

**This Agreement is between North Dakota State University (NDSU) and a CONTRACTOR (Business).**

**Not to be used for payment to an individual.**

**1. Name and Address of Contractor and Contact Name:**

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

Street Address

City

State

Zip

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**2. Relationship of the Parties:** It is mutually agreed the Contractor is an independent contractor and not an employee of NDSU for purposes of this agreement. It is understood that the Contractor is not subject to the supervision and control of NDSU. No agency, employment or partnership is created by this Agreement. Each of the parties will be solely and entirely responsible for its own acts and/or the acts of its employees or agents. No benefits provided by NDSU to its employees, including unemployment and workers' compensation insurance, will be provided to the Contractor or his/her/its employees.

**3. Federal I.D.:** \_\_\_\_\_

**4. Name of North Dakota State University Contact Person:**

Department Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**5. Services: The services the Contractor agrees to provide are:**

Describe services:

\_\_\_\_\_  
Dept Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Dept Authorized Signature Name

**6. Effective Date and Duration:** This contract shall be for the period of \_\_\_\_\_ through \_\_\_\_\_

This contract will not automatically renew. If there are negotiated renewal options, it is the responsibility of the NDSU Department listed in #4 above to initiate the renewal agreement prior to the expiration of this agreement. All renewals will be based upon mutual agreement between both parties based on performance and cost.

Is there a renewal option available?  Yes  No

If yes, what is the possible renewal term? \_\_\_\_\_ Months \_\_\_\_\_ Years

**7. Compensation:** NDSU agrees to pay the Contractor as follows: Amount and date payment to be tendered under this contract an amount not to exceed:

**8. Disclosure:** "NDSU has an obligation to make information available to the campus on where to get information about Registered Sex Offenders who are working on NDSU property. You are obligated to inform NDSU Campus Police, in advance of any of your employees being on NDSU property, of any such employee who is a Registered Sex Offender. This obligation includes property owned or controlled by NDSU that is at locations other than the main campus (for example, the Equine Center, Downtown Campus, Research Extension Centers, etc.)."

**9. Non-discrimination:** The Contractor agrees that no part of this Agreement shall be performed in a manner which illegally discriminates against any person on the basis of age, color, physical or mental disability, pregnancy, gender expression/identify, genetic information, marital status, national origin, race, religion, sex, sexual orientation, or status as a U.S. Veteran.

**10. Certification:** Acceptance of this contract constitutes certification that the Recipient is not proposed for disbarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.

**11. Severability:** If one part of this agreement is held to be illegal, void or in conflict with any North Dakota law, the validity of the remainder of this agreement remains operative and binding.

**12. Access to Records:** The Contractor shall adequately account for and maintain reasonable records for its performance under this Agreement and allow access to these records by NDSU, the ND State Auditor or their agents as may be necessary for audit purposes and in determining compliance with the terms of this Agreement.

The Contractor shall submit a record of expenditures incurred for the performance and completion of this agreement. NDSU may verify all expenditure receipts and disperse funds in an amount equal to the approved expenditures.

The Contractor must retain all records pertaining to this Agreement for a period of three years from the completion date of this Agreement. If any litigation, claim or audit is started before the expiration of the three-year period, the records must be retained until the litigation, claim or audit findings have been resolved.

**13. Indemnification:** CONTRACTOR agrees to defend, indemnify, and hold harmless the UNIVERSITY and its officers and employees, from and against claims based upon the vicarious liability of UNIVERSITY or its agent(s), but not against UNIVERSITY's comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions.. The legal defense provided by CONTRACTOR to UNIVERSITY under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the UNIVERSITY is necessary. Any attorney appointed to represent the UNIVERSITY must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under section 54-12-08 of the North Dakota Century Code. CONTRACTOR also agrees to defend, indemnify, and hold the UNIVERSITY harmless for all costs, expenses, and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Agreement.

**14. Venue:** This Agreement will be controlled and interpreted according to the laws of the State of North Dakota. Venue for any actions arising from this Agreement shall be in Cass County, State of North Dakota.

**15. Insurance:** The Contractor shall secure and keep in office during the term of this Agreement from insurance companies authorized to do business in the North Dakota:

- 1) commercial general liability;
- 2) automobile liability;
- 3) workers compensation insurance (if required by law), all covering the Contractor for any and all claims of any nature including all costs, expenses, and attorneys' fees that may in any way arise out of or the result of this agreement.

**The Contractor shall furnish the NDSU contact person with a certificate of insurance as evidence that these policies are in effect.**

The minimum limits of liability are: commercial general liability & Automobile liability - \$500,000 per person and \$2,000,000 per occurrence. Workers Compensation - statutory limits.

These policies may not be canceled or modified without thirty (30) day's prior written notice to NDSU.

CONTRACTOR shall furnish a certificate of insurance to the undersigned University representative prior to commencement of the Agreement. All endorsements shall be provided as soon as practicable.

Failure to provide insurance as required in this agreement is a material breach of contract entitling UNIVERSITY to terminate this Agreement immediately.

**16. Force Majeure:**

CONTRACTOR shall not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond the CONTRACTOR'S reasonable and the CONTRACTOR gives notice to the UNIVERSITY immediately upon occurrence of the event causing the delay or default or which is reasonably expected to cause a delay or default.

**17. Modification:**

This Agreement contains the entire agreement between the parties, and no statements, promises or inducements made by either party, or agents or either party, that are not contained in this agreement are valid or binding.

**18. Assignment, Transfer and Subcontracting:**

There will be no assignment or transfer of this Agreement, or of any interest in this Agreement, unless both parties agree in writing. No services required under this Agreement may be performed under subcontract unless both parties agree in writing.

**19. Notice:**

All notices relating to this Agreement will be in writing and given to the contact person at the address provided for in the Agreement.

**20. Termination:**

This Agreement may be terminated at any time upon the written mutual consent of the parties. Either party may terminate or suspend performance of this Agreement for failure of the other party to perform any of the services, duties or conditions contained in this Agreement after giving the other party written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days if any license, permit or certificate required by law or rule, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.

**21. Work Produce, Equipment and Materials:**

All work product, equipment or materials created or purchased under this contract belong to the UNIVERSITY and must be delivered to UNIVERSITY at UNIVERSITY'S request upon termination of this contract. CONTRACTOR agrees that all materials prepared under this contract are "works for hire" within the meaning of the copyright laws of the United State and assigns to UNIVERSITY all rights and interests CONTRACTOR may have in the materials it prepares under this contract, including any right to derivative use of the material. CONTRACTOR shall execute all necessary documents to enable UNIVERSITY to protect its rights under this section.

**22. Materials:**

No products or building material used as a temporary or permanent element in the construction of a building will be allowed which have any form of asbestos containing material. Contractors shall be responsible to monitor shop drawings and product literature to verify the make-up of materials to be used in the building, and to remind material suppliers that their products must not contain asbestos. Contractors shall notify the NDSU Project Manager and the Project Architect/Engineer (if applicable) immediately of any which are suspected of containing asbestos and shall not disturb or attempt to abate any asbestos containing materials.

**23. Alternative Dispute Resolution - Jury Trial:**

The UNIVERSITY does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. The UNIVERISTY does not waive any right to a jury trial.

**24. Compliance with Public Record Law:**

CONTRACTOR agrees not to use or disclose any information it receives from the UNIVERSITY under this contract the the UNIVERSITY has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this contract or as authorized in advance by the UNIVERSITY. The UNIVERSITY agrees not to disclose any information it receives from CONTRACTOR that the CONTRACTOR has previously identified as confidential and which the UNIVERSITY determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, North Dakota Century Code section 44\_04\_18. The duty of UNIVERSITY and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this contract, or any extensions or renewals of it.

**25. Confidentiality:**

CONTRACTOR understands that, except for disclosures prohibited in Section 17, the UNIVERSITY must disclose t the public upon request any records it receives which are obtained or generated by the CONTRACTOR. CONTRACTOR further understands that any records which are obtained or generated by the CONTACTOR under this contract, except for records that are confidential under Section 17, may, under certain circumstances, be open to the public under the North Dakota open records law. CONTRACTOR agrees to contact the UNIVERSITY immediately upon receiving a request for information under the open records law and to comply with the UNIVERSITY's instructions on how to respond to the request.

**26. Parking Regulations:**

**Vendors, Contractors and Service Providers:** Vendors, contractors, consultants, and service providers may be eligible to purchase an annual vendor permit for the academic school year by submitting an application to NDSU Parking and Transportation Services. Annual vendor permits are not allowed in: no parking zones, fire lanes, sidewalks, state fleet lot, and reserved spaces.

Vendors who perform services to University buildings and property, in easily recognizable service vehicles painted with a "branded/logo signature" or an appropriately sized magnetic or attached sign, are allowed to park in a reasonable manner on campus. Contractors working on designated projects may be assigned to a specific lot or area.

For more information: <http://www.ndsu.edu/parking/parkingregulations/>

**26. Execution**

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
NDSU Director of Purchasing Signature

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of Purchasing Name

\_\_\_\_\_  
Date

**27. Copy of the certificate of insurance has been/is being provided to contact person at NDSU? See Insurance section above.**  Yes  
 No