

**UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF NEVADA
INDEPENDENT CONTRACTOR AGREEMENT**

I. Independent Contractor Information - All Information is required, answer questions A through E below.

Independent Contractor Name	Doe	Jane	C
	Last	First	MI
Name of Business, if Other than Above	_____		
U.S. Taxpayer Identification Number	530-000-0000		
Contractor must complete applicable Form W-9 or W-8 as Page 7 of this Agreement			

A) Does the UCCSN pay as employees others who perform essentially the same duties that are to be performed by this independent contractor? **NO** (CCSN provides educational services for the purpose of obtaining an associates or advancement towards a bachelors degree)

B) Is the recommended independent contractor a current or former (within the current calendar year) employee of the University and Community College System of Nevada (which includes Community College of Southern Nevada, Desert Research Institute, Great Basin College, Truckee Meadows Community College, UNLV, UNR, Western Nevada Community College or any of the UCCSN System Administration Offices)? **NO** (An individual cannot receive payments as an employee (W-2) and as an independent contractor (1099) with in the same calendar year)

If the answer to question A or B is yes, do not proceed with this form. Process the payment on an employment document.

C) Does the recommended independent contractor have workers compensation insurance (attach copy)? Preferably the answer is **YES** and a copy can be provided. **If NO the criteria below must be met.** (This is to minimize the CCSN's liability if an accident was to occur on our property)

If the answer to question C is no, the recommended independent contractor must be a sole proprietor and not maintain employees to continue. Otherwise do not proceed with this form. Process the payment on an employment document.

D) Is the recommended independent contractor a member of the same household as a UCCSN employee? **NO**

If the answer to question D is yes, do not proceed with this form. Under the Board of Regents Conflict of Interest Policy (BOR Title 4 Chapter 10) payment is not allowed.

E) Is the recommended independent contractor a U.S. citizen or lawful permanent resident (green card holder)? This can be **YES** or **NO**. (No, means the contractor is not a citizen of the United States. Immigrants are taxed under different regulations than U.S. citizens. An analysis needs to be done to determine the withholding requirements. They may still qualify as an independent contractor)

If no, contact the Controller's Office for additional documentation requirements and approval of Section IV.

II. Contract Effective Dates, Scope of Services and Payment Terms

This Contract shall be effective from _____ to _____.

A. Explain in detail what the independent contractor will do (specifically what will be done, where the work will be accomplished, when the work will be completed). **For Example**

1. Orchestra musician to perform Beethoven's V symphony in the Horn Theater on July 9 & 10.
2. Teach computer class for Non Credit at the W. Charleston Campus computer lab twice a week for 4 hours for eight weeks.

B. Indicate the total amount of the payment and the date when the payment will be made. If this contract exceeds 45 days in length and completion benchmarks have been agreed to and progress payments are to be made, indicate each benchmark and its associated progress payment dollar amount. The final payment date should be the ending date of this contract. **For Example**

1. One payment of \$1,000 on July 10 after last performance. Check will be distributed by Jane Doe of the fine arts department. Please hold for pick up.
2. Total cost of \$2,000 to be paid at the end of each month of July and August in increments of \$1,000 . Invoices to be submitted to Business Services for payment.

III. Evaluation for Determining Independent Contractor Status

Hiring personnel are responsible for defining the work individuals are to do and providing information to properly classify them as employees or independent contractors. The following questions are intended to measure the extent of control which the UCCSN may exercise over the worker. Generally, if there is a good deal of control over what the worker does and how the worker does the work, there should be an employee relationship established. If there are few elements of control, an independent contractor relationship may be appropriate. See also definitions in Independent Contractors Procedures.

*(One will generally qualify if questions below are answered as follows. Questions 1,2,3,8,10,11,13,15,17,18 answered as **NO**, Questions 4, 16 answered as **YES**, Questions 5,6,7,9,12,14,19 answered either **YES** or **NO**. I have provided below each question why they should be answered in this way.)*

	Yes	No
1. Must the service provider follow substantial instructions? If yes, describe the type of direction and control, and who will supervise the services. <i>(Substantial instruction to the contractor indicates and employee relationship. You must make a judgment on what is substantial)</i>	[]	[x]
2. Is substantive training, guidance and/or assistance provided to the contractor? <i>(Substantial training, guidance or assistance indicates an employee relationship)</i>	[]	[x]
3. Is the contractor's job substantively integrated in the general operation of the department/UCCSN? <i>(We are in the business of educating students for the advancement of a degree. If the contractor is hired for this purpose it will indicate an employee relationship)</i>	[]	[x]
4. Are services rendered personally by the contractor? <i>(What they are looking for is if we are circumventing this process by hiring a contractor who in turn hires an employee of the college to provide the service)</i>	[x]	[]
5. Does the contractor hire, supervise and pay assistant workers? <i>(Having employees indicates the contractor is independent of the college. However, you do not have to have employees to be and independent contractor. If audited, the IRS may require additional substantiation from the contractor)</i>	[x]	[x]
6. Does this arrangement contemplate continuing or recurring work? If yes, explain? <i>(Continuing or recurring work indicates an employee relationship. The length of time that is acceptable is subjective. The IRS will consider other factors. Such as does the contractor provide the service to non-UCCSN entities)</i>	[x]	[x]
7. Does UCCSN establish set hours of work? <i>(The nature of our business generally requires we set hours for contractors that provide educational services. This probably won't be a disqualifying factor. Generally, setting hours indicates an employee relationship)</i>	[x]	[x]
8. Is there a full time requirement? <i>(Working a 40 hour week indicates an employee relationship)</i>	[]	[x]
9. Will the services be performed on UCCSN premises? <i>(This is a liability issue. If answered Yes the contractor must provide proof of insurance if they have employees. If they don't have employees they must be a sole proprietor)</i>	[x]	[x]
10. Does UCCSN require that the work be done in a specific order or sequence? <i>(This is a matter of exerting substantial control. Substantial control indicates an employee relationship)</i>	[]	[x]
11. Is regular accountability required? <i>(This is a matter of exerting substantial control. Substantial control indicates an employee relationship)</i>	[]	[x]
12. Is payment by the hour/week/month as opposed to payment by the job worked or task completed? <i>(Payments other than by the job or task indicate an employee relationship. I do not believe progress payment disqualify a contractor)</i>	[x]	[x]
13. Does the UCCSN furnish equipment, tools or supplies to the contractor? <i>(The contractor must provide their own tools to qualify)</i>	[]	[x]
14. Does the contractor have significant capital investment in the facilities used in performing services? <i>(This is determined by the type of service being provided i.e. for teaching on our premises this will be NO)</i>	[x]	[x]
15. Does any profit or loss accrue to the contractor? <i>(This should always be No)</i>	[]	[x]
16. Is the contractor actively engaged in providing these or similar services to non-UCCSN entities? If yes, provide the names of three clients for whom similar services were or are being performed. <i>(If this is NO, the contractor should be actively looking for other clients)</i>	[x]	[]
17. Can the contractor be discharged even if the contract terms are being met? <i>(This should always be No unless specified in a contract)</i>	[]	[x]
18. Does the contractor have the right to terminate without contract liability? <i>(This should always be No unless specified in a contract)</i>	[]	[x]
19. Has the contractor performed this or other services for UCCSN in the past? If yes, when? <i>(It can be YES, but generally long periods of time indicate employee status.)</i>	[x]	[x]

IV. Removed from Sample Version

THIS CONTRACT IS NOT FULLY EXECUTED UNTIL SECTION V IS COMPLETED.

V. Foreign Nationals

Foreign Nationals may not be contracted, paid or reimbursed without documentation substantiating the individual's immigration status prior to the commencement of services. Contact the Controller's Office for information on obtaining the proper visa status for independent contractors. A checklist of additional documentation requirements for visa categories can be obtained from the Controller's Office and approval of the nonresident tax specialist must be obtained. Payments to Foreign National Contractors are subject to 30% federal income tax withholding. All payments will be reported on Form 1042-S.

Approval of UCCSN Nonresident Tax Specialist

Date

VI. Payment Source

The UCCSN may not be directly invoiced from a vendor for a contractor's expenses. The total amount paid to the contractor will be subject to IRS 1099 or 1042-S (if a nonresident alien) reporting guidelines.

Payment will be made upon receipt of independent contractor invoice.

FUND	AGNC	ORGN	SORG	OBJT	SOBJ	BACC	DESCRIPTION	AMOUNT
							Total:	

Encumber amounts listed above

Mail check to Vendor Address:

Authorized Account Signature

Date

Contractor must complete applicable Form W-9 or W-8 as Page 7 of this Agreement

Determination/Approvals

UCCSN Independent Contractor Review Authority

Approved On Behalf of Board of Regents/UCCSN

Signature

Date

Signature

Date

Human Resources

Signature

Date

VII. INDEPENDENT CONTRACTOR AGREEMENT - TERMS AND CONDITIONS

A contract between the Board of Regents of the University and Community College System of Nevada, hereinafter referred to as UCCSN, and Independent Contractor, hereinafter referred to as Contractor.

Preamble

WHEREAS, NRS 284.173 authorizes elective officers, heads of departments, boards, commissions or institutions to engage the services of persons as Independent Contractors; and

WHEREAS, it is deemed that the services of Contractor herein specified are both necessary and desirable and in the best interests of the UCCSN; and

WHEREAS, Contractor represents that it is duly qualified and able to render the services hereinafter described:

NOW, THEREFORE, in consideration of the aforesaid premises, the parties hereto mutually agree as follows:

1. The period of this Agreement shall be effective from dates stated on this form, unless revoked by either party as set forth in Paragraph (2).
2. This agreement may be revoked without cause by either party prior to the date set forth in Paragraph (1) by notifying the other party in writing at least ten (10) days in advance of the effective date of the termination specified in such notice.
3. The parties agree to the services to be performed. These are stated on the reverse side, or in attachments, which are made a part of the agreement by reference thereto.
4. Contractor agrees to provide the services set forth in Paragraph (3) for a total cost not to exceed the amount stated on the Payment Terms.
5. This agreement shall be construed and interpreted according to the laws of the UCCSN.
6. The Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this agreement without the prior written consent of the UCCSN.
7. The books, records, documents and accounting procedures and practices of the Contractor relevant to this agreement shall be subject to inspection, examination and audit by the UCCSN.
8. Any reports, studies, photographs, negatives or other documents or drawings prepared by Contractor in the performance of its obligations under this agreement shall be the exclusive property of the UCCSN and all such materials, if any, shall be remitted to the UCCSN by Contractor upon completion, termination or cancellation of this agreement. Contractor shall not use, willingly allow or cause to have such materials, if any, used for any purpose other than the performance of Contractor's obligations under this agreement without the prior written consent of the UCCSN.
9. Contractor agrees to indemnify and save and hold the Board of Regents of University and Community College System of Nevada, the University and Community College System of Nevada, the university, their agents, officers and employees harmless from any and all claims, causes of action or liability arising from the performance of this agreement by Contractor or Contractor's agents, officers or employees.
10. The parties agree that Contractor is an Independent Contractor and that this agreement is entered into in accordance with NRS 284.173, which statute in pertinent part provides that the Contractor is not an employee of the UCCSN and:
There shall be no:
 - (a) Withholding of income taxes by the UCCSN;
 - (b) Industrial insurance coverage provided by the UCCSN;
 - (c) Participation in group insurance plans which may be available to employees of the UCCSN;
 - (d) Participation or contributions by either the Independent Contractor or the UCCSN to the public employees retirement system;
 - (e) Accumulation of vacation leave or sick leave;
 - (f) Unemployment compensation coverage provided by the UCCSN if the requirements of NRS 612.085 for Independent Contractors are met.
11. The University and Community College System of Nevada is an equal opportunity/affirmative action employer and does not discriminate on the basis of race, color, religion, sex, age, creed, national origin, veteran status, physical or mental disability in any program or activity it operates. The UCCSN employs only U.S. citizens and individuals lawfully authorized to work in the U.S.
12. This agreement constitutes the entire agreement between the parties and may only be modified by a written amendment signed by the parties.
13. Written notices required under this agreement shall be sent certified mail, return receipt requested.

14. CONTRACT TERMINATION

- a. Termination Without Cause. Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.
- b. UCCSN Termination for Nonappropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the UCCSN Legislature and/or federal sources. The UCCSN may terminate this Contract, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Contracting Agency's funding from UCCSN and/or federal sources is not appropriated or is withdrawn, limited or impaired.
- c. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:
 - i. If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
 - ii. If any UCCSN, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
 - iii. If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
 - iv. If the UCCSN materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or
 - v. If it is found by the UCCSN that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the UCCSN with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract.
- d. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph (2), and the subsequent failure of the defaulting party within 10 calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.
- e. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:
 - i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
 - ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a prop rata basis if necessary) if so requested by the Contracting Agency;
 - iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Contracting Agency;
 - iv. Contractor shall promptly deliver into UCCSN possession all proprietary information in accordance with paragraph (20).

15. **REMEDIES**. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for UCCSN-employed attorneys. The UCCSN may set off consideration against any unpaid obligation of Contractor to any UCCSN agency.

16. **LIMITED LIABILITY**. The UCCSN will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any UCCSN breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach. Damages for any Contractor breach shall not exceed 150% of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.

17. **FORCE MAJEURE**. Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

18. **INSURANCE SCHEDULE**. Unless expressly waived in writing by the UCCSN, Contractor, as an independent contractor and not an employee of the UCCSN, must carry policies of insurance in amounts specified in this Insurance Schedule and pay all taxes and fees incident hereunto. The UCCSN shall have no liability except as specified in the Contract. Contractor shall not commence work before:

- 1) Contractor has provided the required evidence of insurance to the Contracting Agency of the UCCSN, and
- 2) The UCCSN has approved the insurance policies provided by Contractor.

Prior approval of the insurance policies by the UCCSN shall be a condition precedent to any payment of consideration under this Contract and the UCCSN's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure to the UCCSN to timely approve shall not constitute a waiver of the condition.

Insurance Coverage: Contractor shall, at Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by the UCCSN, the required insurance shall be in effect prior to the commencement of work by Contractor and shall continue in force as appropriate until the latter of:

1. Final acceptance by the UCCSN of the completion of this Contract; or
2. Such time as the insurance is no longer required by the UCCSN under the terms of this Contract.

Any insurance or self-insurance available to the UCCSN shall be excess of and non-contributing with any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the UCCSN, Contractor shall provide the UCCSN with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the UCCSN and immediately replace such insurance or bond with an insurer meeting the requirements.

Workers' Compensation and Employer's Liability Insurance

1) Contractor shall provide proof of worker's compensation insurance as required by NRS 616B.627 or proof that compliance with the provisions of Nevada Revised Statutes, Chapters 616A-D and all other related chapters is not required.

Commercial General Liability Insurance

1) Minimum Limits required:

- \$ _____ General Aggregate
- \$ _____ Products & Completed Operations Aggregate
- \$ _____ Personal and Advertising Injury
- \$ _____ Each Occurrence

2) Defense costs are included in limits (YES or NO)

3) Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

4) **A separate General Aggregate limit shall apply to this project.**

Business Automobile Liability Insurance

1) Minimum Limit required: \$ _____ Each Occurrence for bodily injury and property damage

2) Coverage shall be for "any auto" (including owned, non-owned and hired vehicles).

3) The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

Professional Liability/Errors & Omissions Insurance

1) Minimum Limit required: \$ _____ Each Claim

2) Defense costs are included in limits (YES or NO)

3) Retroactive date: Prior to commencement of the performance of the contract.

4) Discovery period: Three (3) years after termination date of contract.

5) **A certified copy of this policy is required.**

Umbrella or Excess Liability Insurance

1) May be used to achieve the above minimum liability limits.

2) Shall be endorsed to UCCSN it is "As Broad as Primary Policy".

Commercial Crime Insurance

Minimum Limit required: \$ _____ Per Loss for Employee Dishonesty

1) The UCCSN shall be the Named Insured on the policy.

2) This insurance shall be underwritten on a blanket form amending the definition of "employee" to include all employees of the Vendor regardless of position or category who could have access to monies of the UCCSN.

Performance Bond/Security

Amount required: \$ _____

1) Security may be in the form of a Surety Bond (UCCSN bond form required), Certificate of Deposit or Treasury Note.

2) All interest earned on interest bearing security shall be returned to Contract by the UCCSN upon Contract completion.

General Requirements:

a. Additional Insured: By endorsement to all liability policies, except Professional Liability, evidenced by Contractor, **The UCCSN, (the agency), its officers, employees and immune contractors** as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the contract.

b. Waiver of Subrogation: Each liability insurance policy shall provide for a waiver of subrogation as to all additional insureds.

c. Cross-Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

d. Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the UCCSN. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence, unless otherwise approved by the Risk Management Division.

e. Approved Insurer: Each insurance policy shall be:

1) Issued by insurance companies authorized to do business in the UCCSN or eligible surplus lines insurers acceptable to the UCCSN and having agents in Nevada upon whom service of process may be made, and

2) Currently rated by A.M. Best as "A- VII" or better.

Evidence of Insurance:

a. Prior to the start of any Work, Contractor must provide the following documents to the UCCSN:

1) Certificate of Insurance: The Acor 25 Certificate of Insurance form or a form substantially similar must be submitted to the UCCSN to evidence the insurance policies and coverages required of Contractor.

2) Additional Insured Endorsement: An original Additional Insured Endorsement (ISO form CG20 10 11 85), signed by an authorized insurance company representative, **must** be submitted to the UCCSN, by attachment to the Certificate of Insurance, to evidence the endorsement of the UCCSN as additional insureds.

3) Policy Cancellation Endorsement: Except for ten days notice for non-payment of premium, each insurance policy shall be endorsed to specify that without sixty (60) days prior written notice to the UCCSN, the policy shall not be canceled, non-renewed or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address specified above. A copy of this signed endorsement must be attached to the Certificate of Insurance.

4) Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, provide a copy of the Underlyer Schedule from the insurance policy.

b. Review and Approval: Documents specified above must be submitted for review and approval by the UCCSN prior to the commencement of work by Contractor. Neither approval by the UCCSN nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its sub-contractors, employees or agents to the UCCSN or others, and shall be in addition to and not in lieu of any other remedy available to the UCCSN under this Contract or otherwise. The UCCSN reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

Mail all required insurance documents to Contracting Agency at address specified on page 2 of this Contract.

19. **GOVERNMENT OBLIGATIONS.** Contractor shall be responsible for all applicable federal, UCCSN, and local government obligations. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and 361.159. Contractor warrants that it has a valid business license. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. The UCCSN may set-off against consideration due any delinquent government obligation.

20. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

21. **SEVERABILITY.** If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

22. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The UCCSN will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. Contractor may clearly label individual documents as a "trade secret" or "confidential" provided that Contractor thereby agrees to indemnify and defend the UCCSN for honoring such a designation. The failure to so label any document that is released by

the UCCSN shall constitute a complete waiver of any and all claims for damages caused by any release of the records. If a public records request for a labeled document is received by the UCCSN, the UCCSN will notify Contractor of the request and delay access to the material until seven working days after notification to Contractor. Within that time delay, it will be the duty of Contractor to act in protection of its labeled record. Failure to so act shall constitute a complete waiver.

23. **CONFIDENTIALITY.** Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract.

24. **FEDERAL FUNDING.** In the event federal funds are used for payment of all or part of this Contract:

a. Contractor certified, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

b. Contractor and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

c. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

25. **WARRANTIES.**

a. General Warranty. Contractor warrants that all deliverables and work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

b. Millennium Compliance. Contractor warrants that any information system application(s), during or after the calendar year 2000, shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the UCCSN. This warranty includes, without limitation, century recognition, calculations that accommodate same century and multicentury formulas and data values and date data interface values that reflect the century. Pursuant to NRS 41.0321, the UCCSN is immune from liability due to any failure of millennium compliance.

26. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the UCCSN Board of Examiners and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.