

ADDENDUM TO AGREEMENT

The purpose of this addendum is to provide a statement of UAB's position regarding contract provisions that may be the source of disagreement. By including these provisions in this addendum, which is incorporated into and made a part of the agreement to which it is attached, it will not be necessary for UAB to edit corresponding provisions on the face of the contract.

The following terms and conditions are incorporated into and form a part of the agreement or contract to which they are attached (the "Agreement"). Provisions in the Agreement that are consistent with the Addendum will continue in full force and effect. In the event there is a conflict between the terms and conditions of the Agreement and this Addendum, this Addendum will control. For all purposes, "University" means The Board of Trustees of the University of Alabama acting for the University of Alabama at Birmingham, the University of Alabama Hospital, the University of Alabama School of Medicine, the University of Alabama School of Dentistry and/or the University of Alabama School of Optometry, as the same is provided in the Agreement; and "Contractor," "Client," "Vendor," or "Consultant" is as previously identified in the Agreement (hereinafter individually or collectively called "Contractor.")

Representations and Warranties by Contractor. If Contractor is a corporation or a limited liability company, Contractor warrants, represents, covenants, and agrees that 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 Alabama, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.

No Benefit Certification. By accepting this agreement, Contractor certifies that no University employee or official, and no family members of a University employee or official, will receive a benefit from this University payment, except as has been previously disclosed, in writing, to the University.

Federal Healthcare Participation Certification (Applicable only to Agreements with University Hospital). Contractor represents and warrants that Contractor and any of its directors, officers, employees, or agents providing services under this Agreement: (a) are not "sanctioned persons" under any federal or state program or law; (b) have not been listed in the current Cumulative Sanction List of the Office of Inspector General for the United States Department of Health and Human Services for currently sanctioned or excluded individuals or entities; (c) have not been listed on the General Services Administration's List of Parties Excluded individuals or entities; (d) have not been listed on the General Services Administration's List of Parties Excluded from Federal Programs; and (e) have not been convicted of a criminal offense related to health care. Company shall immediately notify Facility in the event that Contractor is no longer able to make such representations, and Facility may upon five (5) business days written notice terminate this Agreement.

Alabama Tax Certification (Applicable to Agreements for the purchase or lease of tangible personal property). In accordance with Section 41-4-116 of the Code of Alabama, by accepting this agreement, Contractor certifies that Contractor is appropriately registered to collect and remit sales, use, and lease tax on all taxable sales and leases of personal property in Alabama and that Contractor is not barred from bidding for or entering into a contract pursuant to Section 41-4-116 and that Contractor acknowledges that University may declare the Agreement void if this certification is false.

Governing Law. The Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Alabama.

Resolution of Disputes. The parties agree that any and all claims, controversies of disputes between the parties which arise out of or relate in any way to this Agreement or a breach hereof

and which the parties are unable to resolve informally shall be submitted to non-binding mediation in Birmingham, Alabama, UAB, as a division of The Board of Trustees of the University of Alabama, is a state agency and cannot waive immunity conferred on it by *Ala. Const. Art. I § 14*. The exclusive forum in which a claim can be asserted against UAB is the State of Alabama Board of Adjustment. (See Code of Alabama §§ 41-9-60 through 41-9-74)

Liability. University and Contractor shall each be responsible for any and all liability resulting from the acts and/or omissions of their respective employees, officers, directors, agents and contractors. Neither party shall be liable for any liability resulting from the acts and/or omissions of the other party's employees, officers, directors, agents and contractors. University is not authorized to and does not indemnify, hold harmless, and cannot defend Contractor or any third party for any liability that may result from activities under this Agreement.

Loss of Funding. Performance by University under the Agreement may be dependent upon the appropriation and allotment of funds by the Alabama State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, then University will issue written notice to Contractor and University may terminate the Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of University.

Limitations. THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF UNIVERSITY (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THOSE TERMS AND CONDITIONS RELATING TO LIENS ON UNIVERSITY'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF 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; AND CONFIDENTIALITY (COLLECTIVELY, THE "LIMITATIONS"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON UNIVERSITY EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF ALABAMA.

Entire Agreement; Modifications. This Addendum to Agreement and the Agreement supersede all prior agreements, written or oral, between Contractor and University and will constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. The Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by University and Contractor.