USE THIS ONE   *Arms $115,000.00*

Software Proposal

We are exploring options to transition a software provider within the athletics department since our contract with JumpForward expires in June 2022. In this search, we are hoping to find a software that can continue to provide us with the resources we currently have, but ultimately find a software that is user-friendly and would benefit more departments

Software Needs

1. Recruiting Database / Monitoring
2. NCAA Rules Monitoring
3. Calendar and CARA Logs
4. Camps/Clinics
5. Ticket Office/Complimentary Admissions
6. Personnel Monitoring
7. Roster Management
8. Recruiting Graphics
9. Academic Progress and Tracking
10. Eligibility Certification
11. Financial Aid Tracking / Equivalency Computing
12. Forms Processing and Workflows
13. Alumni Interactions / Tracking
14. Interdepartmental processes utilizing documentation workflow system

Requested Software

Software Name: ARMS

Contract Length: 3 years

Price Estimate: Year 1: $45,000, Year 2: $35,000, Year 3: $35,000 (MAC Deal is $35,000 for all years after year 1)

Components this software covers (Observed through Demos)

Recruiting Database/Monitoring	X
NCAA Rules Monitoring	X
Calendar and CARA Logs	X
Camps / Clinics	X
Ticket Office / Complimentary Admissions	X
Personnel Monitoring	X
Roster Management	X
Academic Progress and Tracking	X
NCAA Reporting Information	X
Eligibility Tracking and Certification	X
Financial Aid Tracking / Equivalency Computing	X
Forms Processing and Workflows	X
Alumni Interactions / Tracking	X
Bolsters Interdepartmental Processes	X

ARMS SOFTWARE, LLC
ORDER FORM

808 Moorefield Park Drive, Suite 250
Richmond, VA 23236
804-325-1460 | www.armssoftware.com

ARMS

CONTRACT INFORMATION

Client Information		ARMS Software Sales Representative:	
University Name:	Miami University (Athletic Department) ("Client" or "you")		Zach Watson
Contact Name:	Alex Reid		
Telephone:	615-900-6056	Telephone:	804-325-1457
Fax:		Fax:	866-584-5108
Email:	reidap@miamioh.edu	Email:	sales@armssoftware.com
Order Form Information		**Additional Terms**	
Order Form Reference #	C12604	Payment Terms: Net 30	
Order Form Effective Date:	07/01/2022		
Order Form Expiration Date:	06/30/2025		

PURCHASE SUMMARY

Subscription Services				
Item #	Product	Term Start Date	Term End Date	Fee
1	Annual ARMS Subscription for Miami University Athletic Department. Annual Subscription includes unlimited use of ARMS Web and Mobile for entire Athletic Department.	07/01/2022	06/30/2023	$35,000.00
2	ARMS Initial Setup Fee (One Time Fee at Contract Inception)	N/A	N/A	$10,000.00
3	Annual Subscription Year 2	07/01/2023	06/30/2024	$35,000.00
4	Annual Subscription Year 3	07/01/2024	06/30/2025	$35,000.00
		Total Year 1		**$45,000.00**
		Total Year 2		**$35,000.00**
		Total Year 3		**$35,000.00**

1. Includes unlimited virtual training and support for Client's personnel. Also includes setup of Client data into ARMS.
2. ARMS will invoice Client for the Year #1 Subscription Fee and Initial Setup Fee upon contract inception. ARMS will invoice each subsequent year individually for payment at the Term Start Date of each year, i.e. 07/01/2023 and 07/01/2024.

To purchase, please complete the electronic signature process from which this contract was sent or sign below and send a scanned pdf file of this Order Form by e-mail to contracts@armssoftware.com.

Each party has executed this Order Form by its duly authorized representative.

Client	ARMS Software, LLC
DocuSigned by: *Mark Taylor* DC1902DF5F864F0...	*[signature]*
Signature	Signature
Mark Taylor	Mike Hurt
Printed Name	Printed Name
Chief Procurement Officer	CEO
Title	Title
5/5/2022	05/05/2022
Date	Date

ARMS SOFTWARE, LLC
Addendum 1 to Order Form C12604

808 Moorefield Park Drive, Suite 250
Richmond, VA 23236
804-325-1460 | www.armssoftware.com

ARMS

This Addendum 1 to Order Form C12604 is executed between **ARMS Software, LLC ("Company)** and the **Miami University (Athletic Department) ("Client")** as of March 17, 2022. The terms of Addendum #1 are described below and all other terms and conditions of Order Form C12604 remain in full force and effect.

Scope

WHEREAS, Client desires to have Company web host certain Client sponsored events (each an "Event") at various locations and to have Company act as coordinator for the internet registration of participants ("Participants") at the Events; and

WHEREAS, Company is willing to facilitate Client Events and act as internet registration coordinator for Event Participants under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **WEBSITE**

   Client hereby authorizes Company to create one or more websites (each a "Website") for the promotion of and registration of Participants at Client Events. During the Term of this Agreement, Client grants to Company a non-exclusive license to use, reproduce and post Client's information (including but not limited to any Client trademarks, service marks and other proprietary information of Client) on the Website to the extent deemed reasonably necessary by Company to properly and effectively promote Client's Events, all subject to Client's prior approval, not to be unreasonably withheld. Following initial Client approval, Client may request minor modifications or revisions to Client's content presented on the Website at no additional charge.

2. **TERM AND TERMINATION**

   2.1. The term and termination of this Addendum coincides with that of Order Form C12604.

3. **SERVICE**

   3.1. Client will establish and maintain all Event links and information in order to direct Participants to Client's home page on the Website for registration. Each Website will be dedicated solely to Client matters; no other client of Company shall be referenced on such Website. At the time of Participant registration, Company will provide Client electronic access to a portal regarding the particular Event and the Participant's registration. Company will make the Event Particulars available to the Participant in an email (addressed to Participant at the email address provided during the registration process) that provides a link and/or attachment containing such information following Participant's registration for a particular Event.

   3.2. Client can login to Company's system via password protected log on to access its Participants' information. Client is responsible for communicating directly with the Participant if there are any material changes in the Event, including but not limited to start/end times, dates, location, or cancellation. Client will notify Company promptly of any such changes regarding an Event in order to allow Company to make appropriate changes on the Website, and Company will implement such changes on the Website as soon as practicable.

   3.3. In the event Client cancels or reschedules an Event and a registered Participant is unable or unwilling to attend an alternate Event, then Client will promptly return all Event fees to such Participant.

4. **COMPENSATION**

   4.1. Client agrees to pay Company based upon the fee structure as follows:

      4.1.1. **Online Registration Fee** – Client agrees to pay Company a non-refundable fee of 3% of each Participant's Event registration fee generated via the Company hosted Website for Client Events.

      4.1.2. **Management and Administration Fee** – Client agrees to pay Company a non-refundable fee of 3% of each Participant's Event registration fee generated via the Company hosted Website for Client Events for management and administration of Client's Website.

      4.1.3. Company will collect the Online Registration and the Management and Administration Fees immediately upon receipt of a Participant's registration fee. Any refunds allowed to a Participant by Client will be the sole responsibility of the Client. If there is a credit card or other payment dispute between Client and a Participant, Company will keep any credit card charge backs from fees due to Client.

      4.1.4. All fees due and payable to Company hereunder are non-refundable regardless of cause, including but not limited to any cancellation or postponement of an Event or Participant is unable/unwilling to participate.

      4.1.5. Company will have Client funds deposited directly into client's bank account on a timeframe as mutually agreed upon by both parties.

5. **CLIENT RESPONSIBILITY**

5.1. Client will be responsible for any and all claims of damages, injury, or death of any person in connection with any Event, whether arising out of any actual negligence or omission caused by Client during any Event or not. Client acknowledges that Company is responsible solely for hosting the Website and registering Participants for Client's Events and as such, has no responsibility or liability relating to conducting the Event. ~~Client agrees to indemnify and hold Company harmless from any and all claims associated with damages, injury, or death of any person in connection with Client's camps.~~ Initials: _M84_____

5.2. Client agrees to be responsible for any loss, claim, or damages that arise ~~as a result of the cancellation of any Client Event and will indemnify and hold Company harmless from any associated claims from any parties.~~ Initials: _M84_____
If Client cancels any Events, then Client will be responsible for any costs associated with such cancelled Events.

5.3. Client represents and warrants that any promotional materials used by Client or provided to Company for any joint marketing purposes, including but not limited to i) written brochures; ii) Website screen pages; iii) Website links; iv) photo or graphic images; or v) any other content provided or used by Client included in such promotional materials are owned by or fully licensed to Client and that Client has full power and authority to permit Company to use such promotional materials and intellectual property for any purpose under this Agreement and neither Client nor Company is required to obtain the consent of any third party for such use.

5.4. Client represents and warrants that any promotional materials used by Client on its Website are in compliance with NCAA regulations or any other applicable federal, state, or local regulation that may apply. Client will defend, indemnify and hold Company harmless from any and all claims from any party including third parties associated with any infraction of any NCAA or other regulatory violations associated with content provided by Client.

To purchase, please complete the electronic signature process from which this contract was sent or sign below and send a scanned pdf file of this Order Form by e-mail to contracts@armssoftware.com.

Each party has executed this Addendum 1 by its duly authorized representative.

Client	**ARMS Software, LLC**
DocuSigned by:	
Mark Taylor	*[signature]*
DC1902DF5F864F0...	
Signature	Signature
Mark Taylor	Mike Hurt
Printed Name	Printed Name
Chief Procurement Officer	CEO
Title	Title
5/5/2022	05/05/2022
Date	Date

TERMS AND CONDITIONS

1. **Scope of Agreement**

    1.1. **Purchased Services.** "Purchased Services" means Services that Client or Client's Affiliates purchase under an Order Form, as distinguished from those provided pursuant to a free trial. ARMS shall make the Purchased Services available to Client pursuant to this Agreement and the relevant Order Forms during a subscription term. Client agrees that Client's purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by ARMS regarding future functionality or features.

    1.2. **Affiliates.** ARMS and Client agree that Affiliates of Client may acquire Purchased Services from ARMS or its Affiliates by entering an Order Form with ARMS (or an ARMS Affiliate) that incorporates the terms and conditions of this Agreement. The parties acknowledge that adjustments to the terms of this Agreement may be made in a particular Order Form. "**Affiliate**" means an entity that owns or controls, is owned or controlled by, or is under common control or ownership with a party, where "**control**" is the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

2. **Obligations of the Parties**

    2.1. **ARMS Responsibilities.** ARMS shall: (i) provide ARMS's basic support for the Purchased Services to Client at no additional charge, (ii) use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which ARMS shall give at least 8 hours notice via the Purchased Services, or (b) any unavailability caused by circumstances beyond ARMS's reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving ARMS employees), Internet service provider failures or delays, or denial of service attacks, and (iii) provide the Purchased Services only in accordance with applicable laws and government regulations.

    2.2. **Users.** "Users" means individuals who are authorized by Client to use the Purchased Services, for whom subscriptions to a Purchased Service have been ordered, and who have been supplied user identifications and passwords by Client (or by ARMS at Client's request). Users may include but are not limited to Client employees, consultants, contractors and agents, and third parties with which Client transact business.

    2.3. **Client Responsibilities.** Client shall (i) be responsible for Users' compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Client Data and of the means by which Client acquired Client Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify ARMS promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with the User Guide and applicable laws and government regulations. Client shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

    2.4. **On-Site Obligations.** If ARMS personnel are working on Client's premises (a) Client will provide a safe and secure working environment for ARMS personnel, and (b) ARMS will comply with all reasonable workplace safety and security standards and policies, applicable to Client's employees, of which ARMS is notified in writing by Client in advance.

3. **Payment**

    3.1. **Fees and Expenses.** Client shall pay all fees specified in all Order Forms hereunder. Except as otherwise specified herein or in an Order Form, (i) fees are based on services purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form. Fees are stated in United States Dollars, must be paid in United States Dollars, and, unless otherwise specified in writing, do not include out-of-pocket expenses or shipping costs. Client will reimburse ARMS for all reasonable expenses ARMS incurs in connection with the performance of Services. **Overdue Charges.** If any charges are not received from Client by the due date, then at ARMS's discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) ARMS may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 3.4 (Invoices).

    3.2. **Suspension of Service and Acceleration.** If any amount owing by Client under this or any other agreement for ARMS services is 30 or more days, ARMS may, without limiting ARMS's other rights and remedies, accelerate Client's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend ARMS's services to Client until such amounts are paid in full. ARMS will give Client at least 7 days' prior notice that Client's account is overdue, in accordance with Section 11.1 (Notices), before suspending services to Client.

    3.3. **Payment Disputes.** ARMS shall not exercise ARMS's rights under Section 3.1 (Overdue Charges) or 3.2 (Suspension of Service and Acceleration) if Client is disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.

    3.4. **Travel Expenses.** Client shall pay necessary travel expenses for ARMS personnel to travel to client's facilities for training or other support requested by Client. ARMS will invoice travel expenses per Client's travel policies and procedures available at the time of travel.

    3.5. **Email Graphics Templates.** As part of this order form, ARMS will provide to Client the services to provide email graphics as follows:

i. Client shall receive up to one (1) email graphics template loaded into the ARMS system for each individual sport to utilize as part of communication without additional charge.

ii. Client shall receive fifteen (15) total additional email graphics templates for the entire department that are usable by any sport or other sub-department without charge.

iii. ARMS will provide client an annual update to any email graphics template created by ARMS without charge.

iv. Additional email graphics templates above the allotted amount in this section will be at a cost of $150.00 per graphics template payable to ARMS.

v. Client will provide all pictures or other associated graphics necessary for ARMS personnel to create email graphics templates.

3.6 **Invoices.** If Client desires credit terms with respect to the payment of Fees, Client will reasonably cooperate with ARMS in establishing and periodically re-confirming Client's credit-worthiness. If credit terms are provided to Client, ARMS will invoice Client for the Fees upon ARMS's acceptance of the applicable Order Form and upon acceptance of any future order. Unless otherwise specified in an Order Form and subject to ARMS's approval of credit terms, Client will pay Fees and expenses, if any, no later than thirty (30) days from the date of each invoice; provided, however, that Fees for professional services, training, training credits and other service credits are due prior to delivery. Except as otherwise provided in this Agreement, any and all payments made by Client pursuant to this Agreement are non-refundable. ARMS reserves the right to suspend or cancel performance of all or part of the Services and/or change its credit terms if actual payment has not been received within thirty (30) days of the invoice date.

3.7 ~~Taxes. All Fees are exclusive of Taxes. Client will pay ARMS an amount equal to any Taxes arising from or relating to this Agreement or an applicable Order Form which are paid by or are payable by ARMS. "Taxes" means any form of sales, use, value added or other form of taxation and any fines, penalties, surcharges or interest, but excluding any taxes based solely on the net income of ARMS. If Client is required to withhold or deduct any portion of the payments due to ARMS, Client will increase the sum payable to ARMS by the amount necessary so that ARMS receives an amount equal to the sum it would have received had Client made no withholdings or deductions.~~ For the sake of clarity, Client is tax exempt.

Initials: _M̶S̶A̶_

4. **Proprietary Rights**

   4.1. **Software.** Each type of Software utilized as part of the Purchased Services is governed by a license grant or an end user license agreement, which license terms are contained or referenced in the appendices to this Agreement or the applicable Order Form.

   4.2. **Marks.** Unless expressly stated in an Order Form, no right or license, express or implied, is granted in this Agreement for the use of any ARMS, ARMS Affiliate, Client or third party trade names, service marks or trademarks, including, without limitation, the distribution of the Purchased Services utilizing any ARMS or ARMS Affiliate trademarks.

   4.3. **Client Data.** "Client Data" means all electronic data or information submitted by Client, or on behalf of Client by ARMS, to the Purchased Services. Subject to the limited rights granted by Client hereunder, ARMS acquires no right, title or interest from Client or Client's licensors under this Agreement in or to Client's Data, including any intellectual property rights therein.

   4.4. **Suggestions.** ARMS shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by Client, including Users, relating to the operation of the Services.

5. **Term and Termination**

   5.1. **Term and Termination of Order Form.** If Client or ARMS materially breaches the terms of an Order Form, and such breach is not cured within thirty (30) days after written notice of the breach is given to the breaching party, then the other party may, by giving written notice of termination to the breaching party, terminate the applicable Order Form and/or this Agreement; provided, however, that no cure period will be required for a breach of Section 6 of this Agreement. The termination of an individual Order Form will not terminate any other Order Form or this Agreement unless otherwise specified in the written notice of termination. Without prejudice to any other right or remedy of ARMS, in the event either party terminates an Order Form, Client will pay ARMS for all Purchased Services provided up to the effective date of termination.

   5.2. **Survival.** If this Agreement or an Order Form is terminated for any reason, Sections 3, 4, 5.2, 6, 7, 8, 9.2, 10, 11.1, 11.5-11.11, and 12 of this Agreement (as the same are incorporated into each Order Form) will survive such termination.

6. **Continuing Business.** Nothing in this Agreement will preclude or limit ARMS from providing Purchased Services, software, materials, or other services for itself or other clients, irrespective of the possible similarity of such Purchased Services, software, materials or services to those that might be delivered to Client. The terms of confidentiality in Section 8 will not prohibit or restrict either party's right to develop, use or market products or services similar to or competitive with the other party; provided, however, that neither party is relieved of its obligations under this Agreement.

7. **Limitation of Liability and Disclaimer of Damages**

   7.1. **Limitation of Liability.** FOR ALL EVENTS AND CIRCUMSTANCES, ARMS AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ALL ORDER FORMS, INCLUDING WITHOUT LIMITATION ON ACCOUNT OF PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STATUTE OR OTHERWISE WILL BE LIMITED TO DIRECT DAMAGES AND WILL NOT EXCEED THE AMOUNTS RECEIVED BY ARMS DURING TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING

RISE TO LIABILITY, WITH RESPECT TO THE PARTICULAR ITEMS (WHETHER PURCHASED SERVICES, SOFTWARE, OTHER SERVICES OR OTHERWISE) GIVING RISE TO LIABILITY UNDER THE MOST APPLICABLE ORDERING DOCUMENT, SUBJECT TO OHIO REVISED CODE 9.27(B).

Initials: _M8A_

7.2. Disclaimer of Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT OR AN ORDER FORM, IN NO EVENT WILL ARMS OR ITS AFFILIATES BE LIABLE TO CLIENT OR ITS AFFILIATES FOR DAMAGES OTHER THAN DIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION: ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER ARISING IN TORT, CONTRACT, OR OTHERWISE; OR ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY MALFUNCTIONS, REGULATORY NON-COMPLIANCE, DELAYS, LOSS OF DATA, LOST PROFITS, LOST SAVINGS, INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATORY PROFITS, EVEN IF ARMS OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LIABILITY FOR THESE DAMAGES WILL BE LIMITED AND EXCLUDED EVEN IF ANY EXCLUSIVE REMEDY PROVIDED FOR IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

8. Confidentiality

8.1. Obligations. During the term of this Agreement, both parties agree that (i) Confidential Information will be used only in accordance with the terms and conditions of this Agreement; (ii) each will use the same degree of care it utilizes to protect its own confidential information, but in no event less than reasonable care; and (iii) the Confidential Information may be disclosed only to employees, agents and contractors with a need to know, and to its auditors and legal counsel, in each case, who are under a written obligation to keep such information confidential using standards of confidentiality not less restrictive than those required by this Agreement. Both parties agree that obligations of confidentiality will exist for a period of two (2) years following initial disclosure of the particular Confidential Information. "Confidential Information" means all information disclosed by either ARMS or Client ("Disclosing Party") to the other party ("Recipient") during the term of this Agreement that is either (i) marked confidential or (ii) disclosed orally and described as confidential at the time of disclosure and subsequently set forth in writing, marked confidential, and sent to the Recipient within thirty (30) days following the oral disclosure.

8.2. Exclusions. Confidential Information will not include information which: (i) is or later becomes publicly available without breach of this Agreement, or is disclosed by the Disclosing Party without obligation of confidentiality; (ii) is known to the Recipient at the time of disclosure by the Disclosing Party; (iii) is independently developed by the Recipient without use of the Confidential Information; (iv) becomes lawfully known or available to the Recipient without restriction from a source having the lawful right to disclose the information; (v) is generally known or easily ascertainable by parties of ordinary skill in the business of the Recipient; or (vi) is software code in either object code or source code form that is licensed under an open source license. The Recipient will not be prohibited from complying with disclosure mandated by applicable law if, where reasonably practicable and without breaching any legal or regulatory requirement, it gives the Disclosing Party advance notice of the disclosure requirement; (vii) is subject to the Ohio Public Records Act (Ohio R.C. 149.43 et seq.

Initials: _M8A_

9. Representations and Warranties

9.1. General Representations and Warranties. ARMS represents and warrants that: (a) the Purchased Services will be performed in a professional and workmanlike manner by qualified personnel; (b) it has the authority to enter into this Agreement with Client.

9.2. Disclaimer of Warranty. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 9.1 OR BY A THIRD PARTY VENDOR DIRECTLY TO CLIENT UNDER A SEPARATE AGREEMENT, THE PURCHASED SERVICES ARE PROVIDED BY ARMS "AS IS" AND WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. ARMS DOES NOT GUARANTEE OR WARRANT THAT THE USE OF THE PURCHASED SERVICES WILL BE UNINTERRUPTED, COMPLY WITH REGULATORY REQUIREMENTS, BE ERROR FREE OR THAT ARMS WILL CORRECT ALL SOFTWARE ERRORS. FOR THE BREACH OF THE WARRANTIES SET FORTH IN SECTION 9.1, CLIENT'S EXCLUSIVE REMEDY, AND ARMS'S ENTIRE LIABILITY, WILL BE THE REPERFORMANCE OF DEFICIENT SERVICES, OR IF ARMS CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALLY REASONABLE MANNER, CLIENT MAY TERMINATE THE RELEVANT PURCHASED SERVICES. Client agrees that it is solely responsible for the results obtained from the use of the Purchased Services.

10. Governing Law/Consent to Jurisdiction. The validity, interpretation and enforcement of this Agreement will be governed by and construed in accordance with the laws of the United States and of the State of Ohio without giving effect to the conflicts of law provisions or principles thereof to the contrary. All disputes arising out of or relating to this Agreement will be submitted to the exclusive jurisdiction of the state and federal courts of competent jurisdiction located in the State of Ohio, and each party irrevocably consents to such personal jurisdiction and waives all objections to this venue. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal or state laws or regulations are enacted, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted.

Initals: _M8A_

11. Miscellaneous

11.1. Notices. Notices must be in English, in writing, and will be deemed given when delivered by hand or five (5) days after being sent using a method that provides for positive confirmation of delivery to the respective addresses or facsimile numbers indicated in an Order Form; provided that any notice from Client to ARMS includes a copy sent to: ARMS Software, LLC., Attention: Managing Partner, 808 Moorefield Park Drive, Suite 250, Richmond, VA 23236.

11.2. Assignment. This Agreement is binding on the parties to this Agreement and nothing in this Agreement or in any Order Form grants any other person or entity any right, benefit or remedy of any nature whatsoever, except for the parties' Affiliates as expressly provided in this Agreement. This Agreement is assignable by either party only with the other party's prior written consent, which will not be unreasonably withheld, conditioned or delayed; provided, however, either party may, upon written notice and without the prior approval of the other party, (a) assign this Agreement to an Affiliate as long as the Affiliate has sufficient credit to satisfy its obligations under this Agreement and the scope of Service is not affected; and (b) assign this Agreement pursuant to a merger or a sale of all or substantially all of such party's assets or stock.

11.3. Independent Contractor. ARMS is an independent contractor and nothing in this Agreement or related to ARMS's performance of any Order Form will be construed to create an employment or agency relationship between Client (or any Client personnel) and ARMS (or any ARMS personnel). Each party will be solely responsible for supervision, direction, control and payment of its personnel, including applicable taxes, deductions, other payments and benefits. ARMS may subcontract Services under an Order Form to third parties or Affiliates without the approval of Client; provided, however, that (a) subcontractors agree to protect Client Confidential Information, and (b) ARMS remains responsible to Client for performance of its obligations hereunder.

11.4. Force Majeure. Neither party will be liable for nonperformance or delays caused by acts of God, wars, riots, strikes, fires, floods, hurricanes, earthquakes, government restrictions, terrorist acts or other causes beyond its reasonable control.

11.5. Dispute Resolution. Each party agrees to give the other a written description of any problem(s) that may arise and to make a good faith effort to amicably resolve any such problem before commencing any proceeding. Notwithstanding the foregoing, either party may take any action reasonably required to protect such party's rights. No claim or action, regardless of form, arising out of this Agreement or an Order Form may be brought by either party more than one (1) year after the cause of action has accrued.

11.6. Headings. All headings contained in this Agreement are inserted for identification and convenience and will not be deemed part of this Agreement for purposes of interpretation.

11.7. Severability. If any provision of this Agreement is held invalid or unenforceable for any reason but would be valid and enforceable if appropriately modified, then such provision will apply with the modification necessary to make it valid and enforceable. If such provision cannot be so modified, the parties agree that such invalidity will not affect the validity of the remaining provisions of the Agreement.

11.8. Waiver. The delay or failure of either party to exercise any rights under this Agreement will not constitute or be deemed a waiver or forfeiture of such rights. No waiver will be valid unless in writing and signed by an authorized representative of the party against whom such waiver is sought to be enforced.

11.9. Complete Agreement. Each Order Form (a) is a separate agreement and is deemed to incorporate this Agreement, unless otherwise expressly provided in that Order Form; (b) constitutes the exclusive terms and conditions with respect to the subject matter of that Order Form, notwithstanding any different or additional terms that may be contained in the form of purchase order or other document used by Client to place orders or otherwise effect transactions under this Agreement; and (c) represents the final, complete and exclusive statement of the agreement between the parties with respect thereto, notwithstanding any prior written agreements or prior and contemporaneous oral agreements with respect to the subject matter of the Order Form. In the event of any conflict between this Agreement, any Order Form and any end user license agreement for Purchased Services, this Agreement will take precedence unless otherwise expressly provided in the Order Form. Notwithstanding any provision to the contrary in this Agreement, any applicable end user license agreement will be governed by the laws of the Commonwealth of Virginia and of the United States, without regard to any conflict of law provisions. Any claim relating to the provision of the Services by ARMS, its Affiliates or their respective personnel will be made against ARMS alone.

11.10. **Amendment.** Neither this Agreement nor any Order Form may be amended or modified except in a writing signed by the parties, which writing makes specific reference to this Agreement or the applicable Order Form.

11.11. Counterparts and Facsimile Signature. In the event this Agreement is executed with signatures, this Agreement may be executed in counterparts, each of which will be deemed an original and all of which will constitute one and the same document. The parties may exchange signature pages by facsimile, electronic delivery of scanned document, or electronic signature and such signatures will be effective to bind the parties to all the terms contained in this Agreement.

12. Waiver of Jury Trial

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED UNDER THIS AGREEMENT.

SIDE LETTER AMENDMENT

This Side Letter Amendment (this "Amendment") is made by and between is made by and between Miami University ("Miami"); and ARMS SOFTWARE, LLC   ("Company").

WHEREAS, Miami and Company are parties to an agreement titled:
Terms and Conditions   ,
which may be amended from time to time by the parties, including all exhibits, schedules, and addenda thereto (the "Underlying Agreement");

WHEREAS, the Underlying Agreement may include certain first-party and/or third party supplemental agreements directly or indirectly referenced within the Underlying Agreement or that are required to be accepted by Miami as a condition of accepting Company's goods and/or services, including, without limitation, end-user license agreements, click-wrap agreements, and other non-negotiated terms and conditions provided by Company (the "Supplemental Agreements," and together with the Underlying Agreement, the "Agreement"); and

WHEREAS, Miami and Company wish to modify the Agreement pursuant to the terms and subject to the conditions contained in this Amendment.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties hereto agree as follows:

1.   State Law Requirements. Company hereby acknowledges that Miami, as a public university, is subject to the laws of the State of Ohio, including without limitation the Ohio Constitution and applicable sections of the Ohio Revised Code. Accordingly, Miami is prohibited from entering into any agreement that contains the provisions listed in Ohio R.C. 9.27(B)(1)-(9) (the "Prohibited Provisions"). To the extent that the Agreement contains Prohibited Provisions, pursuant to Ohio R.C. 9.27(C)-(D), Company hereby agrees that (a) all Prohibited Provisions contained in the Agreement are void *ab initio*, are hereby deemed deleted in their entirety, and shall not be binding on Miami; and (b) the Agreement shall otherwise be enforceable as if it did not contain such Prohibited Provisions. Further, Company hereby represents, warrants, covenants, and/or agrees (as applicable) as follows: (u) Company will not attempt to enforce any of the Prohibited Provisions against Miami; (v) Company is not subject to an "unresolved" finding for recovery under Ohio R.C. 9.24; (w) Company does not and will not discriminate on the basis of religion, race, color, creed, national or ethnic origin, sex, age, disability, political affiliation, gender identity or expression, sexual orientation, pregnancy, or status as a veteran or member of the military; (x) Company is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of the Agreement as outlined in Ohio R.C. 9.76; (y) Company shall comply with, and shall cause all of its employees, contractors, agents, and representatives to comply with, all laws, regulations, and ordinances applicable to Company's business operations and performance under the Agreement; and (z) Company shall not provide any services to Miami under the Agreement outside of the United States of America, and will abide by all requirements of Ohio Executive Order 2019-12D.

2.   Public Records Act. Company hereby acknowledges that Miami, as a public university, is subject to the Ohio Public Records Act (Ohio R.C. 149.43 *et seq*.), and is obligated to promptly produce certain of its records when requested by the public. Nothing in the Agreement shall prevent Miami from fully complying with the Ohio Public Records Act. Company hereby authorizes Miami to disclose copies of this Amendment, the Agreement, and all invoices, receipts, and purchase orders related to the Agreement pursuant to a request made under the Ohio Public Records Act without first providing Company notice.

3.   Governing Law and Forum. Notwithstanding anything to the contrary in the Agreement, this Amendment and the Agreement, and all related documents, including all exhibits and attachments to any of the foregoing documents, and all disputes and other matters arising out of or relating to this Amendment and Agreement, whether sounding in contract, tort, statute, or otherwise, shall be governed by, and construed in accordance with, the laws of the State of Ohio, without giving effect to any jurisdiction's conflict of laws provisions.

4.   Liability. Notwithstanding anything to the contrary in the Agreement, Miami agrees only to be liable for the acts and omissions of its officers and employees engaged in the scope of their employment arising under the Agreement. Miami's liability shall be subject in all cases to the immunities and limitations of the Ohio Court of Claims Act codified in Chapter 2743 of the Ohio Revised Code and as provided in Ohio R.C. 9.86 and 9.87, as amended. Company agrees that nothing in this Amendment or in the Agreement shall be construed as a waiver of the sovereign or qualified immunity of Miami, Miami's employees, and/or the State of Ohio.

5.   Miami Marks. Notwithstanding anything to the contrary in the Agreement, Company may not use any of Miami's trademarks, service marks, logos, trade names, names, or brand indicia (collectively, "Miami Marks") without first obtaining the written consent of Miami's Office of Trademarks and Licensing.

6.   Insurance. The terms and conditions located in Section 2.04 of the Miami University Purchasing Handbook are hereby incorporated into this Amendment by this reference. At all times during the term of the Agreement, Company shall procure and maintain, at its sole cost and expense, all insurance coverage required in Section 2.04 of the Miami University Purchasing Handbook. For avoidance of doubt, Company shall add "***Miami University and its trustees, officers, and employees***" as additional insureds to Company's Commercial General Liability policies and Commercial Automobile Liability policies. **Client accepts that Company's Coverage Limits for Professional Errors & Omissions is $2,000,000 per Occurrence and $2,000,000 Aggregate.**

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7.   Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement when and to the extent such failure or delay is caused by or results from the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of the Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) regional or global epidemics, pandemics, and other similar health threats (e.g. coronavirus, influenza, etc.); and (i) other similar events beyond the reasonable control of the party impacted by the Force Majeure Event (the "Impacted Party"). The Impacted Party shall give written notice of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue ("FM Notice"). The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the Force Majeure Event. In the event that the Force Majeure Event persists (or will persist) for a period of (20) days following delivery of the FM Notice, either party may terminate the Agreement by providing the other party written notice. In the event of termination hereunder, (y) Miami will pay any undisputed fees for services fully performed or goods completely delivered in accordance with the Agreement prior to the date of the FM Notice; and (z) Company shall refund all unearned fees, costs, deposits, and/or prepayments made by Miami prior to date of the FM Notice.

8.   Incorporation of Amendment; Entire Agreement; Effective Date; Severability; Effect of Amendment. The terms and conditions contained in this Amendment, including the above recitals, are hereby deemed incorporated into the Agreement. This Amendment and the Agreement, including any schedules or exhibits attached thereto, and any amendments or addenda thereto, constitute the entire understanding and agreement of the parties with respect to the subject matter hereof and thereof, and

supersedes all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the parties. In the event of a conflict between the terms and conditions contained in this Amendment and the terms and conditions contained in the Agreement, the terms and conditions contained in this Amendment shall control. This Amendment shall be effective as of the effective date of the Underlying Agreement (the "Effective Date"), and shall terminate upon the expiration or earlier termination of the Underlying Agreement. If any term or provision of this Amendment or the Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Amendment or the Agreement, or invalidate or render unenforceable such term or provision in any other jurisdiction. Except as otherwise set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms.

9.   Termination for Funding; Termination for Convenience. The Agreement is subject to all necessary funds being available or encumbered pursuant to Ohio Revised Code section 126.07. If the state legislature-approved appropriations do not include fund for the continuation of the Agreement for any fiscal year after the first year and the Miami budget has no funds from any other sources to continue the Agreement, then Miami may immediately terminate the Agreement without penalty or additional costs by providing Company notice. ~~Further, Miami, in its sole discretion, may terminate the Agreement at any time without~~ *MBA* ~~cause, and without liability to Company, by providing Company with at least thirty (30) days' prior written notice.~~ Miami will pay any undisputed fees for services performed or goods delivered in accordance with the Agreement that were rendered and/or delivered prior to the effective date of the termination.

10.   Miami Personal Information. (If applicable)

        (a)   As used herein, "Personal Information" means (i) any information that Company and/or its employees, contractors, agents, or representatives collect, process, receive, or otherwise obtain from or on behalf of Miami or any of its employees or students that does or can identify a specific student or employee of Miami, or by or from which a specific student or employee may be identified, contacted, or located, such as an individual's name, address, social security number, etc., and any other information relating to such identified or identifiable individual; (ii) all "nonpublic personal information," as defined under the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); (iii) "protected health information" as defined under the Health and Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d); (iv) "education records" as defined under the Family Educational Rights and Privacy Act (20 U.S.C. 1232g et seq.) ("FERPA"); and (v) "personal data" as defined under the European Union General Data Protection Regulation 2016/679. To the extent that Company has access to "education records," it is deemed a "school official" (as such terms are defined under FERPA).

        (b)   If Company uses Miami's Personal Information in the performance of the Agreement, then Company hereby agrees (i) to use Personal Information only for the purposes of performing its obligations under the Agreement; (ii) to not disclose or otherwise make available Personal Information to any third party; provided that Company may disclose Personal Information to its employees and legal advisors who have a "need to know," who have been apprised of the restrictions contained in this paragraph, and who are themselves bound by confidentiality requirements at least as restrictive as those set forth herein; (iii) treat Proprietary Information as confidential information, and protect and safeguard the confidentiality of the Personal Information with at least the same degree of care as Company would protect its own confidential information, but in no event with less than a commercially reasonable degree of care; and (iv) to promptly notify Miami in the event Company becomes aware of any loss or disclosure of any Personal Information. Company hereby represents, warrants, and covenants (as applicable) that it has implemented and will continue to maintain sufficient information security protocols to secure and protect the confidentiality of all the Personal Information in Company's possession or control (or in the possession or control of its employees, contractors, and other representatives).

11. <u>Accessibility</u>. The terms and conditions contained in this Section shall only apply if the Agreement involves Miami's purchase of software, software as a service, or similar products and services from Company ("<u>Technology</u>"). Company shall ensure that the Technology complies with the accessibility requirements of section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194; and the Web Content Accessibility Guidelines 2.0, level AA (collectively, the "<u>Accessibility Requirements</u>"). If the Technology does not meet the Accessibility Requirements, then Company hereby agrees that Miami may terminate the Agreement without further liability to Company. In addition to any and all other obligations to indemnify and hold harmless Miami under the Agreement, Company shall also indemnify and hold harmless Miami from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, arising out of or resulting from Company's failure to comply with this Section. **Company shall have thirty (30) days, after written notification by Miami specifying any Accessibility Issue, to cure the issue(s) before Miami may Terminate the Agreement per this Section.**

[Signature Page Follows]
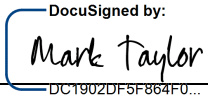
SIDE LETTER AMENDMENT

Signature Page

IN WITNESS WHEREOF, the parties have duly executed this Amendment on the dates set forth below to be effective for all purposes as of the Effective Date. This Amendment may be executed in any number of counterparts, each of which is an original, and all of which together constitute only one agreement between the parties. Delivery of an executed counterpart of this Amendment by facsimile, electronic mail, or other electronic means has the same effect as delivery of an executed original.

MIAMI:

Miami University,
a body politic and corporate established and
existing under the laws of the State of Ohio

By:_____ *Mark Taylor*

Name:_____ Mark Taylor

Title:_____ Chief Procurement Officer

Date:_____ 5/5/2022

COMPANY:

ARMS SOFTWARE, LLC

By:_____

Name:_____ Mike Hurt

Title:_____ CEO

Date:_____ **05/05/2022**

Approved and updated by Miami's Office of General Counsel on December 21, 2021.

DocuSign

Certificate Of Completion

Envelope Id: D9F5E700F58C4D96B0F8FF6ED9DFCCFD		Status: Sent
Subject: Please DocuSign: ARMS+APPROVAL_MIAMI_EDITED_V2_and_Side_Amendment.pdf		
State Abbreviation: OH		
Source Envelope:		
Document Pages: 13	Signatures: 0	Envelope Originator:
Certificate Pages: 3	Initials: 0	Smith Scott
AutoNav: Enabled		smithsw2@miamioh.edu
EnvelopeId Stamping: Enabled		IP Address: 208.102.70.64
Time Zone: (UTC-08:00) Pacific Time (US & Canada)		

Record Tracking

Status: Original	Holder: Smith Scott	Location: DocuSign
5/4/2022 11:56:13 AM	smithsw2@miamioh.edu	

Signer Events	Signature	Timestamp
Mike Hurt		Sent: 5/4/2022 12:35:00 PM
Mike.hurt@armssoftware.com		Viewed: 5/4/2022 12:35:44 PM
CEO		
ARMS Software, LLC		
Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 5/4/2022 12:35:44 PM ID: 8ad760e3-195f-4acf-81e5-c7aec48770c4 Company Name: Miami University		
Mark Taylor		
mataylor@miamioh.edu		
Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Zach Watson	COPIED	Sent: 5/4/2022 12:35:02 PM
zach.watson@armssoftware.com		
Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 5/4/2022 12:03:26 PM ID: 94dbcd21-cf27-48b3-8745-c5b96ef83bd1 Company Name: Miami University		
Allen Sizemore		
sizemoj7@miamioh.edu		
Security Level: Email, Account Authentication (None)		

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Heather Vollmer dudleyhl@miamioh.edu Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/4/2022 12:02:08 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Miami University (we, us or University) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing you with such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access.

DocuSign

Carbon Copy Events	Status	Timestamp
Heather Vollmer dudleyhl@miamioh.edu Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**COPIED**	Sent: 5/5/2022 10:37:17 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/5/2022 9:20:43 AM
Certified Delivered	Security Checked	5/5/2022 10:36:50 AM
Signing Complete	Security Checked	5/5/2022 10:37:14 AM
Completed	Security Checked	5/5/2022 10:37:17 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

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- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access.