

FLORIDA ATLANTIC UNIVERSITY

- 1. Incorporation by Reference. The Florida Atlantic University Board of Trustees ("FAU") and the undersigned party ("Vendor") hereby incorporate this Supplemental Addendum - Software License (the "Addendum") into the agreement between FAU and Vendor (the "Agreement").
2. Payment. Vendor shall submit bills for compensation for goods, services and/or expenses in detail sufficient for a pre-and post-audit. Each bill or invoice must clearly identify the goods, services, and expenses for which compensation is sought.
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.
4. Assumption of Risk. Each party assumes all risk of personal injury and property damage attributable to the willful or negligent acts or omissions of that party and its own officers, employees, and other agents.
5. Confidentiality. Vendor acknowledges that all documents, materials, and information furnished to or learned by Vendor in connection with the Agreement (the "Information") are confidential, proprietary, and the sole property of FAU.
6. Public Records. FAU is subject to Chapter 119 of Florida Statutes, the Public Records Laws. The Agreement, this Addendum, and any related documents and/or correspondence shall also become a public record subject to the Public Records Laws, regardless of any confidentiality terms in 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 561.297.2452, publicrecords@fau.edu, DIVISION OF PUBLIC AFFAIRS, FLORIDA ATLANTIC UNIVERSITY, 777 GLADES ROAD, ADM, BOCA RATON, FL 33431.

- 7. Indemnity. Vendor agrees to indemnify, hold free and harmless, and defend the State of Florida, the Board of Trustees, Florida Atlantic University and their officers, trustees, employees and agents, from and against any and all actions, claims, liabilities, assertions of liability, losses, costs and expenses, including attorneys' fees, which in any manner directly or indirectly may arise or be alleged to have arisen, or resulted or alleged to have resulted from the presence, activities and promotions of every kind and nature of Vendor or its officers, employees, agents and contractors, in connection with the Agreement, specifically including claims for infringement or misappropriation of a copyright, patent, trade secret or other third party proprietary right.
8. Compliance. Vendor agrees to abide by all applicable federal, state, and local laws, ordinances, and regulations and all FAU regulations and policies, specifically including without limitation those pertaining to the privacy and use of student records, health information, and other FAU data, 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.
9. Federal funds. If FAU 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 FAU's Federally Funded Projects Addendum, a copy of which shall be provided to Vendor upon request and is herein incorporated by this reference.
10. Warranties. Vendor warrants that the goods, products and/or services to be provided by Vendor will be free of any material defects and will operate and conform to the specifications in all material aspects throughout the term of the Agreement.
11. Publicity. Vendor shall not make any announcements relating to the Agreement, nor shall Vendor use FAU's name, trademarks, logos, or marks, without the prior written approval from FAU's Office of Brand Development, Licensing & Marketing in each instance.
12. Insurance. FAU, as a public body corporate, 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 FAU.
13. Force Majeure. In the event the parties are prevented from performing their respective obligations due to causes beyond its reasonable control, including, but not limited to, an act of war, catastrophic natural event, pandemic or epidemic, restrictions promulgated by an applicable state, federal or governing agency, or act of God, FAU may terminate the Agreement without further obligation or penalty.
14. Third Parties. FAU is not liable for the acts of third parties, or the consequences of the acts or failures of third parties. There shall be no third-party beneficiary to the Agreement.
15. 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 the state courts of Palm Beach County,

- Florida. FAU is entitled to the full benefits of sovereign immunity.
16. Security Interests. The parties acknowledge that the State of Florida does not permit vendors to retain security interests in state property or liens on state lands and any such provisions in the Agreement are null and void.
17. Travel Expenses. If FAU 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. FAU reserves the right not to pay travel expenses unless FAU preapproves such expenses in writing.
18. Conflicts. Vendor certifies that to the best of its knowledge no individual employed by it or subcontracted by it has an immediate relation to any employee of FAU who was directly or indirectly involved in the procurement of the services.
19. Termination. Upon giving at least thirty (30) days' written notice to Vendor, FAU 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.
20. Breach. Each term and condition of the Agreement is material and any breach or default by Vendor shall be a material breach of the entire Agreement for which FAU shall have the right to terminate the Agreement upon notice to Vendor and without termination penalty.
21. 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.
22. Information Technology. If Vendor has access to FAU's information technology infrastructure, or will be providing such infrastructure to FAU, Vendor agrees to maintain network security that, at a minimum, includes network firewall provisioning, intrusion detection, and regular third-party penetration testing.
23. PCI DSS. If Vendor's provision of services involves the acceptance of funds on behalf of FAU or involve credit card services, Vendor shall be responsible for the security of all FAU customer cardholder data in its possession.
24. Notices. All notices required to be given to FAU under the Agreement shall be sent by certified mail to: Florida Atlantic University, Attn: Purchasing, ADM 121, 777 Glades Road, Boca Raton, FL 33431.
25. Deletion. Any terms in the Agreement related to the following are null and void and hereby deleted in their entirety:
26. Assignment. Vendor may not, without the advance written approval of FAU, not to be unreasonably withheld, assign any right or duties under the Agreement, or transfer, pledge, surrender or otherwise encumber its interest in any portion of the Agreement.
27. Entire Agreement. In the event of inconsistency between the Agreement and this Addendum, this Addendum will govern.
28. Signatures. 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.
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: