



**AGREEMENT BETWEEN  
TENNESSEE TECHNOLOGICAL UNIVERSITY  
AND**

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**THIS AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between **TENNESSEE TECHNOLOGICAL UNIVERSITY**, hereinafter referred to as "University," and \_\_\_\_\_ hereinafter referred to as "Contractor."

**Contractor Information:**

Address:

City, State, Zip:

Federal ID Number (if company):

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**WITNESSETH:**

In consideration of the mutual promises herein contained, the parties have agreed and do hereby enter into this Agreement according to the provisions set out herein:

**A.** The Contractor agrees to perform the following services:

**B.** The University agrees to compensate the Contractor as follows:

1.

2.

3. Payments to the Contractor shall be made according to this schedule set out above, provided that payments shall be made only upon submittal of invoices by the Contractor and after performance of the portion of the services which the invoiced amount represents. The final payment shall be made only after the Contractor has completely performed its duties under this Agreement.

If the Contractor is a non-resident alien, payment of any portion of the contract from any source will not be made by the University until an Individual Taxpayer Identification Number or Social Security Number has been assigned to the Contractor by

the Internal Revenue Service and Immigration Naturalization Service and presented to the University.

4. In no event shall the liability of the University under this Agreement exceed \$ \_\_\_\_\_.

**C.** The parties further agree that the following shall be essential terms and conditions of this Agreement.

1. The Contractor warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Agreement. If the Contractor is an individual, the Contractor warrants that within the past six (6) months, he/she has not been and during the term of the Agreement will not become an employee of the State of Tennessee.

2. The parties agree to comply with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order, 11,246, the Americans with Disabilities Act of 1990 and the related regulations to each. Each party assures that it will not discriminate against any individual including, but not limited to, employees or applicants for employment and/or students because of race, religion, creed, color, sex, age, disability, veteran status or national origin.

The parties also agree to take affirmative action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, religion, creed color sex, age, disability, veteran status, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection available to employees and applicants for employment.

3. The Contractor agrees to complete a TBR Annual Title VI Survey or cooperate with a TBR Title VI compliance audit if it received federal funds under this Agreement.

4. The Contractor, being an independent contractor and not an employee of the University, agrees to carry adequate public liability and other appropriate forms of insurance, to pay all taxes incident hereto, and otherwise protect and hold harmless the University from any and all liability not specifically provided for in this Agreement.

5. The term of this contract shall be from date of final execution to \_\_\_\_\_. Thereafter the contract \_\_\_\_\_ be renewed for additional contract term(s), not to exceed a total contract term of sixty (60) months.

6. This Agreement may be terminated by either party by giving written notice to the other at least \_\_\_\_\_ days before the effective date of termination. In that event, the Contractor shall be entitled to receive just and equitable compensation from any satisfactory authorized work completed as of the termination date.

7. If the Contractor fails to fulfill in timely and proper manner the Contractor's obligations under this Agreement, or if the Contractor shall violate any of the terms of this Agreement, the University shall have the right to immediately terminate this Agreement and withhold payments in excess of fair compensation for work completed.

Notwithstanding the above, the Contractor shall not be relieved of liability to the University for damages sustained by virtue of any breach of this Agreement by the Contractor.

8. This Agreement may be modified only by written amendment executed by all parties hereto.

9. The Contractor shall maintain documentation for all charges against the University under this Agreement. The books, records and documents of the Contractor, insofar as they relate to work performed or money received under this Agreement, shall be maintained for a period of three (3) full years from the date of the final payment, and shall be subject to audit, at any reasonable time and upon reasonable notice, by the University or the Comptroller of the Treasury or their duly appointed representatives.

10. The Contractor shall not assign this Agreement or enter into subcontracts for any of the work described herein without obtaining the prior written approval of the University or Tennessee Board of Regents, as appropriate. Approval shall not be given if the proposed subcontractor was or is currently ineligible to bid on the contract.

11. Prohibition on Hiring Illegal Immigrants. Tennessee Public Chapter No. 878 of 2006, T.C.A. 12-4-124, requires that Contractor attest in writing that Contractor will not knowingly utilize the services of illegal immigrants in the performance of this Contract and will not knowingly utilize the services of any subcontractor, if permitted under this Contract, who will utilize the

services of illegal immigrants in the performance of this Contract. The attestation shall be made on the form, Attestation re Personnel Used in Contract Performance (“the Attestation”), which is attached and hereby incorporated by this reference.

If Contractor is discovered to have breached the Attestation, the Commissioner of Finance and Administration shall declare that the Contractor shall be prohibited from contracting or submitting a bid to any Tennessee Board of Regents institution or any other state entity for a period of one (1) year from the date of discovery of the breach. Contractor may appeal the one (1) year by utilizing an appeals process in the Rules of Finance and Administration, 0620.

12. Contractor shall submit periodic progress reports to the University if requested by the University.

13. This Agreement shall not be binding upon the parties until it is approved by the President or designee, and/or the Tennessee Board of Regents, as appropriate.

14. Grant Agreements – One of the following clauses shall govern expenditures for personal, professional or consulting services pursuant to grant contracts.

If grant contract does not involve federal money, the following clause shall apply to this Agreement. “The Contractor shall cause to be performed, in accordance with auditing standards prescribed by the Comptroller of the Treasury of the State of Tennessee, an audit of all its program(s) funded by this contract; provided, however, that any contract for such audit shall be subject to prior approval of the Comptroller of the Treasury of the State of Tennessee, and must be submitted on the standard contract to audits accounts’ published by the Comptroller of the Treasury. The audit may include and be combined with an audit of other programs of the Contractor, and the existence of more than one contract between the Contractor and any agency of the State of Tennessee shall not necessitate more than one contract between the Contractor and any agency of the State of Tennessee shall not necessitate more than one (1) audit of the Contractor’s programs to be performed every two (2) years.

If grant contract does involve federal money, the following clause shall apply to this agreement:

“a. Within thirty (30) days following written request by the University, Contractor shall make available for inspection and/or audit any and all records related to its performance under this Agreement, which shall include any exceptions noted on the audit. Said records are subject to inspection and audit by representatives of the University and the Tennessee Comptroller of the Treasury or the Comptroller’s duly appointed representatives during reasonable business hours throughout the term of this Agreement and for the three (3) years immediately following the University’s final payment to Contractor under this Agreement. In the event an audit is initiated by the University during the three (3) years following the University’s final payment, Contractor agrees to retain any and all records associated with this Agreement until such time as any disputes arising therefrom are resolved. All audit disallowances under this Agreement shall be the responsibility of the Contractor.

b. Contractor acknowledges that it is aware of and agrees to comply with Office of Management and Budget (OMB) Circular A-133 or A-128 as appropriate. Contractor agrees to provide University with audit information attesting to the fact that Contractor’s records covering the period of this Agreement have been audited in accordance with OMB Circulars A-133 or A-128, whichever is appropriate.

c. Contractor further agrees to notify University in writing if at any time during the period of this Agreement it is no longer in compliance with Circular A-133 or A-128 as appropriate, or if there are audit findings that relate specifically to this Agreement. In cases of such non-compliance or audit findings, Contractor will promptly provide University with its written plan for corrective action. Audit reports and notifications should be sent to:

Tennessee Technological University  
Office of Research and Graduate Studies  
P. O. Box 5036  
Cookeville, TN 38505  
Attn: A-133

15. Grant Contracts. If the terms of this contract allow reimbursement for the cost of procuring goods, materials, supplies, equipment or services, such procurement shall be made on a competitive basis (including the use of competitive bidding procedures), when practicable.

16. Federally Funded Grant Contracts. Reimbursement for the cost of procuring goods, materials or services shall be subject to the Contractor’s compliance with applicable federal procurement requirements, if funds for such reimbursement are derived wholly or partially from federal sources.

17. If Contractor will have access to the University's customers' non-public financial information (e.g., personal information that is maintained by the University to provide a financial product or service, such as a student loan) the following Gramm Leach Bliley Act (GLBA) clause shall apply to this agreement:

"Throughout the term of this Agreement, Contractor shall implement and maintain 'appropriate safeguards,' as that term is used in § 314.4(d) of the FTC Safeguard Rule, 16 C.F.R. § 314, for all 'customer information,' as that term is defined in § 314.2(b) of the FTC Safeguard Rule, delivered to Contractor by University pursuant to this Agreement. The Contractor shall implement an Information Security Program ('the Program') as required by the FTC Safeguard Rule. Contractor shall promptly notify the University, in writing, of each instance of (i) unauthorized access to or use of that nonpublic financial customer information that could result in substantial harm or inconvenience to a customer of the University or (ii) unauthorized disclosure, misuse, alteration, destruction or other compromise of that nonpublic financial customer information.

Contractor shall forever defend and hold University harmless from all claims, liabilities, damages, or judgments involving a third party, including University's costs and attorney fees, which arise as a result of Contractor's failure to meet any of its obligations under this provision. Contractor shall further agree to reimburse the University for its direct damages (e.g., costs to reconstruct lost or altered information) resulting from any security breach, loss, or alteration of nonpublic financial customer information caused by the Contractor or its subcontractors or agents.

Contractor grants University the right to conduct on-site audits, as deemed necessary by the University, of the Contractor's Program to ensure the integrity of the Contractor's safeguarding of the University's customers' nonpublic financial information.

University retains the right to unilaterally terminate the Agreement, without prior notice, if Contractor has allowed a material breach of its Program in violation of its obligations under the GLBA, if Contractor has lost or materially altered nonpublic financial customer information, or if the University reasonably determines that Contractor's Program is inadequate.

Within thirty (30) days of the termination or expiration of this Agreement, Contractor shall, at the election of University, either: (1) return to the University or (2) destroy (and shall cause each of its agents to destroy) all records, electronic or otherwise, in its or its agent's possession that contain such nonpublic financial customer information and shall deliver to the University a written certification of the destruction."

18. The Contractor shall comply with all applicable federal, state, and local laws and regulations in the performance of the Contract.

19. Compensation to the Contractor, if any, for travel, meals or lodging shall be in the amount of actual cost to the Contractor, subject to maximum amounts and limitations specified in the Tennessee Board of Regents policies, as they may be from time to time amended.

20. Voluntary Buyout Program. The Contractor acknowledges and understands that, for a period of two (2) years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.

- a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.
- b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Contractor understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a VBP severance payment as an employee or an independent contractor of a State contractor would not be appropriate, and in such cases the State may refuse Contractor personnel. Inasmuch, it shall be the responsibility of the State to review Contractor personnel to identify any such issues.
- c. With reference to either subsection a. or b. above, a contractor may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the VBP Contracting Restriction Waiver Request format available from the state and the Internet at [www.state.tn.us/finance/rds/ocr/waiver.html](http://www.state.tn.us/finance/rds/ocr/waiver.html). The determination on such a request shall be at the sole discretion of the head of the state agency that is a Party to this Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.

In witness whereof, the parties have by their duly authorized representatives set their signatures.

**CONTRACTOR:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**TENNESSEE TECHNOLOGICAL UNIVERSITY:**

By: \_\_\_\_\_

Title: Vice Pres for Planning and Finance (as appropriate) \_\_\_\_\_

Date: \_\_\_\_\_

**TENNESSEE BOARD OF REGENTS:**

By: \_\_\_\_\_

Title: Chancellor

Date: \_\_\_\_\_