Tuskegee University
Professional Personal Services Contract with Independent Contractor
Appendix A – General Terms and Conditions

1. INDEPENDENT CONTRACTOR: The Contractor will act as an independent contractor under this contract, and neither the Contractor nor any employee or agent of the Contractor is an employee of Tuskegee University. Nothing contained herein shall be deemed or construed by Tuskegee University, the Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the Tuskegee University and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the Tuskegee University or the Contractor hereunder, create or shall be deemed to create a relationship other than the independent relationship of the Tuskegee University and the Contractor. Contractor’s personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Tuskegee University shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. The Tuskegee University shall not withhold from the contract payments to the Contractor and federal or State unemployment taxes, federal or State income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Further, the Tuskegee University shall not provide to the Contractor any insurance coverage or other benefits, including Workers’ Compensation, normally provided by the State for its employees.

The Contractor will provide the services and achieve the results specified by the Tuskegee University, free from the direction or control of the Tuskegee University as to means and methods of performance.

2. INSURANCE: The Contractor, as an independent contractor, will be required to procure and maintain Comprehensive General Liability insurance and Commercial Auto Liability insurance. The Contractor shall be required to provide a Certificate of Coverage mailed to Xxxxx Xxxxxxxx. The Certificate of Coverage should, at a minimum, contain the name of the carrier, effective and expiration dates of coverage, a description of the covered perils, the amount of coverage by peril, the name and mailing address of the insurance company, and the name and mailing address of the insurance agent. The Certificate of Coverage must name Tuskegee University as an additional insured. The Comprehensive General Liability coverage and the Commercial Auto Liability coverage shall be a minimum amount of Three Million Dollars ($3,000,000) per occurrence and Three Million Dollars ($3,000,000) annual aggregate through an insurance company with a Best rating of A- or higher and a financial size Class X or higher approved by Tuskegee University’s Division of Business & Finance.
3. **NONRESIDENTS ALIEN:** If the Contractor is a nonresident alien performing services in the United States or its territories, the Contractor agrees that proof of visa status (I-94 Form) documenting authorization to receive payment for work performed will be provided to Tuskegee University prior to payment by Tuskegee University.

4. **AUTHORITY TO CONTRACT:** The CONTRACTOR warrants (a) is authorized to enter into this agreement; (b) that is in good standing in the State of Alabama; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

5. **ACCESS TO RECORDS:** The Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices to sufficiently reflect properly all costs of whatever nature claimed to have been incurred in the performance of the Contract. Tuskegee University or its authorized representatives shall have access to the books, documents, papers, and records of the Contractor which are directly pertinent to the Contractor for the purpose of making audit, examination, excerpts and transcripts. Such books and records shall be maintained by the Contractor for three years from the date of the completion of work. Contractor is responsible for any audit discrepancies involving deviation from the terms of the contract and for any commitments or expenditures in excess of amounts authorized by Tuskegee University.

6. **OWNERSHIP OF WORK PRODUCTS:** Any discovery, patent, copyright, invention, work papers, software, software applications, written materials, publications, data, information, by-product arising as a direct result of the performance of this Contract shall be the sole property of Tuskegee University.

7. **TERMINATION:** Either Tuskegee University or the Contractor may terminate its obligations under this Contract by giving the other party at least 14 days prior written notice of such termination specifying the intended date of termination; provided, however, that upon request from Tuskegee University, the Contractor shall continue performance until Tuskegee University can find a replacement contractor or for an additional thirty (30) days after the specified termination date, whichever is the shorter time period. Upon termination, an equitable settlement shall be made for actual costs incurred by the Contractor up to the date of termination.

8. **Tuskegee University EMPLOYEES.** The Contractor will not hire any employee of Tuskegee University to perform any services covered by this agreement without prior written approval from the Tuskegee University Human Resources Department.
9. **CONFIDENTIAL INFORMATION.** In connection with the contract hereunder, Tuskegee University and the Contractor shall be free to exchange such technical information and know-how as may be necessary to carry out the objective of the agreement. Neither party shall be required to disclose to the other party technical information and know-how which it received in confidence from a third party or which is developed for a third party under conditions giving rise to an obligation or confidentiality. Employees of Tuskegee University performing services hereunder shall enter into confidentiality agreements should such exchange of information be needed to conduct the project. Tuskegee University shall have the appropriate individuals execute said agreements and provide copies to the Contractor. The Contractor shall have the appropriate individuals execute said agreements and provide copies to the Tuskegee University.

10. **ACKNOWLEDGMENT OF SPONSORSHIP.** The Contractor agrees that, in any publication, acknowledgment shall be made of sponsorship by Tuskegee University and/or other sponsor by use of the following statement “This work was performed under the sponsorship of the Tuskegee University Board of Trustees. This work does not necessarily represent the views of Tuskegee University or the sponsoring agency.” If the publication is copyrighted, the statement “Reproduction of this article, with the customary credit to the source, is permitted,” shall be added. With the exception of acknowledging sponsorship of research, the name of the Tuskegee University may not be used in publications, news releases, advertising, speeches, technical papers photographs, and other releases of information regarding this Contract or data developed under this Contract without written approval of Tuskegee University.

11. **APPLICABLE LAW.** The contract shall be governed by and construed in accordance with the laws of the State of Alabama, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the state. The CONTRACTOR shall comply with applicable federal, state, and local laws and regulations. If a court determines that any provision of this contract is not enforceable against Tuskegee University, the CONTRACTOR agrees that the individual signing this agreement on behalf of Tuskegee University is not personally responsible or liable for any of the obligations and duties contained herein.

12. **INDEMNIFICATION.** To the fullest extent allowed by law, the CONTRACTOR shall indemnify, defend, save and hold harmless, protect, and exonerate Tuskegee University, its President, Board Members, officers, employees, agents and representatives from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, attorney’s fees, arising out of or caused by the CONTRACTOR and/or its partners, principals, agents, employees and/or Subcontractors in the performance of or failure to perform this agreement. In Tuskegee University’s sole discretion, the
CONTRACTOR may be allowed to control the defense of any such claim, suit, etc. In the event the CONTRACTOR defends said claim, suit, etc., the CONTRACTOR shall use legal counsel acceptable to Tuskegee University; the CONTRACTOR shall be solely responsible for all costs and/or expenses associated with such defense, and Tuskegee University shall be entitled to participate in said defense. The CONTRACTOR shall not settle any claim, suit, etc., without Tuskegee University’s concurrence, which Tuskegee University shall not unreasonably withhold.

13. **CONFLICT OF INTEREST.** The Contractor affirms that, to the best of his/her knowledge, there exists no actual or potential conflict between Contractor’s family, business, or financial interests and his/her services under this Contract, and, in the event of change in either his/her private interest or service under this Contract, he/she will inform the Tuskegee University regarding possible conflict of interest that may arise as a result of such change.

14. **AVAILABILITY OF FUNDS AND EXPENDITURE APPROVAL.** It is expressly understood and agreed that the obligation of Tuskegee University to proceed under this agreement is conditioned upon the appropriation of funds as authorized by the Tuskegee University Board of Trustees and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the Agreement are at any time not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Alabama to appropriate funds or the discontinuance or material alteration of the program under which the funds were provided or if funds are not otherwise available to Tuskegee University, Tuskegee University shall have the right upon ten (10) working days written notice to the CONTRACTOR, to terminate this Agreement without damage, penalty cost, or expense to Tuskegee University of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

15. **SEVERABILITY.** If any term or provision of this contract is prohibited by the laws of the State of Alabama or declared invalid or void by a court of competent jurisdiction, the remainder of the contract shall be valid and enforceable to the fullest extent permitted by law.

16. **TOTAL AGREEMENT.** This Contract contains the entire agreement between the parties, superseding any prior or concurrent agreements as to the services being provided, and no oral or written terms or conditions that are not contained in this Contract shall be binding. This Contract may not be changed except by mutual agreement of the parties. Any such change shall be reduced to writing and signed by both parties.

17. **CONTRACT CHANGES.** Tuskegee University may, at any time, by written order, make changes within the general scope of the contract or any of its task orders as to the services or work to be performed. If such changes cause an increase or a decrease in the CONTRACTOR’S cost or time required to perform any services under this contract or assigned task orders, whether or not changed
by an order, Tuskegee University shall make an equitable adjustment and modify this contract, or the appropriate task order, in writing. The CONTRACTOR must assert any claim for adjustment under this clause in writing within thirty (30) days from the date the CONTRACTOR received Tuskegee University’s notification of change, unless Tuskegee University grants additional time before the date of final payment. No services for which the CONTRACTOR will charge any additional compensation shall be furnished without the prior written authorization of the Tuskegee University.

18. **ASSIGNMENT/TRANSFER/SUBCONTRACTING.** The Contractor shall not assign, transfer, subcontract, or otherwise give to or impose on any other party any obligation or right of the Contractor under this Contract, without prior written consent of the Tuskegee University.

19. **THIRD PARTY ACTION NOTIFICATION.** The CONTRACTOR shall give the Tuskegee University prompt notice in writing of any action or suit filed, and prompt notice of any claim made against the CONTRACTOR by any entity that may result in litigation related in any way to this contract.

20. **NOTICE.** Any notice required or permitted to be given under this contract shall be in writing and sent by certified United States mail, postage prepaid, return receipt requested to Tuskegee University by writing Tuskegee University, Attention: ______________, Vice President for Business & Finance, Office of Fiscal Affairs, (Insert address here: Xxxxxxx, Xxxxx). The parties agree to promptly notify each other of any change of address.

Signature and Date (I agree to the terms of the contract included in pages 1 through 6).

Tuskegee University ____________________________________________

_______________________________                             _______________________________
Signature of VP or CFO                                  Signature of President or CFO

Date: ______________________                        Date: __________________________

Mailing Address: ____________________________________________

__________________________________________

Mailing Address: ________________________________