

Florida Polytechnic University  
**SUPPLEMENTAL ADDENDUM**

(General)

1. Incorporation by Reference. This Supplemental Addendum ("Addendum") is incorporated in the Agreement ("Agreement"). If this Addendum conflicts with the remainder of the Agreement terms, this Addendum shall control.

2. Payment. Vendor shall submit bills for compensation for goods, services or expenses in sufficient detail sufficient for a pre-and post-audit. Vendor is responsible for any taxes due under this Agreement. The University's performance and obligation to pay under the Agreement is contingent upon the legislature's annual appropriation. If the University does not issue payment within 30 days of receipt of a proper invoice, the University will pay Vendor an interest penalty at the rate established pursuant to §55.03(1) Florida Statutes if the interest exceeds one dollar (\$1.00). Vendors experiencing payment problems may contact the Vendor Ombudsman at (863)583-9050. The University may require Vendor to accept payments via the University's EFT/ACH payment process.

3. Relationship of the Parties. Vendor is an independent contractor, and neither Vendor nor Vendor's employees, agents, or other representatives shall be considered the University's employees or agents. Vendor shall not use the University's name, trademarks, logos, or marks without the University's prior written approval. Vendor represents and warrants that it is not on the Convicted Vendor List (see Florida Statutes §287.133(2)(a)). Each party hereby assumes any and all risk of personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees, and agents thereof. Vendor also assumes such risk with respect to the willful or negligent 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 Vendor's obligations under the Agreement.

4. Confidentiality of Information. If Vendor is exposed to the University's confidential information, Vendor will keep such information confidential and will act in accordance with any guidelines and applicable laws (such as HIPAA, FERPA and the Gramm-Leach Bliley Act.) Confidential information shall not include information that is a public record pursuant to Florida law (Florida Statutes Chapter 119), and the University will respond to public records requests without any duty to give Vendor prior notice. Upon termination of this Agreement for any reason, Vendor shall return to the University all confidential information received from the University or created, maintained or received by the Vendor on behalf of the University that the Vendor still maintains in any form. If Vendor must retain any of University's confidential information, Vendor shall continue to use appropriate safeguards to prevent the use or disclosure of the University's confidential information for as long as Vendor retains the University's confidential information. Vendor shall report within three (3) business days, to the University's General Counsel, any use or disclosure of confidential information not provided for by this Agreement of which it becomes aware, including any privacy or security incident(s) known or suspected of which Vendor becomes aware. Notice of any breach of confidentiality shall be given to the Florida Polytechnic University General Counsel by fax: (863) 583 9070 or by delivery in hard copy to Florida Polytechnic University at Polk State College, Attention: General Counsel 4700 Research Way, Lakeland, FL 33805. This provision shall survive termination of the Agreement.

5. Indemnification/Copyright and Intellectual Property. If Vendor uses copyrighted materials or documents not owned by the University in Vendor's performance of the Agreement ("Copyrighted Materials"), Vendor represents and warrants that it owns, or is licensed to use and to authorize others to use, the Copyrighted Materials. Vendor will, at its expense, defend any suit brought against the University and will indemnify the University against an award of damages and costs made against the University by a settlement or final judgment that is based on a claim that the University's use of the Copyrighted Materials infringes a trademark or copyright of a third party. This provision shall survive termination of the Agreement and Vendor's liability for the above is not limited by any limitation of liability clauses in the Agreement.

6. General Provisions. A. Nothing in this Agreement shall be construed as an indemnification of the Vendor by the University or as a waiver of sovereign immunity beyond that provided in Florida Statutes §768.28. B. This Agreement may not be assigned or modified by either party except as agreed to in writing and signed by the parties, and this Agreement shall be binding upon the parties' successors and assigns. C. Renewals of this Agreement are not automatic. D. Any clauses in the agreement regarding: arbitration or mediation, restrictions on the hiring of vendor's employees, or grants of exclusivity to Vendor are null and void. E. Vendor will have and maintain types and amounts of insurance that at a minimum cover the Vendor's (or subcontractor's) exposure in performing this Agreement. The University is self-insured and is not required to obtain additional insurance for this Agreement. F. If the University is specifically responsible for reimbursing Vendor for travel expenses pursuant to the Agreement, such expenses shall only be paid to the extent permitted by Florida Statutes §112.061. G. If Vendor is providing software, the University may create and retain a copy of the software and related documentation for back up and disaster recovery purposes and for archival purposes for use after the Agreement is terminated. H. This Agreement is governed by the laws of the State of Florida and venue of any actions arising out of this Agreement shall be in the state courts in Polk County, Florida.

7. Termination. The University may terminate this Agreement by giving Vendor at least thirty (30) days prior written notice of termination. The University shall only be liable for payment of goods received and services rendered and accepted by the University prior to the date of termination.

The duly authorized representatives of the parties execute this Supplemental Addendum.

**THE UNIVERSITY: THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES**      **VENDOR:** \_\_\_\_\_.

By: \_\_\_\_\_

By: \_\_\_\_\_

Name & Title: Randy K. Avent, President

Name & Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*OGC Supplemental Addendum Form*