



## Mandatory Addendum to All University of Mississippi Contracts

This Addendum between the University of Mississippi ("UM") and \_\_\_\_\_ ("Contractor") is an integral part of the contract. Contractor acknowledges that UM is a state institution of higher learning and is subject to the laws of the State of Mississippi governing actions of state agencies. Contractor further acknowledges that UM does not waive, relinquish or forfeit any of the rights, benefits, protections, guaranties or prohibitions that may be provided under any law, statute, regulation or policy. The parties agree that this Addendum is incorporated into the contract and agree that should any provision of the contract conflict with this Addendum, the terms of the Addendum control.

1. UM contracts are governed by the laws of the State of Mississippi. Any provision that purports to set venue outside of the State of Mississippi is deleted.  
U.S. Const. Amend XI; Miss. Code Ann. § 11-11-3; Miss. Code Ann. § 11-45-1; City of Jackson v. Wallace, 196 So. 223 (1940); Miss. AG Op., Clark (June 2, 2002); Miss. AG Op., Nowak (November 19, 2005).
2. UM does not waive its sovereign immunity. UM shall only be responsible for liability resulting from the negligent actions of its officers, agents, and employees acting within the course and scope of their official duties.  
Miss. Code Ann. § 11-46-1, et seq.
3. UM does not waive its Constitutional Eleventh (11<sup>th</sup>) Amendment immunity.  
U.S. Const. Amend. XI.
4. Any references to UM waiving its right to a trial by jury are deleted.  
Miss. AG Op., Chamberlin (Oct. 18, 2002).
5. UM does not agree to any provisions wherein the credit of the State of Mississippi is pledged or loaned in aid of any person, association, or corporation.  
Miss. Const. Art. 14 § 258; Miss. AG Op., Stringer (January 25, 2006).

6. Any references to payment of attorney's fees by UM are deleted.  
Miss. AG Op., Nowak (January 23, 2009); Miss. AG Op., Stringer (January 25, 2006).
7. UM does not agree to pay extra compensation, fees, or allowances after service rendered or contract made, or for any payment not authorized by law.  
Miss. Const. Art. 4, § 96; Miss. AG Op., Stringer (January 25, 2006).
8. Any references to UM limiting UM's damages to the contract price or any other set amount are deleted.  
Miss. Const. Art. 4, § 100; Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct. 18, 2002).
9. Any references to UM indemnifying or holding harmless the Contractor or any other party are deleted.  
Miss. Const. Art. 4, § 100; Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct. 18, 2002).
10. Any provisions limiting the time for UM to pursue legal action are deleted.  
Miss. Const. Art. 4, § 100; Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct. 18, 2002).
11. Any references to UM waiving any cause of action it may have against Contractor or any other party as a result of Contractor's breach of the contract, or Contractor's own negligence or willful misconduct or the negligence or willful misconduct of Contractor's employees or agents are deleted.  
Miss. Const. Art. 4, § 100; Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct. 18, 2002).
12. Any references to UM limiting damages, remedies or waiving any claim are deleted.  
Miss. Const. Art. 4, § 100; Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct. 18, 2002).
13. Any provisions giving the Contractor exclusive control over litigation are deleted. UM does not agree that Contractor may represent, prosecute or defend legal actions in the name of UM.  
Board of Trustees Institutions of Higher Learning Policy 1102.
14. Any references to UM submitting to binding arbitration are deleted.  
Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct. 18, 2002).
15. With the exception of any expressed limitation of remedies for breach of implied warranties of merchantability and fitness for a particular purpose concerning computer software and services performed on computer hardware and computer software, which are sold between merchants, any provisions which would limit the Contractor's liability to UM or allow Contractor to waive any applicable warranties (express or implied) are deleted.

Miss. Const. Art. 4, § 100; Miss. Code Ann. § 75-2-719; Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct. 18, 2002); Miss. AG Op., Long (February 22, 2009).

16. Any references to UM limiting are waiving any common law warranty are deleted.  
Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct. 18, 2002).
17. UM does not make any warranty.  
Miss. Const. Art. 4, § 100; Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct. 18, 2002).
18. UM will deliver payments to Contractor no later than forty-five (45) days after receipt of invoice and receipt, inspection and approval of Contractor's products/services. Any provision that requires UM pay Contractor any late charges is governed by Miss. Code Ann. § 31-7-305.
19. UM is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act, Miss. Code Ann. §25-61-1, et seq., and the Mississippi Accountability and Transparency Act of 2008, Miss. Code Ann. § 27-104-151, et seq.
20. Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Miss. Code Ann. § 71-11-1, et seq., and will register and participate in the status verification system for all newly hired employees. Any provision penalizing UM for hiring an employee who works for the Contractor is deleted.
21. UM is an equal opportunity employer. Executive order 11246 requires that UM do business with organizations that are in compliance with Title VII of the 1964 Civil Rights Act, as amended. During the performance of any contract with UM, Contractor agrees to be bound by provisions of Section 202 of Executive Order 11246, as amended and Executive Orders 11701, 11625 and 11758.
22. The continuance of any UM contract is based on the availability of funds. Should there be no funds available for any succeeding funding period; the contract will be cancelled as of the end of the funding period with no further obligation on the part of UM. This contract is cancellable with thirty (30) days' notice to the vendor at the end of the fiscal period in the event funds are not appropriated by the funding authority. (Any property covered by a lease shall be returned to lessor).
23. Any provision requiring UM to name the contractor as an additional insured is deleted.
24. Neither party may assign its rights or delegate its duties under the contract without the prior written consent of the other party, which shall not be unreasonably withheld.

25. Contractor recognizes that UM, as a political subdivision of the State of Mississippi, enters into this contract only to the extent authorized by Mississippi law.
26. Contractor acknowledges that the individual executing the contract on behalf of UM is doing so only in his/her official capacity only, and to the extent that any provision contained in the contract exceeds his/her authority, Contractor agrees that it will not look to that individual in his/her personal capacity or otherwise seek to hold him/her individually liable for exceeding such authority.

**CONTRACTOR**

By:

(Original Signature of Principal or General Agent)

NAME/TITLE

COMPANY:

DATE:

**UNIVERSITY OF MISSISSIPPI**

By:

(Original Signature of Authorized Representative)

TITLE:

DATE: