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. In addition to any other indemnification obligations contained in the Piggyback Agreement, Vendor agrees to indemnify, hold free and harmless, and defend the State of Florida, the Board of Trustees, Florida Atlantic University, FAU’s departments and agencies, contractors, subcontractors, vendors, officers, employees, agents, and other agents (collectively, “FAU Entities”), from and against all claims, causes of action, actions, claims, liabilities, assertions of liability, losses, costs and expenses, including attorneys’ fees, which in any manner directly or indirectly results from or is related to any performance or breach by the Vendor of its obligations under the Agreement. The provisions of this paragraph shall apply to the fullest extent permitted by applicable law.

8. Public Records. FAU is subject to Chapter 119 of Florida Statutes, the 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 Laws. FAU is responsible for maintaining the Agreement in the public records. Vendor is responsible for maintaining and providing public access to public records requests without providing Vendor any notice. Pursuant to § 287.058(1), F.S., FAU may unilaterally cancel the Agreement for Vendor’s refusal to allow public access to public records related to the Agreement. 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.

9. Guardian of Warranties. The parties agree that it shall be within FAU’s sole discretion to determine whether the representations and warranties that its goods, hardware, software and any related systems, documentation and/or services related thereto furnished to FAU will not infringe upon or violate any patent, copyright, trademark, trade secret, trade dress, mask work, or trade name. The parties agree that FAU’s examination of the goods, hardware, software, and any related systems, documentation and/or services related thereto furnished to FAU will not infringe upon or violate any patent, copyright, trademark, trade secret, trade dress, mask work, or trade name. The parties agree that Vendor shall, to the extent of any such infringement, warrant that it shall have all applicable permits, licenses, consents, and approvals necessary to perform under the Agreement.

10. 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. Vendor agrees to accept any changes in the Agreement that do not materially change the benefits provided for in the Agreement.

12. Notice of Default. Any notice of default given to Vendor under this Agreement shall be in writing. Vendor shall have thirty (30) days from the date of receipt of such notice to cure the default. If Vendor fails to cure such default within such time period, FAU may terminate the Agreement as its sole remedy.

13. Notice of Cancellation. Any notice of cancellation given to Vendor under this Agreement shall be in writing. Vendor shall have thirty (30) days from the date of receipt of such notice to cure the default. If Vendor fails to cure such default within such time period, FAU may terminate the Agreement as its sole remedy.

14. Intellectual Property. Vendor acknowledges and agrees that the State of Florida does not permit vendors to retain security interests in state property or state lands and any such provisions in the Agreement are null and void. In the event Vendor provides any on-site service that requires local permitting, FAU will be permitted to maintain and control the imposition, enforcement, and recording of all local permitting and related project guarantees, protocols, including without limitation FAU’s Facilities Project Manual and the standards and cost containment guidelines set forth therein. Vendor shall be responsible for any performance bond required thereunder.

15. Service of Process. The parties agree that the Florida 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. Entire Agreement. The Agreement and all terms and conditions related to the Agreement are the entire agreement between the parties and supersede any and all other prior agreements, understandings, conditions, or written or oral agreements, understandings, either oral or written, between FAU and Vendor other than as set forth therein.

17. Governing Law. The Agreement is governed by the laws of the State of Florida, without regards to its conflicts of law principles.

18. Security Interests, Liens & Permitting. Any security interests, liens, or permits by any governmental unit, including, but not limited to, the Federal Government, the State of Florida, other states, political subdivisions or entities, colleges, universities, cooperatives, or consortia (each, a “Procuring Party”). The parties desire for Vendor to provide the goods/services contemplated in the Agreement. FAU shall be the permitting authority. Vendor agrees to comply with all applicable project guidelines, policies, and procedures related to the permitting process. Any provision requiring FAU to provide or acquire insurance coverage other than such self-insurance shall not be effective. In addition to any other applicable insurance requirements contained in this Agreement, Vendor agrees to provide the types and amounts of insurance that, at minimum, will cover Vendor’s (or subcontractor’s) exposure under the Agreement and name FAU 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 FAU, with insurance companies authorized to do business in the State of Florida. Certificates of all insurance shall be delivered with FAU prior to the date of the Agreement. All insurance policies and certificates shall contain a provision that it will not be cancelled without giving FAU thirty (30) days’ written notice prior to the effective date of cancellation. Timely renewal certificates will be provided to FAU as coverage renewes. Vendor, for and on behalf of itself and each of its insurers, hereby waives all rights of subrogation against FAU for its loss or damage arising from any cause covered by any insurance required to be carried under the Agreement by any other insurance carried by Vendor. 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.

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. FAU shall not be liable for any termination fees.

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. Records, which include both bookkeeping and accounting records and any other records that reflect Vendor's business operations under the Agreement. FAU 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.

22. 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.

23. Waiver. Any terms in the Agreement related to the following are null and void and hereby deleted in their entirety: (a) grants of exclusivity by FAU; (b) restrictions on the hiring of Vendor’s employees; (c) non-competition provisions; (d) waiver of notices, hearings, or jury trials; (e) limitation of time to bring suit or make a claim; (f) Vendor’s liability limitations; (g) granting Vendor audit rights; (h) attorneys’ or collection fees provisions; (i) arbitration or mediation clauses; (j) FAU’s tort liability; (k) indemnification of Vendor by FAU; (l) personal guarantees or liability of by the FAU; (m) that FAU performs running functions and/or certain operations; (n) auto-sale of the Agreement; and (o) unilateral modification of the Agreement or any supplemental terms/policies (e.g., the Privacy Policy).

24. Assignment. Vendor may not, without the advance written approval of FAU, not to be unreasonably withheld, assign any rights or duties under the Agreement, or transfer, pledge, surrender or otherwise encumber its interest in any portion of the Agreement. Any assignment made without FAU’s consent shall be, at FAU’s option, null and void. No subcontracting or delegation shall in any event relieve Vendor of any obligation or liability under the Agreement.

25. Amendments. Any renewals, amendments, alterations, or modifications to the Agreement must be in writing and approved by both parties to the Agreement. The Agreement shall not auto-renew and must be upon the written approval of both parties to the Agreement.

26. 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. The Agreement may be signed electronically and shall be deemed to be validly executed when (a) all parties sign the Agreement electronically, and (b) when an electronic and/or digital signature, in accordance with any format date file, including via DocuSign. Such signature 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:_____________________

May 2021

SUPPLEMENTAL ADDENDUM – PIGGYBACK