



CONTRACT TERMS & CONDITIONS

Lincoln Demolition & Excavation

May 2024 Revision

TABLE OF CONTENTS

Introduction | 02

Definitions | 02

1. The Work | 03

- 1.1. General
- 1.2. Client's Access & Occupancy
- 1.3. Changes to Contract Documents
- 1.4. Changes to Scope of Work & Change Orders
- 1.5. Standard of Care
- 1.6. Safety & Regulated Materials
- 1.7. Non-Solicitation
- 1.8. Septic Services

2. Licensing, Insurance & Permits | 06

3. Contract Time | 06

- 3.1. Commencement
- 3.2. Deliveries
- 3.3. Revisions to Schedule
- 3.4. Extensions of Time

4. Payments | 06

- 4.1. Contract Sum
- 4.2. Processing Fees
- 4.3. Administrative Fees
- 4.4. Late Fees
- 4.5. Legal Fees
- 4.6. Cancellation Fees

5. Liability | 07

6. Limited Warranty | 08

7. Termination Rights | 08

- 7.1. Termination with Cause
- 7.2. Termination without Cause

8. Claims & Disputes | 09

9. Notice | 09

10. General Provisions | 09

11. Acceptance of Terms | 09

INTRODUCTION

The purposes of this Agreement are to outline the obligations of both Lincoln Demolition & Excavation and you, the Client; to provide you, the Client, with a framework of expectations, and to provide a standard of delivery of all work, services, and goods provided by Lincoln Demolition & Excavation.

DEFINITIONS

“Business Day” means any day except Saturday, Sunday, any day which is a Company holiday, or any day which is a federal holiday in the United States. Business Days begin at 7AM and end at 7PM.

“Change Order” means a written alteration in specifications, period of time, price, quantity, or other provisions of the Contract or Contract Documents upon mutual agreement by both Parties. Change Orders are only valid if agreed upon by both the Client and the Contractor via Electronic Communication, verbal communication, or paper receipt.

“Client” means you, the person(s) entering into the Contract with Lincoln Demolition & Excavation.

“Contract” or **“Agreement”** means this document, which is entered into between Lincoln Demolition & Excavation and the Client and includes all Contract Documents.

“Contract Documents” consist of the following: (1) this Contract; (2) a Lincoln Demolition & Excavation Project Estimate; (3) any and all Lincoln Demolition & Excavation Contract liability waivers; (4) any and all snow removal agreements; and (5) any and all Change Orders.

“Contract Sum” means the total sum which, subject to the provisions of the Contract, will have become payable to the Contractor by the Client upon completion of the Work under the Contract. The Contract Sum may only be increased or decreased by the amount set forth in a Change Order.

“Contractor” means Lincoln Demolition & Excavation and its authorized employees who are responsible for supplying Work, Services, or Goods as specified within the Contract.

“Contractor Commencement” means the date the Contractor begins Project planning. Contractor Commencement shall not begin until a Down-Payment has been fully processed by the Contractor’s bank.

“Contractor Contract Time” or **“Schedule”** means the period of time between Contractor Commencement and the Scheduled Completion Date(s) or Final Completion Date, whichever is later. The Schedule may be updated and revised by the Contractor from time to time and shall be considered to be as effective as if attached hereto unless a written Notice is provided by the Contractor within ten (10) days of such issuance of objection.

“Down-Payment” means a partial payment made by the Client and received by the Contractor. Down-Payments are non-refundable.

“Electronic Communication” means a message distributed by electronic means from one electronic device to another. Electronic Communications include but are not limited to emailing, faxing, and texting.

“Estimate” means the Contractor’s pre-bid, good faith assessment of anticipated Contract costs. Estimates do not guarantee the outcome of a Contract Sum nor are they a firm or fixed price quotation. The amount of an Estimate may increase or decrease at any time. Such increase or decrease would typically be related to, but is not limited to, an increase or decrease in the cost of relevant materials, labor, equipment hires, or transport.

“Final Completion Date” means the date an invoice is sent to the Client.

“Goods” means all the material items including but not limited to equipment, machinery, and fuel that the Contractor is required to utilize or supply for the completion of Work.

“Hourly Labor Rate” means the fees for Services provided by Lincoln Demolition & Excavation charged on an hourly basis. Hourly Labor Rates are charged in addition to any Works, Services, and Goods supplied by the Contractor.

“Notice” means a formal written notification or Electronic Communication between the Client and the Contractor given pursuant to the Contract as identified within this Agreement.

“**Parties**” means both the Client and Contractor.

“**Plans and Specifications**” means the plans, specifications, drawings, or descriptions of and for the Project which are prepared by the Contractor. A listing of the Plans and Specifications is attached to the Contract. Plans and Specifications are final but are subject to change only by an appropriate Change Order.

“**Project**” means the full scope of Works, Services, and Goods to be provided for the execution of the Plans and Specifications on the Project Site.

“**Project Site**” means the address(es) where the Project is to take place.

“**Project Commencement Date**” or “**Project Commencement**” mean the actual dates and times the Project begins. Project Commencement may differ from the Scheduled Commencement Date and may be altered if evidenced by a written Change Order.

“**Scheduled Commencement Date**” means the proposed commencement date and time for the Project as identified within the Plans and Specifications. The Scheduled Commencement Date may be altered if evidenced by a written Change Order.

“**Scheduled Completion Date**” is the date that the Contractor anticipates the Project will be completed. The Scheduled Completion Date is an estimate provided prior to the Project Commencement Date and may change and/or be extended as provided in the Contract.

“**Services**” means the functional duties ancillary to the Work or supply of the Goods, such as Project planning, office administration, transportation, travel time, labor, installation, maintenance, and other such obligations of the Contractor covered under the Contract.

“**Supplier**” means an individual, subcontractor, distributor, vendor, or firm supplying Services and/or Goods on or for the Contract.

“**Work**” or “**Works**” mean all construction Services and Goods required to be performed by the Contractor to fully and completely complete the Project described within the Contract as provided by the Contract Documents. Work includes all Project planning, materials, equipment, supplies, transportation, labor, loading, unloading, measurements, supervision, cleaning, protection, insurance, taxes, permits, licenses, and other Services or related costs provided, or to be provided by the Contractor or its Suppliers, to fulfill the Contractor’s obligations under the Contract Documents.

1. **THE WORK**

1.1. **GENERAL**

- 1.1.1. Client agrees to all Contractor Contract Terms & Conditions outlined within all Contract Documents by approving the Estimate (verbally or electronically), by signing a copy of this Contract, or by utilizing the Contractor’s services.
- 1.1.1. Client must pay a non-refundable Down-Payment before Contractor Commencement shall begin and before a Scheduled Commencement Date can be set. An exception may be made if Client pays for all Work based on Contractor’s Hourly Labor Rates or Client pays for all Services and Goods.
- 1.1.2. Contractor shall complete the Work and/or provide the Services and Goods as set forth in the Contract Documents. Contractor is responsible for all field measurement and verification unless otherwise specified within the Contract Documents.
- 1.1.3. Contractor has the right to hire Suppliers to provide Services and/or Goods required under this Contract. Client will not hire, supervise, or otherwise take action to complete the Work described in this Contract unless specified in the Contract Documents or if a Change Order is executed prior to the Project Commencement Date.

1.2. CLIENT'S ACCESS & OCCUPANCY

- 1.2.1. By entering this Contract, Client warrants that he or she (1) is the owner of the Project Site or (2) is entitled to legal possession of the Project Site and have the power and authority to enter into a contract and to authorize Contractor to perform Work at the Project Site. If the Client's spouse is an owner of the Project Site then Client represents that he or she is authorized to enter into a contract on behalf of his or her spouse. Both Client and his or her spouse are jointly and severally liable for payment of the Contract Sum.
- 1.2.2. Client warrants that he or she has and agrees to maintain adequate property insurance on the Project Site to protect against loss or damage due to theft, fire, vandalism, and other damages or losses. Such property insurance shall be in place and maintained until final payment for the Project has been provided to the Contractor. If Client does not have adequate property insurance on the Project Site, Client will be responsible for reimbursing Contractor for any loss or damages.
- 1.2.3. Prior to the Project Commencement Date, Client will inform Contractor of any dangerous gases, liquids, or other materials or hazards which Client believes may present a hazard or danger to any person on the Project Site or who will perform Work pursuant to the Contract.
- 1.2.4. The Client hereby represents and warrants that all approvals necessary have been secured for the Contractor's entrance on to the property.
- 1.2.5. Client must give Contractor and Suppliers access to the Project Site at all times during the Contractor Contract Time. Client will not unduly interfere or unreasonably delay the performance of the Work. If Contractor or Suppliers are unable to gain access to the Project Site or carry out Work due to Client's actions or omissions (e.g., heavy items or vehicles in the way, locked entrances to the Project Site), Contractor has the right to terminate the Contract and Client will be liable to pay the full amount of the quoted Estimate. Should Contractor or Suppliers return to the Project Site to resume the Work, Client must pay for all additional costs caused by the delay (e.g., rescheduling fees, tool rental fees, machinery rental fees).

1.3. **CHANGES TO CONTRACT DOCUMENTS** | All modifications or amendments to the Contract Documents shall be evidenced by a written Contract Amendment. No amendment, modification, or change in the Contract or Contract Documents shall be effective unless and until a Contract Amendment has been executed by both Client and Contractor. In the event both Parties cannot agree upon the cost associated with a Contract Amendment, Contractor may elect to cancel the Contract and discontinue Work upon written Notice to Client.

1.4. **CHANGES TO SCOPE OF WORK & CHANGE ORDERS** | All modifications or amendments to the original scope of work (usually outlined in the estimate) shall be mutually agreed upon by both parties verbally or in writing. In the event of an verbal agreement, it is understood that a written confirmation may be requested by either party for documentation purposes (such as Change Order Form). All Client requests to change scope of work (written or oral) will be considered valid and binding once the mutual agreement is reached by both parties. The additional services are billed at time and materials (see paragraph 1.4.1) and added to the original estimated amount.

1.4.1. All modifications or amendments to the original scope of work are charged at time and materials and added to the original estimated amount. Additional work is billed in the following manner: (1) labor costs (charged at the contractor's hourly rate times the number of hours to complete the additional work), (2) material costs necessary to complete the additional work (including contractor's surcharge), (3) reimbursement at the contractor's labor rates for every hour the project is delayed in order to accommodate the Client's request to change scope of work (minimum of 1 labor hour, per laborer) (4) administrative fees (charged at the contractor's hourly administrative rate times number of hours to process the Client's request to change scope of work. A 1-hour minimum is charged per change order/request), (5) any additional expenses/costs incurred as a result of the change order/request for additional services.

1.5. STANDARD OF CARE

- 1.5.1.** To the best of Contractor's ability, Contractor shall complete the Work in a good and workmanlike manner in accordance with the Plans and Specifications, Contract Documents, all applicable laws and regulations, all manufacturer's instructions, and in accordance with industry standards and practices.
- 1.5.2.** Contractor will be mindful of the state in which the Project Site was before Project Commencement. Contractor will, to the best of its ability, reduce the risk for damages (e.g., scratching walls, scuffing floors). If the Contractor believes specific damages are likely to occur or are unavoidable, both Parties must sign and agree to a separate Contract liability waiver.
- 1.5.3.** Contractor shall at all times keep the Project Site free from the unreasonable accumulation of waste materials. Contractor shall leave its Work in a "broom clean" condition and shall perform at least one weekly job cleanup. Cost for cleanup shall be included in the Contract Sum.

1.6. SAFETY & REGULATED MATERIALS

- 1.6.1.** To the best of Contractor's ability, Contractor shall abide by all laws, regulations, and code. Contractor shall install and maintain all necessary or desirable safeguards for safety and protection of Contractor and Client. Contractor shall provide all Notices and comply with all applicable laws and regulations relating to the safety of persons or property.
- 1.6.2.** If Contractor (1) discovers any violation of any laws or regulations relating to human health and safety, wetlands, underground storage tanks, asbestos, or the environment; (2) discovers any unregulated materials on the Project Site; or (3) reasonably believes that any hazardous materials are present on the Project Site that are not otherwise identified in the Contract Documents, Contractor may immediately stop the Work and report the violation or condition to Client. Contractor shall resume Work when the violation has been corrected or the hazardous material or condition has been properly removed or remediated.
 - 1.6.2.1.** Contractor shall indemnify and hold harmless Client for any safety violations committed by Contractor. Contractor shall be responsible for any fines, penalties, or citations levied against Client as a result of Contractor's safety violations. If the violation was caused by Contractor, or if the hazardous materials were used, generated, stored, released, disposed of, or otherwise introduced to the Project Site by Contractor, then such violation of use shall be corrected, or such hazardous materials shall be removed or remediated at the cost of the Contractor.
 - 1.6.2.2.** Contractor is not responsible for any safety violations, unsafe conditions, or hazards created by or caused by Client. Unexpected conditions or occurrences (i.e., force majeure) will be handled on a case-by-case basis and any Work done to correct unexpected conditions or occurrences will be factored into the Contract Sum. If the violation was caused by Client or another third party, or if the hazardous materials were used, generated, stored, released, disposed of, or otherwise introduced to the Project Site by Client or another third party, then the responsible party shall pay the cost of remediating or cleaning up the hazardous material and the Contractor Contract Time shall be equitably extended.
- 1.6.3.** Contractor will take preventative measures to limit the spread and impact of Covid-19 by requiring its employees working on the Project Site to (1) clean hands with soap or alcohol-based hand sanitizer when soap and water are not available; (2) wear a face covering upon Client's request; and (3) stay home when exhibiting symptoms of COVID-19.

1.7. NON-SOLICITATION CLAUSE

- 1.7.1.** During the term of the agreement and for a period of one year thereafter, the Client agrees not to directly or indirectly solicit, induce, or encourage any employee, contractor, or agent ("Personnel") of the Contractor to provide services outside the scope of this agreement or engage in any employment, consulting, or independent contracting relationship with the Client or any affiliated entity of the Client without the prior written consent of the Contractor. Furthermore, the Client agrees not to engage in any activity that could reasonably be construed as an attempt to circumvent this provision, including but not limited to offering or discussing employment opportunities, projects, or services directly with the Contractor's Personnel.
- 1.7.2.** Any breach of this provision shall entitle the Contractor to seek injunctive relief, as well as any other remedies available at law or in equity, without prejudice to any other rights or remedies available under this agreement or otherwise. If the Client breaches this provision, the Contractor has the right to terminate the Contract and Client will be liable to pay the full amount of the quoted Estimate.

1.8. SEPTIC SERVICES

- 1.8.1. SEPTIC INSPECTIONS** | A septic inspection is a necessary procedure to determine if the septic system is working properly. In general, a septic tank should be inspected every 1 to 3 years or on an as-needed basis. Most septic inspections are done in a non-invasive manner, which means that the inspector does not need to dig up the septic tank and system parts in order to determine that it is working properly. Although septic inspections will vary from property to property, there are a few steps performed in most inspections such as percolation tests, visual inspection of the tank and pipes, measuring liquid levels, assessing the need for maintenance or immediate repair, and evaluating the overall health of the system.
- 1.8.1.1.** Septic inspections will be performed in compliance with Nebraska laws and regulations.
- 1.8.1.2.** The Contractor will provide the results of the inspection through either a verbal report, a written report, or both. The report will include the overall health of the septic system and any recommendations for maintenance or repair. It is up to the Client on how to proceed with the information provided by the inspector and use their personal judgment to determine the course of action.
- 1.8.1.3.** The Contractor agrees to perform a limited visual inspection of the structure at the Project Site and to provide Client with an opinion as to the apparent general condition of the structure's components and systems, including identification of significant observable deficiencies as they exist at the time of the inspection.
- 1.8.1.4.** Client understands and agrees that the inspection only includes those systems and components expressly and specifically identified in the inspection report. Any area which is not exposed to view, is concealed, is inaccessible because of soil, walls, floors, carpets, ceilings, furnishings or any other thing, or those areas/items. The inspection does not include any destructive testing or dismantling. In addition to the other exclusions as provided in this Agreement, Client agrees to assume all risk for all conditions which are concealed from view at the time of the inspection or exist in any area excluded from inspection.
- 1.8.1.5.** The Client understands that the inspection and inspection report are performed and prepared for Client's sole, confidential and exclusive use. Client recognizes and agrees that any third party has no right or obligation to rely upon the services performed by the Contractor pursuant to this Agreement.
- 1.8.1.6. DISCLAIMER OF WARRANTIES** | Client understands that the inspection and the inspection report do not in any way, constitute a/an: (1) guarantee, (2) warranty of merchantability or fitness for a particular purpose, (3) express or implied warranty, or for insurance policy. Additionally, neither the inspection nor the inspection report are suitable for any real estate disclosures, which may be required by law.

- 1.8.1.7. It is agreed that the Contractor is not in any way an insurer of the property inspected. The Contractor does not assume responsibility for: (1) any loss occasioned by malfeasance or misfeasance in the performance of the services, or (2) any loss or damage sustained through burglary, theft, robbery, fire or other cause.
- 1.8.1.8. If there shall, notwithstanding the above provision, at any time be, or arise, any liability on the part of the Contractor, whether due to the negligence, omission, breach of contract, misrepresentation of the Contractor or otherwise, such liability is, and shall be limited to, a sum equal to the price charged for the inspection service, which sum shall be paid and received as liquidated damages. Client agrees that such liquidated damages are fixed and is agreed to by the parties as a reasonable estimate of the damages that Client can suffer. Such liability is herein set forth as liquidated damages and not as a penalty, and this liability shall be complete and exclusive.

2. LICENSING, INSURANCE, & PERMITS

- 2.1. Contractor has and will maintain a Nebraska Contractor's License and Nebraska Business License. Contractor has and will maintain reasonable liability insurance, automotive insurance, and worker's compensation insurance.
- 2.2. At Client's expense and to the best of Contractor's ability, Contractor shall apply for and obtain all necessary permits, approvals, inspections, connection or tap-in fees, consents, and certificates required for the execution of Work.

3. CONTRACT TIME

- 3.1. **COMMENCEMENT** | Contractor shall complete the Work on or before the Scheduled Completion Date unless extended by a Change Order. For Work that involves phasing, Contractor shall commence Work on each new phase or portion of Work on the date(s) set forth in the Schedule.
- 3.2. **DELIVERIES** | Shipments or deliveries shall be made at the time and in the manner specified in this Agreement. Time is of the essence.
- 3.3. **REVISIONS TO SCHEDULE** | If Client alters the Scheduled Commencement Date or Project Commencement Date, revisions shall be evidenced by a written Change Order. Rescheduling is based on current availability and additional fees may be required to reschedule. Client must pay (1) ten percent (10%) of the Project's Estimated cost or (2) two hundred and fifty dollars (\$250) a day for Contracts without a Project Estimate (i.e., if Client pays Hourly Labor Rates). If Client reschedules the Project, any Agreement regarding timing or due dates are to be null and void.
- 3.4. **EXTENSIONS OF TIME** | Any extension to the Contractor Contract Time shall be evidenced by a written Change Order. The Contractor Contract Time shall be equitably extended if Contractor is not able to perform any Work on the Project as a result of events Contractor could not reasonably anticipate or control, which include but are not limited to: (1) adverse weather that is different from normal weather; (2) vandalism; (3) force majeure and/or acts of God; (4) labor disputes or strikes of general applicability not only against Contractor; (5) unavailability of materials due to shortages or supply chain issues; (6) civil disturbances; (7) pandemics; (8) direct health measures that impose restrictions on Contractor's ability to work; (9) Contractor's inability to access or perform Work on the Project due to Client instruction or requirement; (10) conditions of the Project Site that were unforeseen or hidden at the time the Contract was signed; and (11) other circumstances that are beyond Contractor's reasonable control (including but not limited to mold, termites, structural damage, product recall, or building code violations). In the event of any unforeseen complications, Contractor will cease Work on the Project and present Client with a Change Order listing any additionally required Works, Services, or Goods.

4. PAYMENTS

- 4.1. **CONTRACT SUM** | Client shall pay Contractor the Contract Sum for all Works, Services, and/or Goods required to complete the Project. Client agrees to pay Contractor the full Contract Sum no later than fourteen days after the Final Project Completion. If such Contract Sum is not paid in full within fourteen days, additional fees will be applied as outlined in section 4.3. and 4.4. Herein.
- 4.1.1. **PAYMENT TERMS** | Client shall pay Contractor the Contract Sum in the following manner:
- **Deposit payment:** 15% of Contract Sum is due at project acceptance.
 - **First Progress payment:** 25% of Contract Sum is due at project commencement.
 - **Second Progress payment:** 50% of Contract Sum is due at 50% project completion.
 - **Completion payment:** 10% of Contract Sum is due within 14 days of project completion.
- 4.2. **PROCESSING FEES** | Client agrees to pay for the following fees and expenses: (1) Contract modifications; (2) code upgrades; (3) permits and permit processing fees; (4) inspection fees; (5) warranty processing fees; (6) handling fees; (7) installation fees; (8) shipping fees; and (9) pick-up and delivery fees required by Contractor. If Client's form of payment is returned, bounces, or is insufficient, Client is responsible for all processing fees, deposit return fees, and/or any other fees assessed against the Contractor.
- 4.3. **ADMINISTRATIVE FEES** | Client is responsible for paying all administrative fees, which include but are not limited to office administration, costs for Project preparation, Project supervision, and off-site communications.
- 4.4. **LATE FEES** | If the full Contract Sum is not paid fourteen days after the Final Project Completion, Client must pay (1) an automatic thirty-five dollar (\$35) late fee and (2) monthly compounding interest on the Contract Sum calculated at one and one-third percent (1.33%) every thirty days until the Contract Sum is paid in full. If the Contract Sum is not paid in full within thirty days after Final Project Completion, the balance owed will be either (1) forwarded to collections or (2) reinforced in the form of a lien recorded against the Project Site.
- 4.5. **LEGAL FEES** | If invoice disputes persist over time, or if Client fails to pay the full Contract Sum when due, Client is responsible for paying for any materials and/or professional fees associated with, but not limited to design changes, Change Orders, collections, liens, and any and all time involved with meetings associated with the Project.
- 4.6. **CANCELLATION FEES** | Client acknowledges and agrees that Contractor will be foregoing work on other lucrative projects based on the expectation that Contractor will begin Work on Client's Project prior to the Contactor Commencement Date. If Client terminates the Contract within 1 week of the Contractor Commencement Date, Contractor is entitled to an early termination fee in the amount of the Down-Payment. The purpose of the early termination fees are to compensate Contractor for its lost and expended time and its expectation of profit or future damages (including any and all direct and consequential damages) resulting from Client's early termination. Client acknowledges that this early termination fee is in addition to Contractor's costs and expenses for Work previously performed or Goods previously purchased by Contractor prior to such cancellation.

If Client terminates the Contract, Client remains responsible for paying for any Work completed or Services and/or Goods provided before termination, any additional fees to compensate Contractor for the time reserved for the Scheduled Commencement Date, any related administrative or professional fees, and a cancellation charge of either (1) fifteen percent (15%) of the quoted Estimate if the cancellation is made less than fourteen days prior to the Scheduled Commencement Date; (2) twenty-five percent (25%) of the Estimate if the cancellation is made less than seven days prior to the Scheduled Commencement Date; or (3) fifty percent (50%) of the Estimate if the cancellation is made less than two days prior to the Scheduled Commencement Date.

5. LIABILITY

- 5.1. Contractor is not responsible for moving the Client's property in or around the Project Site. If moving Client's property is necessary for the Project to continue and Contractor elects to move said Client's property, Contractor is not responsible for damages to Client's property or to the Project Site unless otherwise previously agreed in a written Contract liability waiver. Contractor's movement of Client's property in or around the Project Site may also cause delays to the Schedule and Client agrees to extend the Schedule and pay additional charges and/or fees necessary to compensate Contractor for lost time and associated administrative fees.
- 5.2. Contractor is not responsible for events outside of its control, including but not limited to: (1) adverse weather that is different from normal weather; (2) vandalism; (3) force majeure and/or acts of God; (4) labor disputes or strikes of general applicability not only against the Contractor; (5) unavailability of materials due to shortages or supply chain issues; (6) civil disturbances; (7) pandemics; (8) direct health measures that impose restrictions on Contractor's ability to work; (9) Contractor's inability to access or perform Work on the Project due to Client instruction or requirement; (10) conditions of the Project Site that were unforeseen or hidden at the time the Contract was signed; and (11) other circumstances that are beyond Contractor's reasonable control. Client understands that any unforeseen complications or events outside Contractor's control may increase the Contract Sum. Client agrees to sign a Change Order and compensate Contractor for any reasonable changes to the Work.

6. LIMITED WARRANTY

- 6.1. To the best of Contractor's ability, Contractor warrants to Client that the Work has been completed in a good and workmanlike manner and substantially in accordance with all applicable building codes, zoning ordinances, and Contract Documents, as modified by any Change Orders. Contractor provides labor warranties for up to one year after the Final Completion Date. The labor warranty only becomes effective when the Contract Sum is paid in full and received by Contractor by the Invoice due date. Under the labor warranty, Contractor will repair, free of charge, defects in workmanship for Work performed under this Agreement. This labor warranty takes the place of all other warranties express or implied, including but not limited to any warranties of: (1) merchantability; (2) fitness for a particular purpose; (3) habitability; (4) good or timely workmanship; (5) usage of trade; and (6) course of dealing; all of which are hereby waived by Client. This limited labor warranty is the only express warranty provided by the Contractor.
- 6.2. Labor warranties do not apply to materials warranted by the manufacturer, materials supplied by Client or other third party, or Client's material selections relative to color, type, texture, and style. Contractor is not responsible for material defects caused by work or events outside of Contractor's control. The labor warranty is void if Client or any third party in any way modifies the Work performed by Contractor. Contractor is not responsible for costs of repairs or rework incurred by Client or completed by other contractors or assistants unless said costs of repairs or rework is authorized by Contractor in writing.
- 6.3. Client shall give Contractor written Notice of claimed defects within one year after the Final Completion Date. Contractor shall have sixty days to assess the defect and either (1) offer in writing to repair the defect; (2) offer in writing a cash settlement in lieu of repair or replacement; or (3) dispute the claim. Client shall give Contractor reasonable access to the Project Site during normal business hours to inspect and/or repair the defect. Client shall have thirty days after the receipt of Contractor's response to respond in writing to the Contractor. Labor warranty repairs do not extend the original warranty period.

7. TERMINATION RIGHTS

- 7.1. Termination of the Contract must be provided according to Section 9 herein. Upon termination of the Contract, Client will be obligated to pay for (1) any Goods provided or purchased and delivered to the Project Site before any conditions, problems, or damages were discovered; (2) the number of labor-hours at the standard Hourly Labor Rate of Work or Services provided before any conditions, problems, or damages were discovered; and (3) any additional administrative fees or professional fees necessary to accommodate the termination.

7.2. Contractor may terminate the Contract if: (1) Client breaches the Contract Documents in any way; (2) Client refuses to pay the Contract Sum or any portion of the Contract Sum; (3) Client fails to respond to Contractor communication in a timely manner; (4) Client restricts Contractor's access to the Project Site; (5) Client requires deviations from the Contract without a written Contract Amendment or Change Order; (6) there are health or safety concerns with the Project Site; (7) Client or anyone acquainted to Client has been or is being disruptive, disrespectful, or belligerent to Contractor or Suppliers; (8) Client or anyone acquainted to Client is not properly dressed upon Contractor's or Supplier's arrival to the Project Site; (9) Client is intoxicated or under the influence of illegal drugs or illegal drugs are present when Contractor or Suppliers are on the Project Site; (10) Client's pet(s) act in an aggressive manner towards Contractor or Suppliers or cause a disruption during the time of Service; (11) Contractor or Suppliers feel threatened in any way; (12) Client or anyone acquainted to Client impedes on Contractor's or Supplier's ability to complete the Work; or (13) Contractor encounters any unexpected, latent, or hidden pre-existing condition(s), problem(s), or damage(s) to the Project Site that materially or substantially change the nature of the Work, Services, or Goods required for the Project.

7.3. Client may terminate the Contract if: (1) Contractor does not remedy defective Work; (2) Contractor fails to provide sufficient manpower to complete the Project in a timely manner; (3) Contractor fails to meet any Completion Dates; (4) Contractor abandons the Project or ceases to do business for any reason whatsoever; or (5) Contractor dissolves or is liquidated.

8. **CLAIMS & DISPUTES** | In the event both Parties do not resolve a dispute, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction in Lincoln, Lancaster County, Nebraska.

9. **NOTICE** | All notices or other documents required or permitted to be delivered under the Contract Documents shall be given by hand delivery, by Certified USPS Mail, Return Receipt Requested, Federal Express, or by UPS to the authorized individual.

10. **GENERAL PROVISIONS**

10.1. **SEVERABILITY** | If any portion of the Contract Documents are deemed invalid or unenforceable, such holding shall not affect the remainder of the Contract or the other Contract Documents, and the remainder of the Contract and all other Contract Documents shall remain in full force or effect.

10.2. **ASSIGNMENT** | Neither Contractor nor Client can assign any Contract Document or any interest therein without the prior written consent of the other Party.

10.3. **BINDING EFFECT** | This Agreement shall be binding upon the parties hereto and their respective heirs, personal and legal representatives, successors, and assigns. Each Party represents and warrants that this Agreement is the legal, valid, and binding obligation of that party, enforceable against that party in accordance with its terms.

10.4. **GOVERNING LAW** | The Contract Documents shall be governed by and construed in accordance with Nebraska law.

10.5. **AMENDMENT** | Acceptance of this Agreement shall supersede all previous agreements. Both Parties agree that the Contract Documents set forth their entire Agreement and there are no promises or understandings other than those stated therein. Acceptance of this Agreement is expressly limited to the terms therein. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both Parties. Notwithstanding the foregoing, any modifications or Contract Amendments or Change Orders attached to this Agreement shall be part of the Agreement.

10.6. **COUNTERPARTS** | This Agreement may be executed in one or more counterparts, each of which may be deemed to be an original, but all of which shall constitute but one and the same document.

10.7. **ESSENCE OF TIME** | Time is of the essence in the performance of all agreements and obligations hereunder.

10.8. WAIVER | No waiver by either Party of any breach of any of the covenants or conditions herein contained, performed by the other Party shall be construed as a waiver of any succeeding breach of the same or of any other covenant or condition.

11. ACCEPTANCE OF TERMS

By approving the Contractor's Estimate (electronically or verbally), by signing a copy of this Contract, or by utilizing the Contractor's services, the Client hereby agrees to be bound by the terms and conditions set forth herein. If the Client does not agree with any part of these terms and conditions, the Client may decline the Contractor's Estimate or services.