



AGREEMENT

Order # _____

I, The Hanover Research Council, LLC agree to perform the following service(s)
for Marshall University at Arlington, Virginia and greater Washington DC metro area
(Location)

(Detailed description of services to be performed)

Hanover Research will conduct custom market research and data analytics services on behalf of Marshall University within 2 (two) sequential work queues.
Client will have the authority to request Research Services on any topic throughout the Term within the confines of two (2) sequential queues, i.e., Hanover will work on two (2) Research Services projects at a time.
Hanover will perform up to two (2) Research Services projects at a time. Client shall, in its discretion, prioritize the research projects that form the basis of the Research Services as it deems appropriate.

Date(s) of Service: From: 8/1/2019 To: 7/31/2020

The rate of pay shall be \$75,000.00 per year not to exceed \$ \$75,000.000
for the entire term of the contract.

NOTE: Any anticipated travel must be incorporated into the vendor's fee. No travel will be reimbursed by the State and is the sole responsibility of the vendor. The following certification must be completed and signed if the vendor is a full-time employee of the State of West Virginia.

Please check the appropriate box below:

- I am not currently a full-time employee of the State of West Virginia;
- I am currently a full-time employee of the State of West Virginia (complete certification below)

It is hereby certified that the service(s) to be performed under this agreement will not interfere with or detract from the full-time duties of the employee and the amount of annual compensation received by:
_____ (above named vendor)

from the State of West Virginia for full-time employment during the current fiscal year will be \$ _____

The vendor serves as _____ with the title of _____
(Position)

certified by _____
(Supervisor's Signature)

APPROVED BY:

Agency Marshall University

 (Authorized Signature of Agency)
Interim Director of Purchasing / CPO
 (Title)
06/27/2019
 (Date)

Vendor The Hanover Research Council, LLC

 (Vendor's Signature)
20-0253005
 (Marshall ID (901#) or FEIN) (Note: Do Not Use Social Security Number)
6/25/2019
 (Date)



Client Services Agreement

Date of Agreement: 6/25/2019

The Hanover Research Council LLC ("Hanover") is pleased to provide Marshall University ("Client") the Research Services as described below. **The terms of this agreement are contingent upon execution on or before June 28th, 2019.**

1. Agreement Term

Effective Date: 8/1/2019

End Date: 7/31/2022

2. Term

This agreement ("Agreement") with Hanover runs for a subscription period from the Effective Date to the End Date (the "Term"). During the Term of this Agreement, Client will be able to access the research services provided by Hanover (the "Research Services") in accordance with the terms and conditions set forth below. Client will have the authority to request Research Services on any topic throughout the Term within the confines of two (2) sequential queues, i.e., Hanover will work on two (2) Research Services projects at a time. Client understands and agrees that this Agreement may not be terminated during the Term, except as may otherwise be set forth in this Agreement. Either party may terminate this Agreement should the other party materially breach the terms and conditions of this Agreement, and such breach goes uncured for a period of thirty (30) or more days after the non-breaching party has notified the breaching party in writing. **Client may terminate this Agreement with at least thirty (30) days written notice prior to July 31, 2020 and July 31, 2021 without penalty or payment of further Service fee(s) due later in the Term.**

3. Research Services

All Research Services are available to Client on a subscription basis within the confines of a sequential research workflow queue, in that Hanover will perform up to two (2) Research Services project at a time. Client shall, in its discretion, prioritize the research projects that form the basis of the Research Services as it deems appropriate. Although work is completed in a sequential fashion, Client may submit requests at any time. Individual Research Services projects will generally be commenced by the submission of a project request that will describe the project, the expected Deliverables (as defined below), any information or materials to be provided by Client and any other information anticipated to be relevant to the proposed project. The parties will negotiate in good faith and agree upon the proposed Deliverables, approach and timetable for the project, subject to assumptions regarding the availability of information and any third party participants and materials. If Hanover anticipates that it will not be able to provide the Research Services on the agreed upon schedule, Hanover shall keep Client regularly informed of the status of the Research Services and any substantial delay in delivery or any proposed revised schedule of delivery. Hanover will not be responsible for any delay in timelines due to (i) Client's modification of a project's goals or proposed Deliverables, (ii) Client's delay in providing relevant materials or responses or (iii) in the provision of any third party materials with respect to the Research Services.

Research Services may include, but are not limited to: custom research reports; survey design, administration and analysis; interviews with industry/issue experts; secondary research; data analysis; and benchmarking (product/service comparison, key performance and efficiency metrics). Deliverables will be provided in PowerPoint, PDF, Word, Excel, or Tableau formats. Client also has full access to phone based consultations with a Hanover account team member. Client agrees to designate a primary point of contact who will, to the best of his/her ability, conduct periodic calls with the assigned Hanover account team member to review performance





against our shared objectives, prioritize projects within the queue, and discuss current and future projects.

The Research Services may include Client's access to Hanover's research library (the "Research Library") on the Client Portal (as defined below). The Research Library uses Hanover's extensive research capabilities to provide an archive of redacted and/or anonymized reports to supplement the research commissioned by Client as well to assist in idea generation for new research. If Client's partnership with Hanover includes access to the Research Library, then Client understands and agrees that any reports provided by Hanover to Client under this Agreement may be used by Hanover for distribution through the Research Library, so long as Hanover appropriately deidentifies and/or anonymizes any Confidential Information of Client. The Research Services may also include Client's access to Hanover's client portal (the "Client Portal").

4. Intellectual Property Rights

Hanover acknowledges and agrees that Client owns the deliverables provided to Client as part of the Research Services under this Agreement (the "Deliverables"), except as may otherwise be set forth in this Section 4. Hanover Deliverables may consist of publications, surveys, data, reports, and other Hanover information and services that are custom commissioned by and for Client. In order for Hanover to provide to Client certain syndicated products, materials and information ("Syndicated Materials"), Hanover retains a non-exclusive, royalty-free, worldwide license to use, reproduce, and distribute the data or information created or developed by Hanover in the service of this Agreement, so long as Hanover does not repurpose or use any Confidential Information of Client. Client acknowledges and agrees that Hanover owns all intellectual property rights in the methodologies, processes or trade secrets used by Hanover to create the Deliverables and Research Services ("Hanover IP"). Hanover grants Client a non-exclusive, royalty-free, worldwide, irrevocable, non-transferable license to use, reproduce, and distribute the Hanover IP for its internal business purposes solely to the extent contained within the Deliverables. Client may not modify, reverse engineer or use the Hanover IP in any way to provide services that would be in competition with the Research Services. Deliverables may also contain third party data or materials, which Hanover may not convey ownership of to Client, but rather a license. Hanover or its third party provider may transfer or sublicense to Client usage rights. Certain types of sensitive personal data may be subject to additional usage restrictions as conveyed by Hanover or such third party provider to Client, and Client agrees to comply with any such restrictions of which it has been notified. Client also acknowledges and agrees that it will not own any publicly sourced information contained within the Deliverables, but that it may use such information in accordance with applicable law, including fair use under Section 107 of the Copyright Act. Client may distribute the Deliverables on an ad-hoc basis, including but not limited to any form of online distribution, so long as it is in compliance with the terms of this Agreement. Client may not modify any of the disclaimer language included in any Deliverables, and Client agrees not to resell the Deliverables in any way.

If Client's partnership with Hanover includes Syndicated Materials provided by Hanover (including any Syndicated Materials on the Client Portal), Client agrees that it will not distribute the Syndicated Materials and that such Syndicated Materials are for its internal use only. Syndicated Materials may not be published or reproduced without Hanover's prior written consent.



5. Service Fees, Invoicing & Additional Services

The fee payable by Client for the Term is \$75,000 per year (the "Service Fee"). Client agrees to pay the Service Fee in accordance with the below invoicing schedule and net 30 days from receipt of an accurate invoice. Failure to pay promptly may result in project postponement.

Invoice:

8/1/2019 – \$37,500

2/1/2020 - \$37,500

Client understands and agrees that there may from time to time be incidental costs not included in the Service Fee set forth above ("Additional Services"). Such Additional Services may include purchased database access, panel costs, survey incentives, translation costs, infographic development costs, postage/printing for mass mailings, etc. In the event such incidental costs are required to complete a project for Client, Hanover will discuss the details with Client and obtain written approval prior to engaging in those Additional Services. Client agrees to pay for all such Additional Services to either Hanover or directly to such third party vendor if requested. If Additional Services are estimated to cost more than \$10,000, Client shall either (1) contract directly with the third party vendor(s) for such Additional Services, or (2) pre-pay to Hanover the estimated costs for the Additional Services prior to the project kick-off.

6. Warranties; Liabilities

Hanover hereby warrants that the Research Services shall be performed in a competent and professional manner in accordance with industry standards by qualified personnel. Hanover agrees to indemnify and hold Client harmless against any and all claims that the Deliverables infringe the intellectual property right of a third party, provided that the relevant claim: (i) does not arise from any modification of the Deliverable, (ii) does not arise from the combination of the Deliverable with any other information, services, products or technology not supplied by Hanover, (iii) if the relevant claim is based on the content or materials contained in the Deliverables that are provided by a third party, then only to the extent that such third party has agreed to indemnify Hanover and its licensees. Client must provide prompt notice of such claim to Hanover. Client agrees to indemnify and hold Hanover harmless against any and all claims that any materials provided by Client infringe the intellectual property or privacy rights of a third party, provided that Hanover provides prompt notice of such claim to Client. EXCEPT AS OTHERWISE PROVIDED IN THE AGREEMENT, THE RESEARCH SERVICES ARE PROVIDED ON AN "AS IS" BASIS AND THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN PARTICULAR, HANOVER DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE DATA PROVIDED AS PART OF THE RESEARCH SERVICES. CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY MATERIAL BREACH OF PERFORMANCE UNDER THIS AGREEMENT SHALL BE, AT HANOVER'S OPTION EITHER: (1) RE-PERFORMANCE OF THE DEFECTIVE RESEARCH SERVICES OR (2) A REFUND OF MONIES PAID FOR THE DEFECTIVE RESEARCH SERVICES. CLIENT AND HANOVER BOTH AGREE THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, LOSS OF BUSINESS OR OTHER CONSEQUENTIAL, SPECIAL OR INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES UNDER THIS AGREEMENT. CLIENT AND HANOVER ALSO AGREE THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY IN ANY EVENT FOR AN AMOUNT GREATER THAN THE CURRENT YEAR'S SERVICE FEE UNDER THIS AGREEMENT.

7. Records and Audit

Hanover will maintain complete records of its operations and its arrangements with any subcontractors for Additional Services, and will provide such records to Client upon reasonable request for audit and review in accordance with applicable law.





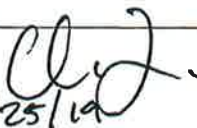
8. Governing Law

This Agreement shall be governed by the laws of the State of West Virginia.

9. Confirmation

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Services Agreement.

Both parties understand and agree that the contractual obligations of payment and services being rendered shall apply to any entity that acquires all or substantially all of either Hanover or Client's assets as a successor to the business.

Signature: 
Date: 6/25/19
Name: **Michael Littlefield**
Title: **Managing Director**
THE HANOVER RESEARCH COUNCIL LLC
4401 Wilson Boulevard, 4th Floor
Arlington, VA 22203

Signature: 
Date: 6-27-19
Name: Stephanie Smith
Title: Interim Director of Purchasing / CPO
Marshall University
1 John Marshall Drive
Huntington, WV 25755

WV-96
1/1/2019

**STATE OF WEST VIRGINIA
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"):

Vendor:

Contract/Lease Number ("Contract"):

Commodity/Service:

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**
2. **PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

Any language imposing any interest or charges due to late payment is deleted.
3. **FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
4. **RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.
5. **DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.
6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
7. **GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
8. **RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.
9. **LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.
10. **TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
11. **NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

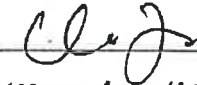
WV-96
1/1/2019

- 12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
- 13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State’s prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
- 14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
- 15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor’s benefit is deleted.
- 16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
- 17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
- 18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act (“FOIA”) (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State’s sole discretion.

Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
- 19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software’s terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
- 20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~strikethrough~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General’s authorized representative expressly agree to and knowingly approve those alterations.

State: Marshall University
 By: 
 Printed Name: Stephanie Smith
 Title: Interim Director of Purchasing / CPO
 Date: 6-27-19

Vendor: THE HANOVER RESEARCH COUNCIL, LLC
 By: 
 Printed Name: MICHAEL LITTLEFIELD
 Title: MANAGING DIRECTOR
 Date: 6-25-2019

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

CONSTRUCTION CONTRACTS: Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

ALL CONTRACTS: Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

AFFIRMATION: By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: The Hanover Research Council, LLC

Authorized Signature:  Date: 6/25/2019

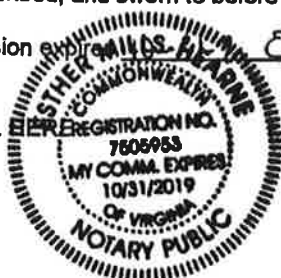
State of Virginia Michael Littlefield

County of Arlington to-wit:

Taken, subscribed, and sworn to before me this 25 day of June, 2019.

My Commission expires October 31st, 2019.

AFFIX SEAL



NOTARY PUBLIC

 ESTHER MILLS-HEARNE