**Addendum No. [INSERT]**

**EASTERN WASHINGTON UNIVERSITY**

**Special Terms and Conditions for Federal Grant Funded Purchases**

Whereas the contract entered into with Contractor/Vendor (Contractor) is in furtherance of the performance of work required by Eastern Washington University (EWU) in an agreement with the United States of America, Contractor is subject to the following terms and conditions in addition to any other terms and conditions required by EWU. These terms and conditions are intended to comply with and should be interpreted in accordance with the Office of Management and Budget (OMB)’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (“Uniform Guidance”).

By accepting this order/contract, Contractor agrees to furnish the materials, supplies, or services covered by this order in accordance with the terms of the order, the general terms and conditions, and these special terms and conditions. The applicable contract provisions contained in Appendix II to 2 CFR Part 200, as well as any statutory and regulatory obligations referenced below, are incorporated by reference into this order and will have the same force and effect as if they were given in full text. These provisions are set forth below.

Contractor shall comply with the following provisions, as applicable:

## 1. Clean Air Act & Federal Water Pollution Control Act (42 USC §§ 7401-7671q; 33 USC §§ 1251-1387): If contract exceeds $150,000, Contractor is required to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 USC §§ 1251-1387). EWU is required to report any violations of these acts to the federal government.

## 2. Contract Work Hours and Safety Standards Act (40 USC §§ 3701-3708): If the contract exceeds $100,000 and involves the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act, 40 U.S.C. sections 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.

## 3. Debarment/Exclusion (Close the Contractor Fraud Loophole Act, 41 USC § 251; FAR 52.209-6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (October 2015)): Contractor represents and warrants that it and its employees, contractors, and any subcontractors are not excluded or debarred by any federal agency from participating in any federal grant or contract, and that they are not, to the best of Contractor’s knowledge, under investigation for any such exclusion or debarment. Contractor will notify EWU immediately if there are any changes in status under this paragraph.

**4.** **Equal Opportunity/ Affirmative Action (Executive Order 11246):**

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. This shall include, but not be limited to—(i) Employment; (ii) Upgrading; (iii) Demotion; (iv) Transfer; (v) Recruitment or recruitment advertising; (vi) Layoff or termination; (vii) Rates of pay or other forms of compensation; and (viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers’ representative of the Contractor’s commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to EWU all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR Part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

**5. Equal Opportunity/ Affirmative Action- Veterans (Vietnam Veterans Readjustment Assistance Act):** If the cost of this contract is $150,000 or more, Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a). This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

**6. Equal Opportunity/ Affirmative Action- Disabilities (Section 503 of the Rehabilitation Act):** If the cost of this contract exceeds $15,000, Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a). This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

**7. Examination of Records by Comptroller General-** Federal Acquisition Rule (FAR) clause 52.215-2, which governs records retention and availability of records for inspection by the Comptroller General of the United States, is incorporated by reference. The complete text of this clause is available at [www.acquisition.gov/far](http://www.acquisition.gov/far) and will be provided upon request.

**8. International Traffic in Arms (22 CFR Part 120):** Contractor shall comply with all requirements of the Arms Export Control Act, 22 USC 2571 et seq., and the International Traffic in Arms regulations, 22 CFR 120 et seq.

**9. Licensing/Accreditation:** The Contractor shall comply with all applicable local, state, and federal licensing, accreditation, and registrations requirements/standards, necessary for the performance of this Contract.

**10. Lobbying (Byrd Anti-Lobbying Amendment, 31 USC 1352):** If the cost of this contract exceeds $100,000, Contractor will comply with all certification and disclosure requirements under the Byrd Anti-Lobbying Amendment, 31 USC 1352.

**11. Nondiscrimination:** Contractor agrees to comply at all times with all applicable state and federal laws, rules, regulations, and executive orders governing equal employment, opportunity, immigration, and nondiscrimination, including the Americans with Disabilities Act. Contractor shall not discriminate against any employee, applicant for employment, or against any EWU student on the basis of race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, age, status as a disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, or Armed Forces service medal veteran (collectively referred to as “protected veterans”) or the presence of any sensory, mental, or physical disability. In the event of Contractor’s noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with EWU. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance.

**12. Office of Foreign Assets Control/Export Controls:** EWU complies with U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) payment rules. OFAC prohibits financial transactions with individuals or organizations, which have been placed on the OFAC Specially Designated Nationals (SDN) and Blocked Persons sanctions list located at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>. Compliance with OFAC payment rules ensures that EWU does not conduct business with individuals or organizations that have been determined to be supporters of terrorism and international drug dealing or that pose other dangers to the United States. Prior to making payment to individuals or organizations, EWU will download the current OFAC SDN file and compare it to EWU and statewide vendor files. In the event of a positive match, EWU reserves the right to: (1) make a determination of “reasonability” before taking the positive match to a higher authority, (2) seek assistance from the Washington State Office of the State Treasurer (OST) for advanced assistance in resolving the positive match, (3) comply with an OFAC investigation, if required, and/or (4) if the positive match is substantiated, notify Contractor in writing and terminate the contract according to the Termination for Convenience provision without making payment. EWU will not be liable for any late payment fees or missed discounts that are the result of time required to address the issue of an OFAC match.

**13. Political Activities (Hatch Act, 31 USC § 1352):** None of the funds, materials, property or services provided directly or indirectly in this Contract shall be used in the performance of this Contract for any partisan political activity of any kind or to further the election or defeat of any candidate for public office. None of the funds provided under this Contract shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the U.S. Congress or any State or Local legislative bodies. Contractor shall at all times comply with 31 U.S.C. § 1352.

**14. Procurement of Recovered Materials (Solid Waste Disposal Act; Resource Conservation and Recovery Act):** Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**15. Right to Inventions made Under a Contract or Agreement (37 CFR Part 401):** If the award EWU received from the United States of America meets the definition of “funding agreement” under 37 CFR § 401.2(a) and this contract is a substitution of parties, assignment, or performance of experimental, development or research work, Contractor must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

**16.** **Subcontracting:** If the Agreement between EWU and Contractor allows Contractor to subcontract any services, then Contractor will be responsible for ensuring its written agreements with such subcontractors contain all requirements of this Agreement and that its subcontractors comply with such requirements.

**17. Termination:** 2 CFR Part 200, Appendix II requires EWU to address termination for cause and convenience. In the event the underlying contract between EWU and Contractor does not already identify the basis and procedures for termination, the following applies:

A. For Cause: (i) In the event EWU determines that Contractor has failed to comply with the conditions of this Contract, is in material breach, or fails to fulfill in a timely and/or proper manner its obligations under this Contract, EWU has the right to suspend or terminate this contract, in part or in whole. Before suspending or terminating the Contract, EWU shall notify Contractor in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days or as otherwise specified by EWU, or if such corrective action is deemed by EWU to be insufficient, the Contract may be terminated or suspended. EWU reserves the right to suspend all or part of the contract, withhold further payments, or prohibit Contractor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by Contractor or a decision by EWU to terminate the contract. Once Contractor receives notice that this Contract has been suspended or terminated, Contractor shall perform no further services for EWU.

(ii) In the event of termination or suspension for cause, Contractor will be entitled to receive compensation for satisfactory work completed prior to the effective date of such termination/suspension. Such compensation shall be based on the value of such work to EWU.

(iii) In the event of termination, EWU shall have the right to procure any replacement materials, supplies, services and/or equipment that are the subject of this contract on the open market. In addition, Contractor shall be liable for all damages authorized by law including, but not limited to, any price difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time. The rights and remedies of EWU provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

B. For Convenience: Except as otherwise provided in this Contract, EWU may, by 60 calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. Once Contractor receives notice that this Contract has been terminated for convenience, Contractor shall perform no further services for EWU. Contractor will be entitled to receive compensation for satisfactory work completed prior to the effective date of such termination. Such compensation shall be based on the value of such work to EWU.

C. Termination Procedures: Upon termination of this contract, EWU, in addition to any other rights provided in this contract, may require Contractor to deliver to EWU any property specifically produced or acquired for the performance of such part of this contract as has been terminated. EWU shall pay to Contractor the agreed upon price, if separately stated, for completed work and services accepted by EWU. EWU may withhold from any amounts due Contractor such sum as EWU determines to be necessary to protect EWU against potential loss or liability. After receipt of a notice of termination, and except as otherwise directed by EWU, Contractor shall:(i) Stop work under the contract on the date, and to the extent specified, in the notice; (ii) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated; (iii) Assign to EWU, in the manner, at the times, and to the extent directed by EWU’s agent, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case EWU has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts; (iv) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of EWU’s agent to the extent agent may require, which approval or ratification shall be final for all the purposes of this clause; (v) Transfer title to EWU and deliver in the manner, at the times, and to the extent directed by EWU’s agent any property which, if the Contract had been completed, would have been required to be furnished to EWU; (vi) Complete performance of such part of the work as shall not have been terminated by EWU; and, (vii) Take such action as may be necessary, or as EWU’s agent may direct, for the protection and preservation of the property related to this Contract, which is in the possession of the Contractor and in which EWU has or may acquire an interest.

The rights and remedies of EWU provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

**18. Breach of Contract:** EWU reserves all administrative, contractual, and legal remedies against the Contractor who breaches any of the contract terms, including these additional terms and conditions.

**19. Conformance:** If any provision of this contract violates any state or federal law or regulation, it is considered modified to conform to that law or regulation.