



## **Request for Qualified Suppliers (“RFQ-S”)**

**Title: West Tennessee Catering Services**

**Solicitation #: 1591**

**Issue date: July 27, 2018**

**Due date: August 15, 2018**

Respondent’s Name:

Representative’s Name:

Representative’s Email:

## Section A: Introduction and Basic Information

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### 1. **Purpose and Scope:**

#### **a. Purpose:**

The University of Tennessee routinely uses catering services in West Tennessee, particularly in the Memphis, Jackson, and Martin areas.

The University seeks to award ongoing, multi-year agreements to multiple catering companies (or restaurants that can provide catering services) in each of these three areas within West Tennessee.

For clarity, this solicitation is not for a specific upcoming event. Instead, this solicitation is intended to provide University departments with a list of qualified catering providers. University departments will be able to do business with all respondents awarded a purchase order through this solicitation without requiring a bid at the time the department schedules an event.

Awards from this solicitation will be governed by supplier agreements and will eliminate signed contracts for individual events. Order forms used by caterers will be recognized, but the terms of the supplier agreements will be the governing terms. If the caterer requires a signed order form to confirm arrangements this will be acceptable to the University, and the form may be signed by the ordering department.

The University's terms and an example supplier agreement are attached to this solicitation as Exhibits 2 and 4.

#### **b. General Scope:**

The University is requesting responses with the goal of providing a range of delivered catering options for events hosted by the University in West Tennessee.

The size and type of events will vary widely, and a successful respondent must be able to accommodate the University's wide range of needs. Events could range from box lunches to informal buffets and formal sit down meals. Services will include food, staffing, appropriate table settings and clean up for each event.

1. **Expanded Scope:** After the University issues an award, the University may negotiate with the Respondent in to include any of Respondent's services or products. This expanded scope includes goods or services that Respondent does not offer at the time the University issues an award.
2. **Applicability:** Any University department may purchase through an award resulting from this solicitation.

2. **Communications:**

The following University office is managing this solicitation:

The University of Tennessee  
Office of Procurement Services  
5723 Middlebrook Pike  
Knoxville, TN 37921

Regarding the subject matter of this solicitation, respondents may only communicate with staff members of the University's Office of Procurement Services. The primary contact person for this solicitation is listed below:

Name: Ryan Holliday  
Title: Strategic Procurement Manager  
Email: [ryanholliday@tennessee.edu](mailto:ryanholliday@tennessee.edu)

If a respondent contacts anyone except the University's staff members listed above, the University may disqualify the respondent.

3. **Term:**

- a. The initial term of contracts resulting from this solicitation will be from September 15, 2018 to August 31, 2021.
- b. The University and winning respondents may renew for up to 7 additional years, upon mutual agreement.

4. **Number of Awards:** The University intends to award this solicitation to multiple respondents, unless the University deems it to be in its best interest to award to fewer, or more, respondents. The University retains sole discretion over this decision.

5. **Extension of the Award:** Other university departments, agencies with the State of Tennessee and other Tennessee public universities may also purchase goods and/or services from this award, if the winning respondent is agreeable. It should be noted that these entities are not required to use this agreement. If any them elect to participate under the terms and conditions of this resulting award, the University of Tennessee reserves the right to re-negotiate favorable incentive, and cost terms with the successful supplier that are reflective of the additional volume. Note: The offer to extend the award to these other entities is at the discretion of the winning respondent and they should not be extended if it would affect your ability to offer the most favorable prices and terms to The University of Tennessee.

6. **Non-Exclusive:** Although it is the University's hope that most departments will procure items from this award, this is not a solicitation for an exclusive agreement and departments

will still have the option of procuring items from other suppliers in accordance with our purchasing policies. The University does not guarantee that all purchases for the products and/or services available under resulting contracts will be made exclusively from the winning respondents.

7. **Pre-Proposal Conference:** University will host 2 optional pre-proposal conference calls to discuss this solicitation. The call-in details are included in Exhibit 1. Call schedule is as follows:
  - a. August 7, 2018 at 10am Central / 11 am Eastern
  - b. August 10, 2018 at 1pm Central / 2pm Eastern
8. **Schedule:** Note the University reserves the right to change these dates. All times are quoted in Eastern Time.

|                                   |  |
|-----------------------------------|--|
| Publication Date                  | July 27, 2018  |
| Optional Pre-Proposal Conference  | August 7, 2018 at 10am Central<br>August 10, 2018 at 1pm Central |
| Deadline for Questions            | August 13, 2018 at 5pm Central                                   |
| Bidder Submission Due Date        | August 15, 2018 at 5pm Central                                   |
| Notice of Intent to Award         | August 29, 2018  |
| Open File Period / Protest Period | September 6, 2018 at 5pm Central                                 |
| Effective Date of Agreements      | September 15, 2018   |

## Section B: Instructions and Evaluation Criteria

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1. **Assistance to Respondents with a Disability:** In the event that a respondent has a disability, the University will make reasonable accommodation to allow them to participate, provided that the individual requesting assistance contacts the Solicitation Coordinator no later than 10 days before the response deadline.
2. **Proposal Submission:** Respondents must submit their proposals via email to the solicitation coordinator listed above. Respondents must enter their responses in this Word document.
3. **Confidential Information:** Any proprietary or confidential materials contained in the proposal will be subject to the Tennessee Public Records Act, TCA 10-7-503. All responses, inquiries, or correspondence relating to or in reference to this solicitation, and all other

documentation submitted by the respondents will become the property of the University when received. All proposal material submitted and evaluation documents will remain confidential, as provided by law, until after the University announces the notice of intent to award to the successful respondent. The University will not agree to provide advance notice of disclosure and placing confidential notices on documents is meaningless. After the notice to award, all materials submitted are open for inspection.

4. **Proposal Preparation Costs:** The University will not pay any costs in the preparation or submission of a proposal. Respondent is responsible for its preparation costs.
5. **Withdrawal of Proposals:** A submitted proposal may be withdrawn by sending a written request to the Solicitation Coordinator before the solicitation due date. Proposals may be withdrawn and resubmitted in the same manner, if done prior to the submission deadline. Withdrawals or modifications offered in any other manner will not be considered.
6. **Acceptance and Rejection of Proposals:** The University may accept or reject any proposals that, in its opinion, is in the best interests of the University. The University may re-solicit proposals, or to continue with the current supplier for these services. The University may also waive minor variances or immaterial defects in a response. The University may also accept any item in the bid, unless otherwise specified by the Respondent.
7. **Questions:** Up to the deadline for questions, respondents may ask the Office of Procurement Services questions in writing via email to the email address listed above in the "Contact Person" subsection. In the event that a respondent communicates with the Office of Procurement Services verbally, the respondent understands that verbal communication is non-binding, and respondent further acknowledges the only official communication about this solicitation is written communication. Respondent understands that it must not rely on verbal communications with the University.
8. **Addenda:** The University will make reasonable efforts to ensure that all respondents have the same material information. Accordingly, if a respondent asks a question that the University considers, in its sole discretion, to be material, the University will issue an addendum to this solicitation. The University will communicate all addenda to all respondents.
9. **Evaluation of Technical Responses:**  
The University will use the following scoring criteria:

| <b>Evaluation Criteria</b>                                     | <b>Maximum Points Possible</b> |
|--|--------------------------------|
| Mandatory requirements   | Pass/Fail                      |
| General and Technical qualifications, including on-site visit. | 1,000                          |

10. **Cost Proposal**: The Office of Procurement Services will evaluate the respondents' respective cost proposals, and may negotiate with one or multiple respondents to ensure a both-win deal for the University and respondent.
11. **Award**: This solicitation does not commit the university to make an award or to procure or contract for the articles of goods or services described in this solicitation. The University will make an award that the University determines to be in its best interest; this might result in a situation where the University does not award to the respondent offering the lowest cost, or to a respondent other than the highest-scoring respondent. The University reserves the right to negotiate terms and alter the specifications with the with the highest scoring respondent, however, if they are unable to reach mutually agreeable terms and conditions, the University reserves the right to reject the proposal and negotiate terms of an agreement with the next highest scoring respondent. If the agreement with the successful respondent is terminated for any reason prior to the agreement termination date, the university may elect to substitute the next highest scoring respondent, if they are willing to honor the prices in their initial proposal. A Purchasing Department of the University of Tennessee is the only office authorized to award a purchase order for the required services.
12. **Notice of Intent to Award**: After the evaluation process is completed, the University will issue a formal notice of intent to award notifying all respondents of the identity of the winning respondents.

## Section C: Technical Response

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**Instructions:** Respondents must write and organize their responses in the same order as listed below. The University may deem a response non-responsive the respondent does not comply.

### **Part 1: Mandatory Requirements**

**The University will assess each criteria below on a pass/fail basis: respondents must pass each criteria to qualify.**

- A. **Respondent's Authority:** The representative responding on behalf of a Respondent must have authority to respond to this solicitation on behalf of the Respondent.
- B. **Debarment:** If a potential Respondent is currently debarred or otherwise prohibited from bidding by the U.S. federal government or by any U.S. state government, Respondent may not bid on any of the University's solicitations until Respondent is no longer debarred. In the event that the University determines that the Respondent is debarred by the U.S. federal government or by any U.S. state government, the University will disqualify Respondent's bid.
- C. **Conflicts of Interest:** Respondents must disclose all conflicts of interest. The University will evaluate a Respondent's conflicts to determine whether the conflict is allowed.
- D. **Compliance with law:** Respondent must be legally allowed to operate within the State of Tennessee. Respondent must have all business licensure necessary to do business in the State of Tennessee. Attach copies of all applicable licenses to your bid response. For clarity, this includes:
  - i. County or city (whichever is applicable, or both if required by local ordinances) business license;
  - ii. Food service establishment permit;
  - iii. Mobile food vending or food truck permit (if applicable);
  - iv. Any additional permits or licenses required by the State of Tennessee or the county or city in which the business operates.
- E. **Standard Terms and Conditions:** Respondent must accept the University's Standard Terms and Conditions. The terms are attached to this document as Exhibit 2.
- F. **Governing Documents:** Respondent must agree that the University's purchase order (including the supplier agreement executed as part of the purchase order) is the governing document for all transactions between University and Respondent. No

additional contracts or terms will be applicable. Any order forms signed by the University will be governed by the contract that results from this solicitation.

- G. Uniformed Staff: Respondent's staff must be identifiable by uniforms and/or nametags at all events.
- H. Cell Phone Use and Photography: Respondent's staff must not use cell phones (except for business purposes) and must not take still photos or video at any event.
- I. Insurance: Respondent must carry insurance that meets or exceeds the requirements specified in Exhibit 3.
- J. Food Allergens: Respondent must agree to have possible allergens identified at all events.
- K. Health Score: Respondent must not have had a health score below 70 in the last 2 years.
- L. Experience: Respondent must have been in business for at least 2 years.

## **Part 2: General Qualifications**

**NOTE: Do not include prices in your response to this Part 2. Include prices only in your response to Section D: Cost Proposal.**

### **A. Food and Menus**

1. Provide your catering menus if your menus are fixed. Provide sample menus of past events, if your menus are not fixed. If you offer both fixed menus and custom catering menus, provide both your fixed menus and sample menus from past events. For any menus you provide, do not include prices (redact the prices if necessary).
2. Company must have equipment necessary to maintain appropriate food temperature for an extended time. Describe your capability to accomplish this. If your equipment is certified, please describe the certification.
3. Describe your knowledge and provide your plans for meeting the needs for a diverse client base. Include options for choices based on religious, cultural and health-related criteria.

4. Describe how you, if applicable, source food ingredients through local producers and farmer's markets.
5. Identify the suppliers you primarily purchase ingredients from.
6. Please describe how you accommodate guests with food allergies. Describe any advance notice you may require to accommodate food allergies.
7. Describe any use of certified organic or near organic food sources.
8. Do you have an ingredient list on site at events?
9. Describe how your dishes can be customized, including ingredient substitutions.
10. Do you carry extra inventory in case more food is needed at an event?

**B. Staffing and Event Management**

1. Describe the number of guests you can serve and the number of staff required, including a guest to staff ratio, if you operate with a set ratio. Include the maximum number of guests you can serve.
2. Is a supervisor on site at events?
3. Do you employ your own staff, or do you subcontract your staff?
4. Describe your processes for take down and clean up at the conclusion of each event.
5. Describe how your staff, during an event, address concerns about the quality of the food served.
6. Describe follow-up procedures for customer complaints, and what will be done to assure that the same problems are not repeated.
7. Describe training for employees regarding safety and accident prevention. List any certifications you require your employees to hold.

8. Include case studies or summaries of events you have managed. Include at least one in each of the following categories: small event (under 50 guests), medium event (50-100 guests), large event (100+ guests). If you do not have past experience in any of those three categories, provide case studies or summaries for the categories you do have experience in and provide an explanation of how you would manage the category or categories in which you do not have experience.
9. Describe your process for accepting and confirming catering orders, include your policies for changes to orders, including lead time and deadlines.
10. Do you have an event order form? Does this form contain additional terms? Provide copies of all order forms.
11. State how much lead time you require. How far in advance of an event must you be booked?
12. If there are any days of the week you will not provide catering services, please specify.
13. If there are any days of the year you will not provide catering services, please specify.
14. Describe the hours you offer catering services. Can you provide catering 24 hours a day, or do you have a cut-off time for events?

**C. Experience and Qualifications; Licenses**

1. Describe your health and safety processes.
2. Provide your history of health department ratings for the past 2 years and include any citations or warnings. Attach all related documents to your response.
3. What types of training programs do you participate in to ensure food safety? Do you have any third-party certifications beyond regulatory requirements?
4. Describe any additional licenses your company holds, including beer or liquor licenses. Attach copies of the licenses. If you have received any citations or warnings related to these additional licenses within the past 2 years, please describe and attach all related documents.

5. Who are your primary customers: organizations or individuals? If organizations, approximately what size of organizations?
6. The University provides training services and otherwise works cooperatively with a number of law enforcement agencies. As part of this work, the University sometimes provides catered meals inside law enforcement facilities. Can you provide employees who will pass background checks required to access law enforcement facilities for those events?

**D. Other**

1. Describe all services offered by your company in addition to those services specified in this document.
2. Describe any environmentally friendly practices you employ. This could include practices like composting, minimizing the use of Styrofoam and other non-biodegradable products, choosing reusable serving dishes and recyclable plates, etc.
3. Does your business offer a zero waste option for catered events (for example: compostable utensils, plates, and cups; condiment pumps; no individually wrapped items, etc.)?
4. Describe how you handle leftover food from events.
5. The University has specific invoice requirements:
  - i. Without listing any actual costs, describe your ability to provide on an invoice: date of the event, number of individuals served (or for large events, an estimated number), average per-person price including beverages and tips (or for large event, the estimated average if the actual number cannot be determined), and the total amount due.
  - ii. Describe specifically your ability to itemize all charges, and particularly your ability to list separately all charges for alcohol (if any).
6. Describe the range from your location in which you are able to provide services (ie, 50 miles, 100 miles, etc), and list the address from which you operate.

7. Do you require a minimum number of meals be purchased before you will deliver catering? If so, how many meals? (Do not include a minimum price, if any).
8. Describe your ability to provide easily disposable plates, silverware, napkins, cups, etc.
9. Provide 5 references who have previously used your services. Include for each reference:
  - i. Company name (if applicable)
  - ii. Individual/contact person's name
  - iii. Contact email address
  - iv. Contact phone number
  - v. Description of the event, including dates.

## Section D: Cost Proposal

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### NOTE:

- a. The University's fiscal policy generally prohibits advance payment. Payment terms are net for e-payables (a credit card transaction) and net 30 for ACH payment.
- b. You must provide in your response to this section, comprehensively, all charges you could potentially make if you receive an award from this bid. Charges not listed in your response to this section may not be included in the final agreement.

### **Part 1 – Cost Disclosure / Administrative**

#### **A. Forms / Disclosures**

1. Complete and submit with your response the Cost\_Disclosure\_Form.xlsx document published with this bid.
2. Provide a pro forma invoice that lists each possible charge as that charge would actually appear on an invoice.
3. Provide at least 3 actual invoices you have sent to customers (you may redact personally identifiable information if needed).

### **Part 2 – Food Pricing**

**A. Generally:** The University prefers a pricing model of discount off published catering/menu prices, with additional discounts based on the size of the event. Describe your ability to provide pricing using discounts off catering/menu prices.

**B. Fixed menu/specified pricing:** if you have fixed catering menus, provide the menus, including pricing for each item.

1. How often are the menus updated, including prices?
2. How do you notify your customers of price changes or menu updates?
3. If your fixed menus can be customized, describe how customization affects prices.

**C. Other than specified pricing:** if you provide catering services that are not based on a fixed menu, identify how you determine the price to charge.

1. Do you apply a markup to your raw ingredient costs, an hourly charge, etc? Be as detailed as possible.

2. Do you have a set charge per guest served? Please describe.

**D. All other costs:** Describe comprehensively any additional charges or pricing information not already included in your response to this section.

## **Exhibit 1: Pre-Proposal Call Information**

August 7, 2018 at 10am Central / 11 am Eastern

Join from PC, Mac, Linux, iOS or Android: <https://tennessee.zoom.us/j/666172194>

Or iPhone one-tap (US Toll): +16468769923,666172194# or  
+16699006833,666172194#

Or Telephone:

Dial:

+1 646 876 9923 (US Toll)

+1 669 900 6833 (US Toll)

Meeting ID: 666 172 194

International numbers available: <https://zoom.us/j/ceJdw7Zt>

Or an H.323/SIP room system:

H.323: 162.255.37.11 (US West) or 162.255.36.11 (US East)

Meeting ID: 666 172 194

SIP: 666172194@zoomcrc.com

August 10, 2018 at 1pm Central / 2pm Eastern

Join from PC, Mac, Linux, iOS or Android: <https://tennessee.zoom.us/j/636788883>

Or iPhone one-tap (US Toll): +16699006833,636788883# or  
+16468769923,636788883#

Or Telephone:

Dial:

+1 669 900 6833 (US Toll)

+1 646 876 9923 (US Toll)

Meeting ID: 636 788 883

International numbers available: <https://zoom.us/j/euVIKVrIT>

Or an H.323/SIP room system:

H.323: 162.255.37.11 (US West) or 162.255.36.11 (US East)

Meeting ID: 636 788 883

SIP: 636788883@zoomcrc.com

## Exhibit 2: Terms Governing This Solicitation

**Terms Governing this Solicitation:** The following terms govern this solicitation. ***If a Respondent does not agree to any of the following terms, the Respondent must not bid.*** The University hereby notifies Respondents that the University will not negotiate over these terms.

- A. Governing Law: The laws of the state of Tennessee, without giving effect to its principles of conflicts of law, govern this solicitation. Any liability of the University is governed by the Tennessee Claims Commission Act. The venue for any claim against the University is the Tennessee Claims Commission.
- B. Questions: Up to the deadline for questions, respondents may ask the Solicitation Coordinator questions in writing via email. In the event that a Respondent communicates with the Office of Procurement Services verbally, the Respondent acknowledges that all verbal communication is informal and does not bind the University; the only official communication about this solicitation will be via written communication. Respondent understands that it must not, and will not, rely on verbal communications with the University.
- C. Pre-Bid Conference: In the event that the University hosts a mandatory pre-bid conference, if a Respondent fails to attend the conference, the University will not accept Respondent's bid.
- D. Presentations: In the event that the University hosts presentations as part of its technical evaluation process, the University may invite only some of the Respondents for a presentation. The University will make such a determination based on technical scores before the presentations.
- E. Withdrawal: Respondents may withdraw their proposal at any time before the submission deadline. Respondent may submit a revised or new proposal at any time before the submission deadline.
- F. Addenda: The University will make reasonable efforts to ensure that all respondents have the same material information. Accordingly, if a Respondent asks a question that the University considers, in its sole discretion, to be material, the University will issue an addendum to this solicitation. The University will communicate all addenda to all respondents.
- G. Evaluation Process: The University will use the evaluation process to award a contract based on the best value to the University: the best overall combination of technical and costs. Respondent understands that its response to this solicitation will be evaluated by a scoring committee. Respondent acknowledges that the scoring committee will subjectively evaluate Respondent's technical proposal.
- H. No Required Quantities or Spend; Non-Exclusive:
  - 1) No Required Quantities or Spend: Respondent acknowledges that any agreement that results from this solicitation will not obligate the University to purchase any specific amount of goods or services from Respondent, nor will the University be obligated to spend a minimum amount of money with Respondent.
  - 2) Non-Exclusive: Respondent acknowledges that any agreement that results from this solicitation will not be an exclusive agreement under which the University must procure goods or services only from Respondent. Respondent acknowledges that the University may purchase any goods or services, including the same or substantially similar goods or services, from sources other than Respondent.
- I. Confidentiality:
  - 1) Introduction: Tennessee law limits the University's ability to withhold records from disclosure. Respondents must assume that all documentation, including pricing, submitted to the University will be subject to disclosure. The University hereby notifies all potential respondents and respondents that placing confidentiality notices on documents submitted to the University does not make the

documents confidential under Tennessee law. The University will ignore such notices. Moreover, the University will not agree to provide advanced notice of disclosure.

- 2) Prohibition Against Non-Disclosure Agreements: The University will not sign non-disclosure agreements related to Respondent's response to this solicitation.
  - 3) Open File Period: After the University issues an intent-to-award notice, Tennessee law deems all materials submitted by Respondents open for inspection by any Respondent for 7 calendar days.
  - 4) Public Records Act: If the University issues a final award, all documents, including the final contract, are subject to disclosure to any Tennessee citizen.
- J. Response Preparation Costs: The University will not pay any costs that a Respondent incurs associated with the preparation, submittal, or presentation of a response. By responding, each Respondent waives any claim against the University for costs the Respondent incurs as a result of responding to this solicitation.
- K. Amendment; Cancellation:
- 1) University's Right to Amend: The University may amend this solicitation at any time before the response deadline. If the University amends this solicitation, the University will issue a written addendum.
  - 2) University's Right to Cancel: The University may cancel this solicitation at any time. The University will have no liability to Respondents in the event of a bid cancellation.
- L. Unrestricted Right to Reject: The University may reject any response for any reason.
- M. Immaterial Defects: The University may waive minor variances from full compliance with this solicitation. If the University waives immaterial defects in a response, such waiver does not modify this solicitation's requirements.
- N. Negotiation: The University may negotiate with the top-scoring respondents in the best interest of the University.
- O. Respondent's Right to Withdraw its Response:
- 1) Withdrawal: Respondents may withdraw their response at any time before the deadline for responses. To withdraw a response, a Respondent must submit a written request signed by a representative authorized to legally bind the Respondent. Respondent must send withdrawal requests to the Purchasing contact listed above.
  - 2) Resubmit: Respondents may resubmit a response at any time before the deadline for responses.
- P. Late Responses: The University will not accept responses after the deadline listed in the Administrative Information section.
- Q. University's Discretion:
- 1) Generally: All decisions regarding this solicitation, including the award, are within the University's sole discretion. The University may, for example, award to a Respondent other than the highest-scoring respondent. Further, the University may, for example, award to a Respondent who does not offer the lowest overall costs. For clarity, as used in this solicitation, the word "may" means "sole discretion."
  - 2) Examples: Without limiting the University's unrestricted discretion, the University may:
    - i. Reject any responses to this solicitation for any reason.
    - ii. Seek new proposals at any time before the response deadline.

- iii. Seek clarification of additional information from any individual Respondent.
- iv. Modify the selection criteria.
- v. Modify the time schedule.
- vi. Conduct negotiations:
  - 1. The University may negotiate with all qualified Respondents.
  - 2. The University may negotiate with only a single Respondent.
  - 3. The University may elect to conduct multiple negotiation rounds, and the University may structure the negotiations in the University's sole discretion.
  - 4. If the University determines costs and contract finalization discussions and negotiations are not productive, the University reserves the right to bypass the apparent best evaluated Respondent and enter into contract negotiations with the next apparent best evaluated Respondent.

R. Dispute Resolution: In the event that a Respondent disputes anything related to this solicitation, the Respondent must first follow the University's protest procedures. If the Respondent is not satisfied with the University's resolution of the Respondent's protest, and if requested by the University's Chief Financial Officer, the Respondent shall enter into mediation with the University before the Respondent pursues any formal legal action. The parties shall make reasonable efforts to resolve any dispute before filing any formal legal action.

S. **Waiver of Claims:**

1) **Irrevocable Waiver**: By responding to this solicitation, Respondent hereby irrevocably waives any claims against the University's trustees, officers, and employees, or former employees. Respondent hereby covenants not to sue University employees in their individual capacity. This release and waiver applies to Respondent and Respondent's successors, heirs, and assigns.

2) **Materiality**: The University and Respondent state that this clause is material to this solicitation.

T. University Policies:

1) Non-Solicitation: Respondents shall comply with the University's "Vending and Solicitations on the University Campus" policy: [http://policy.tennessee.edu/fiscal\\_policy/fi0325/](http://policy.tennessee.edu/fiscal_policy/fi0325/)

U. Gift Acceptance: Respondents shall comply with the University's "Employee Gift Acceptance Policy": [http://policy.tennessee.edu/fiscal\\_policy/fi0717/](http://policy.tennessee.edu/fiscal_policy/fi0717/)

V. Severability: The University and Respondent intend as follows:

- 1) That if any provision of this solicitation 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;
  - i. That if an unenforceable provision is modified or disregarded in accordance with this section, then the rest of the solicitation will remain in effect as written; and
- 2) That any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.

W. Compliance with Law: Respondent shall comply with applicable law.

### Exhibit 3: Insurance Requirements

Contractor shall procure and maintain insurance which shall protect the contractor and the University from any claims for bodily injury, property damage, or personal injury which may arise out of operations under the agreement. Contractor shall procure the insurance policies at the contractor's own expense and shall furnish the University an insurance certificate listing the University as certificate holder. The insurance certificate must document that the liability insurance coverage purchased by the contractor includes contractual liability coverage to protect the University. The certificate shall be furnished no later than 10 business days after notification of the University's intent to award a contract. In addition, the insurance certificate must provide the following information:

- Name and address of authorized agent
- Name and address of insured
- Name of insurance company (licensed to operate in Tennessee)
- Description of coverage in standard terminology
- Policy period
- Limits of liability
- Name and address of certificate holder
- Acknowledgment of notice of cancellation to the University
- Signature of authorized agent
- Telephone number of authorized agent
- Details of policy exclusions in comments section of insurance certificate

See Certificate of Insurance sample form (below).

All policies must contain a provision that coverage afforded under the policies must not be canceled, changed, allowed to lapse, or allowed to expire until 30 calendar days after written notice has been given to the certificate holder on the Certificate of Insurance (COI). All such coverage shall remain in full force and effect during the initial term of the agreement and any renewal or extension thereof.

All policies must be issued by an insurance company licensed to do business in the State of Tennessee, with a minimum AM Best rating of A, signed by an authorized agent. Bonds are required to be signed by a licensed resident agent in pursuant to T.C.A. 65-15-108.

Minimum Insurance Limits Required:

|                            |             |
|----------------------------|-------------|
| Workers Compensation (WC): | \$1,000,000 |
|----------------------------|-------------|

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|   |             |
|---|-------------|
| <hr/> Commercial General Liability (CGL):                         |             |
| 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 |
| <hr/>   |             |
| Liquor Liability (When distributing, selling, or serving alcohol) | \$1,000,000 |
| <hr/>   |             |
| Umbrella Liability:   |             |
| Each Occurrence Limit   | \$1,000,000 |
| Aggregate Limit   | \$1,000,000 |
| <hr/>   |             |
| Automobile Liability  |             |
| Combined Single Limit   | \$1,000,000 |
| <hr/>   |             |

The following language should be included in the Description of Operations section of the COI:

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, General Liability 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.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/13/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|   |  |  |  |                       |               |
|---|--|--|--|-----------------------|---------------|
| <b>PRODUCER</b><br>XYZ Producer<br>123 Street Address<br>City, State, Zip |  | <b>CONTACT NAME:</b><br><b>PHONE</b> (A/C, No, Ext):<br><b>E-MAIL ADDRESS:</b> |  | <b>FAX</b> (A/C, No): |               |
| <b>INSURED</b><br>ABC Company<br>456 Street Address<br>City, State, Zip   |  | <b>INSURER(S) AFFORDING COVERAGE</b>   |  |                       | <b>NAIC #</b> |
|   |  | INSURER A : Insurance Company's Name   |  |                       |               |
|   |  | INSURER B :  |  |                       |               |
|   |  | INSURER C :  |  |                       |               |
|   |  | INSURER D :  |  |                       |               |
|   |  | INSURER E :  |  |                       |               |
|   |  | INSURER F :  |  |                       |               |

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR                       | TYPE OF INSURANCE  | ADDL INSR                           | SUBR WVD                 | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS   |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|--------------------------------|--|-------------------------------------|--------------------------|---------------|-------------------------|-------------------------|--|--|--------------|---|------------|------------------------------|------------|--------------------------------|--------------|-------------------|--------------|------------------------|--------------|--|----|
| A                              | <b>GENERAL LIABILITY</b><br><input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b><br><input type="checkbox"/> <b>CLAIMS-MADE</b> <input checked="" type="checkbox"/> <b>OCCUR</b><br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> <b>POLICY</b> <input type="checkbox"/> <b>PRO-JECT</b> <input type="checkbox"/> <b>LOC</b> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 123456789     | 08/01/2017              | 08/01/2018              | <table border="1"><tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$ 300,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$ 10,000</td></tr><tr><td>PERSONAL &amp; ADV INJURY</td><td>\$ 1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$ 2,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$ 2,000,000</td></tr><tr><td></td><td>\$</td></tr></table> | EACH OCCURRENCE  | \$ 1,000,000 | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$ 300,000 | MED EXP (Any one person)     | \$ 10,000  | PERSONAL & ADV INJURY          | \$ 1,000,000 | GENERAL AGGREGATE | \$ 2,000,000 | PRODUCTS - COMP/OP AGG | \$ 2,000,000 |  | \$ |
|                                | EACH OCCURRENCE  | \$ 1,000,000                        |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|                                | DAMAGE TO RENTED PREMISES (Ea occurrence)  | \$ 300,000                          |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|                                | MED EXP (Any one person)   | \$ 10,000                           |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| PERSONAL & ADV INJURY          | \$ 1,000,000   |                                     |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| GENERAL AGGREGATE              | \$ 2,000,000   |                                     |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| PRODUCTS - COMP/OP AGG         | \$ 2,000,000   |                                     |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|                                | \$   |                                     |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| A                              | <b>AUTOMOBILE LIABILITY</b><br><input checked="" type="checkbox"/> <b>ANY AUTO</b><br><input type="checkbox"/> <b>ALL OWNED AUTOS</b> <input type="checkbox"/> <b>SCHEDULED AUTOS</b><br><input type="checkbox"/> <b>HIRED AUTOS</b> <input type="checkbox"/> <b>NON-OWNED AUTOS</b>   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 456789123     | 08/01/2017              | 08/01/2018              | <table border="1"><tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$ 1,000,000</td></tr><tr><td>BODILY INJURY (Per person)</td><td>\$</td></tr><tr><td>BODILY INJURY (Per accident)</td><td>\$</td></tr><tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$</td></tr><tr><td></td><td>\$</td></tr></table>   | COMBINED SINGLE LIMIT (Ea accident)                            | \$ 1,000,000 | BODILY INJURY (Per person)                | \$         | BODILY INJURY (Per accident) | \$         | PROPERTY DAMAGE (Per accident) | \$           |                   | \$           |                        |              |  |    |
|                                | COMBINED SINGLE LIMIT (Ea accident)  | \$ 1,000,000                        |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|                                | BODILY INJURY (Per person)   | \$                                  |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|                                | BODILY INJURY (Per accident)   | \$                                  |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| PROPERTY DAMAGE (Per accident) | \$   |                                     |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|                                | \$   |                                     |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| A                              | <input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> <b>OCCUR</b><br><input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> <b>CLAIMS-MADE</b><br><b>DED</b> <b>RETENTION \$</b>   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 789123456     | 08/01/2017              | 08/01/2018              | <table border="1"><tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr><tr><td>AGGREGATE</td><td>\$</td></tr><tr><td></td><td>\$</td></tr></table>  | EACH OCCURRENCE  | \$ 1,000,000 | AGGREGATE                                 | \$         |                              | \$         |                                |              |                   |              |                        |              |  |    |
|                                | EACH OCCURRENCE  | \$ 1,000,000                        |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|                                | AGGREGATE  | \$                                  |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|                                | \$   |                                     |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| A                              | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below   | <input type="checkbox"/>            | <input type="checkbox"/> | 234567891     | 08/01/2017              | 08/01/2018              | <table border="1"><tr><td><input checked="" type="checkbox"/> <b>WC STATUTORY LIMITS</b></td><td><b>OTHER</b></td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$ 100,000</td></tr><tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$ 100,000</td></tr><tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$ 500,000</td></tr></table>  | <input checked="" type="checkbox"/> <b>WC STATUTORY LIMITS</b> | <b>OTHER</b> | E.L. EACH ACCIDENT                        | \$ 100,000 | E.L. DISEASE - EA EMPLOYEE   | \$ 100,000 | E.L. DISEASE - POLICY LIMIT    | \$ 500,000   |                   |              |                        |              |  |    |
|                                | <input checked="" type="checkbox"/> <b>WC STATUTORY LIMITS</b>   | <b>OTHER</b>                        |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
|                                | E.L. EACH ACCIDENT   | \$ 100,000                          |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| E.L. DISEASE - EA EMPLOYEE     | \$ 100,000   |                                     |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| E.L. DISEASE - POLICY LIMIT    | \$ 500,000   |                                     |                          |               |                         |                         |  |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |
| A                              | <b>Pollution Liability</b>   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | 34567891      | 08/01/2017              | 08/01/2018              | Limits: Per Occurrence/Aggregate \$1,000,000   |  |              |   |            |                              |            |                                |              |                   |              |                        |              |  |    |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Job Description:

SBC# or Project #:

The University of Tennessee, its Board of Trustees, officers, employees, agents, and volunteers are named as Additional Insureds with respect to the General, Automobile, and Umbrella Liability policies. A Waiver of Subrogation applies to Workers Compensation and the General, Automobile, and Umbrella 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.

**CERTIFICATE HOLDER****CANCELLATION**

The University of Tennessee  
5723 Middlebrook Pike, Suite 218  
Knoxville, TN 37932  
(865)974-5409 Fax (865) 974-0936

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2010 ACORD CORPORATION. All rights reserved.

#### **Exhibit 4: Draft Supplier Agreement**

This Exhibit 4 contains a draft supplier agreement. The University will enter into negotiations with respondents that win an award through the solicitation process. The University provides this draft to help expedite the negotiation process. Please note that this draft is subject to change at University's discretion, and the draft is for review purposes only.

*(remainder of page intentionally left blank)*

# The University of Tennessee Supplier Agreement

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## Summary

UT Contract #: Click or tap here to enter text.  
Vendor Name: Click or tap here to enter text.  
UT Vendor #: Click or tap here to enter text.  
Supplier's representative: Click or tap here to enter text.  
    Name: Click or tap here to enter text.  
    Email: Click or tap here to enter text.

## Agreement

This supplier agreement is dated Click or tap to enter a date., and is between Click or tap here to enter text. ("Supplier"), and The University of Tennessee, an instrumentality of the State of Tennessee ("University").

### Background:

- The University of Tennessee, a public university system, is composed of the following:
  - Campuses:
    - Chattanooga;
    - Health Science Center;
    - Knoxville; and
    - Martin.
  - Institutes:
    - Institute of Agriculture (which includes the University's College of Veterinary Medicine);
    - Institute for Public Service; and
    - Space Institute.
  - Administration:
    - University System Administration.
- The University published a bid solicitation (# Click or tap here to enter text.) on Click or tap to enter a date..
- The University awarded to Supplier.

**Agreement:** The parties agree as follows:

1) **Terms; Renewal; Termination:**

- a. **Term:** This agreement begins on the date stated in the introductory clause and ends at 11:59 PM Central Time on Click or tap to enter a date..
- b. **Renewal:** Upon mutual written agreement, the parties may extend this agreement through Click or tap to enter a date..
- c. **Termination:** Either party may terminate this agreement for any reason by giving the other party at least 30 days' prior notice.

2) **Services:** Supplier shall provide the goods or services, or both, stated in Schedule 1.

3) **Financial:**

- a. **Pricing:** Supplier's pricing is stated in Schedule 1.
- b. **Prohibited Costs:** Supplier shall not charge the University any costs, unless the cost is explicitly stated in this agreement.

4) **Records; Audit:**

- a. **Records:** Supplier will maintain records for all expenses for which Supplier invoices the University under this agreement. Supplier will maintain its records for at least 3 years, and will maintain its records in accordance with generally accepted accounting principles.
- b. **Audit:** During the term of this agreement and for 3 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.

5) **Debarment:** Supplier hereby states that the following are true statements:

- a. Supplier is not currently debarred by the U.S. federal government.
- b. Supplier is not currently suspended by the U.S. federal government.
- c. Supplier is not currently named as an "excluded" supplier by the U.S. federal government.

6) **Nature of Agreement:**

- a. **No Required Quantities or Minimum Amounts:** Supplier acknowledges that that this agreement does not impose any minimum-quantity or minimum-spend-amount requirements on University. Accordingly, Supplier acknowledge that this agreement is not a requirements contract.
- b. **Not Exclusive:** Supplier acknowledges that this agreement does not impose any exclusivity obligations on the University.

- 7) **Fraudulent Orders**: Supplier is solely responsible for ensuring that Supplier fulfills only legitimate orders. The University is not responsible for any fraudulent orders (for purposes of this agreement, “fraudulent orders” means any order that is not: (a) made by the University, or (b) for the University’s official use.
- 8) **Background Checks**:
- a. **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 charges filed by any government agency, excluding non-moving violations and speeding violations.
  - b. **Tennessee Abuse Registry; Tennessee Sex Offender**: Supplier must inform the University’s Office of Procurement Services immediately if any of Supplier’s employees or sub-contractors are listed in:
    - i. The Tennessee Abuse Registry.
    - ii. The Tennessee Sex Offender Registry.
  - c. **Prompt Background Checks**: If the University requests, Supplier must perform a comprehensive criminal background check on any Supplier employee or sub-contractor.
- 9) **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 in full compliance with, University’s rules, practices, and policies (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).
- 10) **Conduct**: Supplier will 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).
- 11) **Assignment**: Supplier may not assign any rights or delegate any of Supplier’s obligations under this agreement to any other person or entity.
- 12) **University Policies**:

- a. **Non-Solicitation**: Supplier shall comply with the University's "Vending and Solicitations on the University Campus" policy:  
[http://policy.tennessee.edu/fiscal\\_policy/fi0325/](http://policy.tennessee.edu/fiscal_policy/fi0325/)
  - b. **Gift Acceptance**: Supplier shall comply with the University's "Employee Gift Acceptance Policy": [http://policy.tennessee.edu/fiscal\\_policy/fi0717/](http://policy.tennessee.edu/fiscal_policy/fi0717/)
- 13) **Communication**: Supplier shall ensure that its representatives coordinate with the University's System Office of Procurement Services before engaging in marketing, communication, or other outreach efforts. Supplier shall not conduct any demonstrations, email marketing campaigns, etc. without first obtaining the written approval of the University's System Office of Procurement Services. Moreover, Supplier shall not contact individual University employees regarding anything other than providing customer-service on orders without first obtaining the written approval of the University's System Office of Procurement Services.
- 14) **Cooperative Procurement**: The University intends to promote efficient procurement methods. Accordingly, Supplier acknowledges that any government agency in the United States and U.S. territories (including public universities) may enter into separate agreements with Supplier, incorporating this agreement. The University is not responsible for third parties who utilize this agreement.
- 15) **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.
- 16) **Force Majeure**: Neither party's delay or failure to perform any provision of this agreement, as result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities) will be deemed a breach of this agreement.
- 17) **Dispute Resolution**: The parties shall make reasonable efforts to resolve any dispute before filing any formal legal action.
- 18) **Governing Law**: The internal laws of the State of Tennessee, without giving effect to its principles of conflicts of law, govern this agreement. The University's liability is governed by the Tennessee Claims Commission Act.
- 19) **Waiver of Claims**:

- a. Supplier's Intent: Supplier intends to protect the University's employees from personal liability. Accordingly, Supplier intends to waive and release any claims against the University's employees.
- b. Irrevocable Waiver: Supplier hereby irrevocably waives any claims against the University's employees or former employees. Supplier hereby covenants not to sue University employees or former employees in their individual capacity. This release and waiver applies to Supplier and Supplier's successors, heirs, and assigns.
- c. Materiality: The University and Supplier state that this clause is material to this agreement.

**20) Notice:**

- a. 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;
- b. Subject to sub-section (d) 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:
  - i. 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
  - ii. 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.
- c. 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:**

**[add notice address here]**

**University:**

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

The University of Tennessee  
5723 Middlebrook Pike  
Knoxville, TN 37921-5946  
ATTN: Office of Procurement Services

Fax: 865-974-2701

Email: [contracts@tennessee.edu](mailto:contracts@tennessee.edu)

- d. 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.

21) **Registration with 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.

22) **Iran Divestment Act:** The Supplier certifies, under penalty of perjury, that to the best of its knowledge and belief the Supplier is not on the list created pursuant to Tenn. Code Ann. § 12-12-106. The Supplier further certifies that it shall not utilize any subcontractor that is on the list created pursuant to Tenn. Code Ann. § 12-12-106.

23) **Use of University Intellectual Property:** Except as allowed in this section, Supplier shall not use the University's name, logo, 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.

24) **Third-Party Beneficiaries:** There are no third-party beneficiaries to this agreement.

25) **Severability:** The parties intend as follows:

- a. 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;
- b. 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
- c. that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.

26) **Modification; Waiver:**

- a. Modification:

- i. No amendment of this agreement will be effective unless: (1) it is in writing; (2) it is signed by authorized officials of both parties; and (3) it specifically references this agreement.
  - ii. Only the University's authorized officials have the authority to bind the University. A list of the University's authorized officials is located here: <http://treasurer.tennessee.edu/contracts/contractsignature.html>.
- b. **Waiver**: 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 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.
- 27) **Counterparts**: If the parties sign this agreement in several counterparts, each will be deemed an original but all counterparts together will constitute one instrument.
- 28) **Attached Schedules**: Supplier must comply with all attached Schedules.
- 29) **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 Supplier's invoices, order forms, or other Supplier-provided items contain terms, Supplier acknowledges that Supplier's terms do not apply to the University. Further, in the event Supplier's website, mobile applications, or other platforms contain click-wrap, browse-wrap, or shrink-wrap terms and conditions, Supplier states that such terms and conditions do not apply to University.

The parties are signing this agreement on the date stated in the introductory clause.

**The University of Tennessee**

Click or tap here to enter text.

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## **Schedule 1: Scope of Work; Pricing**

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## **Schedule 2: Insurance**

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## **Schedule 3: Supplier Relationship Management**

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## **Schedule 4: Data Reporting Requirements**

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## **Schedule 5: Diversity Business Enterprises**

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[to be negotiated]

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## **Schedule 6: Environmentally Sustainable Practices**

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[to be negotiated]