

1. Incorporation by Reference. The Florida International University Board of Trustees (“FIU”) and the undersigned (“Vendor”) hereby incorporate this Supplemental Addendum – Zero Dollar (“Addendum”) into the agreement between FIU and Vendor (the “Agreement”). If this Addendum conflicts with the Agreement terms, this Addendum shall control.

2. Payment. FIU is not obligated to make any payment to Vendor for any goods or services. Contractor is responsible for applicable taxes under the Agreement. If Vendor is making any payment to FIU, Vendor shall pay timely and not offset any amounts. FIU shall not make any deposits or prepay any amounts; any deposits are refundable.

3. Relationship of the Parties. Each of the parties is an independent contractor and nothing in the Agreement shall designate any of the employees or agents of one party as employees or agents of the other. Vendor represents and warrants that it is not on the Convicted Vendor List (see § 287.133, F.S.). Vendor hereby assumes all risks attributable to the willful or negligent acts or omissions of Vendor and its officers, employees, agents and subcontractors or persons otherwise acting at the instance of Vendor, in furtherance of fulfilling Vendor’s obligations.

4. Information. Vendor acknowledges that all documents, materials and information furnished to or learned by Vendor or its affiliates in connection with the Agreement (the “Information”) are and shall remain at all times proprietary and the sole property of FIU. Vendor shall not disclose Information to third parties unless it obtains FIU’s prior written consent. FIU is subject to Chapter 119 of Florida Statutes, the Florida Public Records Law. The Agreement, this Addendum and any related documents and/or correspondence shall also become a public record subject to the Public Records Law, regardless of any confidentiality provision outlined in the Agreement. FIU may respond to public records requests without providing Vendor any notice. However, in the event FIU receives a request for Vendor’s information, which is exempt from disclosure pursuant to the Public Records Laws AND is clearly marked as confidential, FIU will redact such information from release, unless otherwise authorized in writing by Vendor. FIU may unilaterally cancel the Agreement for Vendor’s refusal to allow public access to public records related to the Agreement. Additionally, Vendor shall comply with all applicable requirements of the Public Records Laws, particularly if Vendor is a “Contractor” as defined under § 119.0701, F.S. This provision shall survive the expiration or termination of the Agreement. **IF VENDOR HAS QUESTIONS REGARDING THE APPLICABILITY OF CHAPTER 119 TO VENDOR’S DUTY TO PROVIDE PUBLIC RECORDS, VENDOR MAY CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 348-1377, recordsmanagement@fiu.edu, OR BY MAIL AT 11200 S.W. 8th ST., GL 460, MIAMI, FLORIDA 33199.**

5. Indemnity. Vendor will indemnify, defend and hold harmless FIU, the FIU Board of Trustees, the State of Florida, the Florida Board of Governors, and their officers, employees, and agents from and against any and all actions, claims, liabilities, assertions of liability, losses, costs and expenses, which may arise in any manner or are alleged to have arisen, from: (i) the acts, omissions, negligence or misconduct of Vendor or its officers, employees, agents, representatives or subcontractors in connection with or related to (a) Vendor’s operations, activities, business and/or services or (b) Vendor’s occupancy or use of the FIU premises; or (ii) that Vendor’s products and/or services (collectively, the “IP”) infringes upon or violates any proprietary right of any third party. FIU will provide reasonable cooperation in the defense of the suit at Vendor’s expense. Vendor’s indemnification obligations shall not be limited by any limitation of liability outlined in the Agreement. Such defense and indemnity shall survive termination or expiration of the Agreement. **Nothing in the Agreement shall be construed as a waiver of sovereign immunity nor as an indemnification of Vendor by FIU, and then such indemnification is limited to the express terms of §768.28, F.S.**

6. Compliance. In its performance, Vendor shall, at its own expense, at all times in the term:

- a. **Permits:** have all applicable permits, licenses, consents, and approvals necessary;
- b. **General:** comply with all applicable federal, state, local and FIU laws, rules, regulations, and ordinances and all other governmental requirements;
- c. **Section 889 Compliance Certification:** comply with § 889 of the McCain National Defense Authorization Act (prohibition against use of covered telecommunications equipment);
- d. **Privacy:** comply with all applicable state and federal laws and FIU policies and procedures governing the use and/or safe-keeping of confidential, highly sensitive, and/or personally identifiable or protected health information (as may be defined by state or federal law), including, but not limited to, the Family Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPAA), the Gramm-Leach Bliley Act, and the Federal Trade Commission’s Red Flags Rule (which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003). Vendor shall obtain, in advance, all necessary permissions and consents required in regards to its collection and/or receipt of any such information. In the event that FIU will share with or provide access to Vendor of any protected health information (“PHI”), as may be defined by state or federal law, FIU and Vendor enter into a separate business associate agreement which will govern the use of the PHI (in lieu of this provision). Vendor agrees to include all such terms and conditions contained in any subcontractor or agency contracts providing services on behalf of Vendor; and
- e. **Federal funds.** **If FIU has entered into an agreement with the United States of America, or any Department thereof, and the Agreement is in furtherance of the commitments and/or requirements of such federal agreement or funds, Vendor agrees to comply with the terms contained in FIU’s Federally Funded Projects Addendum, found at <https://generalcounsel.fiu.edu/contract-forms/>, herein incorporated by this reference.**

7. General Provisions.

- a. **Warranties.** Vendor, at a minimum, warrants that the IP, the goods, and/or services to be provided by Vendor will be free of any material defects and will operate and conform to the specifications provided in all material aspects throughout the term of the Agreement. This warranty shall be in addition to any warranties provided in the Agreement.
- b. **Publicity.** Vendor shall not make any announcements relating to the Agreement, nor shall Vendor use FIU’s name, trademarks, logos or marks, without the prior written approval from FIU’s External Relations department in each instance.
- c. **Insurance.** FIU, as a public body corporate entity, warrants and represents that it is self-funded for liability insurance, with said protection being applicable to officers, employees, servants, and agents while acting within the scope of their employment by FIU. Any provision requiring FIU to provide or acquire insurance coverage other than such self-insurance shall not be effective. Vendor shall have and maintain the types and amounts of insurance that, at minimum, will cover Vendor’s (or subcontractor’s) exposure in performing the Agreement and name

FIU as additional insured and be primary and non-contributory on Vendor’s policies (except for workers’ compensation & professional liability). All policies shall be in a form and with deductible limits reasonably satisfactory to FIU, with insurance companies reasonably approved by FIU and authorized to do business in the State of Florida. Certificates of all insurance shall be deposited with FIU prior to the date of the Agreement. All insurance policies and certificates shall contain a provision that it will not be cancelled without giving FIU thirty (30) days’ written notice prior to the effective date of cancellation. Timely renewal certificates will be provided to FIU as coverage renews. Vendor, for and on behalf of itself and each of its insurers, hereby waives any and all rights of subrogation against FIU for any loss or damage arising from any cause covered by any insurance required to be carried under the Agreement by any other insurance actually carried by Vendor. Vendor shall provide copies of any insurance policies upon request by FIU. If the professional liability coverage is provided on a claims-made basis, then such insurance shall continue for three (3) years following the expiration or termination of the Agreement. The insurance shall have a retroactive date of placement by the effective date of the Agreement. If the coverage is canceled or non-renewed and not replaced with another similar claims-made policy form, the Vendor must purchase Extended Reporting (“Tail”) coverage for a minimum of three (3) years following the expiration or termination of the Agreement. **Third Parties.** FIU is not liable for the acts of third parties or the consequences of the acts of third parties. There shall be no third party beneficiary to the Agreement.

- d. **Governing Law.** The Agreement is governed by the laws of the State of Florida, without regards to its conflicts of law principles. Exclusive venue of any actions shall be in Miami-Dade County, Florida. FIU is entitled to the benefits of sovereign immunity.
 - e. **Travel Expenses.** If FIU is responsible for reimbursing Vendor for travel expenses pursuant to the Agreement, bills shall be subject to, and shall be submitted by Vendor in accordance with, § 112.061, F.S. and **FIU Policy 1110.060 – Travel: University Travel Expense Policy.** FIU reserves the right not to pay travel expenses unless FIU approves such expenses in advance, in writing. FIU has the right to make travel arrangements for Vendor.
 - f. **Conflicts.** Vendor represents that it is aware of the requirements of Chapter 112, Florida Statutes and in compliance with the requirements thereof, and other laws and regulations concerning conflicts of interests in dealing with entities of the State of Florida. Vendor certifies that its directors and/or principal officers are not employed and/or affiliated with FIU unless a current Conflict of Interest (Report of Outside Activity/Employment) form has been completed, executed by such director or officer and approved in accordance with applicable University policies or rules. Violation of this section shall be grounds for termination of the Agreement.
 - g. **Termination.** Upon giving at least thirty (30) days’ written notice to Vendor, FIU may terminate the Agreement, at any time, with no further obligation to Vendor, other than to pay for any goods received or services rendered in compliance with the Agreement prior to the effective date of termination. FIU shall not be liable for any early termination charges.
 - h. **Records.** Vendor agrees to keep and maintain, separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its obligations and activities under the Agreement. Such records (including books, ledgers, journals, and accounts) shall contain all entries reflecting the business operations under the Agreement. FIU or its authorized agent shall have the right to audit and inspect such records from time to time during the term of the Agreement, upon reasonable notice to Vendor.
 - i. **Deletion.** Any term and/or condition in the Agreement on the following subject matters are hereby deleted in their entirety and declared null and void: (a) Grants of exclusivity by FIU to Vendor; (b) Restrictions on the hiring of Vendor’s employees; (c) FIU’s responsibility to pay intangible taxes, property taxes, or sales taxes; (d) FIU’s tort liability; (e) Automatic renewals of the term of the Agreement; (f) Limitation of time to bring suit; (g) Limitation of Vendor’s liability; (h) that FIU performs reporting functions and/or maintains certain types of operations (i) Granting Vendor any right to audit FIU; (j) Attorneys’ or collection fees provisions; (k) Arbitration and mediation clauses; and (l) Indemnification of Vendor by FIU.
 - j. **Assignment.** Vendor shall not assign, transfer, delegate, subcontract, or otherwise dispose of, whether voluntarily, involuntarily, or by operation of law, any right or obligation under the Agreement without the prior written consent of FIU, not to be unreasonably withheld. Any such unapproved assignment, subcontracting or transfer is void. No subcontracting or delegation shall in any event relieve Vendor of any obligation or liability under the Agreement.
- 8. No counterparts; Signatures.** The Agreement may not be executed in counterparts. It may be signed electronically and such electronic signatures shall constitute an original for all purposes. The parties represent and warrant that any person signing the Agreement has the authority to do so and that such signature shall be sufficient to bind Vendor. This Agreement shall be considered signed if/when a party’s signature is delivered by facsimile or e-mail transmission of a “.pdf” for-mat date file, including via DocuSign. Such signature via DocuSign shall be treated in all respects as having the same force and effect as an original signature.

By signing below, Vendor’s authorized representative agrees to incorporate this Addendum into the Agreement, and hereby executes this Addendum as of the date set forth below.

VENDOR: _____

By: _____

Name: _____

Title: _____

Date: _____