

**STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG**

**FIRST AMENDMENT TO THE AGREEMENT TO PROVIDE
FURNITURE, INSTALLATION, AND RELATED PRODUCTS AND SERVICES**

THIS FIRST AMENDMENT TO THE AGREEMENT TO PROVIDE FURNITURE, INSTALLATION, AND RELATED PRODUCTS AND SERVICES (this "First Amendment") is made and entered into this 9th of April 2020, by and between Herman Miller, Inc., a Michigan corporation doing business in North Carolina (the "Company"), and the City of Charlotte, a North Carolina municipal corporation (the "City").

Statement of Background and Intent

- A. The City of Charlotte and the Company entered into an Agreement for furniture, installation, and related products and services dated January 1, 2020 (the "Contract") pursuant to which the Company agreed to provide furniture, installation, and related products and services for the City of Charlotte.
- B. The parties now desire to amend the Contract to incorporate certain other changes.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereby agree to the following:

AGREEMENT

- 1. The terms of the Contract are restated by and incorporated into this First Amendment by reference.
- 2. Defined terms used in this First Amendment shall have the same meaning as are assigned to such terms in the Contract.
- 3. Section 29 of the Contract ("Miscellaneous") is hereby appended as follows:

29.6. FORCE MAJEURE.

29.6.1 The Company shall not be liable for any failure or delay in the performance of its obligations pursuant to the Contract, and such failure or delay shall not be deemed a default of the Contract or grounds for termination hereunder if all of the following conditions are satisfied: (i) if such failure or delay: (a) could not have been prevented by reasonable precaution, and (b) cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and (ii) if, and to the extent, such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, public health emergencies, epidemics, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions or court order.

29.6.2 Upon the occurrence of an event which satisfies all of the conditions set forth above (a "Force majeure Event") the Company shall be excused from any further performance of those of its obligations pursuant to this Contract affected by the Force Majeure Event for as long as (i) such Force Majeure Event continues; and (ii) the Company continues to commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

29.6.3 Upon the occurrence of a Force Majeure Event, the Company shall promptly notify the City by telephone (to be confirmed by written notice within five (5) days of the

Contract #202000622:
Amendment #1:
Vendor #308726:

inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Company from performing its obligations for more than five (5) days, the City may terminate this Contract.

29.6.4 Notwithstanding anything contained herein to the contrary, strikes, slow-downs, walkouts, and industrial disputes of the Company or its subcontractors shall not constitute "Force Majeure Events" and are not excused under this provision.

4. Exhibit C of the Contract ("Proposed Response Forms") is hereby appended as follows:

REQUIRED FORM 4 – DELIVERY AND WARRANTY

Delivery: Company must state the normal delivery time (in calendar days) and any options for expediting delivery: To match your particular product and scheduling needs, we offer these lead time options, 10- Day or Less, 20-Day or Less, Assigned, and Emergency Response. Please see "Additional Programs and Services".

Failure to meet a delivery time will not be considered a breach of this section if such failure is due to a Force Majeure Event as described in Section 29.6 above.

5. Except to the extent specifically provided above, this amendment shall not be interpreted or construed as waiving any rights, obligations, remedies, or claims the parties may otherwise have under the Contract.
6. In all other respects and except as modified herein, the terms of the Contract shall remain in force and effect.

[Signature Page Follows]

Contract #202000622:
Amendment #1:
Vendor #308726:

IN WITNESS WHEREOF, and in acknowledgement that the parties hereto have read and understood each and every provision hereof, the parties have caused this First Amendment to be executed as of the date first written above.

HERMAN MILLER, INC.

DocuSigned by:
BY: Jay Lanenga
480425C39940450...
(signature)

PRINT NAME: Jay Lanenga

TITLE: Director of Contracts

DATE: April 13, 2020 | 10:56 AM EDT

CITY OF CHARLOTTE:
CITY MANAGER'S OFFICE

BY: _____
(signature)

PRINT NAME: _____

TITLE: _____

DATE: _____



**CITY OF
CHARLOTTE**
Digital Contract Routing Form
Non-Encumbered

Date Submitted: May 27, 2020

Submitted by: Genetta N. Carothers

Submitter email: gcarothers@charlottenc.gov

Contract #: 2020000622

Amendment #: 1

Contract Name: Citywide Furniture (City Dist. Alfred Williams & Co.)

Vendor Legal Name: Herman Miller, Inc.

Vendor #: 308726

REQUIRED ATTACHMENT(S):

Use the Paperclip icon to attach a full Contract Document Routing Packet for review by the authorized City individual with signature authority. The Routing Packet **MUST** include all required components per the direction provided at:

<https://cnet/kbus/finance/Finance/pm/Pages/Contract-Review.aspx>

The following signatures, once completed, shall be incorporated by reference into the contractual document identified above.

City of Charlotte

eSigned via SeamlessDocs.com
Angela Charles
Key: f99f2b82106208b08004836a6d9e6b831
