

Date:
Contract No.:
Contract Title:
Contractor:
Term:

The Virginia Community College System "VCCS", a statewide system of publicly supported comprehensive community colleges in the Commonwealth of Virginia, and the Contractor are this day entering into a contract for goods or services authorized by the *Code of Virginia*. For their mutual convenience, the parties are using the standard form contract provided by the Contractor. Nevertheless, the parties agree that this addendum is a part of the said form contract (hereinafter referred to as the "contract"), and amends and modifies the contract as provided below.

Notwithstanding anything in the Contractor's form to which this Addendum is attached, the payments to be made by the Commonwealth for all goods, services and other deliverables under this contract shall not exceed \$_____; payments will be made only upon receipt of a proper invoice, detailing the goods/services provided and submitted to invoice@ssc.vccs.edu. The total cumulative liability of the Commonwealth, its officers, employees and agents in connection with this contract or in connection with any goods, services, actions or omissions relating to the contract, shall not under any circumstance exceed payment of the above maximum purchase price plus liability for an additional amount equal to such maximum purchase price. In its performance under this contract, the Contractor acts and will act as an independent contractor, and not as an agent or employee of the Commonwealth.

1. Because the VCCS cannot accept certain standard clauses that may appear in the contract as a matter of law and policy of the Commonwealth of Virginia, the Contractor agrees that no provision described below which appears in the contract shall be of any force and effect against the VCCS:
 - a. Requiring the VCCS to obtain or maintain any form of insurance.
 - b. Renewing or extending the contract beyond its initial term or duration other than by agreement of the VCCS upon the original terms.
 - c. Requiring or stating that the terms of the contract shall prevail over the terms of this addendum in the event of conflict.
 - d. Requiring the VCCS to indemnify or hold the Contractor harmless against claims of any kind or nature.
 - e. Requiring the application of other than Virginia law in interpreting or enforcing the contract, including this addendum, or requiring or permitting litigation arising under the contract in the courts of any state other than Virginia.
 - f. Requiring the VCCS to pay liquidated damages.

- g. Requiring the contract be accepted or endorsed by the home office or by any other person subsequent to execution by the VCCS before the contract is considered in effect or otherwise delaying the formation or effective date of the contract to a time later than execution of the contract by the VCCS.
 - h. Requiring the VCCS to agree to be subject to any form of equitable relief not authorized by the Constitution or laws of Virginia.
 - i. Limiting the liability of the Contractor for actual damage to VCCS property or for personal injury.
 - j. Disclaiming negligence in violation of public policy.
 - k. Permitting unilateral modification of this contract by the Contractor or deeming the VCCS to agree to a modification by means other than affirmatively signing a modification agreement.
 - l. Requiring the VCCS to engage in binding arbitration.
 - m. Obligating the VCCS to pay court costs, costs of collection, or attorney's fees.
 - n. Granting the Contractor a security interest in property of the VCCS.
 - o. Granting any right or incurring any obligation that is beyond the legal authority of the VCCS to empower its contract officers to grant or incur on behalf of the VCCS or requiring the VCCS to violate any applicable law or regulation.
 - p. Requiring the VCCS to withhold information from the public contrary to the requirements of the Virginia Freedom of Information Act, § 2.2-3700 *et seq.*, and the Virginia Public Procurement Act, § 2.2-4342.
 - q. Imposing interest or requiring interest to be paid on disputed amounts contrary to the Prompt Payment Act, §§ 2.2-4347 – 2.2-4354 of the *Code of Virginia*.
 - r. Purporting to afford the Contractor a remedy against the VCCS that is not otherwise available by virtue of the sovereign immunity of the Commonwealth of Virginia, at common law, or under the United States Constitution.
 - s. Requiring the VCCS to waive legal rights that by law may only be waived by the Attorney General of the Commonwealth of Virginia.
 - t. Requiring or stating that the terms of the Contractor's online forms or agreements shall prevail over the terms of this addendum in the event of conflict.
2. In addition, the Contract is hereby amended to include the following provisions required by the Virginia Public Procurement Act:
- a. Pursuant to § 2.2-4311 of the *Code of Virginia*, if the contract is for a sum in excess of \$10,000.00, then during its performance, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that it is an equal opportunity employer.
3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed to meet the requirements of this section.

The Contractor will include the provisions of the foregoing paragraphs 1, 2, and 3 in every subcontract or purchase order for over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

- a. Pursuant to § 2.2-4311.1 of the *Code of Virginia*, the Contractor does not and shall not during the performance of this contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- b. Pursuant to § 2.2-4311.2 of the *Code of Virginia*, if the Contractor is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, it is authorized to transact business in the Commonwealth as a domestic or foreign business entity, if so required by Title 13.1 or Title 50 or as otherwise required by law.
- c. Pursuant to § 2.2-4312 of the *Code of Virginia*, if the contract is for a sum in excess of \$10,000.00, then:
During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace. "Drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with the Virginia Public Procurement Act. §2.2-4300 *et. seq.*, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
- d. Pursuant to § 2.2-4354(1), the Contractor agrees to pay its subcontractors their proportionate share within seven days of being paid by the VCCS or to give the VCCS and subcontractor written notice of its intention and reasons for withholding all or part of such payment.

- a. F. The procedure for consideration of Contractor claims arising under, or attributable to the contract, shall be those provided by § 2.2-4363 of the *Code of Virginia*:

The Contractor shall submit contractual claims, whether for money or other relief, in writing no later than 60 days after receipt of final payment; however, the Contractor shall give written notice of its intention to file a claim at the time of the occurrence or at the beginning of the work upon which the claim is based.

No written decision denying a claim or addressing issues related to the claim shall be considered a denial of the claim unless the written decision is signed by the public body's chief administrative officer or designee. The Contractor may not institute legal action prior to receipt of the final written decision on the claim unless the public body fails to render a decision within 90 days of submission of the claim. Failure of the public body to render a decision within 90 days shall not result in the Contractor being awarded the relief claimed or in any other relief or penalty. The sole remedy for the public body's failure to render a decision within 90 days shall be the contractor's right to institute immediate legal action.

The decision of the public body shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by the public body by invoking administrative procedures meeting the standards of § 2.2-4365, if available, or in the alternative by instituting legal action as provided in § 2.2-4364.

3. The Contractor's form contract as modified by this addendum constitutes the entire agreement between the parties and may not be modified or amended except by further written agreement.

IN WITNESS WHEREOF, the parties have obtained all necessary approvals and have caused the contract and this addendum to the contract to be executed by their duly authorized representatives.

The VCCS does not discriminate against faith-based organizations.

COMMONWEALTH OF VIRGINIA – VCCS

By: _____

By: _____

Name and Title (Type or Print)

Date Signed

Name and Title (Type or Print)

Date Signed