

And _____
Dated _____

APSU Contact Number _____

**AGREEMENT BETWEEN
AUSTIN PEAY STATE UNIVERSITY
AND**

This Agreement is made this _____ day of _____, 20____, by and between Austin Peay State University, hereinafter referred to as the "Institution", and _____, hereinafter referred to as "Contractor/User".

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:

(Detailed description, including type, scope, duration, form, quality, quantity, place, time and purpose).

B. The Institution agrees to compensate the Contractor as follows: [Payment to the Contractor for travel, meals or lodging shall be in the amount of actual cost or per diem, subject to maximum amounts and limitations specified in the Tennessee Board of Regents policies, as they may be from time to time amended].

1. (Rate of compensation - hourly, daily, etc.)

2. (Timetable for payments, monthly, quarterly, after full performance, etc.)

3. 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. The final payment shall be made only after the Contractor has completely performed its duties under this Agreement.

And _____
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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 has been assigned to the Contractor by the Internal Revenue Service and Immigration Naturalization Service and presented to the Institution.

4. In no event shall the liability of the Institution under this contract 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, 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 months he/she has not been and during the term of this contract 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, being an independent contractor and not an employee of this Institution, agrees to carry adequate public liability and other appropriate forms of insurance, to pay all taxes incident hereunto, and otherwise protect and hold the Institution harmless from any and all liability not specifically provided for in this agreement.

4. The term of this contract shall be from (beginning date)_____ to (ending date)_____.

5. 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 for any satisfactory authorized work completed as of the termination date.

6. 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 payments in excess of fair compensation for work completed.

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

7. This Agreement may be modified only by written amendment executed by all parties hereto.
8. The Contractor shall maintain documentation for all charges against the Institution 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 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 appointed representatives, or a licensed independent public accountant.
9. 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. The Contractor shall submit to the Institution _____ monthly and/or _____ quarterly progress reports if requested by the Institution.
11. This Agreement shall not be binding upon the parties until it is approved by the president or designee, the Vice Chancellor for the Tennessee Technology Centers or designee or the Tennessee Board of Regents, as appropriate.
12. If applicable, throughout the term of this Agreement, Service Provider 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 Service Provider by Institution pursuant to this Agreement. The Service Provider shall implement an Information Security Program ('the Program') as required by the FTC Safeguard Rule. Service Provider shall promptly notify the Institution, 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 Institution or (ii) unauthorized disclosure, misuse, alteration, destruction or other compromise of that nonpublic financial customer information.

Service Provider shall forever defend and hold Institution harmless from all claims, liabilities, damages, or judgments involving a third party, including Institution's costs and attorney fees, which arise as a result of Service Provider's failure to meet any of its obligations under this provision. Service Provider shall further agree to reimburse the Institution 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 Service Provider or its subcontractors or agents.

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

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

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Within thirty (30) days of the termination or expiration of this Agreement, Service Provider shall, at the election of Institution, either: (1) return to the Institution 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 Institution a written certification of the destruction.

13. This contract prohibits contractor's hiring of illegal immigrants. Tennessee Public Chapter No. 878 of 2006, TCA 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 ("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.

14. If music is to be performed, the parties agree to abide by the following copyright and performance provisions:
- a. The User hereby assures that all necessary copyright and royalty licenses have obtained from ASCAP, BMI, SESAC and other performing rights organization or the copyright owner for the performance to be presented under the terms of this Agreement.
 - b. The User agrees to provide the Institution with the prior written consent of SESAC, Inc. or the copyright owner for copyrighted music or work for which SESAC is the licensing agent.
 - c. The User agrees to indemnify, hold harmless and defend the Institution and State of Tennessee from and against any and all claims, demands or suits which may be brought for copyright infringement allegedly arising in the course of the performance presented under the terms of this agreement. Such indemnification shall extend to both criminal and civil actions and shall include any and all loss, damage, penalty, court costs or attorneys' fees incurred by the Institution as a result of such infringement.

The Institution shall promptly notify the User of any such claim brought against the Institution or the State of Tennessee. The settlement or compromise of any claim brought against the Institution or the State shall be subject to the approval of the appropriate State officials, as required by T.C.A. Section 20-13-103.

- D. The Contract Documents consist of (check all that apply) (a) This Agreement, (b) _____ Request for Proposal, (c) _____ Contractor's Bid, dated _____, and any Addenda and/or Amendments to this Agreement hereafter executed. In the event that provisions of the Contract documents conflict, priority for interpretation shall be as follows: Addenda and/or Amendments, the Agreement, the Request for Proposal, and Contractor's Bid.

And _____
Dated _____

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

[NAME OF CONTRACTOR]

AUSTIN PEAY STATE UNIVERSITY

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

APPROVED: TENNESSEE BOARD OF REGENTS (When required)

BY: _____

TITLE: _____

DATE: _____

**ATTESTATION RE PERSONNEL USED IN CONTRACT
PERFORMANCE**

CONTRACT NUMBER:	
CONTRACTOR 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.

**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.