1. **Invitation to Bid**
   The University of Delaware invites you to submit a bid for consideration for a term contract for time and materials type work and services. The title "term contracting" implies a contract will be signed with selected contractors for a specified period of time, to engage and complete numerous specific projects. Each separate project will be called a "RELEASE". The Term Contract will be issued for a period of one year with a University option to renew for two additional one year periods.

2. **Pricing**
   The contractor will be expected to furnish information requested in Attachments #1, #2, #3, #4 and #5 for the purpose of specifying the hourly rate of the trades personnel, rates for equipment used by the contractor, and the percent markup on the cost of materials, third party equipment rentals and subcontractors used to complete the project. All blank spaces in Attachments #1, #2, #3, #4 and #5 must be filled in with the appropriate dollar amount, percentage or "NA" if not applicable. Every six (6) months and with thirty (30) days notice, the contractor will be allowed to submit adjustments to the hourly rates, and equipment costs upward and/or downward on all projects to be issued after that six month period. Such adjustments must be approved by the University of Delaware before implementation. Projects under contract at the end of the six month period will continue to be billed at the current rates.

3. **Release Pricing**
   When the University contracts the contractor, the contractor will be presented with a set of plans, specifications, sketches, etc. illustrating the work to be accomplished. The contractor will be expected to furnish a not-to-exceed time and material estimate for this specified project. Upon notifications from the University to proceed with the work, the contractor would be expected to start within five days of such notice.

4. **Change Orders**
   Change orders associated with a released project in progress must be approved in advance by the assigned University project manager. Only with prior authorization can the contractor proceed beyond the quoted release figure and only if the total value of the release (including all change orders) does not exceed the release limit. The Contractor will not be compensated for charges in excess of the release limit.

5. **Request for Payment**
   Refer to Paragraph 19 for method, procedures, and frequency for applying for request for payment. The following data must be included for all requests for payment:
   - Payroll data shall include:
     - Employee's Name
     - Trade Classification
     - Hourly Rate
     - Fringe Benefits (Hourly Rate or %)
     - Date and Hours Worked
     - Extension of Labor Costs
   - Receipts shall be provided for:
     - Labor and material billed to contractor
     - Subcontractor billings
     - Materials installed in project
     - Supplies
     - Equipment Use Charges
     - All other incidental charges applicable

6. **Insurance Certificate**
   It will be necessary for the contractor to file with the University Procurement Services Office, the insurance certificate as identified in the [Insurance Requirements](#) prior to commencing with any work on this term contract.
7. **Subcontractors**
   The prime contractor of the term contract will be responsible for the actions of any subcontractors. All billing of the subcontractors will be routed through the prime contractor for payment. The subcontractor will be expected to follow the general conditions.

8. **Requirement for Listing as a Subcontractor**
   The University uses the following criteria to determine qualifications for a contractor listed as a subcontractor for any releases issued against this contract: A) The subcontractor regularly employs and continually maintains on his payroll skilled craftsmen in the trade. These skilled craftsmen shall be registered in the trade when such registration is required. B) The contractor owns the tools and equipment normally associated with the trade. C) The contractor has previously performed in the trade on projects similar in scope, size, complexity and cost to the release.

   The University may challenge or disqualify any contractor based on failure to meet any of the above criteria or qualification for listing as the subcontractor in the trade. Contractors may be required to present such evidence as necessary to evaluate qualifications. The decision to disqualify a contractor in a given trade shall be made by the University and such decision shall be final.

9. **Site and Local Conditions**
   The Contractor has the right to examine the site in the order to become acquainted with local conditions. It is understood, however, the contractor accepts conditions at the site as of the date of the proposal, and no allowances will be made after award for any future error or negligence by Contractor in this connection.

   The work shall be done under the coordination, scheduling, inspection of the University. Any such coordination, scheduling, or inspection by the University shall not relieve Contractor from its responsibilities specified hereunder.

   If Contractor's work adjoins that of others done after the date of this order, Contractor shall notify the University immediately in writing of any condition which may affect completion of the work or the cost thereof. Absence of such notification shall constitute an acceptance of the conditions at the site.

10. **Safety and Health**
    Contractor shall:
    A. Comply with all federal, state, local and University regulations including, but not limited to:
       1. Confined Space
       2. Trenching and Shoring
       3. Miss Utility
       4. Lockout/Tagout
       5. Cutting and Welding
       6. Lead Exposure
       7. Other special provisions as may be set forth.
    B. Designate one person to the responsible for carrying out Contractor's obligation under this Article.
    C. Promptly report to the University cases of death, occupational disease and OSHA-recordable injury caused by work on the job.
    D. Maintain an educational program to assure the inclusion of safety instruction as a part of job assignment.
    E. Arrange for first-aid treatment and job-incurred injuries in accordance with requirements of its insurer for Workmen's Compensation Insurance.
If the University notifies the Contractor of any noncompliance with the provisions of this Article and the action to be taken, the Contractor shall make all reasonable efforts to correct the existing conditions immediately, if directed by the University to do so, or, if it not so directed, no later than forty-eight (48) hours after receipt of such notice. If the Contractor fails to do so, the University may stop all or any part of the work hereunder. When satisfactory corrective action is taken by the Contractor, a start order will be issued by the University. No part of the time lost due to any such work stoppage shall be made subject for claim for extension of time or for additional costs or damages by the Contractor.

11. **Hazards**

Contractor acknowledges that hazards may be involved in providing the services described hereunder. Accordingly, Contractor agrees to perform such services in a careful and workmanlike manner and to take all necessary precautions in the processing, handling, transportation, and disposal of material and product involved in this Agreement to avoid an unhealthy or unsafe environment, injuries to persons, damage to property, or pollution. The University may provide Contractor with certain information regarding the material involved hereunder, including procedures for processing, handling, and disposal, as well as toxicological data. Any information supplied by University of Delaware shall be the latest information known to the University and relevant to the work to be performed hereunder. Such information is provided without warranty or representation as to its completeness or suitability in providing the services herein. The methods employed and the precautions taken to handle University of Delaware owned equipment (if any) shall be determined by and rest solely with Contractor. Contractor agrees to provide its employees with a safe and healthy workplace using, but not limited to, such information as is or may be provided by the University.

The University shall have the right to suspend immediately this Agreement, without liability to the University, if at any time the University in its sole judgement determines that Contractor has violated any provisions of this Article. Further, if Contractor fails to correct any such violations within seven (7) days immediately following the University's notice to Contractor of the violation, the University has the right to terminate without penalty this Agreement.

12. **Default**

In the event that either party hereto shall default in the substantial performance of any material obligation specified herein the nondefaulting party shall notify the other party in writing (subject to the provisions of the "Safety and Health" and "Hazards" Articles herein) and, if such default is not remedied within fifteen (15) days from date of such notice, then the nondefaulting party shall have the right to terminate this Agreement immediately. If, in the University's sole opinion, such default may result in substantial property damage, injury, accident, or death, the University may, at any time, immediately suspend this Agreement without penalty or damages. Termination under this provision or under any other provision of this Agreement shall not relieve or release either party hereto from any rights, liabilities, or obligations which it has accrued prior to the date of such termination.

13. **Cost of Work**

A. Contractor shall be reimbursed for such actual costs and expenditures as are included in the following items when such reimbursements have been approved in advance by the University.

1. Actual wages and salaries including wage taxes and welfare plans of the Contractor for all field personnel (except as specifically noted to the contrary herein) including all premiums for overtime authorized by the University. Contractor shall submit in advance to the University, and obtain approval of, salary and wage schedules of reimbursable personnel.

2. Materials and supplies furnished at the University's request.

3. Licenses and fees paid by Contractor per Article 12 hereof.
4. Transportation expenses incurred with the University's prior approval.

5. Rental for all Contractor owned major equipment which has a purchase price greater than $1,500 at rates and terms approved by the University prior to moving said equipment to the project site.

6. Rental actually paid by Contractor to third parties for construction equipment at rates and terms approved by the University prior to the execution of such rental agreements.

7. Field office facilities including storage for tools and equipment to the extent authorized by the University.

8. Subcontracts.

9. Any sales or use tax or any gross income tax applicable to reimbursable items of cost provided such taxes are not solely attributable to the location of Contractor's place of business [see Article 5.B. (9)]

10. Overhead (including supervision), insurance, and profit as quoted. No profit or overhead may be added to premium time. Percentage allowance for insurance, overhead, and profit are not to be pyramided.

The method to be used in determining labor rates is shown in the following example:
(Note: The percentages and figures used are for example purposes only.)

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Straight Rate</td>
<td>$25.40</td>
</tr>
<tr>
<td>Premium Labor Hourly Rate:</td>
<td></td>
</tr>
<tr>
<td>g. Total straight hourly rate</td>
<td>$25.40</td>
</tr>
<tr>
<td>h. Premium hourly rate (usually either 50% or 100% times straight time labor, a above)</td>
<td>10.00</td>
</tr>
<tr>
<td>i. Benefits (5% x h or actual $)</td>
<td>0.50</td>
</tr>
<tr>
<td>j. Insurance (3% x h)</td>
<td>0.30</td>
</tr>
<tr>
<td>k. FICA and Unemployment Compensation Taxes on Premium hourly rate (9% x h - reimbursable only to the Extent these are actually paid)</td>
<td>0.90</td>
</tr>
<tr>
<td>Total Premium Rate</td>
<td>$37.10</td>
</tr>
</tbody>
</table>

B. Reimbursements shall not include the following items [Provisions for the following, if any, must be included in the markup for overhead and profit]:

1. Supervision

2. Salaries and expenses incurred in conducting Contractor's main or regularly established branch office.

3. Overhead expenses unless otherwise specifically authorized herein.

4. Interest on capital employed or on borrowed money.

5. Premium for fidelity insurance and crime insurance or losses sustained by the contractor due to embezzlement, robbery, or larceny in any form.
6. Costs or losses incurred by the Contractor as a result of automotive accidents or by any other form of liability claim of third parties.

7. Licenses, registrations, permits, privilege taxes, etc. required by the Contractor to do business in the jurisdiction.

8. Welfare plans, such as pension plans, bonus, insurance plans, continuity of service plans, etc. which the contractor may have in effect except those covered in Article 5A (1).

9. Gross receipts taxes, business and occupation taxes, etc. imposed solely by the State of Delaware.

10. Federal income taxes.

11. Membership dues in trade associations.

12. Travel expense to and from the job site for key personnel.

13. Any expense incurred by the Contractor on work not performed under this contract even though such expense may result from his activities hereunder, i.e., increased Unemployment Compensation rate, increased insurance rates, etc.

14. Rental of Contractor owned tools and equipment having a purchase price of less than $1,500.

15. Any other item not specifically stated to be reimbursable or not otherwise authorized and approved by the University.

C. With respect to reimbursable items. Contractor shall promptly remit or credit to the University allowances, commissions, rebates, discounts, premiums, fees, or royalties allowed to it or received by it incidental to the performance of the contract.

14. Records and Inspections
Contractor shall maintain, in accordance with Generally Accepted Accounting Principles and Practices, such records as may be necessary to adequately reflect the accuracy of Contractor's charges and invoices for reimbursement under this Agreement and maintain such other additional records as the University may from time to time reasonably require in connection with this Agreement.

Contractor shall preserve such records for a minimum period of three (3) years from date of last payment without additional reimbursement or compensation thereof.

University of Delaware shall have the right from time to time to inspect and verify the records kept by Contractor in its regular place of business in connection with this Agreement.

The University representatives shall have the right to visit, observe, and inspect during regular business hours any Contractor facility related to this Agreement, and the University's materials and property wherever located.

15. Purchases
To the extent that such University limitations and procedures do not conflict with applicable federal, state, or local laws, the University may establish the limitations and procedures under which reimbursable items of materials, supplies, machinery, equipment or subcontractors, if any, shall be purchased or rented.

16. Delays (Force Majeure)
Neither party shall be liable for delay in performance or nonperformance caused by fire, flood, explosion, accident, labor trouble, war, act of Government, or any other causes reasonably beyond its control, but said party shall use all reasonable efforts to minimize the extent of the delay.
The party suffering the Force Majeure shall diligently attempt to remove such cause or causes and shall promptly notify the other party of its extent and probable duration.

If the party suffering the Force Majeure is unable to remove the cause or causes within seven (7) day, the other party hereto shall have the right to terminate, without penalty, this entire Agreement or any portion thereof caused by the Force Majeure event.

17. Supervision
Contractor shall keep on the work a competent supervisor who shall be its authorized representative for all purposes under this Agreement. Costs associated with supervisor shall be included in contractor's overhead calculations.

18. Patents
Contractor shall hold and save University of Delaware harmless from liability of any kind, including costs and expenses, for or on account of any alleged invention made or used by Contractor or any Subcontractor in the performance of the work under this Agreement or involved in the use or disposal by or on behalf of the University hereunder; provided, however, that this indemnification shall not be applicable to infringement of patents of third parties which results from acts of Contractor complying with specific written instructions furnished by the University or from the use of apparatus fabricated and/or installed by Contractor in accordance with plans and specifications furnished by the University.

19. Terms of Payment
Unless otherwise specified in this agreement, terms of payment shall be net 30 days from receipt of invoice. Billings should be submitted on a monthly basis, including costs for both labor and materials, and shall include complete payroll data and receipts for all materials, etc.

Final payment will be made after completion and acceptance by the University of Delaware and receipt of Release of Liens and all other required closing documents. (Closing documents may include any or all of the following: Electrical Certificate, Manufacturer's Carpet Warranty, Roofing Warranty, Operating Manuals, As-Built Drawings, Certificate of Occupancy, Elevator Certificate, Test Reports, Safety and Fire Marshal's Inspection Reports, and other equipment warranties and documentation as applicable.)

20. Compliance with Laws
Contractor shall comply with all laws, ordinance, rules, and regulations of governmental authorities bearing on the conduct of the work; including, but not limited to, those referred to in Articles 2 and 24 hereof.

Contractor shall give such notices and secure temporary permits, licenses, and easements required for the prosecution of its work. Such temporary permits, licenses, and easements are reimbursable cost unless they are of a type required by the Contractor to do business in the jurisdiction in which event they are not reimbursable. Unless agreed otherwise, University of Delaware will secure permits and easements required for permanent installations unless it is necessary that such permits be secured by the Contractor, in which event in the University shall furnish the Contractor with all design information required and Contractor's costs shall be reimbursable.

Fines or other penalties resulting from Contractor's noncompliance with the provisions of this Article shall be for Contractor's account and shall not be reimbursable.

21. Workmanship, Materials and Employees
The work shall be executed in the best and most workmanlike manner by qualified and efficient workers, in strict conformity with the best standard practice. The site shall be kept free of waste
as the work progresses and, on completion, left "broom clean". In case of dispute, the University may remove waste at Contractor's expense.

Unless otherwise specified, all materials furnished by the contractor shall be new and of the most suitable grade of their respective kinds for the application. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

Contractor shall be responsible for receiving, unloading, moving, storing and protecting the materials and equipment delivered to the job site and will perform these functions with contractor's personnel. Upon request made prior to shipment, the University may agree at its option to do a portion of the aforementioned work in accordance with the University's authorization and billing procedures.

In order to comply with the University's requirement for overall job physical orderliness, Contractor's tools, equipment, and materials furnished for or associated with the work shall be so placed and maintained as to permit unobstructed access to the work and to minimize exposure to personal injury or fire loss. Equipment placement and material storage shall be at locations approved by the University.

While on University property, the Contractor's employees shall confine themselves to areas designated by the University.

The University that there be no excessive noises and/or distractions throughout the Contractor's work area and prohibits the use of radios, record or tape players, etc.

22. Taxes
Contractor assumes full responsibility for the payment of all Social Security, Unemployment Compensation, and other taxes and charges for all employees engaged by Contractor in the performance of the services hereunder, and it will require each of its subcontractors, if any, to do the same.

23. Insurance
Note: Contract shall be responsible for damage to its tools, construction equipment and other property not to be incorporated into the work.

24. Termination
The University may terminate this Agreement at any time on thirty (30) days prior written notice without cause or liability, except for obligations or liabilities due for services rendered prior to the effective date of termination.

If Contractor should refuse or fail to supply sufficient quantity of properly skilled personnel, or if it should fail to make prompt payment to subcontractor or material men for labor and material used hereunder, or it should disregard or be in violation of any laws, ordinances, or governmental regulations, or it should otherwise violate any of the provisions of this Agreement, or if the University, in good faith, determine that any of its material or equipment used hereunder is in danger of destruction, damage, or mishandling, or that the University's title thereto is in jeopardy, or that Contractor's credit or financial position is impaired, then the University may, without prejudice to any other right and remedy, terminate or suspend this Agreement, without liability, on written notice, take possession of all the University materials and equipment, and finish or engage a third party to finish the work by whatever means the University deems expedient. In such event, the Contractor shall receive no further payments hereunder until the work is finished, at which time Contractor will be reimbursed for costs and expenses incurred prior to termination less any costs and expenses to the University arising from such termination which the University would have incurred absent such termination. Termination under this provision or under any other
25. **Correction**
Contractor shall remove material and equipment furnished hereunder which does not meet the specifications whether incorporated in the work or not, and shall re-execute the work at no cost to the University, shall pay for making good other work damaged thereby.

If Contractor does not remove nonconforming work promptly, the University may do so and store materials or equipment at Contractor's expense. If Contractor does not pay the expense thereof within ten (10) days, the University may sell the materials and equipment and account to Contractor for the proceeds, after deducting all expenses, which must be borne by Contractor.

Neither acceptance of nor payment for work shall relieve Contractor of responsibility for faulty materials, equipment, or workmanship, whether furnished by Contractor or its subcontractors. Contractor shall remedy, as soon as possible, defects appearing within one (1) year from the date of final payment and shall pay for resulting damage to other work. The University shall give prompt notice of observed defects.

26. **Indemnification**
Contractor shall fully indemnify the University against all liability, loss, and expense (including reasonable attorney's fees, settlements, judgments and costs) resulting from injury to or death of any person (including, without limitation, injury to or death of employees of Contractor or the University) or loss of or damage to property (including, without limitation, damage to the University's or Contractor's property) or the environment incurred by the University or a third party and resulting in any way from any act or omission, negligent or otherwise, on the part of the University or Contractor, its agents, employees, subcontractors, or assignees, in connection with the performance of this Agreement, except when such loss and expense are caused solely by the willful misconduct or negligence of the University.

27. **Release of Liens**
Contractor shall furnish University of Delaware a complete "Release of Liens" at intervals requested by the University and in all cases before final payment is made. If any lien is filed or remains unsatisfied after final payment, Contractor shall indemnify the University for all costs incurred in discharging such lien.

28. **Subcontracts**
Contractor shall not subcontract work hereunder without prior written consent of the University.

29. **Separate Contracts**
The University reserves the right to let other contracts in connection with this work. The Contractor shall afford other Contractors reasonable cooperation in the execution of their work, and shall properly coordinate its work with theirs.

30. **Assignment**
This Agreement shall not be assignable by either party without prior written consent of the other party.

31. **Title**
Title to all equipment and material installed and accepted shall vest in the University. Contractor shall be responsible for damage to its property, title to which shall not pass to the University.

32. **Nondiscrimination**
In the performance of the work hereunder, Contractor shall comply with all federal, state, and local regulations relating to nondiscrimination against any employee or applicant for employment because of race, religion, color, national origin, sex, or ancestry with respect to hiring, promotion, demotion, transfer, recruitment, termination, rates of pay or other forms of compensation, and selection for training, including, but not limited to, Executive Order 11246, and the rules and

33. Independent Contractor
The employees, methods, equipment, and facilities used by Contractor shall at all times be under its exclusive direction and control. Contractor's relationship to the University under this Agreement shall be that of an independent contractor, and nothing in this Agreement shall be construed to constitute Contractor, or any of its employees or officers, an agent, associate, joint venturer, or partner of the University.

34. Rights and Remedies
The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligation, rights and remedies otherwise imposed or available by law.

No action or failure to act by the University or the Contractor shall constitute a waiver of any right or duty afforded either of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as maybe specifically agreed in writing.

35. Severability
In the event that any provision of this Agreement shall be found to be void or unenforceable, such findings shall not be construed to render any other provision of this Agreement either void or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.

36. Governing Law
The validity and interpretation of this Agreement shall be governed by the laws of the State of Delaware.

37. Headings
The headings of the provisions of this Agreement are inserted for convenience only and shall not constitute a part hereof.

38. Nondisclosure
Contractor will not disclose to others (a) the fact that the University has purchased or plans to purchase services, articles, materials, or product from Contractor; or (b) the structure or composition of articles or materials to be purchased by the University when such structure or composition information or methods are provided by the University, except when such disclosure is necessary to perform services required under this Agreement or as required by law.

39. Transfer of Assets and Reorganization
If, during the term of this Agreement, Contractor shall dissolve, transfer, sell, assign, mortgage, encumber, pledge, or otherwise dispose of (a) substantially all of its assets used to provide the services herein, (b) its accounts receivable from the University, (c) over twenty percent (20%) of its ownership or controlling interest (whether in the form of stock or otherwise), or if Contractor shall consolidate with or merge into another corporation or permit one or more other corporations to consolidate or merge into it, or if Contractor contemplates or reasonably expects the occurrence of any event referred to in this Section, then Contractor shall give the University at least three (3) months prior notice of such occurrence. If such occurrence or proposed occurrence is unacceptable to the University, the University may terminate this Agreement upon written notice to Contractor.

40. Invoicing
In the event that Contractor's invoice does not indicate that Contractor is an incorporated entity, by use of the words (or abbreviations) "Incorporated", "Corporation", as a part of Contractor's company name, then Contractor shall display its Tax Identification Number (TIN) or Social
Security Number on the invoice in lieu of such designations. Failure to furnish such information may result in withholding thirty-one percent (31%) of the Contract value in accordance with IRS regulations.

In addition to these "General Conditions", the "Supplementary Conditions for Contractors", applied by the University for all construction contracts, will apply for this Time and Material term contract. The terms of these "General Conditions", along with the "Supplementary Conditions", shall supercede any printed conditions forming a part of the contractor's proposal. The "Supplemental Conditions" are on file at the University's Procurement Services Office.