

TERMS AND CONDITIONS

The parties agree that:

1. The Foundation is not bound by the contract until it is executed by its authorized official(s). If applicable, the person signing the contract on behalf of the Contractor represents s/he is authorized to enter into the contract on behalf of the Contractor. The parties agree that the contract may be executed in counterparts, executed electronically, and transmitted electronically.
2. The contract may be amended only through a written amendment signed by the parties' authorized officials.
3. If Contractor fails to timely or properly perform its obligations, or violates any term of the contract, the Foundation may immediately terminate the contract and withhold payments in excess of fair compensation for completed services. Contractor is liable to the Foundation for damages sustained by virtue of Contractor's breach and agrees to pay the Foundation's attorney fees to enforce the contract terms.
4. Contractor shall not assign or subcontract any portion of the contract without the Foundation's prior written consent.
5. The Contractor agrees that no part of the total contract amount shall be paid directly or indirectly to an employee or official of the State of Tennessee ("State") as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to Contractor in connection with any work contemplated or performed relative to the contract, and that no employee or official of the State holds a controlling interest in the Contractor. If the Contractor is an individual, the Contractor certifies that he/she is not presently employed by any agency or institution of the State; that he/she has not retired from or terminated such employment within the past six months; and that he/she will not be so employed during the term of the contract.
6. No person on the grounds of disability, age, race, color, religion, sex, national origin, veteran status or any other classification protected by federal, or Tennessee constitutional or state laws shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of the contract.
7. The Foundation and/or the State of Tennessee is entitled to audit the books and records of the Contractor or any subcontractor other than a firm fixed price contract, to the extent that any such books and records relate to contract performance. Such books and records shall be maintained by the Contractor and subcontractor for a period of three (3) years from the date of final payment.
8. Either party's failure to insist in any one or more cases upon the strict performance of any term, covenant, condition, or provision of the contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision.
9. If any provision of the contract is held invalid, the surviving provisions will remain enforceable.
10. The Contractor is an independent contractor and is not an agent of the Foundation whatsoever.
11. Contractor agrees to carry adequate public liability and other appropriate forms of insurance and to pay all applicable taxes incident to the contract.
12. Should an event (e.g., war, act of God, riot, natural disaster, etc.) beyond a party's reasonable control occur, that party will be excused from performing its obligations under the contract, provided the following provisions are met: (1) The affected party must promptly notify the other party of the occurrence of the event, its effect on performance, and how long that party expects it to last, and (2) the affected party shall update that information as reasonable necessary and use reasonable efforts to limit damage to the other party and to resume its performance under the Contract.
13. The parties shall comply with all applicable federal, state and local laws and regulations, including, but not limited to those related to data privacy and security, non-discrimination, and accessibility. The contract shall be governed by the laws of the State of Tennessee, without regard to its choice of law principles.
14. Contractor agrees to indemnify and hold harmless the Foundation as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, causes of action, and attorney fees which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of Contractor, its employees, or any person acting for or on its behalf.
15. Contractor agrees that, if applicable to this Contract, the Foundation will possess all rights to any creations, inventions, other intellectual property, and materials, including copyright or patents in the same, which arise out of, are prepared by, or are developed in the course of the Contractor's performance under the contract. The Contractor and the University acknowledge and agree that the Contractor's work under the contract shall belong to the Foundation as "work-made-for-hire" (as such term is defined in U.S. Copyright Law). To the extent Contractor's work is not deemed to constitute "work-made-for-hire," Contractor hereby assigns and transfers to the Foundation all of Contractor's right, title and interest in and to any creations, inventions, other intellectual property, and materials, including copyright or patents in the same, which arise out of, are prepared by, or are developed in the course of the Contractor's performance under the contract.