>>)** per calendar day commencing upon the first day following expiration of the Contract Time specified for Final Completion and continuing until the actual date of Final Completion.

Contractor and Owner agree that all amounts payable hereunder by Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Agreement, as a result of delayed Substantial and Final Completion of the Work. When Owner reasonably believes that Substantial or Final Completion will be inexcusably delayed, Owner shall be entitled, but not required, to withhold from any amounts otherwise due Contractor an amount then believed by Owner to be adequate to recover liquidated damages applicable to the delay in achieving Substantial and/or Final Completion, or any part thereof. Any liquidated damages not so withheld shall be payable by Contractor to Owner upon demand by Owner plus interest from the date of demand at the highest legal rate.

5.5.5 In the event any portion of the liquidated damages provisions set forth, above, are determined to be a penalty and unenforceable under applicable law, then Owner shall be entitled to recover its actual damages for Contractor's delay in achieving Substantial Completion and/or Final Completion.

ARTICLE 6 PARTIES BOUND

§ 6.1 The terms and conditions of this Agreement and the Contract Documents shall be binding upon and inure to the benefit of the Owner and the Contractor and their respective heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.
(Delete signature lines not appropriate for execution.)

<<Legal Name of Company>>

Signature

Printed Name

Title

**THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA**

Signature

T. Mark Miller

Printed Name

Assistant Vice Chancellor
Facilities Planning & Construction

Title

<<Legal Name of Company>>

Signature

Printed Name

Title

**THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA**

Signature

William Nunez

Printed Name

Interim Vice Chancellor, Business and Finance

Title

<<Legal Name of Company>>

Signature

Printed Name

**THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA**

Signature

John R. Amend

Printed Name

Title

<<Legal Name of Company>>

Signature

Printed Name

Title

<<Legal Name of Company>>

Signature

Printed Name

Title

Assistant Vice Chancellor and Director
Facilities Management and Planning

Title

**THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA**

Signature

Doug Ewald

Printed Name

Vice Chancellor for Business, Finance and
Business Development

Title

**THE BOARD OF REGENTS OF THE
UNIVERSITY OF NEBRASKA**

Signature

Jon C. Watts

Printed Name

Vice Chancellor, Business and Finance

Title

CERTIFIED COPY OF RESOLUTION

BE IT RESOLVED, that the following named individuals, and each of them, are hereby authorized as employees of <<Legal Name of Company>> to execute in its behalf all contracts, agreements and releases which they, in their discretion, approve, each such employee being separately and independently authorized to so act without the concurrence or joinder in such action by and of the other named employees: (List individual name(s) below)

BE IT FURTHER RESOLVED, that any such contract, agreement or release executed by any of the above-name employees in the name of <<Legal Name of Company>> should be considered a contract, agreement, or release of <<Legal Name of Company>> and shall be binding upon it.

BE IT FURTHER RESOLVED, that any similar authority heretofore granted by the Board of Directors of the Company to employees other than those named above be and hereby is terminated as of this date, and the authority granted above shall commence this date and shall continue until revoked by resolution of the Board of Directors.

I hereby certify that I am Secretary of <<Legal Name of Company>>, that as such I have access to the books and records of the Corporation; that the foregoing is an excerpt from the minutes of the Board of Directors' Meeting of <<Legal Name of Company>> a <<State>> Corporation, held on the _____ day of _____, 20____, a quorum being present; and that no action has been taken by the Board of Directors of said Corporation since said date that would have effect of changing or altering the authority granted therein.

Secretary of the Corporation

Signature

Printed Name

Date

Corporation

CERTIFIED COPY OF RESOLUTION

BE IT RESOLVED, that the following named individuals, and each of them, are hereby authorized as employees of <<Legal Name of Company>> to execute in its behalf all contracts, agreements and releases which they, in their discretion, approve, each such employee being separately and independently authorized to so act without the concurrence or joinder in such action by and of the other named employees: (List individual name(s) below)

BE IT FURTHER RESOLVED, that any such contract, agreement or release executed by any of the above-name employees in the name of <<Legal Name of Company>> should be considered a contract, agreement, or release of <<Legal Name of Company>> and shall be binding upon it.

BE IT FURTHER RESOLVED, that any similar authority heretofore granted by the Members/Managers of the Company to employees other than those named above be and hereby is terminated as of this date, and the authority granted above shall commence this date and shall continue until revoked by resolution of the Members/Managers.

I hereby certify that I am Secretary of <<Legal Name of Company>>, that as such I have access to the books and records of the Company; that the foregoing is an excerpt from the minutes of the Members/Managers' Meeting of <<Legal Name of Company>> a <<State>> Limited Liability Company, held on the _____ day of _____, 20____, a quorum being present; and that no action has been taken by the Members/Managers of said Company since said date that would have effect of changing or altering the authority granted therein.

Secretary of the Company

Signature

Printed Name

Date

LLC/Partnership

CERTIFIED COPY OF RESOLUTION

BE IT RESOLVED, that the following named individuals, and each of them, are hereby authorized as employees of <<Legal Name of Company>> to execute in its behalf all contracts, agreements and releases which they, in their discretion, approve, each such employee being separately and independently authorized to so act without the concurrence or joinder in such action by and of the other named employees: (List individual name(s) below)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

BE IT FURTHER RESOLVED, that any such contract, agreement or release executed by any of the above-name employees in the name of <<Legal Name of Company>> should be considered a contract, agreement, or release of <<Legal Name of Company>> and shall be binding upon it.

BE IT FURTHER RESOLVED, that any similar authority heretofore granted by the Sole Proprietor of the Company to employees other than those named above be and hereby is terminated as of this date, and the authority granted above shall commence this date and shall continue until revoked by resolution of the Sole Proprietor.

I hereby certify that I am the Sole Proprietor of <<Legal Name of Company>>, that as such that no action has been taken by the Sole Proprietor of said Company that would have effect of changing or altering the authority granted therein.

Sole Proprietor

Signature

Printed Name

Date

Sole Proprietor

Exhibit A
Division 00 Procurement & Contracting Requirements

Paste Table of Contents Division 00 Here - update with all addenda

Exhibit B
Division 01 General Requirements

Paste Table of Contents Division 01 Here - update with all addenda

Exhibit C
Table of Contents for Technical Specifications

Paste Table of Contents for Technical Specifications Here - update with all addenda

Exhibit D
List of Drawings

Paste List of Drawings Here – update with all addenda

Exhibit E Terms & Conditions

1. **General.** The Agreement may not be changed in any way except by an instrument in writing signed by both parties. The Contract Documents cancel and supersede any prior understandings or agreements between the parties with respect to the subject matter hereof. Failure of any party to enforce its right under the Contract Documents shall not constitute a waiver of such rights or of any other rights under the Contract Documents.
2. **Termination for Cause.** Owner may terminate the Agreement at any time if Vendor fails to carry out its terms or fails to make substantial progress toward the fulfillment of those terms. In such an event, Owner shall provide Vendor with a thirty (30) day written notice of the terms in breach. If after such notice, Vendor fails to remedy the breach within those 30 days, Owner may immediately cancel the Agreement.
3. **Contract Assignment.** The Agreement shall not be transferred or assigned without prior written consent of Owner.
4. **Indemnity, General and Patent.** Vendor shall indemnify and save harmless Owner and its respective officers, agents and employees from and against any and all liabilities and losses whatsoever, including without limitation, costs and expenses in connection therewith, on account of, or by reason of, injury to or death of, any person whatsoever, or loss of or damage to any property whatsoever, suffered or sustained in the case of, or in connection with, the performance of the Agreement, except for that liability and loss arising from the acts or omissions of Owner or its agents. With respect to anything provided to Owner by Vendor, Vendor shall indemnify Owner and its respective officers, agents and employees against liability, including costs and attorney's fees for infringement of any United States patent, copyright, trade infringement or other intellectual property right arising out of the manufacture, delivery and use of such by Owner.
5. **Governing Law; Venue.** The laws of the State of Nebraska shall govern. Any dispute arising under the Agreement, which is not settled by agreement of the parties, shall be resolved in forums (except for applicable federal appellate courts) located in the State of Nebraska.
6. **Force Majeure.** Neither party shall be liable to the other for damages for any delay in performance arising out of causes beyond its reasonable control and without its fault or negligence, including without limitation: (1) fire, flood or water damage, elements of nature or other acts of God, including any of the foregoing that are harmful to electronic circuitry; (2) outbreak or escalation of hostilities, war, riots, or civil disorders in any country; (3) act or omission of the other party or any governmental authority, (4) labor disputes (whether or not the employees' demands are reasonable or within the party's power to satisfy), (5) non-performance by a third party (including any voice or data telecommunications common carrier), (6) failures or fluctuations in telephone, computer or other telecommunications equipment or lines or other equipment, (7) the real, potential, or credible threat of terrorist activity, or (8) a health emergency (e.g. serious outbreak of contagious disease such as a influenza pandemic) which in the judgment of Owner poses a serious threat to the public health. In the case of any such excusable delay, the non-performing party will be excused from performance of any affected obligation only for so long as the cause of the excusable delay prevails and such party continues to use commercially reasonable efforts to re-commence performance of its obligations as soon as possible; provided however, that the parties may mutually agree that such excusable delay is cause to cancel the Agreement in its entirety, in which case neither party shall be liable to the other for any further performance in relation obligations arising after cancellation.
7. **Compliance with Laws and Regulations; Gramm Leach Bliley; University of Nebraska Policies.** This Agreement must comply with all applicable federal, state and local laws, specifically including all laws and regulations related to the protection and security of any personal information gathered by Vendor, such as the Gramm Leach Bliley Act implemented at the University of Nebraska by Presidential Executive Memorandum No. 26 which requires specific vendor contract provisions; and all other applicable policies of the University of Nebraska. Vendor agrees to indemnify Owner against any loss, cost, liability, or damage by reason of Vendor's violation of any applicable law or regulation. Vendor must be qualified to conduct the business necessary to the performance of the Agreement in the State of Nebraska throughout the duration of the Agreement term or any renewal thereof. Vendor shall obtain, at its own cost and expense, all necessary licenses, professional certifications and permits and shall assume the responsibility for and pay all applicable fees and all other taxes, which are now or may be imposed in the future by any governmental authority arising out of the conduct of Vendor's business.
8. **Sexual Harassment.** State and federal law, as well as the policies of the Board of Regents of the University of Nebraska, prohibit sexual harassment of members of the University community. Sexual harassment includes any unwelcome sexual advance, any request for a sexual favor, or any other verbal or physical conduct of a sexual nature that is so pervasive as to create a hostile or offensive environment. Owner Vendors, sub-vendors and suppliers for this project are required to exercise control over their employees so as to prohibit acts of sexual harassment of University employees, students and other members of the University community. The employer of any person who, in its reasonable judgment, determines has committed an act of sexual harassment agrees as a term and condition of any contract awarded hereunder to cause such person to be removed from the project site and from Owner's premises and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.
9. **Drug Free Workplace.** Vendor agrees that in the performance of this Agreement, neither Vendor nor any of its employees shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered by the Agreement. Owner reserves the right to request a copy of Vendor's Drug Free Workplace Policy. Vendor further agrees to insert a provision similar to this statement in all subcontracts or services hereunder.
10. **Weapons Policy.** Possession of dangerous weapons (concealed or unconcealed) on Owner's property, on the work site, in the Owner's vehicles, or in personal vehicles when on the Owner's property shall be a violation of Owner's policy. (A dangerous weapon shall include guns, knives, explosives, or any other device as determined by Owner, which in the manner used or intended is capable of producing death or bodily injury. Devices authorized by the Vice Chancellor for Business and Finance and/or provided to its employees for the purpose of carrying out work responsibilities shall not be deemed dangerous weapons for the purpose of this policy.) Violations of this policy shall make the offender subject to appropriate disciplinary action. Should the Owner in its reasonable judgment, determine that Vendor, or its employee or agent, has committed an act in violation of this policy, the Vendor agrees as a term and condition of the Agreement, to cause such person and weapon, to be removed from the project site, and from the Owner's premises, and to take such other action as may be reasonably necessary, to ensure compliance with this weapons policy.

11. **Equal Opportunity in Procurement and Contracts.** The Owner recognizes the importance of a strong culturally diverse business community and the positive impact that successful businesses have upon the people of the State of Nebraska. The Owner assumes a leadership role in actions that will provide business opportunities for all businesses in the State of Nebraska. Accordingly, the Owner reaffirms its policy of providing equal opportunity to small business enterprises and to minority, disadvantaged, and women owned business enterprises in all aspects of the Owner's procurement and contracting activities. This includes procurement of contracts for operational supplies and equipment, construction projects and materials, service contracts and License agreements. It is also the Owner's policy that any person or business seeking the opportunity to do business with the Owner shall not be discriminated against on the basis of race, color, religion, sex, national or ethnic origin, age, disability, marital status, or veteran status. The Owner conducts its procurement and contracting activities in a manner designed to prevent unlawful discrimination. The Owner's policies are consistent with applicable state and federal laws and regulations prohibiting unlawful discrimination.
12. **Proprietary Information; Confidential Employee Information; HIPAA; FERPA.** It is to be expected that the parties to the Agreement may find it necessary to reveal certain proprietary information to each other. The Agreement may, when proprietary information is exchanged, include certain provisions to mutually protect against the use and disclosure of the proprietary information of each party. In the unusual circumstance that the Agreement should result in the sharing of employee information protected by the law or University of Nebraska policy, information protected by the Health Insurance Portability and Accountability Act, information protected by the Family Educational Rights and Privacy Act of 1974, or any other information deemed confidential and protected by the law, the parties to the Agreement agree to maintain the confidentiality of such information to the extent and manner required by the law and University policy.
13. **Sub-Vendors.** Vendor shall not subcontract all or substantially all of any facet of the Work without the prior written approval of Owner. Vendor shall be fully responsible for the acts and omissions of its sub-vendors and of the persons directly or indirectly employed by them. Every sub-vendor shall be bound by the terms of the Contract Documents; provided however, that no contractual relationship shall exist between any sub-vendor and Owner, unless it is evidenced in a separate contract independent of the Agreement with Vendor.
14. **Legislative Funding Out Clause.** Notwithstanding any provision in the Agreement to the contrary, if the legislative body appropriating funds, does not allocate sufficient funds to allow Owner to make any periodic payment agreed to in the Agreement for any future fiscal period, Owner will not be obligated to pay the Agreement balance remaining at the time of the governmental funding short-fall.
15. **Parking.** Owner shall not be responsible for providing parking for Vendor's parking needs. Vendor and/or its employees and agents will be solely responsible for any fines resulting from parking violations occurring on Owner's property. It is recommended that Vendor and any temporary employees contact the Parking and Transit Services at:
 - UNL:** 625 Stadium Drive, Suite A, Lincoln, Nebraska, Telephone (402) 472-1800
 - UNO:** 1313 S. 67th Street, Omaha, NE 68182, Telephone: 402.554.PARK (7275)
 - UNK:** 2501 19th Avenue, Kearney, NE 68849, Telephone (308) 865-8367to obtain information regarding parking and to obtain permits.
16. **Building Rules and Regulations; Tobacco Use.** Employees of Vendor and any sub-vendors shall comply with all Owner rules and regulations pertaining to conduct in Owner's facilities. Owner reserves the right to request the removal or replacement of Vendor or sub-vendor employee who fails to comply with such rules and regulations. All buildings, property and University owned vehicles are tobacco-free. Use of tobacco products is not permitted in or on any Owner facility/property. The Vendor is expected to respect this tobacco-free policy and fully comply with it.
17. **Use of Premises.** To the extent that the Agreement requires Vendor or its employees or agents to be present on or within Owner's properties, then Vendor shall limit its presence and activities to such areas as are reasonably necessary in order to perform under the Agreement. The Vendor shall take such precautions as are required to avoid damage to buildings, facilities, utilities, ground resources, trees and landscape amenities, and other properties adjacent to Vendor's activities within the scope of the Agreement and agrees to be responsible and/or carry out any repairs for which it is liable, as a result of its performance under the Agreement.
18. **Hazardous Waste Generated by Vendors.** Any hazardous waste, which is generated from the performance of the Agreement, shall be properly disposed of by Vendor, in a timely fashion, and in accordance with applicable hazardous waste laws and regulations. The cost for hazardous waste management and disposal is Vendor's responsibility. Should Owner deem it prudent to dispose of any hazardous waste left on its property, as a result of Vendor's failure to meet its responsibilities, all costs associated with such disposal shall be deducted from any amount yet to be paid to the Vendor and/or billed to the Vendor. University Environmental Health Services is to be notified of all hazardous waste issues. Any non-hazardous waste generated in the performance of this Agreement must be disposed of off campus by Vendor.
19. **Delivery; F.O.B.; Shipping.** Vendor shall bear all costs of transportation, packing, crating, delivery, installation, storage, and service under warranty for any goods or related services, delivered pursuant to the Agreement. Vendor shall be responsible for and make delivery, including costs of delivery, cartage, temporary storage, off-loading costs, and insurance, F.O.B. destination: University of Nebraska. Unless otherwise specified, all shipments will utilize the best commercial practice to insure safe arrival at the Owner's delivery point.
20. **Quantity.** With respect to quantity of any good purchased under the Agreement, Owner need not accept any variation in quantity except as specified in the Contract Documents. Over-shipments may be returned to Vendor at its expense, which shall include a reasonable cost for Owner handling, or be retained by Owner at no increase in price.
21. **Inspection.** Owner may, at any time in the course of the Agreement, inspect and test materials and supplies being used in the performance of the Agreement, including at the point of manufacture. If inspection and tests are made on Vendor's premises, Vendor without additional charge, shall provide reasonable facilities and assistance for the safety and convenience of the testing/inspection personnel. Except as otherwise agreed in writing, all goods, equipment and supplies furnished under the Agreement shall be subject to final inspection and acceptance by Owner at the delivery destination.

22. **Defective Goods or Work.** Owner, notwithstanding any prior acceptance, at its option, may reject or require prompt correction (in place or elsewhere) of any goods, equipment, supplies, or other work, which are defective in material or workmanship or otherwise fail to meet the requirements of the Agreement. All supplies furnished under the Agreement shall be subject to inspection at F.O.B. destination, and Vendor shall be given notice of any defects, other than latent defects, within a reasonable time after receipt of the goods, equipment, and supplies, along with all records of delivery. Owner may, in addition to any rights it may have by law, prepare for shipment and ship the defective goods, equipment, and supplies to Vendor, require Vendor to remove them, or direct a correction in place. The expense of any such remedy shall be borne by Vendor, including any excess cost.
23. **Liens.** Vendor warrants that it has title to any goods delivered under the Agreement and shall deliver same free of all liens, claims, and encumbrances.
24. **Federal, State and Local Sales Taxes; Federal Excise Taxes.** Purchases made by the Owner are exempt from the payment of State Sales and Use Taxes and Federal Excise Taxes. Certification of these exemptions will be provided to Vendor following the execution of the contract documents..
25. **Ambiguities.** Should Vendor perceive an ambiguity in the Contract Documents, Vendor shall request an interpretation from Owner before proceeding. If Vendor fails to make such a request, failure to perform with respect to the alleged ambiguity shall not be excused.
26. **Recycling Policy.** When purchasing products, materials, or supplies for use, Owner, when making such purchases shall actively pursue the purchase of products, materials, or supplies which are manufactured or produced with at least 10% post-consumer recycled materials. This policy shall not operate when it would result in the purchase of products, materials, or supplies that are of inadequate quality, not readily available or substantially higher in cost. It is the intent of Owner to continually increase the percentage produced from post-consumer recycled material, and, to increase each year the types and variety of products, materials, or supplies purchased with post-consumer recycled material.
27. **Vendor Identification.** Vendor shall cause each of its employees or any person acting on behalf of the Vendor, while providing goods/services to Owner under this Agreement and working on Owner's property, to carry identification, with photo, showing that the individual is an employee or person acting on behalf of the Vendor. A badge worn outside of clothing is appropriate for this purpose. Such identification shall be produced upon request of any Owner representative, in order to confirm that the Vendor's representative is authorized to be present on Owner's property and/or performing as authorized by the Agreement. Whereas campus security is of utmost importance, failure of any Vendor representative to produce the requisite identification upon request, shall be a material breach of the Agreement and shall be cause, at the discretion of Owner, for immediate termination of the Agreement. For those who commonly wear a work uniform, such uniform shall be worn while providing the services related to this Agreement in order that Owner may quickly and clearly identify Vendor's service representatives when necessary. A uniform, however, does not take the place of a photo identification badge.
28. **Legal Relationship.** Vendor shall under no circumstances be considered as an agent or employee of Owner and shall have no right or authority to, in any manner, obligate Owner to any person or company except as authorized in writing by Owner.
29. **Use of University Names and Logos.** Vendor shall not use any University name, sign, logo, symbol, etc. for any purpose, without the prior written approval of Owner. Use of University brands generally requires licensing.
30. **Improper Business Relationships and Conflict of Interest Prohibited.** In connection with this Agreement, Vendor shall ensure that no improper, unethical, or illegal relationships, or conflict of interest exists between or among Vendor, the Owner and any staff and faculty, and any other party to this Agreement. Owner reserves the right to determine the materiality of such relationships, when discovered or disclosed, whether intended or not; and to decide whether or not cancellation of award shall result. Such cancellation shall be at no fault or liability whatsoever to Owner.
31. **Electronic and Information Technology Accessibility.** All electronic and information technology procurements, agreements, and contracts shall comply with Americans with Disabilities, Section 508 or the Rehabilitation Act of 1998 as amended and the Nebraska Accessibility Policy to be found at: <http://www.nitc.state.ne.us/standards/> in Chapter 2.
32. **LB403 Compliance.** Vendor, on behalf of itself and any sub-vendor to the Agreement, agrees that it shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska pursuant to Neb. Rev. Stat. 4-108 to 4-114 as amended.
33. **Equal Opportunity Clause Certification of Non-Segregated Facilities, Executive Order 11246.** This form will be provided and shall be executed by the Vendor upon notice of award.
34. **Vendor's Certificate of Insurance.** Vendor will be required to furnish a certificate of insurance with bodily injury/personal injury/liability coverage, property damage liability coverage, and workman's compensation coverage. This certificate must be on file prior to any commencement of Work. It is absolutely necessary that "The Board of Regents of the University of Nebraska is listed as an additional insured" be added to the face of the certificate for all coverage except worker's compensation. The above statement must be worded in this manner. It is also absolutely necessary that a "Completed Operations Coverage" must be included as part of Vendor's General Liability.
35. **Debarment.** Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction (Agreement), by any governmental department or agency. If Vendor cannot certify this statement, submit a written explanation for review by Owner.