The following terms and conditions apply to all Office of Sponsored Programs Professional Services contracts entered into by the Board of Trustees of the University of Alabama, for and on behalf of The University of Alabama in Huntsville.

1. **Standard of Performance.** All services rendered by the Contractor and its employees, agents, or representatives in performance of this Contract shall conform to the highest standards of workmanship for the type of work involved. Each of the Contractor's employees performing services under this Contract shall be well qualified for the services he or she is performing. The Contractor warrants to the University that all work performed shall: (a) conform in all respects to all of the requirements of this Contract; (b) be free from all defects in materials and workmanship; and (c) be free from all defects in design and be fit for its intended purposes.

2. **Inspection.** The University, through its authorized representatives, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed by the Contractor.

3. **Changes.** The University may at any time, through a written Change Notice to this Contract, make changes within the scope of work or period of performance of this Agreement. The Contractor and the University shall negotiate in good faith and equitable adjustment, if appropriate, in the terms of this Contract to cover any such change. No payment by the University for extras shall be made unless such are performed pursuant to the University's written Change Notice.

4. **Principal Investigator.** The skill and ability of the Contractor's Principal Investigator for work called for by this Contract is an important consideration for the University's assent to enter into this Contract. Accordingly, the Contractor may not change its Principal Investigator without first obtaining the prior written consent of the University, which consent will not be unreasonably withheld.

5. **Assignment.** The Contractor may not assign, subcontract, or delegate performance of any of its rights or obligations under this Contract in whole or in part without
obtaining the prior written approval of the University. Any attempted assignment, subcontract, or delegation under this Contract shall be void and of no effect.

6. **Force Majeure.** The Contractor shall notify the University promptly of any material delay in the performance of the work specified and shall state in writing the revised performance date as soon as practicable after the notice of delay. The Contractor shall not be liable for delays in performance unavoidably caused by circumstances beyond its control, such as labor disputes, civil disorders, acts of war, acts of God, governmental action, etc., but it will be liable for all other delay, including specifically that caused by its own fault or negligence. In the event of any excusable delay the date of performance shall be extended for a period equal to the time lost by reason of such delay on written approval of the University official to whom notices are to be given under this Contract.

7. **Access to Facilities.** The Contractor and its employees or agents shall have the right to use only those facilities of the University that are necessary to its performance of services under this Contract and shall have no right of access to any other facilities of the University.

8. **Conduct on Premises.**
   (a) The Contractor agrees that all persons working for and on behalf of it whose duties bring them upon the University's premises shall obey all applicable rules and regulations established by the University and shall comply with the reasonable directions of the University's officers.
   
   (b) The Contractor shall be responsible for the acts of its employees and agents while on the University's premises and for all injury to persons and damage to property located on University premises caused by its employees and agents. Accordingly, the Contractor agrees to take all necessary measures to prevent such injury and damage. The Contractor shall promptly repair, to the specifications of the University's Vice President for Finance and Administration, any damage that it, or its employees or agents, may cause to the University's premises or equipment. On the Contractor's failure to do so, the University may repair such damage and the Contractor shall reimburse the University promptly for the cost of repair.
   
   (c) The Contractor agrees that, in the event of an accident of any kind on the University's premises involving any of its employees or agents, the Contractor will immediately notify the University's Vice President for Finance and Administration and thereafter furnish a full written report of such accident.

9. **Loss of Contractor's Property.** The University shall have no responsibility for the loss, theft, or mysterious disappearance of or damage to equipment, tools, materials, supplies, and other personal property of the Contractor or its employees or agents.

10. **Signs or Displays.** The Contractor will not install any signs or other displays on the University's premises unless in each instance the prior written approval of the University's Vice President for Finance and Administration has been obtained.

11. **University Name - Limitations on Use.** The Contractor shall not use, in its external advertising, marketing programs, or other promotional efforts, any data, pictures, or other representation of the University except on the specific written authorization of the University's Vice President for Research. However, the Contractor shall be allowed to include the University on its routine client list for matters of reference.

12. **Travel Reimbursement.** If this Contract calls for reimbursement of the Contractor's actually incurred travel expenses, the University will reimburse travel expenses as follows: the cost of food, lodging, and miscellaneous expenses while in travel status, plus the cost of ground and/or air transportation. Reimbursement shall be limited to expenses which are actual, reasonable, and necessary. For travel by private vehicle, reimbursement shall be made at the rate of $0.36 per mile, and for travel by air it shall not exceed the cost of economy jet fare. Payment shall be made after presentation of an Expense Voucher (on a form supplied by the University) along with supporting receipts.

13. **Indemnification.** The Contractor agrees to indemnify and hold harmless the University, its trustees, officers, agents, employees, successors, and/or assigns from all liability, losses, claims, demands, actions, debts, and expenses of every name and nature for personal or bodily injury (including any resulting in death), damage to property, and/or other injury or damage arising out of or as a consequence of the Contractor's acts or omissions in performing under this Contract, its presence on the University's premises, or the existence of this Contract or any matter related hereto. This indemnification agreement shall include all costs, including reasonable attorney's fees and court costs, incurred by the University in connection with the defense against any such claim of liability.

14. **Encumbrances.** The Contractor shall at all times keep the University free and clear from all encumbrances and liens asserted against or on account of it or its employees and/or agents, by any person, firm, or corporation for any reason whatsoever. If any such lien shall at any time be filed against the University's premises, and the Contractor shall fail to cause such lien to be removed or discharged (by payment or bond or otherwise) within ten (10) days after being notified of the filing of such lien, the University may, but shall not be obligated to, discharge the same. All costs and expenses (including attorney's fees) incurred by the University in discharging the lien shall either be deducted from any payments due the Contractor or be paid by the Contractor directly to the University.

15. **Insurance.** The Contractor shall maintain in force at all
times during the term of this Contract, with responsible insurance carriers, the following insurance: (a) workmen's compensation insurance, to the extent coverage is required by law for the Contractor, in the amount of the statutory limits; (b) automobile liability insurance in the amount of $300,000 per person and $500,000 per occurrence, if the use of an automobile by the Contractor is involved in or related to its performance under this contract; and (c) general liability insurance, in appropriate amounts, if the nature and scope of the Contractor's activities in performing under this Contract would, in the exercise of reasonable prudence, dictate such coverage. The University shall have the right, by written notice to the Contractor, to require the Contractor to have and maintain such general liability coverage and to provide a Certificate of Insurance to the University with respect to one or more of the foregoing coverages. The University shall further, by written request, be made an additional insured on any of such policies of insurance.

16. Licenses and Permits. The Contractor shall, at its sole expense, procure and keep in effect all necessary permits and licenses required for its performance under this Contract, and it shall post or display in a prominent place such permits and/or notices as are required by law.

17. Ethics Certification. The Contractor hereby certifies that its entering into or performance of this Contract will not violate any provision of the Alabama Ethics Act.

18. Interest of Contractor. The Contractor covenants that it presently has no interest, direct, or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that in the performance of the Contract no such person having such interest shall be employed or engaged.

19. Compliance with Law. With respect to all activities carried out under this Contract and/or on University premises, the Contractor shall comply with all laws, rules, and regulations of duly constituted authorities having jurisdiction over such activities.

20. Taxes. The Contractor shall pay when due all taxes or assessments applicable to it. The Contractor shall comply with the provisions of all applicable statutes and regulations of taxing authorities to which it is subject.

21. Nondiscrimination. The Contractor agrees that it shall not, with respect to any activity carried out on the premises of the University or relating in any way to this Contract, discriminate unlawfully against any person on the basis of race, color, national origin, religion, sex, age, or handicap. The equal opportunity clauses required under Executive Order 11246 and regulations issues thereunder are made a part of this Contract by reference.

22. Compliance with OMB Circular A-133. The Contractor hereby agrees to meet the audit requirements established by the provisions of the most recent version the Office of Management and Budget Circular No. A-133, SUBJECT: Audits of Institutions of Higher Education and Other Nonprofit Institutions (hereinafter "OMB Circular A-133), as well as the applicable requirements referenced therein. Abiding by such requirements shall specifically include but is not limited to creating and maintaining accurate and appropriately detailed records and financial statements related to this contract which will permit the University to fulfill its responsibilities under OMB Circular A-133. Further, the Contractor agrees to permit independent auditors to have access to such records and financial statements as may be necessary for the University to comply with its responsibilities under OMB Circular A-133 and to cooperate fully and promptly with the University in its endeavors in that regard.

23. Independent Contractor Relationship. The relationship of the Contractor to the University is and shall be that of an independent contractor in all respects under this Contract, and nothing herein shall be construed as creating any other relationship.

24. Patents. (a) All rights, title, and interest in and to inventions or other intellectual property rights conceived or reduced to practice in the course of performance of the work called for by this Contract are hereby vested in the University. The contractor agrees to promptly disclose to the University, in a format acceptable to the University, any potentially patentable idea or concept conceived or reduced to practice in the course of performance of the work called for by this Contract.

(b) In the event the provisions of paragraph 24(a) are inconsistent with any patent rights clause in an upper tier contract, then the patent rights clause in the upper tier contract shall govern.

25. Proprietary Information. The successful performance of this Contract may require either that pertinent technical data and computer software subject to proprietary claims of the Contractor be made available to the University or that pertinent technical data and computer software subject to the proprietary claims of the University be made available to the Contractor. Accordingly, the Contractor may provide the University with access to the Contractor's proprietary technical information and computer software and the University may provide the Contractor with access to the University's proprietary technical information and computer software as necessary for the successful performance of the scope of work of this agreement, in accordance with the following terms and conditions:

(a) The Contractor will designate in writing one (1) person as its authorized representative for the exchange of proprietary information. Each party reserves the right to change its designation of authorized representative, should circumstances so require and to notify the other party in writing of any such change.
(b) Any information which is received in writing and which is identified in writing as proprietary and is addressed to the individual designated pursuant to paragraph 25(a) of this Contract will be protected in accordance with this Contract. The writing identifying the particular information considered proprietary shall be sufficiently particular to enable the recipient to identify written, graphic, or physical embodiments of such information. The recipient agrees to use its best efforts to hold such information in confidence for a period of three (3) years from the date of its receipt and to not use such information for any purposes other than the work called for by this Contract.

(c) The obligation to use best efforts to retain such information in confidence will be satisfied if the recipient utilizes the same controls it employs to avoid disclosure, publication, or dissemination of its own proprietary information of similar importance.

(d) The obligation with respect to handling proprietary information as set forth in this Contract is not applicable to the following situations:

(i) The recipient shows that such information is in the public domain through no fault of the recipient;

(ii) Such information is contained in a written record in the recipient's files prior to the date of its receipt from the originating party;

(iii) The recipient at any time lawfully obtained such information from a third party under circumstances permitting its disclosure by the recipient to others;

(iv) The information is disclosed by the originating party to the recipient or to others on an unrestricted basis.

(v) The information is disclosed with prior written consent of the originating party, provided the disclosure complies in all respects with the terms of the consent.

(vi) The recipient can demonstrate that it has developed such information independent of its disclosure under this Contract.

(e) Upon termination or expiration of this Contract in accordance with its terms, the recipient will, within a reasonable time thereafter return all proprietary information received from the originating party under this Contract along with all copies thereof, except that the recipient may retain a legal file copy.

(f) Should the recipient be faced with legal action or a requirement under government regulations to disclose proprietary information received hereunder, the recipient shall forthwith notify the originating party, and, upon request and at the expense of the latter, shall cooperate with the originating party in contesting such disclosure.

(g) It is agreed that no license under any patents or technical information of either party is granted by this Contract or by any disclosure of proprietary and/or confidential information hereunder.

26. Upper Tier Changes. If this Contract is issued as a subcontract under the provisions of any University Prime Contract, then it is desired by the parties hereto that this Contract shall not contain anything inconsistent with or contrary to the provisions of the Prime Contract. If the Prime Contract is amended and the amendment causes this Contract to be inconsistent with or contrary to the Prime Contract, the parties hereto agree that the Contractor shall, upon request, negotiate with the University in good faith on such amendments to this Contract as may be necessary to make this Contract consistent with the requirements and terms of the Prime Contract.

27. FAR Clauses. Any applicable FAR clauses identified in an exhibit attached hereto are hereby incorporated by reference and made binding upon the Contractor with the same force and effect as if set forth in full text.

28. Classified Material. The Contractor will treat all classified material under this contract in accordance with the Industrial Security Manual for Safeguarding Classified Information (DOD 5200.22-M) and in accordance with the provisions of this Contract, including any FAR clauses incorporated by reference, and the Contract Security Specification (DD Form 254).

29. Termination. The University may, by written notice to the Contractor, terminate this Contract in whole or in part at any time, either for the University's convenience or because of the failure of the Contractor to fulfill its contract obligations. Upon receipt of such notice, the Contractor shall: (a) immediately discontinue all service affected (unless the notice directs otherwise), and (b) deliver to the University all data, reports, summaries, and such other information and material as may have been prepared for and/or accumulated by the Contractor in performing this Contract, whether completed or in process. Upon termination, the University shall be obligated to pay only those costs for work actually performed by the Contractor prior to the date that notice of termination was given by the University and for any allowable termination costs.

30. Claims. Any alleged claim against the University for breach of this Contract or any other liability must be submitted to the Board of Adjustment of the State of Alabama, the exclusive means provided by the law of the State of Alabama for bringing a claim against a state agency.

31. Notices. Any notice required under this Contract shall be in writing and shall be given by certified mail, return receipt requested, addressed as follows: if to the University, to the attention of Office of Sponsored Programs, The University of Alabama in Huntsville, Huntsville, Alabama 35899; if to the Contractor, to the address shown on the Contract. The name and address to which mailings shall be made may be changed from time to time by a notice mailed as set forth above.

32. Consent. Wherever in this Contract the consent or approval of a party is required or permitted, such consent or approval shall be in writing and shall be executed by an
officer or agent of the party duly authorized to take such action. If a party fails to respond within thirty (30) days to a request by the other party for a consent or approval, such consent or approval shall be deemed to have been given.

33. **Waiver.** The failure of any part to assert a right hereunder or to insist upon compliance with any term or condition of this Contract shall not constitute a waiver of that right, term, or condition nor excuse a similar subsequent failure to perform any such term or condition.

34. **Unenforceable Provision.** If any provision of the Contract, as applied to any party or to any circumstance, shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Contract or the validity or enforceability of the Contract as a whole.

35. **Remedies.** All the parties' remedies and rights contained in this Contract shall be cumulative and shall not be in limitation of any other right or remedy which the parties may have.

36. **Survival of Terms.** All covenants, representations, and warranties of the Contractor contained in this Contract shall survive the termination or expiration of this Contract whenever necessary to carry out the reasonably intended purpose thereof.

37. **Priority of Terms.** In the event of a conflict between a provision in either the Contract document, these General Terms and Conditions, or any applicable FAR regulations, then the conflict will be resolved according to the following order of documentary priority: (a) the Contract document; (b) the NASA Grant & Cooperative Agreement Handbook, NPG 5800, 1D, October 2000; (c) these General Terms and Conditions; and (d) any other documents which have been expressly been made a part of this Contract, including any documents prepared by the Contractor.

38. **Representations and Warranties.** The Contractor covenants that all action required on its part has been taken to authorize and empower it to enter into and perform this Contract and that it has and will continue to have throughout the term of this Contract the full right to perform its obligations hereunder. The Contractor further represents that there are no prior or existing contractual commitments that would prevent it from entering into this Contract for from conducting the activities and carrying out the duties and obligations provided for hereunder.

39. **Construction Rules.**
   (a) The captions and headings in this Contract are for purposes of convenience and reference only, and the works contained therein shall have no substantive effect and shall in no way be held to explain, modify, or amplify the meaning of the sections and provisions of this Contract to which they pertain.
   (b) The words “shall,” “will,” and “agrees,” as used herein are mandatory; the word “may” is permissive.
   (c) Whenever the singular number is used herein, it shall, where appropriate, include the plural, and the neuter gender shall include the masculine and/or feminine.
   (d) The language in all parts of this Contract shall in all cases be simply construed according to its fair meaning and not strictly for or against any party.
   (e) The word "Contractor" as used herein shall refer, when appropriate, to a "Subcontractor" as used in the primary contract of which these General Terms and Conditions form a part.

40. **Governing Law.** This Contract, and all matters or issues collateral to it, shall be governed by and construed in accordance with the law of the State of Alabama.