

**AGREEMENT BETWEEN**  
**TENNESSEE TECHNOLOGICAL UNIVERSITY**  
**AND**

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**THIS AGREEMENT**, by and between **TENNESSEE TECHNOLOGICAL UNIVERSITY**, hereinafter referred to as "University," and

hereinafter referred to as "Contractor";

**Contractor Information:**

Address:

City, State, Zip:

F.E.I.N./Social Security Number:

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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 forth herein:

- A. The Contractor agrees to perform the work as described in the Statement of Work, herein made a part of this Agreement as *Appendix A*, on the following project:
- Title: "            "
- Project Director:
- Agency:
- Grant Award No.:
- CFDA No.:
- TTU Account No.:
- B. Payments to the Contractor shall be made according to the Budget, herein made a part of this Agreement as *Appendix B*, but only after receipt of invoices for services performed. The final payment shall be made only after the Contractor has completely performed its duties under this Agreement. At the end of the project, the Contractor shall submit an invoice marked "FINAL" within forty-five (45) days after the end of the project period.
1. 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.

2. In no event shall the liability of the University under this Agreement exceed \$ .
3. The University is not obligated to increase funding to Contractor due to an after-the-fact indirect cost rate adjustment determined by a government audit agency.

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. Notwithstanding anything to the contrary in the foregoing, nothing in this Paragraph shall be construed to prevent the University from paying any of its employees working on the project from funds received from Sponsor.
2. The Contractor and its subcontractors are required to comply with Title 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, the Americans with Disabilities Act of 1990, Executive Order 11, 246, and 38 U.S.C. Section 4212, along with the related regulations and reporting requirements of each. Neither party shall 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. Further, the parties also agree to take affirmative action to ensure that applicants are employed and that employees are treated during the employment without regard to their race, religion, creed, color, sex, disability or veteran status. Such action includes, but is not 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 for training, including apprenticeship. The Contractor agrees to complete a Tennessee Board of Regents (TBR) Annual Title VI Survey (*Appendix C*) or cooperate with a TBR Title VI compliance audit if Contractor received Federal funds under this Agreement.
3. This Agreement shall not be binding until the Contractor has returned a completed Minority/Ethnicity form and a W-9 form to the University (*Appendix D*).
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 Agreement shall be from the date of the last signature to .
6. This Agreement may be terminated by either party, without cause, by giving written notice to the 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.
7. 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 University shall have the right to immediately terminate this Agreement and withhold payments in excess of fair compensation for work completed. Notwithstanding anything in the foregoing sentence, 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. 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.

9. This Agreement shall not be binding upon the parties until it is approved by the President or designee, or the Tennessee Board of Regents, as appropriate.
10. 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 (<http://www.tntech.edu/adminpandp/accounting/Travel/acct4.html>).
11. Contractor shall submit to the University:
- Monthly progress reports
  - Quarterly progress reports
  - Annual progress reports
  - Final report
  - Other (please specify type of report) -
12. 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 Tennessee Comptroller of the Treasury or their duly appointed representatives. Within thirty (30) days following written request by University, Contractor shall make available for inspection and/or audit any and all records related to its performance under this Agreement. In the event an audit is initiated by the University, the Tennessee Comptroller of the Treasury or any Federal funding or regulatory authority pursuant to OMB Circular A-133 or A-128, 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 Contractor.
- a. Contractor acknowledges that it is aware of and agrees to comply with Office of Management and Budget 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 (*Appendix E*).
- b. 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  
Box 5036  
Cookeville, TN 38505  
ATTN: A-133
13. Reimbursement for the cost of procuring goods, materials, or services shall be subject to the Contractor's compliance with applicable Federal procurement requirements.
14. 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 to T.C.A. Section 9-8-301, et. Seq.
15. Tennessee Public Chapter No. 878 of 2006, TCA 12-4-124, requires that Contractors attest in writing that Contractor will not knowingly utilize the services of illegal immigrants in the performance of this Agreement and will not knowingly utilize the services of any subcontractor, if permitted under this Agreement, who will utilize the

services of illegal immigrants in the performance of this Agreement. The attestation shall be made on the form, Attestation re Personnel Used in Contract Performance ("the Attestation") (*Appendix D*).

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 prohibition by utilizing an appeals process in the Rules of Finance and Administration, 0620.

16. The Contractor acknowledges and understands that, for a period of two 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.staten.tn.us/finance/rds/ocr/waiver.html](http://www.staten.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.
17. All instructions, notices, consents, demands, or other communications required or contemplated by Contractor shall be in writing and shall be made by first class mail, return receipt requested; or by overnight courier service with an asset tracking service; or by email or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or email address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

**For University:**

Project Director:

(name)

(title)

(department)

Tennessee Technological University

Box

Cookeville, TN 38505

931-372- /931- fax

(email)

Financial Contact:

Ms. Diane Cushman

Manager of Grant Accounting

**For Contractor (please complete):**

Project Director:

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Financial Contact:

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Tennessee Technological University  
Box 5037  
Cookeville, TN 38505  
931-372-3025/931-372-3898 fax  
[dcushman@tntech.edu](mailto:dcushman@tntech.edu)

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Contractual Contact:  
Ms. Judy Hull  
Director, Business Services  
Tennessee Technological University  
Box 5041  
Cookeville, TN 38505  
931-372-3452/931-372-3727 fax  
[jmhull@tntech.edu](mailto:jmhull@tntech.edu)

Contractual Contact:

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18. Title to equipment costing \$5,000 or more that is purchased or fabricated with research funds, or Contractor's cost sharing funds, as direct costs of the project or program, shall be governed by OMB Circular A-110.
19. Neither University nor Contractor shall use the name of the other either expressly or by implication, in any news, publicity release, or other promotional fashion without the express written approvals of the other.
20. This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, University reserves the right to terminate the Agreement upon written notice to Contractor. Said termination shall not be deemed a breach of contract by University. Upon receipt of the written notice, the Contractor shall cease all work associated with the Agreement. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no rights to recover from University any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
21. This Agreement requires the Contractor to provide products and/or services that are funded in whole or in part under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act). The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of the Recovery Act are met and that the Contractor provides information to the State as required.

The Contractor (and any subcontractor) shall comply with the following:

- a. Federal Grant Award Documents, as applicable.
- b. Executive Office of the President, Office of Management and Budget (OMB) Guidelines as posted at [www.whitehouse.gov/omb/recovery\\_default/](http://www.whitehouse.gov/omb/recovery_default/), as well as OMB Circulars, including but not limited to A-102 and A-133 as posted at [www.whitehouse.gov/omb/financial\\_offm\\_circulars/](http://www.whitehouse.gov/omb/financial_offm_circulars/).
- c. Office of Tennessee Recovery Act Management Directives (posted on the Internet at [www.tnrecovery.gov](http://www.tnrecovery.gov)).
- d. Any Contractor, if covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, agrees to specifically identify Recovery Act expenditures separately for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133.
- e. The Recovery Act, including but not limited to the following sections of that Act:
  - (1) Section 1604 – Disallowable Use. No funds pursuant to this Agreement may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
  - (2) Section 1512 – Reporting and Registration Requirements.
    - i. The Contractor must report on use of Recovery Act funds provided through this Agreement. Information from these reports will be made available to the public.

- ii. The subrecipient Contractor must maintain current registrations in the Central Contractor Registration ([www.ccr.gov](http://www.ccr.gov)) at all times during which they have an active Contract funded with Recovery Act funds.
- (3) Section 1553 – Recovery Act Whistleblower Protections. An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee’s duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of one or more of the following related to the implementation or use of covered funds:
- i. Gross mismanagement,
  - ii. Gross waste,
  - iii. Substantial and specific danger to public health or safety,
  - iv. Abuse of authority, or
  - v. Violation of law, rule, or regulation (including those pertaining to the competition for or negotiation of a Contract).

Non-enforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: The Contractor and any subcontractor shall post notice of the rights and remedies as required under Section 1553. (Refer to Section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 located at [www.recovery.gov](http://www.recovery.gov), for specific requirements of this section and prescribed language for the notices.)

- (4) Section 902 – Access Of Government Accountability Office. The Contractor shall provide that the Comptroller General and his representatives are authorized:
- i. To examine any records of the Contractor or any of its subcontractors, that directly pertain to, and involve transactions relating to, this Agreement or a subcontract; and
  - ii. To interview any officer or employee of the Contractor or any of its subcontractors regarding such transactions.
- (5) Section 1514 – Inspector General Reviews. Any inspector general of a federal department or executive agency has the authority to review, as appropriate, any concerns raised by the public about specific investments using such funds made available in the Recovery Act. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in the Recovery Act, shall be posted on the inspector general’s website and linked to the website established by Recovery Act Section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.
- (6) Section 1515 – Access of Offices of Inspector General to Certain Records and Employers. With respect to this Agreement, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized:
- i. To examine any records, of the Contractor or any of its subcontractors, that pertain to and involve transactions relating or pursuant to this Agreement; and
  - ii. To interview any officer or employee of the Contractor or any subcontractors regarding such transactions.
- (7) Section 1606 – Wage Rate Requirements. All laborers and mechanics employed by pursuant to this Agreement shall be paid wages at rates not less than those prevailing on projects of a character similar

in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference.

For purposes of this Agreement, laborer or mechanic includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term laborer or mechanic includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards.

(8) Section 1605 – Buy American Requirements for Construction Material – Buy American, Use of American Iron, Steel, and Manufactured Goods. None of the funds provided by this Agreement may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

- f. The Contractor agrees to comply with any modifications or additional requirements that may be imposed by law and future guidance and clarifications of Recovery Act requirements.
- g. If the Contractor enters into one or more subcontracts for any of the services performed under this Agreement, each subcontract shall contain provisions specifically imposing on the subcontractor all requirements set forth in this Agreement Section C.21.

D. It is understood that during the course of this project valuable intellectual property may be generated by University personnel alone or jointly with Contractor personnel. The following terms concerning intellectual property and inventions shall apply to this Agreement:

1. All rights and title to inventions and intellectual property, including but not limited to U.S. and foreign patent applications and patents resulting therefrom, which are invented solely by University personnel, will belong to University. All rights and title to inventions and intellectual property, including but not limited to U.S. and foreign patent applications and patents resulting therefrom, which are invented solely by Contractor personnel, will belong to Contractor. All rights and title on inventions and intellectual property, including but not limited to U.S. and foreign patent applications and patents resulting therefrom, which are invented jointly by University and Contractor personnel shall belong jointly to University and Contractor.
2. University and Contractor agree to negotiate in good faith regarding the transfer of rights to inventions or other intellectual property held by the University that may have arisen from the project. Contractor shall have three (3) months from disclosure of any invention or discovery to notify University that it wants to enter into such a license agreement. The parties shall negotiate in good faith for a period not to exceed six (6) months from Contractor's notification or a longer period of time if the parties mutually agree to extend negotiations. If University and Contractor fail to enter into such an agreement, the rights to such inventions or other intellectual property shall be disposed of in accordance with University policies, with no obligation to Contractor. In the event that Contractor elects to obtain said license, Contractor shall bear the expense of the prosecution of any related patent applications, including without limitation, patentability investigation expenses, on behalf of University and University personnel.
3. In the event that University declines to file patent applications in the U.S. or in any foreign countries on any patentable inventions, the rights to file will, with prior agreement of all persons who will be engaged in the project, and to the extent that any inventions growing out of the project also relied upon governmental sponsored research, be transferred by University and those persons to Contractor, if Contractor so requests. Under these circumstances, patent applications filed by Contractor will be made with the understanding that a share in royalties equivalent to that provided to the inventor(s) under the current University patent policy will be provided to the inventor(s) by Contractor and provided the University shall be granted a world wide, fully paid-up, non-exclusive license to any Inventions so patented.

E. The Contractor shall comply with all applicable State, and Local laws and regulations in the performance of this Agreement, including any applicable University policies. This Agreement shall be governed by and subject to the laws of the State of Tennessee. Further, as this Agreement covers work to be done under a Federal award which requires certain assurances and as University has the specific responsibility for ensuring that all required assurances are obtained, the Contractor agrees to comply with all applicable Federal laws, including but not limited to the following and will, upon request, furnish University with written assurances of such compliance: Animal Welfare Act (P.L. 89-544, as amended); Protection of Human Subjects (45 CFR Part 46, Subpart A); Anti-Kickback Act of 1986 (41 USC 51-58); International Traffic in Arms Regulations (ITAR-22 CFR Parts 120 through 130); Export Administration Regulations (EAR-15 CFR Parts 730 through 799); Non-delinquency on Federal Debt (2 CFR 215.22(h)); Debarment and Suspension (45 CFR Part 620); Drug-free Workplace (41 USC 701-707, as amended); Clean Air Act (42 USC 7401-7661, as amended); Clean Water Act (33 USC 1251-1376); Lobbying (2 USC 1611, as amended); Conflict of Interest Regulations (National Science Foundation, 59 Fed. Reg. 25820 and 60 Fed. Reg. 35820) (Public Health Service, 42 CFR Part 50, Subpart F and/or 45 CFR Part 94); and Scientific Fraud and Misconduct (Contractor shall immediately report to University any and all findings of fraud or misconduct under this Agreement, in accordance with applicable law and agency policy).

F. This Agreement consists of the following parts and constitutes the entire agreement by and between University and Contractor with regard to the subject of this Agreement: Agreement, Appendix A through E. Any other agreement, written or oral, is hereby superseded. No amendments, changes, additions, deletions, or modifications to or of this Agreement shall be valid unless reduced to writing, signed by all the parties, and attached hereto. This Agreement supersedes and cancels any previous agreement whether written or oral entered into between the parties related to the topics discussed herein. All terms of this Agreement which by their nature have continuing effects shall survive the termination or expiration of this Agreement.

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

**CONTRACTOR**

By: \_\_\_\_\_ Date \_\_\_\_\_ Title \_\_\_\_\_

**TENNESSEE TECHNOLOGICAL UNIVERSITY**

By: \_\_\_\_\_ Date \_\_\_\_\_ Title Vice President for Planning and Finance

Dr. Claire Stinson

**APPENDIX A**  
**STATEMENT OF WORK**

**APPENDIX B**  
**CONTRACTOR BUDGET**

**APPENDIX C**

**TENNESSEE BOARD OF REGENTS  
ANNUAL TITLE VI SURVEY**

**APPENDIX D**

**TENNESSEE BOARD OF REGENTS  
HIGHER EDUCATION SYSTEM  
MINORITY/ETHNICITY  
and  
ATTESTATION RE: PERSONNEL USED  
IN CONTRACT PERFORMANCE FORM**

**W-9 FORM**



TENNESSEE TECH UNIVERSITY
Minority / Ethnicity Form

In order to comply with reporting regulations as required by the state of Tennessee and United States federal income tax laws, it is necessary that the following information be provided prior to the issuance of any University contract.

1. Contractor Legal Entity Name:
Federal ID # (if company):
2. Is Contractor a US citizen?
Yes
No (If no, state country of citizenship):
3. Kind of Ownership (Check all that apply)::
Government (GO)
Non-Profit (NO)
Majority (MJ)
Minority\* (see reverse side for definition)
Woman (WO)\*\* (see reverse side for definition)
Small (SM)\*\*\* (see reverse side for definition)
State of TN Agency
4. Minority / Ethnicity Code (Check one):
African American (MA)
Native American (MN)
Hispanic American (MH)
Asian American (MS)
Other Minority (MO) Specify:
5. Preference for reporting purposes: (Note: If Contractor qualifies in multiple categories as small, woman-owned and/or minority, Contractor is to specify in which category he/she is to be considered for reporting and classification purposes.)
Small Minority Woman-Owned
6. Certification: I certify that all of the information as completed above is accurate and true.
Signed: Date:
Name (Printed):
Title:

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ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE. 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.
Signed\*: Date:
Name (Printed):
Title:

\* Note: 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.

**THE FOLLOWING DEFINITIONS ARE APPLICABLE FOR PURPOSES OF THE MINORITY / ETHNICITY FORM:**

**\*Minority Ownership Definition:** A “minority-owned business” means a business that is a continuing, independent, for profit business which performs a commercially useful function and is at least fifty-one percent (51%) owned and controlled by one (1) or more minority individuals who are impeded from normal entry into the economic mainstream because of past practices of discrimination based on race or ethnic background.

“Minority” means a person who is a citizen or lawful permanent resident of the United States and who is:

- a) African American (a person having origins in any of the black racial groups of Africa);
- b) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
- c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
- d) Native American (a person having origins in any of the original peoples of North America).

**\*\*Woman-Owned Business Definition:** A “woman-owned business” means a business that is a continuing, independent, for profit business which performs a commercially useful function and is at least fifty-one percent (51%) owned and controlled by one (1) or more women; or, in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned and controlled by one (1) or more women and whose management and daily business operations are under the control of one (1) or more women.

**\*\*\*Small Business Ownership Definition:** A “small business” means a business that is independently owned and operated for profit, is not dominant in its field of operation and is not an affiliate or subsidiary of a business dominant in its field of operation.

The Governor’s Office of Diversity Business Enterprise establishes small business guidelines on industry size standards. The criteria guidelines are required to be met in order for a business to be considered small. The annual receipts or number of employees indicates the maximum allowed for a small business concern and its affiliates to be considered small.

<b>TYPE OF BUSINESS</b>	<b>ANNUAL GROSS SALES</b>	<b>NO. OF EMPLOYEES</b>
Agriculture, Forestry, Fishing	\$500,000	9
Architectural / Design / Engineering	\$2,000,000	30
Construction	\$2,000,000	30
Educational	\$1,000,000	9
Finance, Insurance & Real Estate	\$1,000,000	9
Information Systems / Technology	\$2,000,000	30
Manufacturing	\$2,000,000	99
Marketing / Communications / Public Relations	\$2,000,000	30
Medical / Healthcare	\$2,000,000	30
Mining	\$1,000,000	49
Retail Trade	\$750,000	9
Service Industry	\$500,000	9
Transportation, Commerce & Utilities	\$1,000,000	9
Wholesale Trade	\$1,000,000	19

## Request for Taxpayer Identification Number and Certification

**Give form to the  
requester. Do not  
send to the IRS.**

<b>Print or type See Specific Instructions on page 2</b>	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶ .....	
	<input type="checkbox"/> Exempt from backup withholding	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

<b>Social security number</b>
<b>or</b>
<b>Employer identification number</b>

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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### Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.**

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules regarding partnerships* on page 1.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

**Limited liability company (LLC).** If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

**Other entities.** Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

**Note.** You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

## Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

**Exempt payees.** Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
  2. The United States or any of its agencies or instrumentalities,
  3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
  4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
  5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
  7. A foreign central bank of issue,
  8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
  9. A futures commission merchant registered with the Commodity Futures Trading Commission,
  10. A real estate investment trust,
  11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
  12. A common trust fund operated by a bank under section 584(a),
  13. A financial institution,
  14. A middleman known in the investment community as a nominee or custodian, or
  15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt recipients 1 through 7 <sup>2</sup>

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.socialsecurity.gov](http://www.socialsecurity.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

**Signature requirements.** Complete the certification as indicated in 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or single-owner LLC	The owner <sup>3</sup>
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner <sup>3</sup>
7. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules regarding partnerships* on page 1.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

**APPENDIX E**

**A-133 AUDIT CERTIFICATION**

**APPENDIX E**

**A-133 AUDIT CERTIFICATION**

Contractor Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

TTU Project PI/Director: \_\_\_\_\_

Account #: \_\_\_\_\_

The Federal Office of Management and Budget Circular A-133 "Audits of Institutions of Higher Education and Other Nonprofit Institutions" requires that recipients of Federal awards, who are subject to the provisions of OMB Circular A-133, comply with the audit requirements of OMB Circular A-133.

As a recipient of Federal funds, Tennessee Technological University (TTU) requests certification from your institution that you are in compliance, if necessary, with the audit requirements of OMB Circular A-133. Accordingly, please check the appropriate items below and provide the applicable documents, if necessary:

1.  We are not subject to the audit requirements of OMB A-133 because our institution:
- Did not expend more than \$500,000 in Federal awards during the last completed fiscal year.
  - Is a for-profit organization.
  - Is exempt for other reasons (explain). \_\_\_\_\_

Our most recent, independent audited financial statements are for the period ending \_\_\_\_\_. The auditors expressed the following opinion:

- Unqualified – the financial statements taken as a whole, represent the financial position, in all material respects, of the organization.
  - Qualified – a copy of the Independent Auditor's Report is enclosed.
  - Adverse – a copy of the Independent Auditor's Report is enclosed.
  - Our financial statements are not reviewed by an independent auditor(s).
2.  Our most recently completed A-133 audit is for the fiscal year ending (date) \_\_\_\_\_.
- The audit disclosed that the financial statements present fairly, in all material respects, the financial position or our organization. There were no material instances of noncompliance with applicable Federal laws and regulations. There were no matters involving internal control that are considered to be a material weakness or a reportable condition. There are no unresolved prior year findings. (Please submit a copy of the audit report along with this survey. If your audit is published on the web, please provide the web link: \_\_\_\_\_)

- The audit report disclosed material noncompliance issues and/or material internal control weaknesses and/or reportable conditions. (Please submit a copy of the audit report along with this survey which includes:

- (1) Financial statements and schedule of expenditures of Federal awards;
- (2) Auditor's report on compliance and internal controls;
- (3) Summary schedule of prior audit findings; and
- (4) Corrective action responses or plans.

I certify that the above checked boxes characterize the position of the institution of which I am a representative.

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

Name and Title: \_\_\_\_\_

Should you have any questions regarding this form, please contact Sammie Sparks at (931) 372-3202.