



Purchasing Department
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<http://fiscal.gmu.edu/purchasing/>

Contractor's Addendum

George Mason University, an educational institution and agency of the Commonwealth of Virginia, and the Contractor are this day entering into a contract/purchase order and, for their mutual convenience the parties are using the form agreement and/or standard terms and condition ("Contractor's Form") provided by the Contractor. Unless otherwise agreed to by George Mason University, in writing, this Addendum is attached to and hereby made a part of the contract/purchase order

Notwithstanding anything in the Contractor's Form to which this Addendum is attached, the payments will be made by George Mason University for all goods, services and other deliverables under this contract. Payments will be made, only upon receipt of a proper invoice, detailing the goods/services provided and submitted to acctpay@gmu.edu. The total cumulative liability of George Mason University, 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 purchase price plus payment 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 George Mason University.

The Contractor's Form or standard terms and conditions are, with the exceptions noted herein, acceptable to George Mason University. Nonetheless, certain standard clauses that appear in the Contractor's Form cannot be accepted by George Mason University. In consideration of the convenience of using the Contractor's Form, without the necessity of specifically negotiating a separate contract document, the parties hereto specifically agree that, to the extent that any of the following terms appear in the attached

1. Requiring George Mason University to add Contractor as an additional insured or maintain any type of insurance either for George Mason University's benefit or for the Contractor's benefit;
2. Renewing or extending the contract beyond the initial term or automatically continuing the contract period from term to term;
3. Requiring or stating that the terms of the attached Contractor's Form shall prevail over the terms of this Addendum in the event of conflict;
4. Requiring George Mason University to indemnify or to hold harmless the Contractor for any act or omission;
5. Imposing interest charges contrary to that specified by the *Governing Rules §42*, Prompt Payment of bills by the Institution;
6. Requiring the application of the law of any state other than Virginia in interpreting or enforcing the contract or requiring or permitting that any dispute under the contract be resolved in the courts of any state other than Virginia;
7. Requiring any total or partial compensation or payment for lost profit or liquidated damages by George Mason University if the contract is terminated before its ordinary period;
8. Requiring that the contract be "accepted" or endorsed by the home office or by any other officer subsequent to execution by an official of George Mason University before the contract is considered in effect;
9. Delaying the acceptance of this contract or its effective date beyond the date of execution;
10. Limiting or adding to the time period within which claims can be made or actions can be brought;

11. Limiting the liability of the Contractor;
12. Permitting unilateral modification of this contract by the Contractor;
13. Binding George Mason University to any arbitration or to the decision of any arbitration board, commission, panel or other entity not authorized under VA Code § 2.2-4366;
14. Obligating George Mason University to pay costs of collection or attorney's fees;
15. Granting the Contractor a security interest in property of George Mason University;
16. Imposing rights of confidentiality. (George Mason University is required by law to act within the requirements of the Virginia Freedom of Information Act, VA Code §2.2-3700 et seq.);
17. Bestowing any right or incurring any obligation that is beyond the duly granted authority of the undersigned agency representative to bestow or incur on behalf of George Mason University;
18. Requiring that George Mason University waive legal rights that by law may only be waived by the Attorney General of the Commonwealth of Virginia;
19. Requiring George Mason University to agree to be subject to any form of equitable relief not authorized by the Constitution or laws of Virginia;
20. Purporting to afford the Contractor a remedy against George Mason University that is not otherwise available by virtue of the sovereign immunity of the Commonwealth of Virginia, at common law, or under the Constitution or laws of Virginia;
21. Granting Contractor or an agent of Contractor the right to examine, directly or indirectly, George Mason University's computers, networks, books, records, or accounts whether stored electronically or on paper. (Any waiver of this provision shall require a written instrument signed by a duly authorized officer of the Purchasing Department.)

In addition, the following terms and conditions shall apply to all Contractors contracting with George Mason University:

22. Computer and network security is of paramount concern at George Mason University. The university wants to ensure that computer/network hardware and software does not compromise the security of IT environment. By accepting this Addendum, you agree to use commercially reasonable measures in connection with any offering your company makes to avoid any known threat to the security of the IT environment at George Mason University.
23. **CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:** The Contractor shall ensure that personally identifiable information which may include but is not limited to personal identifiers such as name, address, phone, date of birth, Social Security number, student or personal identification number, non-directory information and any other information protected by state or federal privacy laws will be collected and held confidential, during and following the term of this contract, and will not be divulged without the individual's and George Mason University's written consent and only in accordance with federal law or the Code of Virginia. The Contractor shall utilize, access, or store personally identifiable information as part of the performance of this contract in a secure environment and immediately notify George Mason University of any breach or suspected breach in the security of such information. Contractor shall allow George Mason University to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. If Contractor provides goods and services that require the exchange of personal identifiable information the following Data Security Addendum shall apply and be incorporated into this contract: <http://fiscal.gmu.edu/wp-content/uploads/2017/04/Data-Security-Addendum.pdf>
24. All e-learning and information technology developed, purchased, upgraded or renewed by or for the use of George Mason University shall comply with all applicable University policies, Federal and State laws and regulations including but not limited to Section 508 of the Rehabilitation Act (29 U.S.C. 794d), the Information Technology Access Act, §§2.2-3500 through 2.2-3504 of the Code of Virginia, as amended, and all other

regulations promulgated under Title II of The Americans with Disabilities Act which are applicable to all benefits, services, programs, and activities provided by or on behalf of the University. For more information please visit <http://ati.gmu.edu>, under Policies and Procedures.

25. Export Control:

1. **Munitions Items:** If Contractor is providing any items, data or services under this order that are controlled by the Department of State, Directorate of Defense Trade Controls, International Traffic in Arms Regulations (“ITAR”), or any items, technology or software controlled under the “600 series” classifications of the Bureau of Industry and Security’s Commerce Control List (“CCL”) (collectively, “Munitions Items”), prior to delivery, Contractor must: (i) notify George Mason University (by sending an email to export@gmu.edu), and (ii) receive written authorization for shipment from George Mason University’s Director of Export Controls.

The notification provided by Contractor must include the name of the George Mason University point of contact, identify and describe each ITAR or CCL-controlled commodity, provide the associated U.S. Munitions List (USML) category number(s) or Export Control Classification Number, and indicate whether or not the determination was reached as a result of a commodity jurisdiction determination, or self-classification process. Contractor promises that if it fails to obtain the required written pre-authorization approval for shipment to George Mason University of any Munitions Item, it will reimburse George Mason University for any fines, legal costs and other fees imposed for any violation of export controls regarding the Munition Item that are reasonably related to Contractor’s failure to provide notice or obtain George Mason University’s written pre-authorization.

2. **Dual-Use Items:** If Contractor is providing any dual-use items, technology or software under this order that are listed on the CCL in a series other than a “600 series”, Contractor must (i) include the Export Control Classification Number (ECCN) on the packing or other transmittal documentation traveling with the item(s) and, (ii) send a description of the item, its ECCN, and the name of the George Mason University point of contact to: export@gmu.edu.

This agency contract consisting of this Addendum and the attached Contractor’s Form constitute the entire agreement between the parties and may not be waived or modified except by written agreement between the parties.

This contract has been reviewed by staff of the agency. Its substantive terms are appropriate to the needs of the agency and sufficient funds have been allocated for its performance by the agency. This contract is subject to appropriations by the Virginia General Assembly.