



**FAST TRACK CONTRACT (“CONTRACT”)
FOR THE UNIVERSITY OF NEVADA, LAS VEGAS**

Unless the parties have executed a more formal agreement, any supplier, vendor, consultant or other contractor (“**Contractor**”) desiring to do business with the Board of Regents of the Nevada System of Higher Education (“**NSHE**”), on behalf of the University of Nevada, Las Vegas (“**UNLV**”), must agree to all the below terms and conditions. Contractor shall not provide any services and/or goods and UNLV shall owe no monies, unless and until a Purchase Order confirmation is sent to Contractor by UNLV in response to an accepted quote or proposal (“**Proposal**”), as applicable. In the event of a conflict between the terms and conditions set forth in this Contract and the terms and conditions set forth in the Proposal, the terms and conditions set forth in this Contract shall prevail. Any terms set forth in the Proposal, or ancillary documents provided by Contractor that are in conflict with the terms herein shall be null and void. No Proposal or any exhibits thereof provided by Contractor shall include any references to online or “click thru” terms, additional legal terms and conditions or contracts except for this UNLV Contract and the Purchase Order, and to the extent that any of the foregoing are included, such terms and conditions and/or contract(s) shall be null and void.

This Contract, together with the applicable UNLV Purchase Order(s) and Proposal constitutes the entire agreement between the parties and supersedes all previous agreements, whether written or oral between the parties with respect to the subject matter hereof, whether express or implied and shall bind the parties unless the same be in writing and signed by the parties. The parties further understand and agree that the other party and its agents have made no representations or promises with respect to this Contract, except as expressly set forth in this Contract or the Proposal. None of the terms or conditions herein may be added to, altered, or otherwise superseded in writing, unless signed by an authorized UNLV signatory.

1. **TERM:** The term shall be set forth in the Contractor Proposal, but shall not exceed one (1) year (“**Term**”).
2. **ADDITIONAL SERVICES/GOODS:** UNLV may, at its sole option, request additional goods or services. In the event that UNLV elects to request additional services or goods from Contractor, additional scope, schedule, and compensation will be negotiated with Contractor. No extra work, additions, alterations, including changes in price will be paid by UNLV unless agreed to and performed pursuant to and in accordance with a written revision to the Purchase Order by UNLV.
3. **PRICES AND EXPENSES:** Unless expressly provided for in the Purchase Order or Proposal, all Contractor prices are inclusive of all expenses. All prices are in U.S. dollars. All prices set forth on the Proposal are fixed, and may not be increased for the Term. If the Proposal includes only a price list of services and/or goods, UNLV shall not be required to purchase any minimum quantity of goods or services pursuant to the Proposal, but only as and if requested in an applicable Purchase Order.
4. **DELIVERY:** If this Contract includes the delivery of goods, delivery must be made within the time stated and only to the destination stated on the Proposal. If Contractor fails to deliver on time, UNLV reserves the right to purchase elsewhere, and may reject goods and services not delivered or furnished on the date specified in the Proposal, or as revised in the applicable Purchase Order. All shipments of goods must be F.O.B. destination unless otherwise set forth in the applicable Purchase Order.

5. **INVOICE(S):** Provided Contractor is not in breach and the invoice is correct, all payments shall be made within thirty (30) days of acceptance of the related invoice. Should the acceptance of such invoices be in doubt, Contractor shall not be due any interest or penalty on any unpaid amounts. The Purchase Order number must be referenced on the invoices. Invoices should be submitted immediately after delivery, or performance, as applicable.
6. **COMPLIANCE:** Contractor warrants and agrees that it will at all times during the Term, comply with all applicable local, state and federal standards, codes, statutes and regulations, including, but not limited to, OSHA, EPA, ADA, HIPAA, and provide upon request, proof of compliance with the foregoing.
7. **TAXES, LICENSES AND PERMITS:** Contractor warrants and agrees that it is, and shall remain for the duration of this Contract, a duly organized, validly existing entity, in good standing and has all the requisite power, permissions, licenses, permits, franchise, insurance and authorities necessary to provide the goods and/or services. UNLV is exempt from paying state, local and federal excise taxes as provided by Nevada Revised Statutes (“**NRS**”). The NSHE/UNLV State Tax Exempt Number is RCE-000-441. The Federal Tax ID number is 88-6000024.
8. **BUSINESS LICENSE REQUIREMENT:** Contractor certifies that it has and shall maintain during the Term, a current Nevada business license or that it is exempt from such requirement.
9. **GOVERNING LAW:** The laws of the State of Nevada shall govern the validity, construction, interpretation, and effect of this Contract, excluding any laws or principals regarding the conflict or choice of laws. Any and all disputes arising out of or in connection with this Contract shall be litigated in a court of competent jurisdiction in Clark County, State of Nevada, and Contractor expressly consents to the jurisdiction of said court.
10. **DEFAULT:** Either party may terminate this Contract if the other party fails to cure any material breach within seven (7) calendar days from receipt of written notice. On the effective date of the termination, Contractor shall terminate all work and take all reasonable actions to mitigate expenses, and Contractor shall immediately refund UNLV a pro-rata amount of any advance or prepaid unearned monies, or send UNLV a final invoice, as applicable. Notwithstanding anything to the contrary herein and regardless of choice of law, UNLV hereby asserts and shall be entitled to claim sovereign immunity and be entitled to all applicable liability limits and statutory protections, including, but not limited to those set forth in NRS Chapter 41.
11. **TERMINATION FOR CONVENIENCE:** UNLV shall have the right at any time to terminate this Contract, in whole or in part, for any reason including insufficient appropriations, by providing Contractor with ten (10) calendar days’ written notice. Upon termination, Contractor shall submit a final invoice.
12. **ASSIGNS AND SUCCESSORS:** Contractor shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the prior written consent of UNLV. Notwithstanding the foregoing, Contractor shall be fully responsible to UNLV and shall indemnify UNLV for any acts or omissions of any contractors, subcontractors, consultants, subconsultants, service providers, and vendors engaged by Contractor to perform any of the services (collectively, “**Subcontractor(s)**”) hired by Contractor, regardless of whether UNLV consented to the use of any such Subcontractors.
13. **CONFIDENTIALITY:** Contractor acknowledges and agrees that it is to keep all confidential information secure and is not to disseminate or use any materials and/or data that belongs to UNLV, whether originals or copies. Contractor acknowledges that UNLV would be materially harmed if such confidentiality is not maintained and any referenced material and/or data was disseminated in any form without UNLV’s prior written approval.

In the event that Contractor has access to nonpublic personal information relating to an identifiable individual (such as name, postal address, financial information, email address, telephone number, date of birth, Social Security number, and other sensitive information) of UNLV, alumni, employees, and students (collectively, "**UNLV User Data**") during the Term, Contractor agrees that UNLV User Data is highly sensitive and to afford it the maximum security Contractor can provide using commercially acceptable standards, no less rigorous than it protects its own customer and employee data. Contractor agrees to comply with all applicable laws and regulations relating to privacy, including, but not limited to the Family Educational Rights and Privacy Act ("**FERPA**") and the Gramm-Leach-Bliley Act ("**GLBA**"). If applicable, Contractor shall immediately inform UNLV by telephone at (702) 895-1886, by email at informationsecurityoffice@unlv.edu, and in writing at the notice address, of any information security incident, suspected unauthorized access, or breach involving UNLV User Data of which Contractor becomes aware. After providing any UNLV User Data or other customer data requested by UNLV in an acceptable format, Contractor agrees to immediately destroy all confidential information and any UNLV User Data received hereunder upon termination of this Contract except as prohibited by law. Contractor agrees to stipulate to an entry of injunctive relief without posting bond, in order to prevent or remedy a breach of this Section. Contractor acknowledges and agrees that any violation of this Section is a material breach of this Contract, and entitles UNLV to immediately terminate this Contract without penalty and receive a pro-rata refund of any prepaid unearned monies paid by UNLV. This Section shall survive termination of this Contract.

- 14. DEBARMENT/SUSPENSION STATUS:** Contractor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice of proposed debarment from any state agency or local public body. Contractor agrees to provide immediate notice to UNLV in the event of being suspended, debarred or declared ineligible by any state or federal department or agency, or upon receipt of a notice of proposed debarment during the Term.
- 15. EQUAL EMPLOYMENT OPPORTUNITY:** Contractor certifies that it and its Subcontractors do not discriminate against any employee or applicant for employment or person to whom it provides services because of race, sex, color, creed, ethnicity, religion, age, marital status, pregnancy, gender, gender identity, gender expression, genetic information, veteran's status, national origin, physical or mental disability, or any other factor protected by anti-discrimination laws, and that it complies with all applicable federal, state and local laws and executive orders regarding employment. In the event Contractor or its Subcontractors are found guilty by an appropriate authority to be in violation of any such federal, state, or local law, UNLV may declare Contractor in breach of this Contract and immediately terminate this Contract, and Contractor shall immediately refund UNLV any prepaid or advance unearned monies that UNLV paid to Contractor.
- 16. OWNERSHIP OF MATERIALS:** By signing this Contract, Contractor acknowledges that any materials and/or data that may result from its efforts, as related to this Contract are the property of UNLV and, as such, may not be disseminated in any form whatsoever to any person, group or organization without the prior written authorization of UNLV. Except as otherwise explicitly provided in the Proposal, Contractor shall provide good title to any applicable reports, data, applications, website development, and/or work product of any kind (collectively, "**Deliverable(s)**"), and Contractor shall execute any additional documents necessary to secure or renew UNLV's rights in and to any applicable Deliverable. Contractor warrants that it is either the owner of all methodologies used and/or Deliverables transferred/licensed (as applicable) hereunder or that it has all appropriate licenses or permissions necessary to perform the services and/or transfer/license the Deliverables (as applicable). As applicable, Contractor acknowledges and agrees that the Deliverable(s), for purposes of copyright law, are deemed a "work made for hire" basis as so defined within the meaning of the Copyright Act (Title 17 of the United States Code) and that, as between Contractor and UNLV, the Deliverable(s) and all reproductions thereof shall be the sole and exclusive property of UNLV free from any claims by Contractor or anyone

deriving rights through them. Contractor hereby grants, sells, assigns, and transfers unto UNLV, its successors, and assigns all and any of Contractor's interest, right, title, and other intellectual property rights without limitation in and to the Deliverable(s), as well as the right to secure and renew any applicable copyrights in the original and in all derivative works in the United States and all other countries of the world, the right to redistribute the Deliverable(s) in any form and the right to sue for past, present, and future infringement of such rights, in the name of UNLV. If, for any reason, the Deliverable(s) are not deemed to be a "work made for hire," this Contract shall operate as an irrevocable assignment of all rights thereto to UNLV, its successors, and assigns. And if for any reason the Deliverables are not designated as an assignment or a "work made for hire" then Contractor grants to UNLV, its successors, and assigns, a perpetual, exclusive, royalty-free, license to use, copy, make and redistribute the Deliverable(s) throughout the universe.

17. **AUDIT:** Contractor agrees to maintain and preserve its books and records in accordance with generally accepted accounting procedures for a minimum of three (3) years, or longer if required by an applicable law or regulation. Upon UNLV's request, during the Term or for a period of two (2) years thereafter, Contractor shall in a timely manner, allow UNLV, UNLV's internal auditor or a third party auditor retained by UNLV to audit and analyze Contractor's compliance with the provisions of this Contract, and shall cooperate with any competent regulatory body and shall allow such other access to Contractor's premises and relevant records where required by legal processes or applicable laws or regulations.
18. **WARRANTY:** Contractor expressly warrants that all items, goods or services purchased hereunder will conform to the drawings, specifications or samples (if any) or other descriptions set forth in the Proposal; meet or exceed the commercially acceptable standard for similar goods or services; and will be fit and sufficient for the purpose intended as an implied warranty of merchantability. Contractor further warrants that in the performance of Services Contractor shall utilize Contractor's professional efforts, skill, judgment and abilities in accordance with the common law standard of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances and in a manner consistent with locally accepted standards for professional skill and care.
19. **PRICE WARRANTY:** Contractor warrants that the price(s) for the items, goods or services sold hereunder are not less favorable than those extended to any other customer (whether government or commercial) for the same or similar items or services in similar quantities. In the event Contractor reduces its price(s) for such items or services during the Term, Contractor agrees to reduce the price(s) hereof accordingly.
20. **HAZARDOUS MATERIALS (AS APPLICABLE):** Contractor(s) furnishing supplies which contain hazardous materials must label each container listing the identity of such material. Each carton or package must also be identified on the outside with the appropriate hazard warning. Contractor must furnish the necessary Material Safety Data Sheets ("**MSDS**") for each chemical, substance or product listed on the applicable Purchase Order. The Purchase Order Number must appear on all MSDS material pertaining thereto.
21. **FITNESS FOR DUTY, INSPECTION, AND LOANED ITEMS OR FACILITIES (AS APPLICABLE):** Contractor shall ensure that it has engaged sufficient personnel with the expertise required for the provision of services pursuant to this Contract or the Proposal. Contractor shall ensure that Contractor personnel providing the services (which shall include Contractor principals and Subcontractors) shall: i) report for work in a manner fit to do their job when providing services for UNLV or on UNLV owned, leased, or operated property ("**Premises**") and ii) shall not be under the influence of or in possession of any alcoholic beverages or of any controlled substances (as defined by NRS 453.146 or any applicable federal law or statute) when providing services for UNLV or on UNLV Premises (except as properly prescribed to them by a physician and provided that it does not affect their ability to safely and proficiently provide the services). Searches by UNLV representatives may be made of persons, personal effects, lockers, or other storage areas on

- UNLV Premises to detect evidence of unlawful substances or prohibited items which must not be brought onto UNLV Premises. Any supplies, equipment, tools, items, vehicles, carts, or facilities shall be loaned solely as a convenience to Contractor and are provided “as is” without any representations as to the condition, suitability for use, freedom from defect, or hazards.
- 22. SUSTAINABILITY OF GOODS PROVIDED (AS APPLICABLE):** Sustainable goods and services should be offered whenever available or specifically when required in the Proposal. All electronic equipment UNLV purchases must be Energy Star rated (or, if there is no Energy Star rating for the desired equipment, energy efficient models or substitutes are preferred).
- 23. NO MALWARE WARRANTY (AS APPLICABLE):** Contractor warrants and represents that to the best of its knowledge and belief, that the links, data, CD-Roms, products, Deliverables and materials provided hereunder are free of viruses, trojans, use-driven destruction mechanisms, disabling devices, and malware, and that all products, CD-Roms, Deliverables, data and materials provided do not infringe on the intellectual property rights of any third party.
- 24. USE OF UNIVERSITY NAME AND/OR LOGO IN ADVERTISING:** Contractor acknowledges that it shall not use the name of the Board of Regents of the Nevada System of Higher Education; University of Nevada, Las Vegas; Nevada State College; or any other NSHE logos, marks, trademarks, trade names, trade dress, slogans, or other indicia of ownership of the foregoing (collectively, “Marks”). Contractor agrees that the Marks are the sole property of NSHE and that it shall not use any of the Marks in its advertising, or in the production of any materials related to this Contract or the Proposal, without the prior written approval of UNLV.
- 25. SEVERABILITY:** In the event any one or more of the provisions of this Contract shall for any reason be held to be invalid, illegal, or unenforceable, such provision(s) shall be treated as severable, leaving the remaining provisions of this Contract unimpaired, and this Contract shall be construed as if such invalid, illegal or unenforceable provision(s) were not present.
- 26. WAIVER:** A failure or delay of either party to enforce at any time any of the provisions of this Contract shall not be construed to be a waiver of a party’s right to enforce strict compliance of such provisions(s) of this Contract.
- 27. HEADINGS:** The headings in this Contract are for purposes of convenience and reference only and shall not in any way define, limit, extend or otherwise affect the meaning or interpretation of any of the terms hereof.
- 28. INDEPENDENT CONTRACTOR:** Contractor expressly agrees that Contractor’s employees and/or Subcontractors shall not be treated or considered as the servants and employees of UNLV, it being the intention of the parties that Contractor shall be and remain an independent contractor, and that nothing contained in this Contract shall be construed inconsistent with that status. Contractor covenants and agrees to save and hold harmless UNLV from and against any and all damages, claims, costs or expenses whatsoever, due to the existence of any applicable labor/employment codes, ordinances, and of any and all claims, costs and expenses in connection therewith under any claim or subrogation provided by said applicable codes, ordinances or otherwise.
- 29. NON-EXCLUSIVE:** This Contract is of a non-exclusive nature and both parties shall be free to enter into similar agreements with other parties.
- 30. NOTICES:** Written notices required under this Contract shall be sent certified mail, return receipt requested, to:
- Director of Purchasing and Contracts
University of Nevada, Las Vegas
4505 Maryland Parkway
Las Vegas NV 89154-1033

- 31. INDEMNIFICATION:** Contractor, shall indemnify, defend and hold harmless NSHE/UNLV, its officers, regents, employees, and agents from and against any and all liabilities, claims, losses, demands, actions, causes of actions, fines, penalties, debts, lawsuits, judgments, costs and/or expenses, arising either directly or indirectly from any act or failure to act by Contractor or any of its officers, employees, agents, or Subcontractors, which may occur during or which may arise out of the performance of this Contract (collectively, "**Claim(s)**"). NSHE/UNLV will be entitled to employ separate counsel and to participate in the defense of any Claim at its sole discretion and expense. Contractor shall not settle any Claim or threat thereof without the prior written approval of NSHE/UNLV, whose consent shall not be unreasonably withheld, where the settlement would require payment of funds by NSHE/UNLV or admit or attribute to NSHE/UNLV any fault or misconduct.
- 32. OFFICIALS, OFFICERS, AGENTS, REGENTS AND EMPLOYEES OF NSHE/UNLV NOT PERSONALLY LIABLE:** In no event shall any official, officer, regent, employee, or agent of NSHE/UNLV in any way be personally liable or responsible for any obligation contained in this Contract, whether expressed or implied, nor for any statement, representation or warranty made or in any connection with this Contract.
- 33. INSURANCE:** Unless specifically waived by UNLV in the Purchase Order, Contractor (which for the purposes of this Section shall include all Subcontractors) is required, at its sole expense, to procure, maintain, and keep in force for the duration of this Contract, work, services, provision of goods or event, the following insurance coverage conforming to the minimum requirements specified by UNLV Risk Management and Safety as set forth on <http://rms.unlv.edu/insurance-and-claims/insurance/contracts/>. If applicable, Contractor may submit a Rejection of Coverage for Workers' Compensation form in lieu of coverage. The form is attached to the proposal.