

Standard Payable (UTC Pays Supplier) Agreement

This standard payable Agreement ("Agreement") is dated _____ (effective date), and is between The University of Tennessee at Chattanooga, an instrumentality of the state of Tennessee ("University"), and _____ ("Supplier").

The parties agree as follows:

Supplier address for notices:

University department name and address for notices:

1. Term: The term of this Agreement begins on and ends on .
2. Scope:
3. Work Made for Hire: Supplier acknowledges that the University 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 Supplier's performance under this Agreement. Supplier and the University acknowledge that the Supplier's work under this Agreement will belong to the University as "work-made-for-hire" (as such term is defined in U.S. Copyright Law). To the extent Supplier's work is not deemed to constitute "work-made-for-hire," Supplier hereby assigns and transfers to the University all of Supplier'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 Supplier's performance under this Agreement.
4. Compensation:
5. Travel: UT has four options (please place an "X" in the applicable blank space):

University will not reimburse Supplier for travel costs

Supplier's rate includes travel (University will not reimburse Supplier for any travel costs)

University will compensate Supplier a mutually agreed, flat-rate for travel

University will reimburse Supplier under University travel policy; Supplier must provide itemized receipts

6. Terms and Conditions: This Agreement is governed by the terms in Schedule 1.
7. Insurance: Supplier shall comply with Schedule 2 (Insurance).

Agreed: The parties are signing this Agreement on the effective date listed in the introductory clause of this Agreement.

**The University of Tennessee
At Chattanooga**

Supplier

Signature: _____

Signature: _____

Brent Goldberg, Vice Chancellor for
Finance and Administration

Name: _____

Date: _____

Title: _____

Schedule 1: Terms and Conditions

A. Termination:

1. Termination:

- i. For Cause: If Supplier materially breaches this Agreement, University may terminate this Agreement immediately.
- ii. Unrestricted Right: Either party may terminate this Agreement for any reason by giving the other party at least 30 days' prior notice. Unless stated in Schedule 1, University will not be responsible for any damages, including cancellation fees.
- iii. Work: If University terminates this Agreement, upon receipt of University's notice of termination, Supplier shall not start any new work. Upon receipt of University's notice of termination, Supplier will stop or complete existing work, as the University directs.
- iv. Payment for Services Rendered: If University terminates this Agreement, University will pay for any authorized work that Supplier performs through the effective date of termination.

B. Financial:

1. Invoices:

- i. Required: Unless the University elects to submit a payment request through the University's accounts payable process on Supplier's behalf, Supplier shall invoice the University.
- ii. Invoice Contents: Supplier must include the following information on its invoices under this Agreement:
 1. Addressed to the University;
 2. Invoice number (assigned by Supplier);
 3. Invoice date;
 4. Transaction date;
 5. Supplier name;
 6. Supplier contact for invoice questions (name, phone, or email);
 7. Supplier remittance address;
 8. Description of delivered goods or services provided and invoiced, including identifying information as applicable;
 9. Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
 10. Amount due for each compensable unit of good or service; and
 11. Total amount due for the invoice period.

iii. Late Payment: University's payment will not be considered late unless University pays later than 45 calendar days after receiving Supplier's invoice.

2. Records; Audit:

i. Records: In compliance with the requirements of Tenn. Code Ann. § 12-3-602, Supplier shall maintain records for all expenses for which Supplier invoices the University under this Agreement. Supplier shall maintain its records for at least 5 years, and shall maintain its records in accordance with generally accepted accounting principles.

ii. Audit: During the term of this Agreement and for 5 years after the last payment from the University to Supplier under this Agreement, the State of Tennessee Comptroller or the University's internal audit, or both, may audit Supplier's records that relate to this Agreement.

iii. Assistance: Supplier shall provide the University with any documentation, access to information, or other assistance necessary for the University to ensure that Supplier complies with its obligations under this Agreement.

3. PaymentWorks: Supplier must register as a vendor in University's vendor-management system, PaymentWorks.

C. Compliance:

1. Conflicts of Interest:

i. Supplier states that no part of the Supplier's compensation will be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Supplier in connection with any work contemplated or performed under this Agreement.

ii. Supplier states that this Agreement is immediately void if the Supplier is, or within the past 6 months has been, an employee of the State of Tennessee or if the Supplier is an entity in which a controlling interest is held by an individual who is, or within the past 6 months has been, an employee of the State of Tennessee.

2. Iran Divestment Act: The requirements of Tenn. Code Ann. § 12-12-101 et. seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, are a material provision of this Agreement. Supplier hereby certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

3. Illegal Immigrants: In compliance with the requirements of Tenn. Code Ann. § 12-3-309, Supplier hereby attests that it shall not knowingly utilize the services of an

illegal immigrant in the United States in the performance of this Agreement and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the United States in the performance of this Agreement.

4. Anti-Israel Boycott: In compliance with the requirements of Tenn. Code Ann. § 12-4-119, Supplier hereby states that it is not currently engaged in, and will not for the duration of this Agreement engage in, a boycott of Israel.
5. Tennessee Department of Revenue: In compliance with the requirements of Tenn. Code Ann. § 12-3-306, the Supplier hereby attests that it has registered with the State of Tennessee's Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Agreement.
6. Debarment:
 - i. Supplier hereby attests that the following are true statements:
 1. Supplier is not currently debarred by the U.S. federal government.
 2. Supplier is not currently suspended by the U.S. federal government.
 3. Supplier is not currently named as an "excluded" supplier by the U.S. federal government.
 - ii. Supplier must notify University within 2 business days if Supplier is debarred by any organization in the United States.
7. Background Checks: This clause applies if Supplier will provide services on the University's property.
 - i. General Obligation: Supplier will not knowingly assign any individual to provide services to University if the individual has a history of criminal conduct. For purposes of this Agreement, "criminal conduct" means (a) that the person is listed on any state's sexual offender registry; (b) that person is listed on the Tennessee Abuse Registry, or (c) that the person has been convicted of a felony in any state.
 - ii. Prompt Background Checks: If the University requests, Supplier must perform a comprehensive criminal background check on any Supplier employee or sub-contractor.
8. Premises Rules: When Supplier is physically present on University property, Supplier shall make reasonable efforts to cause its employees and permitted sub-contractors to become aware of, and act in full compliance with, University's rules, policies, and procedures (collectively referred to as "rules."). For example, Supplier shall ensure that it complies with the University's applicable rules regarding safety, smoking,

noise, access restrictions, parking, security, and consideration for minors (students and University visitors under age 18).

9. Conduct: Supplier shall make reasonable efforts to ensure that Supplier's employees and sub-contractors will conduct themselves in a professional manner while on University property, and while interacting with University employees, students, or visitors. Supplier must report, within 24 hours, to the University's Office of Procurement Services any complaints about Supplier's employees or sub-contractors engaging in the following behavior: sexually suggestive or harassing behavior; unwanted physical touching; unwanted photographs; alcohol use; illegal drug use; or physical manifestations of alcohol or drug use (e.g. Supplier's employee emits smells that indicate that the individual consumed alcohol recently). The parties acknowledge that University may prohibit anyone from entering its campus at any time, due to violations of the law.

D. General:

1. Assignment: This Agreement is personal to Supplier. Accordingly, Supplier may not assign any rights or delegate any duties under this Agreement.
2. Independent Contractor: The parties intend for their relationship to that of independent contractors. Supplier acknowledges that it is not an employee of University.
3. Governing Law: The laws of the state of Tennessee, without giving effect to its principles of conflicts of law, govern this Agreement. The University's liability will be governed by the Tennessee Claims Commission Act.
4. Self-Insurance: The University is self-insured under the Tennessee Claims Commission Act, Tenn. Code Ann. §§ 9-8-301 et seq., which covers certain tort liability for actual damages of up to \$300,000 per claimant and \$1,000,000 per occurrence.
5. Use of University Intellectual Property: Except as allowed in this section, Supplier shall not use the University's name, marks, logos, or any other University-owned intellectual property for any reason, without the written consent of an authorized official of the University. During the term of this Agreement, Supplier may list the University's name in Supplier's list of clients.
6. Third-Party Beneficiaries: There are no third-party beneficiaries to this Agreement.
7. Student Data: If, in the course of performance of this contract, Supplier receives any personal information of University students, including, but not limited to, names; campus, home, or email addresses; telephone numbers; or other identifying

information, Supplier may only use student information for the purposes stated under this contract. Supplier shall not sell or share such personal information with any other entity.

8. Severability: The parties intend as follows:
 - i. that if any provision of this Agreement is held to be unenforceable, then that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded;
 - ii. that if an unenforceable provision is modified or disregarded in accordance with this section, then the rest of the Agreement will remain in effect as written; and
 - iii. that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.
9. Modification; Waiver: No amendment of this Agreement will be effective unless it is in writing and signed by authorized officials of the parties. No waiver of satisfaction of a condition or failure to comply with an obligation under this Agreement will be effective unless it is in writing and signed by an authorized official of the party granting the waiver, and no such waiver will constitute a waiver of satisfaction of any other condition or failure to comply with any other obligation.
10. Counterparts: If the parties sign this Agreement in several counterparts, each will be deemed an original but all counterparts together will constitute one instrument.
11. Force Majeure:
 - i. If a Force Majeure Event prevents a party from complying with any one or more obligations under this Agreement, that inability to comply will not constitute breach if (1) that party uses reasonable efforts to perform those obligations, (2) that party's inability to perform those obligations is not due to its failure to (A) take reasonable measures to protect itself against events or circumstances of the same type as that Force Majeure Event or (B) develop and maintain a reasonable contingency plan to respond to events or circumstances of the same type as that Force Majeure Event, and (3) that party complies with its obligations under this section.
 - ii. For purposes of this Agreement, "Force Majeure Event" means, with respect to a party, any event or circumstance, whether or not foreseeable, that was not caused by that party and any consequences of that event or circumstance.
 - iii. If a Force Majeure Event occurs, the noncomplying party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long the noncomplying party expects it to last.

Thereafter the noncomplying party shall update that information as reasonably necessary. During a Force Majeure Event, the noncomplying party shall use reasonable efforts to limit damages to the other party and to resume its performance under this Agreement.

12. Notice:

- i. For a notice or other communication under this Agreement to be valid, it must be in writing and delivered (1) by hand, (2) by a national transportation company, with all fees prepaid, or (3) by registered or certified mail, return receipt requested and postage prepaid;
- ii. Subject to sub-section (iv) below, a valid notice or other communication under this Agreement will be effective when received by the party to which it is addressed. It will be deemed to have been received as follows:
 1. if it is delivered by hand, delivered by a national transportation company, with all fees prepaid, or delivered by registered or certified mail, return receipt requested and postage prepaid, upon receipt as indicated by the date on the signed receipt; and
 2. if the party to which it is addressed rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which no notice was given, then upon that rejection, refusal, or inability to deliver.
- iii. For a notice or other communication to a party under this Agreement to be valid, it must be addressed using the information specified below for that party or any other information specified by that party in a notice in accordance with this section.

Supplier: See the first page.

University: See the first page for departmental notices and invoices.

Legal notices only; do not send invoices to this address:

The University of Tennessee
505 Summer Place- UT Tower #1044
Knoxville, TN 37902
ATTN: Office of Procurement Services
Email: contracts@tennessee.edu

- iv. If a notice or other communication addressed to a party is received after 5:00 p.m. on a business day at the location specified in the address for that party, or on a day that is not a business day, then the notice will be deemed received at 9:00 a.m. on the next business day.
- E. Non-Discrimination: No person on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal and/or Tennessee State Constitutional and/or statutory law shall be excluded from participation in, or denied benefits of, or be otherwise subjected to discrimination in the performance of the contract or in the employment practices of the vendor/contractor. Supplier shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to employees and applicants, notices of non-discrimination.
- F. Entire Agreement: This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes all other Agreements, whether written or oral, between the parties. In the event that Supplier maintains terms and conditions on its website, software, invoices, etc., such terms and conditions do not apply to the University.

Schedule 2: Insurance

Supplier must comply with the following terms regarding insurance:

1. **Additional Insurance Requirements:** Supplier's policies must include, or be endorsed to include, the following provisions:
 - a. On insurance policies where The University of Tennessee is named as an additional insured, The University of Tennessee must be an additional insured to the full limits of liability purchased by the Supplier, even if those limits of liability are in excess of those required by this Agreement.
 - b. The Supplier's insurance coverage must be primary insurance and non-contributory with respect to all other available sources.

Certificate holder must be listed as:

University of Tennessee
ATTN: Risk Management
505 Summer Place – UTT 1048C
Knoxville, TN 37902

2. **Notice of Cancellation:** Each insurance policy required by the insurance provisions of this Agreement must provide the required coverage and must not be suspended, voided, or canceled except after 30 days' prior written notice has been given to The University of Tennessee, except when cancellation is for non-payment of premium; then 10 days' prior notice may be given. Such notice must be sent directly to the University via email at: riskmanagement@tennessee.edu

If any insurance company refuses to provide the required notices, the Supplier or its insurance broker must notify The University of Tennessee of any cancellation, suspension or non-renewal of any insurance within 7 days of receipt of insurers' notification to that effect.

3. **Acceptability of Insurers:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Tennessee and with an "A.M. Best" rating of not less than A- VII. The University of Tennessee in no way warrants that the above-required minimum insurer rating is sufficient to protect the Supplier from potential insurer insolvency.
4. **Verification of Coverage:** Supplier must furnish The University of Tennessee with certificates of insurance (ACORD form or equivalent) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by The University of Tennessee before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of Agreement.

Please send verification of coverage to: riskmanagement@tennessee.edu

5. **Renewals:** Supplier must provide the University with renewal certificates of insurance (ACORD form or equivalent), as applicable, by emailing renewal certificates to: riskmanagement@tennessee.edu Supplier must provide renewal certificates within 5 business days of Supplier receiving the renewal certificate.
6. **Subcontractors:** Supplier's certificate(s) must include all subcontractors as additional insureds under its policies, or contractor must furnish to The University of Tennessee separate certificates and endorsements for each subcontractor. All coverages for subcontractors must be subject to the minimum requirements identified above.
7. **Approval:** Any modification or variation from the insurance requirements in this Agreement must be made by the risk management department, whose decision must be final. Such action will not require a formal Agreement amendment, but may be made by administrative action.
8. **Waiver of Subrogation:** Supplier hereby waives any right of subrogation on the part of its insurance provider against the University. Supplier must ensure that its insurance certificates include the following language:

The University of Tennessee, its Board of Trustees, officers, employees, agents, and volunteers are named as Additional Insureds with respect to the General and Automobile Liability policies. A Waiver of Subrogation applies to Workers Compensation and the General and Automobile Liability policies as evidenced on this certificate of insurance. All insurance policies above are primary and non-contributory to any other insurance available to the Certificate Holder. A thirty-day notice of cancellation is required.

9. During the term of this Agreement, Supplier must maintain the following insurance types and limits (or higher limits):

<u>Workers Compensation (WC):</u>	<u>Statutory Limits – required in all contracts</u>
Employers’ Liability Each Accident	\$100,000
Employers’ Liability Disease – each employee	\$100,000
Employers’ Liability Disease – policy limit	\$500,000
<u>Commercial General Liability (CGL):</u>	
Each Occurrence Limit	\$1,000,000
Damage to Rented Premises – Ea. Occ.	\$300,000
Medical Expense – any one person	\$10,000
Personal & Advertising Injury Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products/Completed Ops. Aggregate Limit	\$2,000,000
<u>Automobile Liability</u>	
Combined Single Limit – each accident	\$1,000,000