These Standard Terms and Conditions (the "Terms") are hereby attached to the purchase order and/or agreement, together with any invoices, attachments, appendices, exhibits, specifications, drawings, notes, instructions and other information attached or otherwise issued in connection therewith (collectively, the "Agreement"), constitutes the entire and exclusive agreement between The Florida International University Board of Trustees ("FIU") and the vendor identified in the Agreement (the "Vendor"). FIU’s approval and acceptance of the Agreement is conditioned upon and not mandatory to the understanding that any terms or conditions of the Terms, whether communicated orally or contained in any confirmation, invoice, acknowledgement, release, acceptance or other written correspondence, irrespective of the timing, shall not form a part of the Agreement, even if Vendor purports to condition its acceptance of these Terms on FIU’s agreement to such different or additional terms. Vendor’s electronic acceptance, receipt of payment, acknowledgement of these Terms, or commencement of performance constitutes Vendor’s acceptance of these Terms. If any discrepancy, difference or conflict exists between the various provisions of these Terms and the Agreement, these Terms shall control.

1. PAYMENT. Vendor shall submit bills for compensation for goods, services or expenses in sufficient detail for a pre-and-post-audit; payment procedures and invoice requirements are available on FIU’s official website. FIU will make payment in accordance with FIU Regulation FIU-2202. If FIU does not issue payment within 40 days of a receipt of a proper invoice, FIU will pay to Vendor, an interest penalty at the rate established pursuant to §55.03(1) Fla. Stat. If the interest exceeds one dollar ($1.00). The foregoing provisions apply only to undisputed amounts for which payment has been authorized by Vendor. Vendors experiencing payment problems may contact the Vendor Ombudsman at (305) 348-3889. FIU may make payments to Vendor via the University’s EFT/ACH payment process. Vendor shall hold harmless all FIU personnel in respect of acts or omissions that Vendor is making payment to FIU, shall pay timely and not offer or accept other amounts or be cause for termination.

2. TAXES. FIU is tax-exempt and therefore is not obligated to pay, sales and use taxes. Vendor shall provide FIU with a complete vendor application and accurate W-9 or W8-BC (Foreign Vendor); if Vendor fails to supply FIU with a complete and accurate W-9 or W8-BC, the invoice will be deemed insufficient for payment until such information has been provided.

3. AVAILABILITY OF FUNDS. FIU’s performance and obligation to pay under the Agreement is contingent upon an annual appropriation by the Legislature.

4. AUDIT. VENDOR RECORDS. Vendor shall provide specific records and/or access to all of the Vendor’s records related to the Agreement. Vendor agrees to retain all records relating to the Agreement during the term and for a period of three (3) years thereafter, or for the period required by law, whichever is greater, and to make those records available at all reasonable times for inspection, investigation and/or audit by FIU, the Florida Auditor General. In connection with an inspection or audit, the records shall be provided at FIU’s Modesto A. Maidique Campus or other location designated by FIU upon reasonable notice to FIU. FIU will provide the necessary information to FIU and its agents, as well as their respective successors and assigns (each an "Indemnitee", and collectively, the "Indemnitees") for, and only to the extent such, from and against all fines, fees, demands, suits, claims, losses, liabilities, damages, lawsuits, royalties, actions, proceedings, arbitrations, taxes, penalties, or interest, associated auditing and/or accounting expenses in sufficient detail for a pre-and-post-audit; payment procedures and invoice requirements are available on FIU’s official website. FIU will make payment in accordance with FIU Regulation FIU-2202. If FIU does not issue payment within 40 days of a receipt of a proper invoice, FIU will pay to Vendor, an interest penalty at the rate established pursuant to §55.03(1) Fla. Stat. If the interest exceeds one dollar ($1.00). The foregoing provisions apply only to undisputed amounts for which payment has been authorized by Vendor. Vendors experiencing payment problems may contact the Vendor Ombudsman at (305) 348-3889. FIU may make payments to Vendor via the University’s EFT/ACH payment process. Vendor shall hold harmless all FIU personnel in respect of acts or omissions that Vendor is making payment to FIU, shall pay timely and not offer or accept other amounts or be cause for termination.

5. TRAVEL. Vendor shall not charge FIU for any travel expenses, meals, and lodging unless expressly authorized in the Agreement. To the extent that FIU is responsible for paying for Vendor’s travel expenses, meals and lodging, such travel expenses shall be paid in accordance with Florida Statutes §112.061, and FIU’s University Travel Policy. All travel expenses are supported by written, itemized and paid invoices submitted to Vendor by FIU. Any expenses in excess of the amounts prescribed shall be borne by Vendor.

6. VENDOR’S APPLICATION. Vendor shall have and maintain the types and amounts of insurance that, at all times, while acting within the scope of their employment by Vendor, shall obtain additional insurance for the Agreement.

7. INFRINGEMENT OF RIGHTS. Vendor represents that any goods or services furnished or provided to FIU, if any, will not infringe upon or violate any patent, copyright, trademark, trade secret, trade dress, or any other intellectual rights that are attributed to the acts or conduct of any party or their officers, employees, and agents thereof. Vendor also assumes such risk with respect to the acts or omissions of Vendor’s subcontractors or persons otherwise acting or engaged to act at the instance of Vendor in furtherance of Vendor fulfilling its obligations in the Agreement. Vendor is not liable for the acts of third parties or the consequences of the acts of third parties.

8. INFRINGEMENT OF RIGHTS. Vendor represents that any goods or services furnished or provided to FIU, if any, will not infringe upon or violate any patent, copyright, trademark, trade secret, trade dress, or any other intellectual rights that are attributed to the acts or conduct of any party or their officers, employees, and agents thereof. Vendor also assumes such risk with respect to the acts or omissions of Vendor’s subcontractors or persons otherwise acting or engaged to act at the instance of Vendor in furtherance of Vendor fulfilling its obligations in the Agreement. Vendor is not liable for the acts of third parties or the consequences of the acts of third parties.

9. INFRINGEMENT. Vendor represents that any goods or services furnished or provided to FIU, if any, will not infringe upon or violate any patent, copyright, trademark, trade secret, trade dress, or any other intellectual rights that are attributed to the acts or conduct of any party or their officers, employees, and agents thereof. Vendor also assumes such risk with respect to the acts or omissions of Vendor’s subcontractors or persons otherwise acting or engaged to act at the instance of Vendor in furtherance of Vendor fulfilling its obligations in the Agreement. Vendor is not liable for the acts of third parties or the consequences of the acts of third parties.
the expiration or earlier termination of the Agreement. Vendor agrees that, upon request from FIU or upon the termination or expiration of the Agreement, Vendor shall return to FIU, and shall erase, destroy, and render unreadable as applicable, all Confidential Information, PII and PHI from all files, hard drives, computer or network systems, backup systems, cloud storing services or from any other location containing any such information, and certify in writing to FIU that all such records have been either destroyed or returned to FIU; (iii) upon completion of the Agreement or within seven (7) days of the request of FIU, whichever shall come first. In the event of a breach of any of Vendor’s obligations herein, Vendor agrees to indemnify, hold harmless and defend FIU against any claims, damages, or other harm related to such breach. In the event the Vendor is required by subpoena or other judicial or administrative process or by law to disclose such records, PII, PHI, or Confidential Information, the Vendor shall (i) provide FIU with prompt notice thereof; (ii) consult with FIU on the advisability of taking steps to resist or narrow such disclosure; (iii) furnish only that portion of the information that is responsive to the request; (iv) comply with the requirements of all state and federal privacy laws applicable to the information; and (v) reasonably cooperate with FIU in any attempt that FIU may make to obtain an order or other reliable assurance that confidential treatment will be accorded the records. This provision shall survive the expiration or earlier termination of the Agreement.

23. PUBLIC RECORDS. FIU is subject to applicable public records laws as provided by Florida Statutes, Title IV, Chapter 119 (the “Florida Public Records Laws”), and PII and PHI required in performance of public records requests received by FIU shall be treated as confidential information and records. FIU, upon receipt of a request for public records, shall provide the records to the requesting party in a format that is compatible with FIU’s information technology systems. If FIU receives a request for public records, and FIU does not possess public records as defined by state or federal law, including, but not limited to Florida Statutes, Section 119.0701, FIU shall not disclose such records. FIU shall promptly inform the requesting party that such records do not exist or could not be located by FIU for a reasonable time. FIU shall notify the requesting party of the records if FIU possesses such records. FIU shall provide copies of the records to the requesting party within a reasonable time.

24. COMPLIANCE WITH LAWS. In the performance of the Agreement, Vendor shall, at its own expense, at all times, comply with all applicable federal, state, and local laws, rules, regulations, and ordinances and all other governmental requirements. Vendor acknowledges that non-compliance with any governmental permits, licenses, consents, and approvals necessary to perform the obligations under the Agreement. Vendor shall also comply with all applicable FIU policies and regulations applicable to the Agreement. This provision shall survive the expiration or earlier termination of the Agreement.

25. COMPLIANCE WITH EXPORT CONTROL REGULATIONS. The Vendor acknowledges they must comply with export control laws, including the International Traffic in Arms Regulations (ITAR); the Export Administration Regulations (EAR); and the Commerce Control List Regulations (CCL). Furthermore, the Vendor agrees to provide FIU with a list of ECCNs (Export Control Classification Numbers) or the United States controlled products, technology and/or software (“goods”) to FIU, Vendor will provide FIU with a list of ECCNs (Export Control Classification Numbers) or the United States controlled products, technology and/or software (“goods”) to FIU, Vendor will provide FIU with a list of ECCNs (Export Control Classification Numbers) or the United States controlled products, technology and/or software (“goods”) to FIU.

26. COMPLIANCE WITH PCI-DSS. If the Vendor is performing any card credit processing on behalf of FIU, Vendor warrants and represents that it has the appropriate safeguards measures to protect cardholder data, and, at a minimum, shall fully comply with all policies and procedures as outlined in the Payment Card Industry Data Security Standard (PCI-DSS), and further agrees to comply with FIU’s Payment Card Processing Policy (see FIU Policy 1110.025, as it may be updated).

27. CERTIFICATION. A person or affiliate who has been placed on the convicted list by the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury, or if a contractor, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in Florida Statutes § 287.017, for CATEGORY TWO for a period of 36 months from the date of conviction.

28. UNAUTHORIZED ALIENS. The Vendor’s employment of unauthorized aliens is prohibited, including, but not limited to Florida Statutes Section 112.3185. If the Vendor knowingly employs unauthorized aliens, such violation shall be cause for FIU’s unilateral cancellation of the Agreement.

29. EQUAL OPPORTUNITY. Vendor affirms the principles of equal opportunity employment. Vendor will not discriminate against qualified candidates on any unlawful bases, including race, religion, sex, sexual orientation, national origin, age, or disability.

30. NO CONFLICT OF INTEREST. Vendor represents that neither Vendor nor its employees, officers or owners have, or whose relative have, a relationship with FIU, that will result in a violation of the Code of Ethics for Public Officers and Employees, including, but not limited to Florida Statutes Section 112.313(3) and (7) and Florida Statutes 112.3185(6) thereof, by reason of the Vendor entering into the Agreement.

31. PRISON REHABILITATIVE INDUSTRIES (PRIDE). If, in the providing services to FIU pursuant to the Agreement, the Vendor employs any individual who is a convicted fel oen, the Vendor shall either (i) comply with the provisions of Florida Statutes § 887.021, OR BY MAIL at 11200 SW 27TH ST., GL 460, MIAMI, FLORIDA 33199.

32. FEDERALLY FUNDED PROJECTS SUPPLEMENTAL ADDENDUM. THE FEDERALLY FUNDED PROJECTS SUPPLEMENTAL ADDENDUM is ENTERED INTO WITH THE VENDOR TO FURTHER THE PERFORMANCE OF THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-438-1377, BY EMAIL AT recordsmanagement@fiu.edu, OR BY MAIL at 11200 SW 8 ST., GL 460, MIAMI, FLORIDA 33199.

33. AUTHORITY TO EXECUTE. The Vendor represents and warrants that the Agreement has been duly authorized, executed and delivered by and on behalf of the Vendor. The Vendor hereby certifies that the Vendor is duly authorized to enter into this Agreement in accordance with the terms hereof. If the Agreement is signed by the Vendor’s agent, such agent warrants that he/she is duly authorized to act on behalf of the Vendor, that he/she is authorized to enter into the Agreement, and that the agent and Vendor shall be jointly and severally liable for the obligations of the Vendor and any breach of representation.

34. FACSIMILE SIGNATURES ALLOWED. The Agreement, along with any and all Exhibits, may be executed and delivered by facsimile signature by any of the parties to the other parties; to the extent permissible under Florida law, a facsimile signature shall be deemed replaced by a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid, illegal, or unenforceable term, condition, covenant, or provision.

35. NOTICE. Any notice to either party hereunder must be in writing and signed by the party giving it, and served: 1) by hand; 2) through the United States Mail, postage prepaid, registered or certified, return receipt requested; or 3) through expedited mail processing.
or package service, if a receipt showing the delivery has been retained; addressed to the address in the Agreement.

40. AMENDMENTS. The Agreement may only be amended by written amendments duly executed by the parties hereto. If any provision or application thereto to any circumstance is held to be invalid or unenforceable, such provision shall be ineffective and the remainder of the Agreement shall remain valid and enforceable.

41. COUNTERPARTS. The Agreement may NOT be executed in counterparts. Pursuant to Florida law, a facsimile signature shall be deemed to constitute an original signature.

42. ADDITIONAL TERMS FOR THE PURCHASE OF GOODS.

a. Goods. As used in these Terms, “Goods” shall mean all those items and/or products specified in the Agreement.

b. Changes. Any changes to the Goods shall be negotiated in advance by the Parties and agreed to in writing. If a change causes an increase or decrease in cost and/or time required for performance of the Goods, an equitable adjustment shall be made and the Agreement shall be modified accordingly. If price, terms, shipping date or other expressed condition of the Agreement cannot be achieved or met by FIU, FIU must be notified and must accept in writing any variation prior to shipment or delivery.

c. Delivery of Goods. Vendor hereby agrees to on-time delivery based upon the timeline set forth in the Agreement. If the Agreement does not specify a delivery date (the “Delivery Date”) or timeline, Vendor shall provide FIU with the Goods as soon as is practicable. Changes, modifications or any delay resulting from FIU that prevents Vendor from achieving the Delivery Date shall not constitute a breach of the Agreement by Vendor. If Vendor anticipates a delay in the delivery of the Goods, Vendor shall immediately notify FIU. In the event that Vendor fails to deliver the Goods by the Delivery Date not due to the fault of FIU, or Vendor fails to deliver conforming Goods, FIU may purchase substitute Goods elsewhere and charge Vendor for any additional expense incurred relating to the purchase of such substitute Goods. Such Goods shall be delivered as required under the Agreement. If Goods are not complete or conforming to the terms of the Agreement and the examination and confirmation that the Goods conform to their applicable specifications, FIU retains the right to reject any non-conforming Goods and shall not be obligated to accept any non-conforming Goods.

d. Acceptance. For purposes of these Terms, “Acceptance” means the point at which FIU accepts or is deemed to accept the Goods in accordance with the terms set forth in the Agreement. Acceptance shall include the terms “Accept” and “Accepted.” As a condition precedent to payment for the Goods by FIU to Vendor, the Goods shall be deemed to have been Accepted (i) in the absence of written notification of non-Acceptance by FIU to Vendor within a reasonable period of time, or (ii) upon timely delivery of the Goods and address to the FIU. In the event any circumstances arise that prevent FIU from accepting the Goods, Vendor shall immediately notify FIU and the Goods will remain at Vendor’s risk and responsibility until such time as the Goods are finally Accepted by FIU. Vendor assumes all risk of loss of or damage relating to any Goods, work in progress, materials, and other items received by FIU until the same are finally Accepted by FIU. Vendor assumes all risk of loss or damage relating to any Goods ordered and work in progress, and other items related to the Agreement until the same are finally Accepted by FIU. Vendor accepts any risk of loss or damage relating to any Goods ordered and work in progress, materials, and other items related to the Agreement until the same are finally Accepted by FIU. Vendor accepts all risk of loss or damage relating to any Goods, work in progress, materials, and other items related to the Agreement until the same are finally Accepted by FIU.

e. Failure to Perform. Any failure of Vendor to perform may be excused only for proven sickness or injury, civil tumult or riot, epidemics, acts of God, or other conditions beyond the control of the Vendor. Vendor or Vendor’s agent must notify FIU immediately of any reason which might result in Vendor’s failure to perform on the date of notification. Vendor or Vendor’s agent must notify FIU immediately of any reason which might result in Vendor’s failure to perform on the date of notification. Vendor or Vendor’s agent must notify FIU immediately of any reason which might result in Vendor’s failure to perform on the date of notification.

43. ADDITIONAL TERMS FOR SERVICES/ENTERTAINMENT/PERFORMANCE AGREEMENTS.

a. Deposit. Unless non-state funds are being used to pay, FIU cannot make deposits or prepay any amounts. Any deposits made by FIU are refundable.

b. Cancellation. FIU will cancel the Agreement by giving Vendor at least ten (10) days prior written notice of cancellation. If FIU cancels the Agreement for reasons other than breach by Vendor, FIU shall only be liable for payment of services rendered and accepted by FIU prior to the date of notice of cancellation, and in addition, FIU will reimburse Vendor for Vendor’s out-of-pocket expenses related to the performance of the Agreement that were incurred by Vendor prior to notice of cancellation if such expenses are non-refundable/non-returnable. However, such expenses of Vendor will only be reimbursed to the extent permitted by Fla. Stat. §112.061 and FIU’s Travel and Expense Policy.

c. Limited Use of Tapes/Recordings. FIU is granted the right to tape and/or record the performance; however, such tapes or recordings shall only be used for archival and/or educational purposes for the benefit of FIU’s students, faculty and staff.

d. Cancellation. FIU may cancel the Agreement by giving Vendor at least ten (10) days prior written notice of cancellation. If FIU cancels the Agreement for reasons other than breach by Vendor, FIU shall only be liable for payment of services rendered and accepted by FIU prior to the date of notice of cancellation, and in addition, FIU will reimburse Vendor for Vendor’s out-of-pocket expenses related to the performance of the Agreement that were incurred by Vendor prior to notice of cancellation if such expenses are non-refundable/non-returnable. However, such expenses of Vendor will only be reimbursed to the extent permitted by Fla. Stat. §112.061 and FIU’s Travel and Expense Policy.

e. Force Majeure. FIU may delay delivery, performance, or Acceptance of the Goods due to the occurrence of any force majeure event (e.g., war, civil unrest, natural disasters, etc.). Vendor agrees that it will not manufacture Goods in reserve in an amount greater than the number of manufactured Goods that it has shipped to FIU at any one time. Vendor shall hold such Goods at the direction of FIU, and Vendor shall deliver the Goods when the cause affecting the delay is eliminated. FIU shall be responsible only for Vendor’s direct additional costs incurred by holding the Goods at FIU’ s request. Causes beyond FIU’s control shall include, without limitation, government action or failure to act where required, strike or other labor trouble, fire or similar catastrophe, and severe weather or other acts of God.

44. ADDITIONAL TERMS FOR HOTEL/MEETING SPACES.

a. Deposit. Unless non-state funds are being used to pay, FIU cannot make deposits or prepay any amounts. Any deposits made by FIU are refundable.

b. Cancellation. Cancellation fees, liquidated damages fees, etc. may only be assessed if FIU cancels the Agreement for the sole purpose of holding the event at
another location, and FIU fails to give the Vendor at least 30 days’ advance notice (72 hours’ notice if Agreement is for meeting rooms only and Vendor is unable to rent the meeting room within the 30 day interval) to the cost of the room rental only. FIU, in lieu of paying cancellation fees, at its sole option, may agree to book another event with the Vendor in order to mitigate damages.

c. **Food/Parking/Incidental**. FIU is not responsible for charges made by attendees.

d. **Insurance**. The Vendor’s insurance policy shall provide coverage for fire, theft, vandalism, and other insurances, including all applicable state and federal laws. If any of the Materials are lost or damaged beyond repair, the Vendor will pay the cost of the replacement thereof. (i) **Professional Liability**. FIU will indemnify the Vendor and hold the Vendor harmless against any and all claims, suits, demands, actions or proceedings of any kind, nature or description, however arising, against the Vendor, its employees, agents and representatives, for personal injuries, property damage or loss or for any claims of any kind and nature, on account of, or in any way arising out of, the Vendor’s conduct in performing its obligations under the Agreement, whether such liability be based in contract, tort or otherwise, including, without limitation, any liability arising from the negligence of the Vendor or any of its employees, agents or representatives; (ii) **Comprehensive General Liability**. This insurance policy shall include coverage for bodily injury and property damage in the amounts of $1,000,000 per occurrence and $2,000,000 in the aggregate. The Vendor shall deliver to FIU true and correct copies of certificates of such insurance. If the professional liability insurance is provided on a claims-made basis, then such insurance shall continue throughout the term of the Agreement and upon the termination of the Agreement, or the expiration or cancellation of the insurance, FIU shall purchase, or shall require the Vendor to purchase, a professional liability insurance policy in the same form and amounts as the insurance policy in effect at the time of termination of the Agreement or the expiration or cancellation of the claim-made coverage (said tail coverage shall be in amounts and type equivalent to the claims-made coverage).

e. **Information Security**. To the extent applicable to Vendor’s performance under the Agreement, Vendor must keep information and materials (including, without limitation, any information and materials that - at a minimum - include: (i) network-level firewalls and intrusion detection systems; (ii) regular third party penetration testing; Vendor further agrees to the following: (i) **Network Standards**. Vendor agrees that it shall, at least, meet those standards and requirements for FIU’s network and related documentation with FIU’s policies and procedures as designated by FIU; (ii) **Privacy**. (as it may be updated); (iii) **Data Transmission**. Vendor agrees that any and all transmission or exchange of system data with FIU or any other Party under the Agreement shall be encrypted in accordance with industry standards; and (iv) **Password Protection**. Vendor agrees that it shall, at least, meet those standards and requirements for FIU’s network and related documentation with FIU’s policies and procedures as designated by FIU; (as it may be updated); (v) **Data Encryption**. Vendor agrees to store any FIU backup data as part of its designated back up and recovery process in encrypted form, using no less than 128-bit Advanced Encryption Standard (AES) encryption; (vi) **Data Destruction**. In the event of termination or expiration of the Agreement, Vendor shall destroy all backed up data; and (vii) **Notification and Data Breaches**. Vendor agrees to comply with all applicable laws and regulations with respect to the notification of data breaches, release of personally identifiable information or other event requiring notification. In the event of a data breach of any Vendor’s security obligations or other event requiring notification under applicable law, Vendor agrees to assume responsibility for informing all such individuals in accordance with applicable laws and to indemnify, hold harmless and defend FIU from and against any and all claims, suits, actions, or other harm related thereto.

### 45. ADDITIONAL TERMS FOR THE PURCHASE OF SOFTWARE AND INFORMATION SERVICES.

#### a. Infringement

In accordance with paragraph 9 (Infringement) of these Terms, Vendor represents and warrants that its software and/or hardware, as applicable, and any related systems, documentation and/or services related thereto will not infringe upon or violate any patent, copyright, trademark, trade secret, or any other intellectual or proprietary right of any third party. However, in the event an injunction or order is obtained against FIU for the use of the Vendor’s materials or, in the Vendor’s opinion, the materials are likely to become the subject of a claim of infringement, upon receipt of such notice, FIU shall have the right to demand that Vendor substitute any and all such materials for materials that do not infringe upon or violate any patent, copyright, trademark, trade secret, or any other intellectual or proprietary right of any third party. Vendor shall, at its expense, either (a) Procure for FIU the right to continue using the Materials; or (b) At any additional cost to FIU, replace or modify the Materials so that it becomes non-infringing, but only if the modification or replacement does not adversely affect the specifications of the Materials from FIU’s perspective. In the event that such modification or replacement does not adversely affect the specifications of the Materials from FIU’s perspective, Vendor shall substitute Key Personnel upon FIU’s reasonable request.

#### b. Use of Information

FIU may distribute any information or service based upon, generated by, or involving the use of the Materials as long as the Materials are not distributed to other than its employees, agents and related documentation for back-up and disaster recovery purposes, and for archival purposes for use after the termination or expiration of the Agreement.

#### c. Publicity

FIU shall have the right to reproduce any documentation of the Materials, and related documentation for back-up and disaster recovery purposes, and for archival purposes for use after the termination or expiration of the Agreement.

#### d. Insurance

In addition to paragraph 11b of these Terms, the Vendor shall provide and keep in full force and effect during the term of the Agreement, at the Vendor’s own cost and expense, and go to claim, all policies of insurance of the Vendor and FIU, with an insurer reasonably acceptable to FIU:

- (i) **Professional Liability Insurance** with a minimum claim liability limit amount of $1,000,000.00 (ii) in the event the Vendor is hosting FIU information, Cyber Liability insurance will be required with a minimum claim liability limit amount of $1,000,000.00

#### e. Americans With Disabilities Act (ADA)

FIU may create and retain a copy of the Materials and public accommodations requirements of the ADA not otherwise allocated to FIU, and FIU, with an insurer reasonably acceptable to FIU, may agree to book another event with the Vendor in order to mitigate damages.

- (i) **Commercial General Liability** which includes (a) bodily injury, personal injury, property damage, and all other insurances, including all applicable state and federal laws; (b) all liability for products/completed operations and contractual liability in the minimum amounts of $1,000,000 per occurrence and $2,000,000 in the aggregate. The Vendor shall deliver to FIU true and correct copies of certificates of such insurance. The certificates shall indicate that the Commercial General Liability policy carries an endorsement which names The Florida International University Board of Trustees, Florida International University, the State of Florida, The Florida Board of Governors, and their respective trustees, directors, officers, employees and agents, as additional insureds. The Vendor’s insurance policy shall provide coverage for fire, theft, vandalism, and other insurances, including all applicable state and federal laws. If any of the Materials are lost or damaged beyond repair, the Vendor will pay the cost of the replacement thereof. (i) **Professional Liability**. FIU will indemnify the Vendor and hold the Vendor harmless against any and all claims, suits, demands, actions or proceedings of any kind, nature or description, however arising, against the Vendor, its employees, agents and representatives, for personal injuries, property damage or loss or for any claims of any kind and nature, on account of, or in any way arising out of, the Vendor’s conduct in performing its obligations under the Agreement, whether such liability be based in contract, tort or otherwise, including, without limitation, any liability arising from the negligence of the Vendor or any of its employees, agents or representatives; (ii) **Comprehensive General Liability**. This insurance policy shall include coverage for bodily injury and property damage in the amounts of $1,000,000 per occurrence and $2,000,000 in the aggregate. The Vendor shall deliver to FIU true and correct copies of certificates of such insurance. If the professional liability insurance is provided on a claims-made basis, then such insurance shall continue throughout the term of the Agreement and upon the termination of the Agreement, or the expiration or cancellation of the insurance, FIU shall purchase, or shall require the Vendor to purchase, a professional liability insurance policy in the same form and amounts as the insurance policy in effect at the time of termination of the Agreement or the expiration or cancellation of the claim-made coverage (said tail coverage shall be in amounts and type equivalent to the claims-made coverage).

#### f. Force Majeure

Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign action, labor strike, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

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47. SPECIFIC ADDITIONAL TERMS FOR ROYALTY AGREEMENTS.

a. Warranties. Vendor represents and warrants that Vendor is the sole author and/or lyricist and/or composer and/or arranger of the works detailed in the Agreement (the “Material”); that said Material is Vendor’s own original work and creation (except such part thereof as is taken from public domain) and is not a copy of any other copyrighted work; that Vendor has not sold, assigned, leased licensed or in any manner disposed of or encumbered the rights herein granted to FIU; and that Vendor has the right to enter into the Agreement. Vendor agrees to indemnify and hold Publisher harmless from all loss, liability, damages and expenses due to breach of said representations and warranties.

b. Royalties. The term “Vendor,” as used in the Agreement, is deemed to mean all of the undersigned persons. Any and all Royalties to be paid under the Agreement shall be paid jointly to the said persons if there be more than one, and shall be divided equally among them unless otherwise indicated on the Agreement.

c. Likeness. Vendor grants FIU the right to use Vendor’s name, photograph, likeness, facsimile signature and biographical material in, on and in connection with publications, recordings and advertisements of, containing or relating to the Material.

d. Tapes/Recordings. FIU shall be entitled to tape and/or record the performance(s); however, such tapes or recordings shall only be used for archival and/or educational purposes for the benefit of FIU’s students, faculty and staff.

e. Cancellation. FIU’s only obligation shall be to pay Vendor the Royalty outlined in the Agreement, and is not obligated to actually use the Material.