

FISK UNIVERSITY
NASHVILLE, TENNESSEE

**STANDARD AGREEMENT FOR
VENDORS AND SERVICE PROVIDERS**

THIS STANDARD AGREEMENT FOR VENDORS AND SERVICE PROVIDERS (this "Vendor Agreement") is dated effective as of _____, and is by and between FISK UNIVERSITY, a Tennessee nonprofit corporation located at 1000 Seventeenth Avenue North, Nashville, Tennessee 37208 ("Fisk"); and _____, [INSERT FORM OF BUSINESS ENTITY], located at _____ ("Vendor") (Fisk and Vendor sometimes referred to as the "Parties").

AGREEMENT:

Fisk and Vendor agree to the following:

1. Agreement Documents. All sales and deliveries of products and services by Vendor to Fisk, and all purchase orders by Fisk to Vendor, shall be covered by and subject to the terms of each of the following documents (collectively, the "Agreement Documents"):

- This Vendor Agreement;
- Addendum and Exhibits to the Vendor Agreement (if any);
- The attached Standard Terms and Conditions for Fisk University's Vendors and Service Providers ("Standard Terms");
- The Request for Proposal or other written documentation describing the scope of Vendor's products or services to be provided to Fisk (if applicable), including **See attached scope of work**. (Fisk's written documentation takes priority over the Vendor's).
- As per proposal dated _____ the fees for this project will be _____
Total Contract Cost of _____.

2. Inconsistency. The above Agreement Documents collectively are an agreement between the Parties, are part of this Vendor Agreement, and are incorporated herein by reference. In the event of any inconsistency between any Agreement Documents, each document on the list above will take priority over the next document that follows it in the sequence above; provided, however, that if Vendor proposes in writing to Fisk to provide more expansive services than Fisk requests in its Request for Proposal, Vendor shall provide the more expansive services with the same level of quality as the services provided by Vendor conforming to the requirements of Fisk's Request for Proposal.

3. Insurance. The insurance requirements are set forth in the Standard Terms.

4. **Relationship of the Parties.** The relationship between Fisk and Vendor is that of independent contractor, and Vendor agrees that it has not, and shall not, hold itself out as an agent of Fisk, and neither shall Vendor nor any of its employees or contractors be agents of Fisk.

5. **Compliance with Law.** Vendor represents and warrants to Fisk that it is in compliance with all applicable federal, state, and local laws, regulations and standards relating to the provision of services hereunder, and to the design, manufacture, testing, labeling, sale, and transportation of the supplies or items, purchased under the Agreement Documents. Vendor specifically represents and warrants that it is in compliance with all applicable federal, state, and local laws, as amended, including 41 CFR 60-1.4, 41 CFR 60-250.4 and 41 CFR-741.4, regarding nondiscrimination in employment on the basis of race, religion, color, national origin or sex, equal opportunity, affirmative action, employment of disabled veterans and veterans of the Vietnam era, and employment of the handicapped. To the extent that the Agreement Documents constitute a subcontract under a federal prime contract, Vendor represents and warrants to Fisk that it is in compliance shall remain in compliance with Federal Acquisition Regulation 52.203-7, Anti-Kickback Procedures, with the exception of subparagraph (c)(1) thereof.

6. **Other Forms.** The Agreement Documents supercede all terms in Vendor's invoices and other forms, and all prior oral or written communications between Fisk and Vendor, for the matters covered in the Agreement Documents. No party is entering into these Agreement Documents in reliance on any oral or written promises, representations or understandings other than those in the Agreement Documents. The Agreement Documents can be amended only in a written document signed an authorized official of each of us.

7. **Term and Termination. The term hereof shall be specified in the Addendum.** The Agreement Documents can be canceled at anytime without cause by either Fisk or Vendor upon 60 days' written notice to the other party. Vendor agrees to fulfill all outstanding obligations unless otherwise provided in writing by Fisk.

8. **Limitation of Liability.** With the exception of Vendor's indemnification obligations for the benefit of Fisk, in no event will either party be liable to the other party for special, direct, or consequential damages.

9. **Valid Organizational Status of Vendor.** If Vendor is a corporation, partnership, limited liability company or similar entity, Vendor's authorized representative signing below on behalf of Vendor, together with Vendor, represent and warrant to Fisk that Vendor is duly organized and validly existing in the jurisdiction of its organization and is qualified and authorized to transact business in the State of Tennessee. Vendor and its authorized representative signing below represent and warrant to Fisk that the representative signing below is duly authorized by Vendor to execute and deliver the Agreement Documents and to fully bind Vendor to the obligations set forth in the Agreement Documents.

10. **Dispute Resolution.** Except for injunctions and other equitable relief sought under Rule 65 of the Tennessee or Federal Rules of Civil Procedure, the parties shall follow the dispute resolution process set forth in this section in connection with all disputes, controversies

or claims having a value in excess of twenty-five thousand dollars (\$25,000), whether based on contract, tort, statute, fraud, misrepresentation or any other legal theory arising out of or relating to this Agreement or an alleged breach of this Agreement, including the validity or enforceability of this dispute resolution process, or any part thereof (collectively “Disputes”). The parties will use all reasonable efforts to settle all Disputes through good faith negotiations, to be commenced by giving written notice to all parties. If those attempts fail to resolve the Dispute within thirty (30) days of the date of the initial written demand for negotiation, then the parties shall use all reasonable efforts in good faith to settle the Dispute by mediation conducted under the Commercial Mediation Rules of the American Arbitration Association, or other such rules agreed to in advance by the parties in writing. Each party shall bear its own expenses. The parties shall equally share the filing and other administrative expenses of the mediation and the expenses of the mediator. The parties shall be represented at the mediation by representatives having final settlement authority over the Dispute. Once the process described under this section has been exhausted and any Disputes are not finally resolved at mediation, any party may file suit to seek final resolution of the remaining Disputes. The Dispute resolution process set forth in this section shall survive the termination or expiration of this Agreement.

11. **Miscellaneous.** This Agreement shall be governed by the laws of the State of Tennessee. The headings in this Agreement are for convenience only, and shall not affect the construction or enforcement of this Agreement. This Agreement shall be construed according to its fair meaning and not strictly for or against either party. If any part of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect. The parties consent to jurisdiction in any court located in Davidson County, Tennessee. The parties waive all rights to a trial by jury. This Agreement may be executed in counterparts, each of which when executed and delivered shall constitute an original, but all of which together shall constitute one and the same document.

[Remainder of this page is intentionally blank.
Signature page and attachments follow.]

Both parties, intending to be legally bound, have fully reviewed and understood the Agreement Documents, and sign below by and through their legally authorized representatives:

FISK UNIVERSITY

VENDOR:

By: _____

Vendor Name:

Name: _____

By: _____

Title: _____

Name: _____

Grant/Fund: _____

Title: _____

NOTICE ADDRESS FOR VENDOR:

Vendor Name: _____

Attention: _____

Vendor Address: _

Telephone: _____

Fax: _____

FISK UNIVERSITY
ADDENDUM AND EXHIBITS TO STANDARD AGREEMENT FOR
VENDORS AND SERVICE PROVIDERS

Vendor Name: _____

Addendum and Exhibits List:

1. Addendum – Additional Terms
- 2.

ADDENDUM
Additional Terms

Vendor Name: _____

The Parties agree to the following terms and conditions which are in addition to those set forth in the Request for Proposals and Vendor's Proposal to Fisk dated _____:

The term of this Vendor Agreement shall be for a period of _____ commencing on _____ and ending on _____

FISK UNIVERSITY
ATTACHMENT TO STANDARD AGREEMENT FOR
VENDORS AND SERVICE PROVIDERS

**STANDARD TERMS AND CONDITIONS FOR
FISK UNIVERSITY'S VENDORS AND SERVICE PROVIDERS**

1. Fisk reserves the right, upon written notice to Vendor, to change at any time the specifications, instructions, drawings, or directions provided by Fisk to Vendor. If such changes affect Vendor's cost of furnishing services or products to Fisk, the price of providing such services or products to Fisk shall be reasonably and equitably adjusted by mutual agreement based upon Vendor's demonstrated cost to furnish such services or products. Vendor shall present claims to Fisk for any such adjustments in writing within 10 days of receiving Fisk's change notice or thereafter be deemed to have accepted such changes at the then-existing price of services or products.
2. Vendor shall maintain the following insurance coverage during the term of the Vendor Agreement:

Comprehensive General Liability	\$10,000,000.00 single/aggregate annual; deductible limit up to \$50,000.00
Workers Compensation	\$2,000,000.00
Automobile Liability Insurance	\$5,000,000.00 /occurrence \$5,000,000.00 /accident for bodily injury, including death and property damage
Errors and Omissions	\$5,000,000.00 single/aggregate annual; deductible limit up to \$50,000.00

Vendor will provide Fisk with evidence of its insurance and will name Fisk as additional insured for each of the foregoing policies of insurance. Vendor will cause each of the foregoing policies of insurance to provide written notification to Fisk of any change or cancellation at least 30 days prior to the effective date of any such change or cancellation.

3. The Agreement Documents and the rights and duties arising hereunder shall not be assigned, and the work to be provided by Vendor thereunder shall not be subcontracted, without Fisk's prior written consent. Any attempted sale, assignment, transfer, conveyance or delegation of duties in violation of this section will be void. All provisions of the Agreement Documents will bind and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns, whether so expressed or not.
4. Vendor represents and warrants to Fisk that the price charged for its services and products furnished is the lowest price charged by Vendor to comparably situated customers in substantially similar transactions.

5. Time is of the essence in the provision of services and/or products to Fisk under the Agreement Documents.
6. Fisk may waive at any time any term or condition in the Agreement Documents, but only in writing duly executed by an authorized officer of Fisk
7. Vendor shall indemnify, reimburse, and hold Fisk harmless from and against any and all loss, costs, expenses, and damages (including reasonable attorneys' fees and costs), except those arising out of the negligence of Fisk, in connection with any claim, action, or proceeding, of any kind, arising out of the use, purchase, design, manufacture, transportation, installation, or delivery of any services or purchase of any products which products are not fit for the use for which they were purchased or which products are used by Vendor, its agents, employees or representatives incorrectly under the Agreement Documents or by reason of Vendor's failure to conform in all respects to the obligations of the Agreement Documents. Fisk has the absolute right to offset any such losses, costs, expenses, and damages against any amounts owed by Fisk to Vendor. This provision shall survive the termination of the Agreement Documents.
8. Vendor represents and warrants to Fisk the following:
 - a. The services and products provided under the Agreement Documents conform to the requirements of all written specifications provided to Vendor by Fisk in a request for proposal (if one was issued) or any other written document issued by Fisk (whether by memorandum, letter or otherwise).
 - b. The services and products are of good and merchantable quality, free from defects (including latent defects) in design, material and workmanship, and are fit and suitable for the purposes for which they are intended.

The warranties provided hereunder are in addition to all other warranties, expressed or implied, and survive any delivery, inspection, acceptance or payment. All warranties run to and are enforceable by Fisk, its successors and assigns, clients, and third parties injured in person or property by any breach thereof.

9. If any service or product furnished to Fisk under the Agreement Documents fails to conform to the warranties specified herein, Vendor shall, upon Fisk's request (even if acceptance has been made by Fisk) credit, replace or refund to Fisk any payment already made. These remedies are not intended to be exclusive and are in addition to all other remedies available to Fisk under law or the Agreement Documents.
10. Vendor shall not during the term hereof, or at any time following the termination of the Agreement Documents, disclose to any other person or entity any technical information or confidential or proprietary information (whether or not labeled as such) of Fisk furnished by Fisk to Vendor. All such information furnished by Fisk to Vendor shall be returned to Fisk upon demand in the same manner received by Vendor, ordinary wear and tear excepted.

11. Vendor shall not during the term hereof, or at any time following the termination of the Agreement Documents, use Fisk's name, trademarks (whether or not registered or licensed), likenesses, photographs or intellectual property in any of its promotional or marketing efforts without Fisk's prior written approval.
12. The use of alcohol, illegal drugs or other prohibited items, including legal drugs which affect the ability to perform one's work duties, while on the Fisk campus, is strictly prohibited by any of Vendor's personnel. Fisk also prohibits the possession or use by any of Vendor's personnel of alcoholic beverages, firearms, weapons or explosives on Fisk property unless authorized by the president of Fisk. Vendor's personnel are also prohibited from reporting to work while under the influence of alcohol or illegal drugs. Fisk reserves the right to perform random drug testing on any of Vendor's personnel, as permitted by law. In addition, Fisk reserves the right to request, to the extent permitted by law, a copy of Vendor's drug and alcohol testing policy statement, any related training programs for supervisors and employees, drug and alcohol testing procedures, and drug and alcohol testing record-keeping procedures.
13. Fisk reserves the right to require Vendor to obtain biographical, financial, and criminal background information on any of Vendor's employees working on the Fisk campus and to provide all such background information or reasonable summaries thereof, to the extent permitted by law, to Fisk. Fisk further reserves the right to require Vendor to remove any such employee from the Fisk campus when any such background information reveals any fact that, in the sole discretion of Fisk, could create any reason for concern for the safety, welfare, peace, or comfort of any member of the Fisk community subject to applicable law. By signing the Agreement Documents, Vendor certifies to Fisk that Vendor has fully complied with the Immigration and Reform Control Act of 1986 and that it will do so with regard to any person who performs work for Vendor pursuant to the Agreement Documents, including any subcontractor(s). Vendor agrees and understands that compliance includes verification of the identity and employment eligibility of all individuals hired by Vendor to perform any service pursuant to the Agreement Documents, including any individuals employed by a company hired by Vendor to perform a service pursuant to the Agreement Documents.
14. During the term hereof, Vendor shall not, without the prior written approval of Fisk, make any press release or other public announcement concerning the Agreement Documents or the transactions contemplated by the Agreement Documents or any matter related to Fisk, except to the extent an announcement is required by law, in which case Vendor agrees to use its best efforts to cause a mutually agreeable press release or public announcement to be made in conjunction with Fisk.
15. The Agreement Documents constitute an agreement for services and/or products to Fisk and are not intended, and will at no time, constitute a lease, sublease, or other occupancy of any premises on Fisk property, whether leased or owned by Fisk. Vendor expressly agrees hereunder that Vendor has not been granted any real property interest in any premises, building or real property of Fisk, whether leased, owned, or licensed by Fisk,

and Vendor has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations, or ordinances.

16. The Agreement Documents will be governed by and construed in accordance with the laws of Tennessee, without giving effect to its conflict of laws rules.
17. When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the **Davis-Bacon Act** (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency
18. Vendor hereby irrevocably consents to the jurisdiction of the courts of the State of Tennessee and of any federal court located in Davidson County, Tennessee, in connection with any action or proceeding arising out of or relating to the Agreement Documents, any document or instrument delivered pursuant to or in connection with these Agreement Documents, or any breach of these Agreement Documents or any such document or instrument. Vendor agrees not to assert, by way of motion, as a defense, or otherwise, in any such action, suit or proceeding, that Vendor is not subject personally to the jurisdiction of the court, that the action, suit or proceeding is brought in an inconvenient forum, that the venue of the action, suit or proceeding is improper, or that the Agreement Documents or any such document or instrument may not be enforced in or by the court. This provision shall survive the termination of the Agreement Documents.
19. The invalidity, illegality or unenforceability of any provision of the Agreement Documents will not affect the validity, legality or enforceability of the remaining provisions. If any provision thereof is inapplicable to any person or circumstance, it will nevertheless remain applicable to all other persons and circumstances.
20. Each party to the Agreement Documents will pay all costs, fees and expenses that the party may incur in connection with the negotiation, execution and delivery thereof.
21. All notices, requests, consents and other communications hereunder must be in writing and must be [i] mailed by first class certified mail, [ii] sent by FedEx, United States Express Mail or similar overnight delivery or courier service, or [iii] delivered (in person, or by a facsimile transmission similar telecommunications equipment) against receipt, as follows:

If to Fisk: Fisk University

Attention:
1000 Seventeenth Avenue, North
Nashville, Tennessee 37208
Telephone:
Fax:

If to Vendor: The address shown beneath the signatures
on the Vendor Agreement,

or to another address of which the addressee has notified the sender in writing in accordance with this section. Notices given by certified mail will be deemed given at the time of certification, and notices given by any other permitted means will be deemed given at the time of receipt of the notice

22. Vendor expressly understands and agrees that none of Fisk's covenants, undertakings or agreements are made or intended as personal covenants, undertakings or agreements by any natural persons who are administrators and/or employees of Fisk from time to time. Any liability of Fisk for damages, breach or nonperformance or otherwise arising under or in connection with the Agreement Documents is hereby expressly waived by Vendor against each and every one of the employees of Fisk from time to time, personally and individually, and in all events, Vendor's sole recourse for discharge of any such liability shall be to Fisk and its assets and not to any natural person who is an administrator and/or employee or any such administrator's or employee's personal assets.
23. Any part of the Agreement Documents may be executed by each party upon a separate copy or separate signature pages, and any combination of separate copies executed by all parties or including signature pages so executed will constitute a single counterpart thereof. Any part of the Agreement Documents may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same agreement. It will not be necessary, in proving the Agreement Documents in any proceeding, to produce or account for more than one counterpart of any part of the Agreement Documents.

FISK UNIVERSITY
ATTACHMENT TO STANDARD AGREEMENT FOR
VENDORS AND SERVICE PROVIDERS

**REQUEST FOR PROPOSAL OR
OTHER WRITTEN DOCUMENTATION
DESCRIBING THE SCOPE OF VENDOR'S PRODUCTS OR SERVICES
TO BE PROVIDED TO FISK**

Check Applicable Items:

- _____ Copy of Fisk's Request for Proposals attached (Date: _____)
- _____ Other written documentation from Fisk describing scope of Vendor's services or work attached
- (describe): Addendum – Additional Terms
- _____ Copy of Vendor's Proposal to Fisk attached (Date: _____)
- _____ No Request for Proposal, additional written documentation from Fisk, or Vendor proposal is attached

Signature of Fisk's Authorized Representative:

By: _____

Signature of Vendor's Authorized Representative:

By: _____