SUBAWARD-SUBRECIPIENT AGREEMENT

BETWEEN

**TENNESSEE STATE UNIVERSITY**

**AND**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

This Agreement is made on this the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by and between Tennessee State University (TSU), a Tennessee Board of Regents (TBR) institution pursuant to Tenn. Code Ann. 49-8-101(a) and Tenn. Code Ann. 49-8-203(a), located at 3500 John A. Merritt Boulevard, Nashville, Tennessee 37209-1561, hereinafter referred to as the “Institution” and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, having its principal office located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter referred to as the “Contractor”, “Grantee”, “Subcontractor”, or “Subrecipient”.

# Preamble

WHEREAS, Tennessee State University has received external funding for a project or program consistent with its educational mission, as codified at Tenn. Code Ann. 49-8-801, and,

WHEREAS, Tennessee State University requests or requires additional expertise for the performance of the project or program:

**WITNESSETH**

**Performance and Payment**

**Terms and Conditions**

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:

1. Statement of Work (SOW): The Contractor agrees to perform the following services via its key personnel as hereinbelow specified, incorporating herein both the terms of the prime award plus the applicable National Science Foundation (NSF) standard terms - Research Terms and Conditions (RTC) or Grant General Conditions, as appropriate - and the other project, program, general, and special terms and conditions as stated herein:

**[INSERT: SOW NARRATIVE OR TEXT,**

**OR, ATTACH AS AN ADDENDUM]**

B. Payment: The Institution agrees to compensate the Contractor as follows:

1. Amount/Rate of Compensation: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

2. Payment Timetable and Terms:

Contractor will receive monthly payments for its services rendered to the Institution, based on its prepared invoices as submitted to:

Cynthia Brooks, Vice President

Division of Business and Finance

Tennessee State University

3500 John A. Merritt Boulevard

Campus Box 9623

Nashville, Tennessee 37209-1561

All payments will be considered provisional and subject to adjustment within the total amount estimated, for allowable costs or expenses, in the event an adjustment is necessary as a result of an adverse audit finding against the Contractor or other event of non-performance or non-compliance. If permitted by the terms of the project, reimbursement for the cost of procuring goods, materials, or services shall be remitted for such procurement that was made by the Contractor on a competitive basis, including but not limited to, the use of competitive bidding procedures, where applicable, subject to the Contractor’s compliance with applicable federal procurement requirements, if funds for such reimbursement are derived wholly or partially from federal sources.

3. Invoicing.

(A).Payments to the Contractor shall be made according to the 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. An invoice under this agreement shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of the services described by this agreement and shall be subject to the grant budget associated with this agreement and any other provision of this agreement relating to allowable reimbursements. An invoice under this agreement shall not include any reimbursement request for future expenditures.

(B).The Contractor hereby acknowledges and accepts that invoicing is a key tool of subrecipient monitoring by the Institution, in addition to the provisions of paragraph 8(G) (“Monitoring”) and paragraph 10 (“Reporting”) below; therefore, each monthly or periodic invoice, and the final invoice, delivered to the Institution by the Contractor must be an itemized statement that briefly describes and reports the specific portion of completed performance of the Contractor, thereby providing the performance-progress basis for each such respective invoice.

(C).The final payment shall be made only after the Contractor has completely performed its duties under this Agreement. A final invoice or statement of cumulative costs incurred, including cost sharing, marked “FINAL” must be submitted to the Institution no later than forty-five (45) days after the sub-award end date. This final statement of costs or charges will constitute the Contractor’s final financial report and also constitute the Contractor’s final performance-progress report, as hereinabove described. The final invoice shall include the following certification:

"Payment of this final invoice shall constitute complete satisfaction of all of the Institution's obligations under this Subaward to the Contractor, and thus the subrecipient-contractor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [legal name of Subrecipient or Contractor] releases and discharges Institution from all further claims and obligations upon payment thereof."

(D).If the Contractor is a non-resident alien, payment of any portion of the contract from any source will not be made by the Institution until an individual Taxpayer Identification Number or Social Security Number, and/or Employment Authorization Document (EAD), has been assigned to the Contractor by the Internal Revenue Service (IRS) and by U.S. Citizenship and Immigration Services (USCIS) of the Department of Homeland Security, respectively, and presented to the Institution.

4. Compensation/Liability Cap. In no event shall the liability of the Institution under this contract exceed $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The Institution shall have no liability except as specifically provided for in this Agreement.

**General and Special**

**Terms and Conditions**

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

1. Non-Employment by State. 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, sub-contractor, 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 this Agreement, will not become an employee of the State of Tennessee.

2. Non-Discrimination. The parties agree to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. [United States Code] 2000d et seq.), Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Executive Order 11246 (September 24, 1965) as amended by Executive Order 11375 (October 13, 1967) and as supplemented by 41 CFR [Code of Federal Regulations] 60-1.1, the Tennessee Human Rights Act (Tenn. Code Ann. 4-21-401 et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the related regulations of each such federal or state statute, or executive order, and all other federal and state laws regarding equal employment, educational, and contracting opportunity. Each party assures and agrees 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 [see, e.g., 41 CFR 60-2]. 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. Non-Hiring of Illegal Immigrants. Tennessee Code Annotated (Tenn. Code Ann., or, T.C.A.) 12-4-124 requires that Contractor attest in writing that Contractor 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 Agreement. The attestation shall be made on the form *Attestation regarding Personnel Used in Contract Performance* (“the Attestation”), which is attached and hereby incorporated by reference as Attachment I.

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 suspension by utilizing the appeals process in the Rules of the Department of Finance and Administration, Rules and Regulations of the State of Tennessee, Chapter 0620-3-9, as amended.

1. Insurance. The Contractor, being an independent contractor and not an employee of the Institution, agrees to carry adequate public liability and other appropriate forms of insurance, to pay all taxes incidental hereunto, and otherwise protect and hold the Institution harmless from any and all liability arising directly from Contractor’s negligence in its performance of its duties under this Agreement.
2. Performance Period and No-cost Extensions. The effective date and term of the contract shall be from \_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_. The Grantee hereby acknowledges and affirms that the Institution shall have no obligation for Grantee services or expenditures that were not completed within the specified contract period. No-cost extensions require the approval of the Institution. Any requests for a no-cost extension should be addressed to and received by the administrative contact no less than 30 days prior to the desired effective date of the change. An extension of the term of this Contract will be effectuated through an amendment to the Agreement. If the extension of the Agreement necessitates additional funding beyond that which was included in the original Agreement, the increase in the Institution’s maximum liability will also be effectuated through an amendment to the Agreement and shall be based upon rates provided for in the original Agreement.

6. Termination. This Agreement may be terminated by either party by giving written notice to other at least 30 days before the effective date of termination. In that event, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory authorized work completed as of the termination date.

If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the terms of this Agreement, the Institution shall have the right to immediately terminate this Agreement and withhold payment in excess of fair compensation for work completed.

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

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

8. Administrative Terms and Conditions:

(A). Receipts. The Grantee, or Contractor, shall maintain documentation for all charges against the Institution under this Agreement. The books, records, and documents of the Grantee, 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 Institution or the State Comptroller of the Treasury or their duly authorized representatives.

(B). Records. Within thirty (30) days following written request by the Institution, Contractor shall make available for inspection and/or audit any and all other records related to its general performance under this Agreement, which shall include any exceptions noted on an 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 representative during reasonable business hours throughout the term of this Agreement and for the three (3) years immediately 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 audits disallowances under this Agreement shall be the responsibility of the Contractor.

(C). Audit: State. The Grantee, or Contractor, 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 President of Tennessee State University, 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 as supplemented, 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, as a component of the above-stated annual report, shall be provided to (1) Tennessee State University, Business and Finance, Campus Box 9623, Nashville, TN 37209, Attn: Cynthia Brooks, (2) the Tennessee Comptroller of the Treasury, (3) the Department of Finance and Administration, and shall be made available to (4) the public.

(D). Audit: Federal. Contractor acknowledges that it is aware of and agrees to comply with the White House Office of Management and Budget (OMB) OMB Circular A-133, or the former Circular A-128, as therein consolidated, and as supplemented. Contractor agrees to provide the Institution with audit information attesting to the fact that Contractor’s records covering the period of this Agreement have been audited in accordance with OMB Circular A-133, or the former Circular A-128, as therein consolidated, and as supplemented.

(E). Lobbying: Disclosure. If funds other than federal funds appropriated by an Act of Congress have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, or an officer or employee of Congress or a Member of Congress in connection with this federally-supported contract, grant, loan, or cooperative agreement, Grantee shall complete and submit Standard Form (SF) LLL, *Disclosure of Lobbying Activities*, in accordance with its instructions.

(F). Certifications. Acceptance of this contract constitutes certification by Grantee, or Contractor, to the best of its internal knowledge and belief that,

(1). Lobbying: Payments. No federal funds appropriated by any Act of Congress have been paid or will be paid, by or on behalf of Grantee, or Contractor, to any person for influencing or attempting to influence an officer or employee of any federal agency, Member of Congress, or an officer or employee of Congress or a Member of Congress in connection with the awarding of a federally-supported contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

(2). Debarment and Suspension. Neither the Contractor nor its principals:

a. are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or institutional department or agency;

b. have, within a three (3) year period preceding this Contract, been convicted of, or had a civil judgment rendered against them, from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public - federal, state, or local - transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. are presently indicted for or otherwise criminally or civilly charged by a government entity - federal, state, or local - with commission of any of the offenses detailed in section b. of this certification; and

d. have, within a three (3) year period preceding this Agreement, had one or more public transactions - federal, state, or local - terminated for cause or default;

(3). Indirect Costs. The indirect costing:

a. Facilities & Administrative (F&A) rates included in the applicable proposal have been calculated based on the federally-negotiated F&A rates for the type of work for this project;

b. Fringe Benefit rates included in the applicable proposal have been calculated based on rates consistent with, or lower than, the federally-negotiated rates;

(4). Auditing. It is in compliance with the White House Office of Management and Budget (OMB) Circular A-133 entitled *Audits of States, Local Governments, and Non-Profit Organizations*, or the former Circular A-128, as therein consolidated, and as supplemented, if applicable; and also,

(5). Oversight. The Grantee shall require that the language of the above-stated certifications be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients or subcontractors shall certify and disclose accordingly.

(G). Monitoring.

(1).The Contractor’s activities conducted and records maintained pursuant to this Agreement shall be subject to monitoring, evaluation, visits, and auditing by the awarding agency, the Institution, the Comptroller of the Treasury, or the duly appointed representatives of each, pursuant to 2 CFR 215.51 and 2 CFR 215.26. The Institution and its authorized representatives shall have the right of expeditious and unrestricted access to any books, documents, papers, technical records, financial records, or other records of Contractor which are pertinent to this Agreement upon request, in order to make audits, examinations, reviews, excerpts, transcriptions, and copies of such documents. This right includes speedy and reasonable access to the Contractor’s personnel for the purpose of interview, inquiry, and discussion related to such documents, not inconsistent with federal and state law. This right of access is not limited to the required retention period pursuant to 2 CFR 215.53, but shall last as long as the documents are retained.

(2).The Contractor agrees that the Institution reserves the right to perform administrative and technical site visits on the premises of the Contractor and to otherwise confirm, via the full cooperation of the Contractor as hereby agreed, that the Contractor is in current and continuing compliance, as also hereby agreed, with the applicable cost and other compliance principles, including but not limited to, (1) OMB Circular A-21 [as relocated to 2 CFR, Parts 215 and 220] entitled *Cost Principles for Educational Institutions*, (2) OMB Circular A-87 [as relocated to 2 CFR, Part 225] entitled *Cost Principles for State, Local, and Indian Tribal Governments*, (3) OMB Circular A-122 [as relocated to 2 CFR, Part 30] entitled *Cost Principles for Non-Profit Organizations*, (4) 45 CFR, Part 74 Subpart E entitled *Special Provisions for Awards to Commercial Organizations*, (5) 45 CFR, Part 74 Appendix E entitled *Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts With Hospitals*, (6) Federal Acquisition Regulation (FAR) 48 CFR, Part 31 entitled *Contract Cost Principles and Procedures*, and (7) the federal financial conflicts of interest (FCOI) rules at 42 CFR, Part 50, Subpart F entitled *Responsibility of Applicants for Promoting Objectivity in Research for Which PHS Funding Is Sought*, and the respective administrative requirements of each above-stated provision.

(3).If there are findings arising from the above-stated monitoring, evaluation, visits, or auditing, Contractor agrees to be fully cooperative, responsive, and active to address and correct these findings, issues, problems, or other instances or areas of non-conformity or non-compliance.

(H). Financial Conflicts of Interest (FCOI). The Subrecipient, or Contractor, hereby certifies that it has an active and enforced conflict-of-interest policy that is consistent with the regulatory provisions of 42 CFR, Part 50, Subpart F *Responsibility of Applicants for Promoting Objectivity in Research*. Subrecipient also certifies that it will report, to the Institution, all identified financial conflicts of interest within thirty (30) days of the date that it knew or should have known about the conflict. Subrecipient also certifies, to the best of Subrecipient's knowledge, that (1) all financial disclosures have been made which are both related to the project and required by its conflict-of-interest policy, and (2) all identified conflicts of interest have or will have been satisfactorily managed, reduced, or eliminated in accordance with the Subrecipient's conflict-of-interest policy prior to the expenditures of any external federal funds under this Agreement; or the parties acknowledge that the Subrecipient, or Contractor, does not have an active and/or enforced conflict-of-interest policy and hereby agrees to abide by the comparable, equivalent, or applicable policy of TSU, or its governing body the Tennessee Board of Regents, and thus the Contractor must submit all of its investigators’ disclosures of significant financial interest to the Institution within thirty (30) days of the date that it knew or should have known about the interest.

(I). Federal Funding Accountability and Transparency Act (FFATA). This Grant requires the Grantee, or Contractor, to provide supplies and/or services that are funded in whole or in part by federal funds that are subject to FFATA. The Grantee is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Grantee provides information to the Institution as required.

The Grantee, or Contractor, shall comply with the following:

a. Reporting of Total Compensation of the Grantee’s Executives.

(1) The Grantee shall report the names and total compensation of each of its five most highly compensated executives for the Grantee’s preceding completed fiscal year, if in the Grantee’s preceding fiscal year it received:

i. 80 percent or more of the Grantee’s annual gross revenues from Federal procurement contracts and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

ii. $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at http://www.sec.gov/answers/execomp.htm.).

*Executive* means officers, managing partners, or any other employees in management positions.

(2) *Total compensation* means the cash and noncash dollar value earned by the executive during the Grantee’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

b. The Grantee must report executive total compensation described above to the Institution by the end of the month during which this Grant is awarded.

c. If this Grant is amended to extend its term, the Grantee must submit an executive total compensation report to the Institution by the end of the month in which the amendment to this Grant becomes effective.

d. The Grantee will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Grant. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>.

The Grantee’s failure to comply with the above requirements is a material breach of this Grant for which the Institution may terminate this Grant for cause. The Institution will not be obligated to pay any outstanding invoice received from the Grantee unless and until the Grantee is in full compliance with the above requirements.

(J). American Recovery and Reinvestment Act of 2009 (ARRA): Section 1512.

(a) If applicable ARRA Division A funding is involved, this award is governed by the American Recovery and Reinvestment Act of 2009 (ARRA). Unless otherwise specified, ARRA funding should be considered one-time funding.

(b) Recipients must comply with standard NSF award conditions - Research Terms and Conditions (RTC) or Grant General Conditions, as applicable - as well as the requirements set forth in ARRA, including, but not limited to, the reporting requirements specified in the award term entitled *Reporting and Registration Requirements under Section 1512 of the American* *Recovery and Reinvestment Act of 2009, Public Law 111-5* as well as the accompanying OMB guidance, available on the [www.Recovery.gov](http://www.Recovery.gov) website. Failure to submit timely reports may result in the Institution, or the NSF, taking administrative action, including but not limited to, disallowance of costs or the suspension or termination of the award, or of the Agreement as specified herein.

(c) Recipients of ARRA funds are reminded that such funds must be separately tracked and monitored independently from any non-ARRA funding.

(d) Recipients of ARRA funds are reminded that ARRA-related terms and conditions are

required to be incorporated into any subrecipient agreements, as appropriate.

(e) NSF will monitor ARRA funds, and, if, after 12 months, no allowable expenditures have been incurred, NSF may consider reducing or terminating the award and reallocating the funds.

(K). Compliance. The Grantee, or Contractor, shall comply with all applicable federal and state laws and regulations in the performance of its duties under this contract, including but not limited to, the Family Educational Rights and Privacy Act, or FERPA, (20 U.S.C. 1232g) as supplemented by Department of Education regulations at 34 Code of Federal Regulations (CFR), Part 99, *Protection of Human Subjects*, 45 CFR, Part 46, *Animal Welfare* , 9 CFR, Part 3, *Biosafety* , 45 CFR, Part 73, *Radiation Safety* , 21 CFR 361.1, the Health Insurance Portability and Accountability Act, or HIPAA, (29 U.S.C. 1181 et seq.) as supplemented by DHHS regulations at 45 CFR 164.102 to 164.534, the Arms Export Control Act (22 U.S.C. 2778) as supplemented by the Export Administration Regulations (EAR) of the Department of Commerce at 15 CFR 730 to 744 and by the International Traffic in Arms Regulations (ITAR) of the Department of State at 22 CFR 122 to 130, the Trafficking Victims Protection Act of 2000 (22 U.S.C. 2104(g)) as supplemented by OMB regulations at 2 CFR 175.15, the Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 3145) as supplemented by Department of Labor regulations at 29 CFR, Part 3, the Davis-Bacon Act (40 U.S.C. 276a et seq. and 40 U.S.C. 3141 et seq.) and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) as supplemented by Department of Labor regulations at 29 CFR, Part 5, the Bayh-Dole Act or the Patent and Trademark Law Amendments Act (35 U.S.C. 200 et seq.) as supplemented by Department of Commerce regulations at 37 CFR, Part 401, and all other federal or state laws, as well as university rules such as the Intellectual Property Policy of Tennessee State University as incorporated herein, including but not limited to, those institutional rules regarding rights to inventions made under a federally-funded agreement, the Clean Air Act (42 U.S.C. 7401 et seq.) as supplemented by the Tennessee Air Quality Control Act (T.C.A. 68-201-101), the Fly America Act (49 U.S.C. 40118) as supplemented by the federal procurement regulations at 41 CFR 301-10.131 to 30-10.143, the Clean Water Act or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as supplemented by the Tennessee Water Quality Control Act (T.C.A. 69-3-101), the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352), the Drug Free Workplace Act of 1988 (41 U.S.C. 701), the Buy American Act of 1933 (41 U.S.C. 10a-10d) as supplemented by the regulations of the Department of the Interior at 43 CFR 12.700 to 12.830, the applicable debarment and suspension laws and regulations, such as Executive Order 12549 (February 18, 1986) and Executive Order 12689 (August 16, 1989), the rules, regulations, or restrictions of the Office of Foreign Assets Control (OFAC) of the Treasury Department including but not limited to 31 CFR 500 to 599, the prohibition on text messaging on electronic equipment supplied by the government while driving or using such while driving on government business as established via Executive Order 13513 (October 1, 2009) as incorporated herein, and the related regulations of each of these laws and directives, as amended.

9. Non-assignment. The Contractor shall not assign this Agreement or enter into sub-contracts for any of the work described herein without obtaining the prior written approval of the Institution 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.

10. Reporting. The Contractor shall submit to the Institution progress, financial, and technical reports upon request and within thirty (30) days of any such request. Contractor shall record and maintain all research and financial data, documents, records, notebooks, test results, and findings in a form and manner that permit evaluation of the progress, conduct, and management of the above-stated statement or work. Contractor agrees to complete a Tennessee Board of Regents (TBR) Annual Title VI Survey and/or cooperate with the TBR Title VI compliance audit if it receives federal funds under or via this Agreement.

11. Notification. Contractor agrees to notify Institution in writing if, at any time during the period of this Agreement, it is no longer in compliance with OMB Circular A-133, or the former Circular A-128, as therein consolidated, and as supplemented, or if there are audit findings that relate specifically to this Agreement. In case of such non-compliance or audit findings, Contractor will promptly provide Institution with its written plan for corrective action. Such audit findings and notifications should be sent to: Tennessee State University, Business and Finance, Campus Box 9623, Nashville, TN 37209, Attn: Cynthia Brooks. The Contractor shall immediately report to the Institution all instances and incidents of non-compliance with (1) 45 CFR, Part 46 – *Protection of Human Subjects*, (2) the applicable rules and guidance for the Responsible Conduct of Research (RCR) as published by the Office of Research Integrity (ORI) of the Department of Health and Human Services (DHHS) including but not limited to 42 CFR Parts 50 and 93, and the regulations of the National Science Foundation (NSF) at 45 CFR 689.1, including the confidentiality provisions at 42 CFR 93.108, (3) 2 CFR, Part 175 – *Award Term for Trafficking in Persons*, or (4) any statute, regulation, or rule stated herein. Such research finding and notifications should be sent to: Tennessee State University, Research and Sponsored Programs, Campus Box 9519, Nashville, TN 37209, Attn: Michael Busby.

12. Publications. The parties reserve the right to publish or otherwise make public the data resulting from the project. The party wishing to publish or to make public shall submit any such article, manuscript, or other release to the other party for comment at least thirty (30) days prior to publication or release.

13. Publicity. Except as otherwise required by law or regulation, neither party shall release or distribute any materials or information containing the name of the other party or any of its employees without prior written approval by an authorized representative of the non-releasing party, but such approval shall not be unreasonably withheld. The Contractor shall not refer to this Agreement or the Contractor’s relationship with the Institution hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor’s services are endorsed by the Institution; however, all notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor, as Grantee, shall include the statement, “This project or program is funded under an agreement with Tennessee State University.” To this end, any such communications by the Grantee must be pre-approved, in writing, by Tennessee State University.

14. Intellectual Property. The Institution shall have all ownership right, title, and interest, including ownership of copyright, in all work products, including data, which are created, designed, developed, derived, documented, installed, or delivered to the Institution under this Contract. The Institution shall have unlimited rights to use, disclose, reproduce, or publish, for any purpose whatsoever, all such work products. The Contractor shall furnish such information and data upon request of the Institution, in accordance with the Contract and applicable state law not inconsistent with the Bayh-Dole Act.

15. Travel. Payment to the Contractor for travel, meals or lodging shall be in the amount of actual cost or per diem, subject to the payment timeframes and the maximum amounts and limitations specified in the Tennessee Board of Regents policies, as they may be from time to time amended.

16. Forms. The Contractor agrees that no work shall commence until this Agreement is fully executed by both parties and that a Minority Ethnicity and W-9 forms are completed and returned with this Agreement.

17. Contact: Contractor. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is the Contractor’s administrative contact person for this Agreement and can be reached at tel: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or email: [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_](mailto:jerrye@ssl.berkleley.edu).

18. Contact: Institution. Michael Busby, Interim Associate Vice President of Academic Affairs for Research and Sponsored Programs, Tennessee State University is the Institution’s administrative contact person, for research, for this Agreement and can be reached at tel: 615-963-7631, fax: 615-963-5068 or email: research@tnstate.edu.

19. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the Tennessee Claims Commission in actions that may arise under this Agreement. The Contractor acknowledges and agrees that any rights or claims against the Institution or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.

20. Headings. The section headings of this Agreement are for reference purposes only and shall not be construed as part of this Contract.

21. Assent. This Agreement shall not be binding upon the parties until it is approved by the President or, when required, by the Chancellor of the Tennessee Board of Regents, or his designee, as well as Contractor’s authorized institutional official.

**IN WITNESS WHEREOF**, the parties have, by their duly authorized representatives, set forth their signatures hereinbelow:

**[INSTITUTION NAME]**

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

[NAME OF SIGNATORY] Title Date

**TENNESSEE STATE UNIVERSITY**

By: President

Dr. Glenda Glover Title Date

**ATTACHMENT I**

# ATTESTATION RE: PERSONNEL USED IN CONTRACT PERFORMANCE

**SUBJECT CONTRACT 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 utilized the services of an illegal immigrant in the performance of this Contract.

Signature: Date:

Print Name: Title:

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.

**ADDENDUM**

**STATEMENT OF WORK (SOW)**

**[NOTE: SOW CAN ALSO BE PLACED IN SECTION A OF THE CONTRACT,**

**RESULTING IN THIS PAGE BECOMING A “BLANK PAGE”]**

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