

## ADDENDUM

### To Agreement between

### TTU and St John's United Methodist Church

This Addendum, effective the date of last signature (the "Effective Date"), is incorporated into and forms a part of the attached St John's United Methodist Church agreement ("Contractor Terms"). Together these documents form the "Contract." "TTU" means Texas Tech University, an agency of the State of Texas and an institution of higher education and "Contractor" means St John's United Methodist Church. In addition, and to the extent they do not conflict with the terms in this Addendum, the TTU purchase order terms and conditions will apply to all purchases of goods and services by TTU and are incorporated by reference into this Addendum. They are found at <https://www.depts.ttu.edu/procurement/FormRepository/Purchase-Order-terms-and-conditions.pdf>.

**Notwithstanding any express provision stating that the terms of the Contractor Terms will control in the event of conflict, Contractor's signature to this Addendum acknowledges that the Addendum is controlling in the event of a conflict of terms in the Contract.**

1. **Representations and Warranties by Contractor.** Contractor represents and warrants it is duly organized, validly existing, and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary approvals to execute the Contract, and the individual executing the Contract on behalf of Contractor has been duly authorized to act for and bind Contractor.
2. **Additional fees.** Any reference to payment or reimbursement of additional, future, or undefined Contractor fees in the Contract (e.g. travel expenses) is agreed to only if approved by TTU in writing prior to invoicing.
3. **Tax Certification.** If Contractor is a taxable entity as defined by Chapter 171, Texas Tax Code ("Chapter 171"), then Contractor certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Contractor is exempt from the payment of those taxes, or that Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.
4. **Tax exempt.** TTU is exempt from Texas Sales & Use Tax on goods and services in accordance with §151.309, Texas Tax Code, and Title 34 Texas Administrative Code ("TAC") §3.322.
5. **Payments.** So long as Contractor has provided TTU with its current and accurate Federal Tax Identification Number in writing, TTU will pay Contractor for goods and services in accordance with Chapter 2251, *Texas Government Code*.
6. **Loss of Funding.** Performance by TTU under the Contract may be dependent upon the appropriation of funds by the Texas State Legislature and/or allocation of funds by the Board of Regents of the Texas Tech University System ("TTUS Regents"). If the Legislature fails to appropriate the necessary funds, or the TTUS Regents fail to allocate the necessary funds, then TTU will issue written notice to Contractor and TTU may terminate this Contract without further duty or obligation hereunder, other than payment for goods and services already delivered or provided to TTU. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of TTU.
7. **Payment of Debt or Delinquency to the State.** Pursuant to §§2107.008 and 2252.903, Texas Government Code, Contractor agrees that any payments owing to Contractor under the Contract may be applied directly toward any debt or delinquency that Contractor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
8. **Texas Family Code Child Support Certification.** Pursuant to §231.006, Texas Family Code, Contractor certifies that it is not ineligible to receive the awarded Contract or payments under the Contract and acknowledges that the Contract may be terminated, and payment withheld if this certification is inaccurate.
9. **Early Termination.** TTU may terminate the Contract for any reason by providing Contractor with ten (10) days prior, written notice. Despite anything in the Contractor Terms to the contrary, in no event will termination give rise to any liability on TTU's part including, but not limited to, Contractor's claims for compensation for anticipated profits, unabsorbed overhead, or interest on borrowing. TTU's sole obligation hereunder is to pay Contractor for goods and services received prior to the date of termination.
10. **Texas Public Information Act.** All information, documentation, and other material submitted by Contractor for and under this Contract are subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552). Contractor is hereby notified that TTU strictly adheres to this statute and the interpretations thereof rendered by the Courts and the Texas Attorney General ("AG"). TTU will use its best efforts to maintain the confidentiality of all

Contractor submitted information except where TTU is required to disclose it under the Act. The AG will ultimately decide whether Contractor proprietary information is released to the public, however TTU will give Contractor notice of all requests for its proprietary information in accordance with the Act. TTU cannot represent Contractor interests to the AG and Contractor seeking to protect their proprietary information will be required to submit a letter, brief, or memorandum to the AG with reasons in support of withholding their information.

- 11. Publicity and Marks.** Contractor agrees that it will not publicize this Contract or disclose, confirm, or deny any details of this Contract to third parties. The Contractor shall not use TTU's name or protected identity marks, including but not limited to logos, seals, and insignia without TTU's prior express written approval from the TTU Vice President for Marketing and Communication or their designee. The approved use of any identity marks shall cease upon termination of the Contract. The use of all identity marks shall be governed by TTU's identity guidelines policy, which may be updated from time to time. <https://www.depts.ttu.edu/communications/identityguidelines/>.
- 12. Notices.** All notices, consents, approvals, demands, requests, or other communications provided for or permitted to be given under any of the provisions of the Contract to TTU will be in writing and will be sent via registered or certified mail, overnight courier, or email, and notice will be deemed given (i) if mailed, when deposited, postage prepaid, in the United States mail, (ii) if sent by overnight courier, one (1) business day after delivery to the courier, (iii) if sent by email, when received:

Contract Management Procurement Services  
Texas Tech University  
Texas Tech Plaza  
1901 University Avenue  
Suite 408  
Lubbock, Texas 79410  
[contracting@ttu.edu](mailto:contracting@ttu.edu)

or such other person or address as may be given in writing by TTU to Contractor.

Notwithstanding any other requirements for notices given by a party under the Contract, if Contractor intends to deliver written notice to TTU pursuant to §2251.054, Texas Government Code, then Contractor will send that notice to TTU as follows:

Contract Management Procurement Services  
Texas Tech University  
PO Box 41094  
Lubbock, Texas 79409

- 13. Venue; Governing Law.** Lubbock County, Texas, will be the proper place of venue for any legal action or proceeding arising out of this Contract or enforcement of any provision in this Contract. This Contract and all of the rights and obligations of the parties hereto and any claims arising from this Contract will be construed, interpreted, and governed by the laws of the State of Texas.
- 14. Limitation on TTU's Liability.** It is understood and agreed that TTU will not be liable for any negligent or wrongful acts, either of commission or omission, chargeable to it unless such liability is imposed by Texas law and that this Contract will not be construed as seeking to either enlarge or diminish any obligation or duty owed by TTU to Contractor or to any third party.
- 15. Indemnification.** **The Contractor agrees to indemnify, defend, and hold harmless TTU, Texas Tech University System, and its respective affiliated enterprises, regents, officers, directors, attorneys, employees, representatives, and agents, against any and all liability, claims, suits, losses, costs, and legal fees caused by, arising out of, or resulting from any negligent act or omission of the Contractor in the performance or failure to perform within the Contract including the negligent acts or omission of any Subcontractor or any direct or indirect employees of the Contractor or Subcontractors. The indemnification obligations set forth in the Contract will survive termination or expiration of the Contract.**
- 16. Force Majeure.** "Event of Force Majeure" means an event beyond the control of Contractor or TTU which prevents or makes a party's compliance with any of its obligations under the Contract illegal or impracticable, including but not limited to: act of God (including, without limitation, fire, explosion, earthquake, tornado, drought, and flood); war, act or threats of terrorism, hostilities (whether or not war be declared), invasion, act of enemies, mobilization, requisition, or embargo; rebellion, insurrection, military or usurped power, or civil war; contamination or destruction from any nuclear, chemical, or biological event; riot, commotion, strikes, go slows, lock outs, or disorder; epidemic, pandemic, viral outbreak, or health crisis; or directive of governmental authority. No party will be considered in breach of the Contract to the extent that performance of their respective obligations is prevented or made illegal or impracticable by an Event of Force Majeure that arises during the term (or after execution of the Contract but prior to the beginning of the term). A party asserting an Event of Force Majeure hereunder ("Affected Party") will give reasonable notice to the other party of an Event of Force Majeure upon

it being foreseen by, or becoming known to, Affected Party. In the event of an Event of Force Majeure, Affected Party will endeavor to continue to perform its obligations under the Contract only so far as reasonably practicable.

17. **Insurance.** Contractor agrees that TTU may self-fund against general liability risk and that any Contractor requirements for TTU to carry insurance are waived. The Texas Tort Claims Act governs relief with respect to property damage, personal injury, and death proximately caused by the wrongful act or omission of a TTU employee acting within the scope of employment.
18. **Breach of Contract Claims.** The dispute resolution process provided for in Texas Government Code Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260 will be used by TTU and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The chief procurement officer of TTU will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of the Contract by TTU nor any other conduct, action, or inaction of any representative of TTU relating to the Contract constitutes or is intended to constitute a waiver of TTU's or the state's sovereign immunity to suit; and (ii) TTU has not waived its right to seek redress in the courts. Any term or provision in the Contractor Terms indicating agreement to arbitration, other alternative dispute resolution, or litigation options in the event of a dispute between the parties is expressly rejected and is null and void.
19. **Assignment.** Neither this Contract, nor any rights or obligations of monies due hereunder are assignable or transferable (as security for advances or otherwise) unless TTU agrees in writing. Contractor will not assign or sub award any portion of a Contract without TTU's prior written approval, which will not be unreasonably withheld. TTU will not recognize any assignment or sub agreement made without TTU's prior written approval, and any such assignment by Contractor will be wholly void and ineffective for all purposes unless made in conformity with this section.
20. **Entire Contract; Modifications.** The Contract supersedes all prior agreements, written or oral, between Contractor and TTU and will constitute the entire Contract and understanding between the parties with respect to the subject matter hereof. The Contract and each of its provisions will be binding upon the parties and may not be waived, modified, amended, or altered except in writing signed by TTU and Contractor.
21. **FERPA.** If given access to the personally identifiable information about any student during performance of any services, Contractor agrees to abide by the limitations on re-disclosure of personally identifiable information from student records as set forth in The Family Educational Rights and Privacy Act ("FERPA") 34 CFR, §99.3. Contractor agrees that it may create, receive from or on behalf of TTU, or have access to, records or record systems that are subject to FERPA (collectively, the "FERPA Records"). To the extent that Contractor has access to "education records" under the Contract, it is deemed a "school official," as each of these terms are defined under FERPA. Contractor represents, warrants, and agrees that it will: (1) hold the FERPA Records in strict confidence and will not use or disclose the FERPA Records except as (a) permitted or required by this Contract, (b) required by law, or (c) otherwise authorized by TTU in writing; (2) safeguard the FERPA Records according to commercially reasonable administrative, physical, and technical standards that are no less rigorous than the standards by which Contractor protects its own confidential information; and (3) continually monitor its operations and take any action necessary to assure that the FERPA Records are safeguarded in accordance with the terms of this Contract. At the request of TTU, Contractor agrees to provide TTU with a written summary of the procedures Contractor uses to safeguard the FERPA Records. Contractor will indemnify and hold harmless TTU from and against all claims, actions, and proceedings resulting from Contractor's or its subcontractor's or affiliate's breach of any obligations under this paragraph.
22. **Required Posting.** Contractor acknowledges and agrees that TTU is required to post certain contracts and documents relating to contract solicitations under Texas Government Code §§2054.067 and 2261.253.
23. **Audit.** Contractor understands that acceptance of funds under the Contract constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency, TTU, or any of its components (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to §51.9335(c), Texas Education Code. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Further, TTU has the right, at TTU's sole cost, to audit Contractor's financial records pertaining to the Contract for the preceding twelve (12) month period either using TTU's personnel or an independent third party. TTU will complete such audit at Contractor's office, on reasonable advance notice, and on dates and times mutually agreed to by the parties. If the audit reveals Contractor owes TTU money, Contractor will pay the amount due within thirty (30) days of the date TTU notifies Contractor of the audit results. If the audit reveals TTU owes Contractor money, TTU will pay Contractor within thirty (30) days of the date the audit is complete.
24. **Independent Contractor.** Contractor agrees that it is an independent contractor and that this Contract does not form a joint venture or partnership. TTU will not be responsible for the Federal Insurance Contribution Act ("FICA") payments, federal or state unemployment taxes, income tax withholding, Workers Compensation Insurance payments, or any other insurance payments, nor will TTU furnish any medical or retirement benefits or any paid vacation or sick leave. Contractor is responsible for conduct of business operations, including employee salaries, travel, etc.

25. **Not Exclusive.** Contractor acknowledges and agrees that the Contract with TTU is non-exclusive and TTU has the right to engage with other contractors for similar or identical scopes of work, and to purchase similar or identical goods or services from other contractors. Any term or provision in the Contractor Terms indicating the Contract is exclusive is expressly rejected and is null and void.
26. **Contract Amendments.** No modification or amendment to this Contract will become valid unless agreed to by TTU in writing and signed by both parties. All correspondence regarding modifications or amendments to the Contract must be forwarded to the TTU Office of Procurement Services for prior review and approval. Only the Chief Procurement Officer or his/her designee will be authorized to process changes or amendments. All amendments must be signed by the same person who signed this original Contract or their successor(s).
27. **Limitations.** THE PARTIES ARE AWARE THAT THERE MAY BE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF TTU TO ENTER INTO CERTAIN TERMS AND CONDITIONS, INCLUDING TERMS AND CONDITIONS (IF ANY) RELATING TO LIENS ON TTU'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF TTU'S LEGAL RIGHTS, REMEDIES, REQUIREMENTS, AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; ANY PROVISION THAT CREATES AN UNKNOWN OR UNFUNDED LIABILITY; AND CONFIDENTIALITY (COLLECTIVELY, THE "LIMITATIONS"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON TTU EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.
28. **Contractor Certification.** Contractor certifies this Contract is not prohibited under Texas Government Code §2261.252(b) and agrees that if Contractor's certification is or becomes untrue, this Contract is void, and Contractor will not seek and waives its right to seek any legal or equitable remedy for past or future performance under this Contract, including damages, whether under breach of contract, unjust enrichment, or any other legal theory; specific performance; and injunctive relief.
29. **No Boycott.** If this Contract has a value of \$100,000 or more that is to be paid wholly or partly from public funds of TTU, and if Contractor is a company, other than a sole proprietorship, with ten (10) or more full-time employees, then pursuant to Texas Government Code Chapter 2271, Contractor affirmatively states that it does not boycott Israel and will not boycott Israel during the term of this Contract. In this paragraph, the terms "company" and "boycott Israel" shall have the meanings described in Texas Government Code §808.001.
30. **American Steel.** To the extent the Contract awarded relates to a project as defined Texas Government Code §2252.201(5) (a project to construct, remodel, or alter a building, structure, or infrastructure; to supply material for such a project; or to finance, refinance, or provide funds for such a project), and no exemption in Texas Government Code §2252.203 applies, any iron or steel product produced through a manufacturing process and used in the project that is the subject of the Contract must be produced in the United States (as defined in Texas Government Code §2252.201(4)).
31. **Trafficking of Persons.** Under §2155.0061, Texas Government Code, the Contractor certifies that the individual or business entity named in the bid or Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
32. **Emergency Health and Safety Procedures.** In the event of pandemic, epidemic, viral outbreak, health crisis, or other emergency ("Emergency"), TTU may, at its sole discretion, implement new or modified health and safety procedures in order to protect the health and safety of the TTU community. In the event of Emergency, Contractor agrees to adhere to all such procedures and related directives from TTU when entering onto and performing services on TTU's campus.
33. **Texas Health and Safety Code.** The Contractor affirmatively states that it will comply with the requirements of Texas Health and Safety Code, § 161.0085(c).
34. **Compliance with Texas Government Code §2274.002.** If this Contract has a value of \$100,000 or more to be paid wholly or partly from public funds of TTU, and if Contractor is a company, other than a sole proprietorship, with ten (10) or more full-time employees, then pursuant to Texas Government Code §2274.002, Contractor affirmatively states it does not boycott energy companies and will not boycott energy companies during the term of this Contract. In this paragraph, the terms "company" and "boycott energy companies" shall have the meanings described in Texas Government Code §809.001.

Contractor verifies it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the Contract against a firearm entity or trade

association.

**35. Statement Regarding Cloud Computing Services.** Texas Department of Information Resources (“DIR”) has established and implemented a state risk and authorization management program providing a standardized approach for security assessment, authorization, and continuous monitoring of cloud computing services (“CCSs”) that process (including storing or transmitting) the data of Texas state agencies (“TX-RAMP”). The requirements of TX-RAMP include Section 2054.0593 of the Texas Government Code; Title 1, Rule 202.77 of the Texas Administrative Code; and DIR’s TX-RAMP Manual. Therefore, if Contractor will be providing CCSs under this Agreement, Contractor will, within 8 months of the date of this Agreement, comply with the requirements of TX-RAMP (or the StateRAMP or FedRAMP equivalent) and that within 8 months of the date of this Agreement, all CCSs subject to TX-RAMP will comply with the requirements of and be certified under TX-RAMP (or the StateRAMP or FedRAMP equivalent). The list of current TX-RAMP certified CCSs and DIR’s TX-RAMP Manual are set forth at <https://dir.texas.gov/txramp>. Contractor understands and agrees that TTU may not enter into or renew a contract with Contractor to purchase CCSs that are subject to TX-RAMP unless Contractor demonstrates compliance with TX-RAMP (or the StateRAMP or FedRAMP equivalent) requirements. Contractor acknowledges that in the event that Contractor does not obtain full certification within the time period detailed herein, TTU shall have the right to terminate the Agreement by written notice to Contractor and receive a refund of the subscription fees attributable to the period after the date of termination.

**36. Applicable Laws & Regulations.** Contractor agrees that it will comply with all federal, state, or local laws or regulations applicable to Contractor’s performance under the Contract, and agrees to obtain and maintain all permits, licenses and other approvals required in connection with the operations contemplated under the Contract. Contractor also agrees that pursuant to Texas Education Code §51.9335(h), in any Contract for the acquisition of goods or services to which TTU is a party, any provision required by applicable law to be included in the Contract is considered to be part of the Contract whether or not the provision appears on the face of the Contract or if the Contract contains any provision to the contrary.

**Contractor:**

**TTU:**

Signature:

Signature:

Name:

Name:

Title:

Title:

Date:

Date: