

UNIVERSITY OF WEST FLORIDA CONTRACT GENERAL TERMS AND CONDITIONS ADDENDUM

This Addendum ("Addendum") is incorporated into and made a part of the attached contract. This Addendum provides additional terms to the attached quote, agreement, or purchase order ("Contract"). The PO constitutes an offer to purchase. All previous offers are revoked or are not accepted. Any terms of any prior offer are no longer applicable. The terms of this Purchase Order may not be modified except in writing signed by both parties to the Purchase Order.

The Parties to the attached Contract and this Addendum, in consideration of the mutual covenants and stipulations set in the Contract and this Addendum, agree as follows:

1. **Priority:** This Addendum and the Contract supplement each other, should be read together, and in case of a conflict between the terms of this Addendum and the Contract, the terms of this Addendum shall govern.
2. **Invoices:** The Vendor agrees that bills and invoices for fees or other compensation for services or expenses shall cite the Contract and shall be submitted to the University in detail sufficient for a proper pre-audit and post-audit. Each bill or invoice must clearly identify the services, portion of services, and expenses for which compensation is sought. Payment will be tendered only for services or the portion of services completed prior to the submission of the bill or invoice or for expenses incurred prior to such submission.
3. **Travel:** Travel, lodging, and meal expenses of the Vendor are not reimbursable unless specifically pre-authorized by the University in writing, and may be reimbursed only in accordance with section 112.061, Florida Statutes.
4. **Prompt Payment:** All payments made by the University under the Contract shall be made pursuant to University Regulation UWF/REG 6.003-Prompt Payment, which requires that payment of an invoice shall be made not later than forty (40) days after receipt of an acceptable invoice and receipt, inspection and acceptance of the goods and/or services provided in accordance with the terms and conditions of the purchase order/contract. Failure by the University to provide payment within 40 days may result in the University paying interest at a rate as set by Florida law. A Vendor Ombudsman has been established by the University and the duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s). The University's Vendor Ombudsman may be contacted at (850) 474-2628.
5. **Legislative Appropriation:** The performance of the University of any of its obligations under the Contract shall be subject to and contingent upon the availability of funds appropriated by the Florida Legislature or otherwise lawfully expendable for the purpose of the Contract for the current and future periods. The University shall provide notice to the Vendor of the non-availability of such funds and the intent to terminate the Contract when University has such knowledge. Upon receipt of such notice by Vendor, Vendor shall be entitled to payment only for those services performed prior to the date notice is received. The determination of whether funds are available shall be made in the sole discretion of the University.
6. **Taxation:** The University, as a public body corporate of the State of Florida, is entitled to the benefits of sovereign immunity coextensive therewith, including immunities from taxation.
7. **Independent Contractor:** The Vendor is an independent contractor pursuant to Florida law and assumes full responsibility for the performance and completion of the services as provided in the attached Contract. It is understood and agreed that nothing contained in the Contract or this Addendum is intended, or should be construed, to create or establish a partnership, joint venture, agency, employment, or any other relationship except an independent contractor relationship with the University. The Vendor is not authorized to bind the University to any contracts or other obligations and shall not expressly or impliedly represent to any party for

any purpose that Vendor is a partner, joint venturer, agent, or employee of the University. Vendor expressly acknowledges that Vendor is not an employee of the University and is therefore not subject to or protected by the University's workers compensation insurance coverage, liability insurance coverage, income tax withholding, or any other indicia of employment.

8. **Conflict of Interest:** In accordance with section 112.3185 of the Florida Statutes, the Vendor certifies that to the best of its knowledge and belief no individual employed by it or subcontracted by it has an immediate relation to any employee of the University who was directly or indirectly involved in the procurement of said services. Violation of this section by Vendor shall be grounds for termination of the Contract by the University.
9. **Unilateral Termination:** The Contract shall be subject to cancellation by University upon 30 days written notice without penalty or cause. A termination penalty may not be charged the University. The University shall be liable only for payment for service rendered prior to the effective date of termination.
10. **Liability:** Each party assumes any and all liabilities, actions, damages, suits, proceedings, and judgments from claims arising or resulting from, or attributable to, the negligent acts or omissions of that party and its officers, employees and other agents while acting within the course and scope of their employment or agency. Nothing contained in the Contract shall be construed or interpreted as denying the University or other state entity any remedy or defense available under the laws of the State of Florida; the consent of the University to be sued; or a waiver of sovereign immunity of the University beyond the waiver provided in Section 768.28, Florida Statutes. Vendor also assumes such risk with respect to the negligent acts or omissions of persons subcontracting with Vendor or otherwise acting or engaged to act at the instance of Vendor in furtherance of Vendor's obligations under the Contract. If any part of products or services delivered to the University made pursuant to Contract is protected by the patent, copyright, trademark, or other intellectual property right of a third party, Vendor agrees to defend, indemnify and hold harmless the University from and against any claim, loss, cost and/or expense the University incurs based on a claim that use of the Vendor's products or services infringes the intellectual property rights of a third party.
11. **Indemnification:** The University is not authorized to enter into an agreement containing provisions whereby the University agrees to defend, indemnify, or hold harmless Vendor, or any other parties, and all such clauses are null and void.
12. **Insurance:** The University is an institution of the State of Florida, and its liability coverage is provided through a state self-insurance trust fund administered by the Department of Financial Services, Division of Risk Management, and limitations to the liability are provided by law pursuant to the terms and limitations of Section 768.28, Florida Statutes, and Chapter 284 Part II, Florida Statutes. The Vendor agrees that it shall meet or exceed the University's minimum insurance requirements, which are available online at the [Vendor's Guide](#). The University does not agree to carry, acquire, or to add as additional insured any other insurance other than as identified. Any Contract containing clauses to the contrary or adding requirements are null and void.
13. **FERPA (If receiving Student Data):** In the course of providing services during the term of the Contract, Vendor may have access to student education records that are subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, et seq. and the regulations promulgated thereunder. Such information is considered confidential and must therefore be protected. To the extent that Vendor has access to "education records" under this Contract, Vendor is deemed a "school official," as each of these terms are defined under FERPA. Vendor agrees that it shall not use education records for any purpose other than in the performance of this Contract. Vendor shall not disclose or share education records with any third party.

14. **Privacy:** The Vendor shall ensure that all personal data is properly collected, stored, processed, secured, archived or destroyed in compliance with Federal, State and applicable international privacy laws, including the EU General Data Protection Regulation 2016/679 (GDPR), as it may be amended.
15. **EULA (end-user license agreement):** This Addendum and the Contract represents the entire agreement between the University (including University's employees and other identified end users) and the Vendor. In the event that Vendor subsequently attempts to enter into terms of use agreements or other similar agreements, policies or understandings, whether on the Vendor's purchase order, website, click-through, verbal or in writing, with the University's employees or other end users, such agreements shall be null, void and without effect, and the terms of this Addendum and the Contract shall apply. The University will not be bound to any other terms and conditions set forth in any documents, agreements or policies unless such terms and conditions are also set forth in this Addendum and the Contract. The Vendor may not unilaterally change any term or condition of this Addendum and the Contract.
16. **Tobacco-Free Campus:** The University is a tobacco-free campus. The use of traditional or e-cigarettes or other tobacco products is prohibited in all University-owned buildings and outdoors on all University campus properties. UWF policy SA-35.02-12/19.
17. **Legal Cost and Resolution:** The University is not authorized to enter into an agreement containing provisions whereby the University agrees to mandatory arbitration or mediation, nor clauses where University assumes payment of the Vendor's court costs, expenses, or legal fees and all such clauses are null and void.
18. **Choice of Law:** The Contract, this Addendum, and all matters relating to them are governed by the laws of the State of Florida. Any provisions in the Contract in conflict with such laws shall be void and of no effect. Any actions arising out of the Contract and/or this Addendum shall be brought exclusively in the state or federal courts located in Escambia County, Florida.
19. **Entire Agreement:** All documents submitted as part of Vendor's offer are incorporated herein by this reference. The Contract and this Addendum embody the entire agreement of the parties, and there are no other representations, promises, agreements, conditions or understandings, either oral or written between the University and Vendor other than as set in the Contract and this Addendum.
20. **No Waiver:** Failure to exercise or delay in exercising any right, power or remedy accruing to the University on any breach or default of Vendor shall not impair any such right, power or remedy, or be construed as a waiver of any such breach or default or of any other breach or default occurring.
21. **Force Majeure:** Neither party shall be deemed to be in default of its obligations under this Contract if and so long as it is prevented from performing such obligations or unable to perform due to an act of war, fire, hostile foreign action, labor strike, nuclear explosion, earthquake, flood, hurricane, tornado, other catastrophic natural event or act of God, emergency action by governmental entity, health epidemic or pandemic, or other similar causes beyond the control of the party. Even if a court determines that disruptions of performance or frustrations of purpose were foreseeable at the time the Contract was signed, the parties agree that the University will not be held liable for a failure to perform if that failure is caused by prohibitions resulting from executive orders, laws, regulations, or governmental guidance.
22. **E-Verify:** Due to contracting with a public employer in Florida as defined by Section 448.095, Florida Statutes, Vendor is obligated to utilize the U.S. Department of Homeland Security's E-Verify system. Further, Vendor is obliged to abide with the requirements of Section 448.095, Florida Statutes, when contracting with subcontractors for performance of this Agreement. The University's good faith belief that Vendor is employing unauthorized aliens in the state of Florida in violation of Section 448.09, Florida Statutes, shall be just cause for unilateral termination of this Agreement effective immediately and Vendor shall be liable for additional costs incurred by the University due to the termination of the Agreement.

23. **Federal Funding Addendum:** If federal grants or funds are being utilized in the project that is the subject of the Contract, then the [Federally Funded Addendum](#) shall apply.

24. **Public Records:**

- a. The parties acknowledge that University is subject to Florida's Public Records law, Chapter 119, Florida Statutes, which requires it to provide access to its records, subject to certain limitations. Notwithstanding any information labeled as "Confidential" or "Proprietary", or clauses in the Contract to the contrary, the Vendor agrees to allow public access to all records, documents, papers, letters or other material subject to the provision of the Florida Public Records law and made or received in conjunction with the Contract. Refusal by the Vendor to allow such public access will be grounds for immediate cancellation of the Contract by the University.
- b. To the extent that Vendor meets the definition of "contractor" under Section 119.0701, Florida Statutes, and in addition to other contract requirements provided by law, the Vendor agrees that it is acting as a contractor on behalf of the University as provided under s. 119.0701(a) and as such it will comply with Florida's Public Records Law. Specifically, Vendor agrees that it will:
 - i. Keep and maintain public records that ordinarily and necessarily would be required by the University in order to perform the services performed by the Vendor under the Contract;
 - ii. Provide the public with access to such public records on the same terms and conditions the University would provide the records and at a cost that does not exceed that provided in chapter 119, Fla. Stat., or as otherwise provided by law;
 - iii. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
 - iv. Meet all requirements for retaining public records and transfer to the University, at no cost, all public records in possession of the Vendor upon termination of the Contracts and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the University in a format that is compatible with the information technology systems of the University.
- c. **IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF RECORDS AT:** The Office of General Counsel: (850) 474-3420, gcfrofrontdesk@uwf.edu, Building 10, 11000 University Parkway, Pensacola, FL 32514.