

TENN-SHARE
SUBSCRIBER AGREEMENT

This Subscriber Agreement (“Agreement”) is between TENN-SHARE, a 501(c)3 organization, as the billing agent as provided below and the Tennessee Board of Regents on behalf of the institutions listed on Attachment A, each a “member”.

Member has a contract with the vendors (“VENDOR”) and services (SERVICE) listed in Attachment B under the terms and conditions specified therein.

1. This Agreement is dependent upon the continued license between Tenn-Share and VENDOR to make available the SERVICE referenced above. Should this license expire, Tenn-Share will notify member prior to the expiration so that member can make other arrangements for access.
2. Member agrees to access and use the SERVICE in accordance with the agreement between member and VENDOR. The member will exercise reasonable good faith efforts to inform Authorized Users of restrictions on use of the SERVICE; however, the member shall not be liable for the actions of individual Authorized Users who act without the knowledge and consent of the member.
3. Member agrees to pay fees for the SERVICE to TENN-SHARE as invoiced. All Charges shall be due thirty (30) days from the date of the invoice reflecting such charges.
4. This agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

This Agreement shall take effect upon the latest date of execution below by duly authorized representatives of member and shall automatically renew annually for up to 60 months, except as otherwise provided by written notification from TENN-SHARE to the member or from the member to TENN-SHARE. .

This Agreement is valid and enforceable only if sufficient funds are made available to the state institutions by their state legislature for the purpose of this program. It is mutually agreed that if the state legislature does not appropriate funds for the program, this Agreement shall be terminated or amended to reflect any reduction of funds. The decision to continue with the Agreement must be made no later than thirty (30) days after the new fiscal year affected by the legislative funding.

Tennessee Claims Commission. Any and all claims against the State of Tennessee, its officers, agents, and employees under the terms of this Agreement shall be submitted to the Board of Claims or the Claims Commission of the State of Tennessee. Damages recoverable against the State of Tennessee shall be limited to claims paid by the Board of Claims or the Claims Commission pursuant to Tennessee law.

Conflict of Interest. TENN-SHARE assures that no payment shall be made directly or indirectly to any officer or employee of the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to TENN-SHARE in connection with any work contemplated or performed relative to this Agreement.

Non-discrimination. The parties agree to comply with the Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order 11,246 and the related regulations to each. Each party assures that it will not discriminate against any individual including, but not limited to, employees or applicants for employment and/or students because of race, religion, creed, color, sex, age, disability, veteran status or national origin.

The parties also agree to take affirmative action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, religion, creed, color, sex, age, disability, veteran status or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection available to employees and applicants for employment.

TENN-SHARE's Limited Warranty. TENN-SHARE represents and warrants that it has the right to enter the Subscriber Agreement and to serve as the billing agent as provided therein.

Delinquency / Tennessee Prompt Pay Act. The Tennessee Prompt Pay Act, T.C.A. Sections 12-4-701, et seq., governs the amounts payable if the State makes a late payment under a contract. Interest shall be 1 1/2 % per month beginning on the day after the payment is due. If interest remains unpaid after sixty (60) days, it is added to the principal, and interest on subsequent late payments is calculated on the remaining principal plus accrued interest.

Taxes. The Institution shall provide TENN-SHARE with a valid exemption certificate for any applicable State and local taxes, if requested.

Audit. TENN-SHARE shall maintain records pertaining to this Agreement for a period of three (3) years from the date of final payment. These records shall be subject to audit by the State of Tennessee.

Indemnification. The State of Tennessee, its officers, agents, and employees shall be held harmless from liability from any claims, damages, and actions arising from payment made to TENN-SHARE as a billing agent as provided in the Agreement.

Prohibition on Hiring Illegal Immigrants. Tennessee Public Chapter No. 878 of 2006, TCA 12-4-124, requires that TENN-SHARE attest in writing that TENN-SHARE will not knowingly utilize the services of illegal immigrants in the performance of this Contract and will not knowingly utilize the services of any subcontractor, if permitted under this Contract, who will utilize the services of illegal immigrants in the performance of this Contract. The attestation shall be made on the form, Attestation re Personnel Used in Contract Performance ("the Attestation"), which is attached and hereby incorporated as Attachment C.

If TENN-SHARE is discovered to have breached the Attestation, the Commissioner of Finance and Administration shall declare that TENN-SHARE shall be prohibited from contracting or submitting a bid to any Tennessee Board of Regents institution or any other state entity for a period of one (1) year from the date of discovery of the breach. TENN-SHARE may appeal the one (1) year by utilizing an appeals process in the Rules of Finance and Administration, Chapter 0620.

Subject to the terms and conditions set forth in this Agreement, the above-referenced Agreement is hereby ratified and affirmed.

INSTITUTION: _____

TENN-SHARE

Charles Manning
Signature for Member

Tenny Frere
Signature for TENN-SHARE

Name: *Charles Manning*

Name: *TENNY FRERE*

Chancellor 9/3/09
Title: _____ Date: _____

Executive Director 8-2
Title: _____ Date: _____

LISTING OF TBR SYSTEM INSTITUTIONS

Tennessee Board of Regents, Central Office
Austin Peay State University
East Tennessee State University
Middle Tennessee State University
Tennessee State University
Tennessee Technological University
University of Memphis
Chattanooga State Technical Community College
Cleveland State Community College
 TTC-Athens
Columbia State Community College
 TTC-Pulaski
 TTC-Hohenwald
Dyersburg State Community College
 TTC-Newbern
 TTC-Ripley
 TTC-Covington
Jackson State Community College
 TTC-Jackson
 TTC-Whiteville
 TTC-Crump
 TTC-McKenzie
 TTC-Paris
Motlow State Community College
 TTC-Shelbyville
 TTC-Murfreesboro
 TTC-McMinnville
Nashville State Community College
 TTC-Nashville
 TTC-Dickson
Northeast State Technical Community College
 TTC-Elizabethton
Pellissippi State Technical Community College
 TTC-Knoxville
Roane State Community College
 TTC-Oneida/Huntsville
 TTC-Harriman
 TTC-Jacksboro
 TTC-Crossville
Southwest Tennessee Community College
 TTC-Memphis
Volunteer State Community College
 TTC-Livingston
 TTC-Hartsville
Walters State Community College
 TTC-Morristown

ATTACHMENT C

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

SIGNATURE &
DATE:

[Handwritten Signature] 8-21-09

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.