

**UNIVERSITY OF NEBRASKA  
MASTER AGREEMENT**

This Master Agreement sets forth the terms between The Board of Regents of the University of Nebraska, a public body corporate and governing body of the University of Nebraska having an address at 3835 Holdrege Street, Lincoln, NE 68583 (the "University") and HotelEngine, Inc., having an address at 950 S. Cherry Street, Suite 1000, Denver, Colorado 80246 (the "Service Provider") with regard to the performance by Service Provider of the services contemplated herein.

RECITALS

WHEREAS, the University desires to obtain the services of the Service Provider; and

WHEREAS, the Service Provider possesses the expertise and experience to provide such services for the University;

THEREFORE, the University and the Service Provider hereby agree to the following terms, obligations and conditions:

**1. Description of Services.** The Service Provider agrees to perform such services, with the standard of professional care and skill customarily provided in the performance of such services, and shall use its best efforts to render the Services and provide the deliverables identified in (Exhibit A) (the "Services"), which is the Service Provider's response to RFP 3594-22-9012 submitted on May 13, 2022. The Service Provider agrees to perform the Services to the satisfaction of the University during the term of this Agreement. The attachments, appendices, addendums, any exhibits and schedules, including but not limited to (Exhibit A),

University of Nebraska-Lincoln RFP# (3594-22-9012 and Lodging Services and Booking Tool) (the "RFP"), and (HotelEngine, Inc.) response dated (May 13, 2022), hereto are an integral part of this Agreement and are deemed incorporated by reference herein.

**2. Pricing.** All pricing contained in the Service Provider's response to the RFP will remain firm for a period of (twelve (12) months) from the effective date of this Agreement. The University acknowledges that due to the nature of the Services, pricing on hotel rooms is subject to market factors outside of the control of Service Provider.

**3. Payment.** In full consideration for the Services performed by the Service Provider under this Agreement, the University shall pay or cause to be paid to the Service Provider the total fee and any incidentals pursuant to the schedule identified in attached documents, including but not limited to quotes and order forms, to this Agreement, attached hereto and incorporated by reference herein, and upon submission of an invoice to University by the Service Provider. Any additional incidental or reimbursable expenses not described in Exhibit A must be agreed to in writing by an authorized University representative. Along with its invoice, the Service Provider shall submit adequate receipts and documentation as requested by the

University to support reimbursement of all previously agreed upon incidental or reimbursable expenses. Service Provider is expected to comply with applicable policies and procedures, including but not limited to those stated within the University of Nebraska Travel Policy (accessible at <https://nebraska.edu/-/media/unca/docs/offices-and-policies/policies/policies/university-of-nebraska-travel-policy.pdf>). The University, in its sole discretion, may decline to reimburse incidental or reimbursable expenses that fail to comply with applicable policies and procedures. All payments due to Service Provider shall be made on a net 30 day basis. The Service Provider agrees that it is solely responsible for payment of income, social security, and other employment taxes due to the proper taxing authorities, and that the University will not deduct such taxes from any payments to the Service Provider hereunder, unless required by law.

The University agrees to provide Service Provider with all documentation reasonably requested which evidences that any purchase made by the University hereunder is exempt from sales, lodging and other such taxes.

**4. Term.** The term of this agreement shall begin on December 4, 2023 and remain in place for (three (3) year(s) (36 months)). The initial term of this agreement will expire on December 3, 2026. The contract may be renewed, by mutual agreement of both parties, in writing for (two (2) additional one (1) year periods) upon completion of the initial base contract period, provided written mutual concurrence of both parties is exercised in writing prior to the expiration of the existing contract. (The length of the contract in its entirety will not exceed five (5) years.) The University reserves the right to contract certain work as needed to provide emergency or timely services, introduction of new technology

and/or as a result of general market conditions. Notwithstanding the foregoing, in the event that any hotel bookings are made which have a check out date of after the termination of this Agreement, this Agreement shall remain in effect until all such bookings have been fully checked out.

**5. Confidentiality.** "Confidential Information" shall mean any materials, written information, and data marked "Confidential" by the University or non-written information and data disclosed by the University that is identified at the time of disclosure to the Service Provider as confidential and is reduced to writing and transmitted to the Service Provider within thirty (30) days of such non-written disclosure. The Service Provider agrees to use the same degree of care it uses to protect its own confidential information and, to the extent permitted by law, to maintain the Confidential Information in strict confidence for a period of three (3) years from the date of termination of this Agreement. The obligations of this paragraph do not apply to information in the public domain or information that is independently known, obtained or discovered by the Service Provider, or that is hereafter supplied to the Service Provider by a third party without restriction.

**6. Ownership of Work Product and Intellectual Property Rights.** The Service Provider shall have no interest in the deliverables provided under this Agreement, and the University shall be the sole owner of all such deliverables, including all works authored, produced, developed or reduced to practice by the Service Provider during its' performance of the Services (the "Work Product"). Furthermore, the University shall be the sole owner of any and all intellectual property rights, including without limitation, all patent, copyright, trademark and trade secrets rights in and to the Work Product. The University shall have the right to secure appropriate registration and protection for any and all intellectual property rights in and to the Work Product. Accordingly, the Service Provider hereby expressly assigns all right, title and interest in and to the Work Product, including any and all patent, copyright, trademark and/or trade secret rights thereto, to the University, and agrees to execute all documents required to evidence such assignment. Without limiting the foregoing, the Service Provider hereby grants to the University the sole and exclusive right throughout the world, in all languages, and in perpetuity, to use the Work Product pursuant to this Agreement. The Service Provider also hereby waives any and all claims it may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of "droit moral" with respect to the use, results and/or proceeds of the Service Provider's Services and Work Product. This provision shall survive the termination of this Agreement.

Notwithstanding the foregoing, the University acknowledges that Service Provider shall use its own

proprietary software to manage and book travel on behalf of the University (the "Service Provider IP"). Accordingly, the Work Product contemplated above shall not include any portion of the Service Provider IP. Nothing in this Agreement is meant to convey any right, interest or title in the Service Provider IP. Further, Service Provider shall be entitled to retain copies of booking data for its own internal record keeping purposes.

**7. Termination.** In the event that either party commits a material breach of this Agreement and fails to remedy or cure such breach within thirty (30) days after receipt of written notice thereof from the non-breaching party, the non-breaching party may, at its option and in addition to any other remedies which it may have at law or in equity, terminate this Agreement by sending written notice of termination to the other party. Such termination shall be effective as of the date of its receipt. Additionally, either party may terminate this Agreement for its convenience upon sixty (60) days prior written notice to the other party. Upon any termination, the University shall promptly pay the Service Provider for all Services rendered and costs incurred up to and including the effective date of termination. Notwithstanding the foregoing, in the event of termination, Service Provider shall use commercially reasonable efforts to cancel any hotel booking with a check out date after the effective date of termination without penalty. However, there may be fees associated with the cancellation of such bookings which are out of the control of Service Provider. In such an instance, Service Provider shall invoice the University for such charges, if any.

**8. Representations and Warranties.** The Service Provider represents and warrants that in performing the Services it will not be in breach of any agreement with a third party. The Service Provider also represents and warrants that no third party has any rights in, to, or arising out of, the Work Product rendered pursuant to the performance of the Services. The Service Provider agrees to hold University and its respective assigns and licensees harmless from any loss, damage or expense, including court costs and reasonable attorneys' fees, that University and its assigns and licensees may suffer as a result of a breach or alleged breach of the foregoing warranties or as a result of claims or actions of any kind or nature resulting from the provision of the Services or any use of the Work Product. Provided, however, the University acknowledges that Service Provider is not the owner or manager of any hotel property which may be booked under this Agreement. As such, the foregoing indemnification obligations shall not apply to damages associated with the use of the Services which are outside the control of Service Provider.

Each party warrants and represents that it has full power and authority to enter into and perform this

Agreement, and that the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

**9. Independent Service Provider.** The Service Provider is an independent Service Provider and is solely responsible for maintenance and payment of any and all taxes, insurances and the like that may be required by federal, state or local law with respect to any sums paid hereunder. The Service Provider is not the University's agent or representative and has no authority to bind or commit the University to any agreements or other obligations.

**10. Liability.** Service Provider agrees to indemnify and hold the University, its regents, officers, employees, agents and students, harmless from any loss, claim, damage or liability of any kind arising out of or in connection with the negligent performance of the Services by the Service Provider.

**11. Insurance.** The Service Provider shall at its own expense obtain and maintain throughout the term of this Agreement general commercial liability insurance against claims for bodily injury, death and property damage with limits of not less than one million dollars (\$1,000,000) per occurrence, and three million dollars (\$3,000,000) general aggregate, naming The Board of Regents of the University of Nebraska as an additional insured, to cover such liability caused by, or arising out of, activities of the Service Provider and its agents and/or employees while engaged in or preparing for the provision of the Services. The Service Provider shall furnish to the University certificates of insurance evidencing that such insurance has been procured prior to commencement of such work.

**12. Assignment.** This Agreement is non-assignable and non-transferrable. Any attempt by either party to assign its obligations hereunder shall be void.

**13. Amendment.** This Agreement constitutes the entire understanding between the Service Provider and the University with respect to the subject matter hereof and may not be amended except by an agreement signed by the Service Provider and an authorized representative of the University.

**14. Governing Law and Forum.** This Agreement shall be governed by the laws of the State of Nebraska without giving effect to its conflicts of laws provisions. Any legal actions brought by either party hereunder shall be in the District Court of Lancaster County, Nebraska.

**15. Conflict of Interest.** No article or service shall be purchased from any University faculty or staff member without prior approval by the Vice Chancellor of Business and Finance and any such approved

purchase shall comply fully with the requirements of the conflict of interest provisions of the Nebraska Political Accountability and Disclosure Act, Neb. Rev. Stat., §§ 49-1493 through 49-14,104.

Service Provider certifies, to the best of its knowledge and belief, that there are no potential organizational conflicts of interest related to this Agreement. If Service Provider cannot so certify, it shall provide a disclosure statement to the University, which describes all relevant information concerning any potential conflict of interest under this Agreement. In the event the potential conflict of interest cannot be resolved, the University may declare this Agreement void and of no further force or effect and the University shall have no further obligations hereunder.

**16. Personal Use Prohibited.** University funds shall not be expended for articles or services which are for the personal use of staff or faculty members.

**17. Work Status Verification.** The Service Provider and its subcontractors shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska pursuant to Neb. Rev. Stat. §§ 4-108 to 4-114 as amended.

**18. Debarment List.** No contract shall be awarded to any Service Provider/Bidder listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension," (the "Debarment List"). For contracts which in the aggregate exceed \$25,000, Service Provider/Bidder specifically warrants and represents that it is not included on the Debarment List. Service Provider/Bidder further agrees that should it be included on the Debarment List at the time the contract/proposal is awarded, or at any time during which it performs its contractual obligations pursuant to the contract, such listing shall be considered a material breach of the contract between the University and the Service Provider.

**19. Change Proposals.** Material changes in scope, rush delivery, rework of items already approved or requests for additional revision cycles, services and/or deliverables beyond those listed herein hereafter known as change orders, shall not be effective until authorized representatives of both Parties execute a mutually acceptable written change order to this Agreement. Any fees arising from change orders, additional services, or deliverables not reflected herein will be invoiced upon completion. Change orders agreed to by email shall be valid and enforceable as if made part of this Agreement.

**20. Taxpayer Transparency Act.** Pursuant to Nebraska's Taxpayer Transparency Act (Neb. Rev.

Stat. §84-602.01, as may be amended), as of July 1, 2014, the University of Nebraska is required to provide the Nebraska Department of Administrative Services with a copy of each contract that is a basis for an expenditure of state funds, including any documents incorporated by reference in the contract. Copies of all such contracts and documents are published by the Nebraska Department of Administrative Services at [www.nebraskaspending.gov](http://www.nebraskaspending.gov). It shall be the sole responsibility of the Service Provider to notify the University of any redactions to such contracts and documents under Neb. Rev. Stat. 84-712.05(3) prior to contract execution.

**21. Equal Opportunity.** This Service Provider and subcontractors shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered Service Providers and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

**22. Nondiscrimination.** In accordance with the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §48-1122, Service Provider agrees that neither it nor any of its subcontractors shall discriminate against any employee, or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions or privilege of employment because of the race, color, religion, sex, disability, or national origin of the employee or applicant.

**23. Logos or University Marks.** The Service Provider shall not use or display any University campus name, logo, trademark, servicemark (individually a "Mark" and collectively the "Marks") and/or other indicia designated by the University as a source identifier, unless expressly authorized in writing by the University. Any unauthorized use of University Marks is expressly prohibited.

**24. Right to Audit Privilege.** Upon no less than sixty (60) days prior written notice to Service Provider, the University reserves the right, at its sole expense, to audit or inspect work performed by the Service Provider under this Agreement. The University may participate directly or through an appointed representative, e.g. external auditor, in order to verify that the Services related to this agreement have been performed in accordance to the procedures indicated.

**25. Continuation of Services.** Service Provider agrees to continue to honor its ongoing obligations under this Agreement without interruption in the event of a bona fide dispute concerning payment or a dispute concerning any provision of this Agreement which may include time spent negotiating renewals.

**26. Purchase Order Requirement.** A Purchase Order shall be issued by the University to the Service Provider for payment in accordance with the terms of this Agreement. All invoice(s) submitted by the Service Provider shall make reference to the appropriate Purchase Order number to be eligible for payment.

**27. Compliance.** Service Provider will comply with all applicable laws, rules, regulations, ordinances and University policies in providing the Services.

**28. Incorporation and Priority of Documents.** Any document that is ancillary to this Agreement (including without limitation any solicitation, purchase order, addendum, exhibit, appendix, bid, proposal, quotation, or statement of work) ("Ancillary Document") constitutes part of this Agreement if: (a) attached to the Agreement at execution thereof or (b) signed by an authorized signatory from each party at or subsequent to execution of the Agreement.

Notwithstanding any provision to the contrary in any of the following documents, precedence is established by the order of the following documents: (1) duly executed amendments to this Agreement (to the extent not superseded by a subsequent amendment); (2) this Agreement and any Ancillary Document issued by University and incorporated by reference into this Agreement; and (3) any Ancillary Document not issued by University and incorporated by reference into this Agreement. In the event of conflicting or inconsistent provisions between any of the foregoing documents, a document identified with a lower numerical value in this section shall supersede a document identified with a higher numerical value in this section to the extent necessary to resolve any such conflict or inconsistency. In the event an issue is addressed in one of the foregoing documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur. Where terms and conditions specified in Service Provider's bid, proposal, or quotation differ from the terms and conditions in University's solicitation, the terms and conditions in the solicitation shall apply. Where terms and conditions specified in Service Provider's bid, proposal, or quotation supplement the terms and conditions in University's solicitation, the supplemental terms and conditions shall apply only if specifically accepted by University in writing.

**Notice.** Any notice to either party hereunder, shall be in writing and shall be served either personally or by registered or certified mail addressed to the following individuals:

**To the Service Provider:**

Name: Hotel Engine

Address: 950 S. Cherry St. Suite 1000

City, State, Zip: Denver, CO 80246

Email: txam@hotelengine.com

Phone: 720.370.3498

**To the University:**

Name: *Procure to Pay*

Address: University of Nebraska-Lincoln  
Procurement Services  
1700 Y Street

City, State, Zip: Lincoln, NE 68588-0645

Email: [contracts@nebraska.edu](mailto:contracts@nebraska.edu)

**Hotel Engine**

**The Board of Regents of the University of Nebraska:**

By: Harrison Doyle

By: Chris Kabourek

Printed Name: Harrison Doyle

Printed Name: Chris Kabourek

Title: VP of Finance

Title: Senior VP | CFO

**Exhibit A**

**Service Provider Response to RFP 3594-22-9012 Submitted on May 13, 2022 and Pricing Addendum**