



AGREEMENT BETWEEN THE UNIVERSITY OF MEMPHIS AND

THIS AGREEMENT, by and between **THE UNIVERSITY OF MEMPHIS**, hereinafter referred to as "University," and
, hereinafter referred to as "Contractor."

Contractor Information:

Address:

City, State, Zip:

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. (Rate of compensation per hour, day,
month, etc.)
2. (Time table for payments - one-time fee,
monthly, quarterly, etc.)
3. Payments to the Contractor shall be made according to this schedule set out above, but only after receipt of invoices for services performed. The final payment shall be made only after the Contractor has completely performed the Contractor's 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 University or 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 University or 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, and 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. This Agreement shall not be binding until the Contractor has returned a completed Vendor Registration form to the University.
4. The Contractor agrees to complete an Annual Title VI Survey or cooperate with a Title VI compliance audit if it received Federal funds under this Agreement.
5. 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.
6. The term of this contract shall be from _____ to _____.
7. 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.
8. 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.
9. This Agreement may be modified only by written amendment executed by all parties hereto.
10. 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.
11. 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, as appropriate. Approval shall not be given if the proposed subcontractor was or is currently ineligible to bid on the contract.
12. This Agreement shall not be binding upon the parties until it is approved by the President or designee, as appropriate.
13. 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 University Travel Procedures, as they may be from time to time amended.
14. Contractor shall submit to University progress reports:

Not Requested
Monthly
Quarterly
Other

15. 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 audit accounts' form 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 (1) audit of the contractor's programs to be performed every two years."

If Grant contract does involve Federal money, the following clause shall apply to this agreement:

"The Grantee shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this grant to the commissioner or head of the granting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Grantee that receives \$300,000.00 or more in aggregate federal and/or state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Grantee may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Grantee and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury. The Grantee shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Grantee shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the State Granting Department, the Tennessee Comptroller of the Treasury, the Department of Finance and Administration, and shall be made available to the public."

16. Grant Contracts. Procurement by grantee--grant contracts which provide for reimbursement for the cost of procuring goods, materials, supplies, equipment or services shall apply to this agreement:

" 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."

17. Federally Funded Grant Contracts. Procurement by contractor -- when a grant contract provides that the contractor may make purchases and be reimbursed for its cost with funds derived wholly or partially from federal sources, the following clause shall apply to this agreement:

"Reimbursement for the cost of procuring goods, materials or services shall be subject to the contractor's compliance with applicable federal procurement requirements."

18. Federally Funded Contracts. Compliance with federal regulations -- if federal funds are used to support the contract, the following clause shall apply to this agreement:

"The Contractor shall comply with all applicable federal regulations in the performance of duties under this

contract."

19. 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."

20. Any and all claims against the University, its officers, agents, and employees in performing any responsibility specifically required under the terms of this agreement shall be submitted to the Board of Claims or the Claims Commission of the State of Tennessee. Damages recoverable against the University shall be limited to claims paid by the Board of Claims or the Claims Commission pursuant T.C.A. Section 9-8-301, et. seq.
21. The Contractor shall comply with all applicable Federal, State, and Municipal laws and regulations as well as University policies and procedures, including but not limited to, Parking on Campus, Drug Free Campus and Alcohol Abuse Prevention, Limited Tobacco Use, Non-Discrimination and Anti-Harassment, and Sexual Misconduct and Domestic Violence, in the performance of the Contract. The Contract shall be governed by and subject to the laws of the State of Tennessee.
22. Prohibition on Hiring Illegal Immigrants. Tennessee Public Chapter No. 878 of 2006, TCA 12-3-309, 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 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.

23. Limited Tobacco-Use Campus

The University of Memphis is a Limited Tobacco-Use Campus, reference University Policy [HR5066](#). The use of tobacco is prohibited on all University of Memphis campuses, except in certain locations stated in this policy. Contractor and contractor's employees are expected to abide by this policy to promote a healthy and safe educational living environment on our campuses.

24. The Contractor agrees that in the course of providing services it will follow the data security and access standards promulgated by the Tennessee State Office of Information Resources when accessing or providing data to the Institution

25. The Contractor warrants and represents that the service and software, including any updates, provided to the Institution will meet the accessibility standards set forth in WCAG 2.0 AA (also known as ISO standard, ISO/IEC 40500:2012) and will be compliant with Section 508 of the Americans with Disabilities Act (ADA).

26. This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

27. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101 et.seq., addressing contracting with persons with investment activities in Iran, shall be a material provision of this Contract. The Contractor agrees, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

University of Memphis

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

CONTRACT NUMBER: (University will insert number)

CONTRACT LEGAL ENTITY NAME:

FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the dates indicated.

THE UNIVERSITY OF MEMPHIS

CONTRACTOR

Nick A. Pappas, Executive Director of Procurement and Contract Services

Contractor Signature

Date

Date

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

Contractor Signature

Date

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.