



VCU

Procurement Services

CONTRACT RENEWAL

DATE: 12/14/2023

CONTRACT TITLE: Rybbon

CONTRACT NO: C0001829 (MSA and Rybbon Enterprise Plan Agreement Effective December 2, 2021)

NEW START DATE: 12/1/2023

NEW END DATE: 12/1/2024

RENEWAL NUMBER: 1 of 3

CONTRACTOR: Rybbon Inc

PRICING:

Select one of the options below.

- Pricing remains the same as the previous contract period.
- Attached is the revised pricing in accordance with the contract terms.

PAYMENT METHOD:

VCU is migrating away from processing payments via paper check as much as possible. If you have not already done so, we strongly encourage the use of our electronic payment options.

For more information about costs and **to sign up**, please visit [Vendor Invoicing and Payment](#).

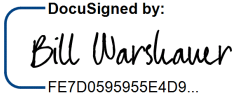
CERTIFICATE OF INSURANCE:

- By signing and submitting this contract renewal letter Contractor certifies that it will maintain the insurance coverages required at the time the contract was awarded. At renewal, Contractor shall have a new Certificate of Insurance listing Virginia Commonwealth University as the "Additional Insured", citing the contractor's name and contract number, emailed to sbkessinger@vcu.edu or mailed to Virginia Commonwealth University Risk Management, P.O. Box 843040, Richmond, VA.

All other terms and conditions of C0001829 shall remain unchanged and in full force and effect.

RESPONSE:

Name of Firm

Signature DocuSigned by:
Bill Warshauer
FE7D0595955E4D9...

Name Printed Bill warshauer

Title VP North America In

Date 2/7/2024



VCU

Procurement Services

Date: October 26, 2022

Mr. Jignesh Shah
Rybbon, Inc
1751 Pinnacle Drive
McLean, VA 22102

RE: Contract #: C0001829
Master Services Agreement

Procurement Services
University Purchasing

912 W Grace Street, 5th Floor
Box 980327
Richmond, Virginia 23284

804 828-1077
Fax: 804 828-7837
TDD: 1-800-828-1120
www.vcu.edu/procurement

Dear Mr. Shah,

The Master Services Agreement, executed December 2, 2021 and Amended May 1, 2022, for Gift Card Fulfillment Services expires December 1, 2022. Virginia Commonwealth University intends to renew this Master Services Agreement for the period December 2, 2022 through December 1, 2023 in accordance with the renewal terms of the Master Services Agreement.

Please indicate below your acceptance of this contract renewal. Your signature constitutes your acceptance of the next renewal term of the contract.

This contract is an optional use contract. VCU is in no way required to make purchases from the Contractor and may, in its sole discretion, purchase the identical and/or similar goods/services from other sources. Any estimates/quantities identified on a purchase order issued against this contract do not represent a purchase commitment by VCU.

- Pricing remains the same as the previous contract period.
- Attached is the revised pricing in accordance with the contract terms.
- By signing and submitting this contract renewal letter Contractor certifies that it will maintain the insurance coverages required at the time the contract was awarded. At renewal, Contractor shall have a new Certificate of Insurance listing VCU as the "Additional Insured", citing the contractor's name and contract number, mailed to VCU Risk Management, Box 843040, Richmond, VA.

Please return this document to Jason Lofgreen lofgreenj@vcu.edu no later than November 10, 2022. If you have any questions, please contact me at (804) 828-1070.

Sincerely,

Amy Anthes
Category Manager



11/10/2022

Contract #: C0001829 Master Services Agreement

RESPONSE:

Rybbon, a Blackhawk Network Business

Name of Firm

DocuSigned by:

Jignesh Shah

Signature

Jignesh Shah

Name Printed

Head of Global Integrated Incentives

Title

12/20/2022

Date

MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT (“MSA”), effective as of the last date executed (“Effective Date”), is between Virginia Commonwealth University, a corporation and an institution of higher education of the Commonwealth of Virginia, whose address is 924 West Franklin Street, Richmond, VA 23284 (“VCU”, or “University”), and Rybbon, Inc., a Delaware corporation, with offices located at 1751 Pinnacle Drive, McLean, VA, 22102, (“Rybbon” or “Contractor”). VCU and Rybbon are sometimes referred to individually as a “Party” and collectively as the “Parties.”

WHEREAS, VCU issued a Request For Proposals to solicit proposals for gift card fulfillment vendors, RFP # 129439690AA issued March 13, 2020 (the “RFP”); and

WHEREAS, Rybbon submitted its proposal dated April 13, 2020, (the “Proposal”) wherein it wished to be considered for the University’s gift card fulfillment vendor, as more fully specified therein (the “Services”); and

WHEREAS, VCU considered all proposals submitted, including the Rybbon Proposal, and VCU now desires to award Rybbon with a contract for the Services, as set forth in greater detail below; and

WHEREAS, Rybbon desires to perform the Services as set forth herein.

NOW THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **CONTRACT DOCUMENTS.** The contract documents are integrated and shall consist of: (A) this MSA and (B) the Rybbon SAAS Terms, including any amendments, supplements or addenda thereto, (all of the foregoing, collectively, the “Contract”). Should a conflict arise between the foregoing MSA and SAAS Terms, this MSA shall control.
2. **SERVICES.** Rybbon shall provide digital rewards/gift cards through its web site in conjunction with the University’s studies, surveys, and other rewards programs. The Services shall include Rybbon’s web site, Application Programming Interface (“API”), and connectors for integration with third-party services. Rybbon shall make available to University or otherwise establish separate log on information for each University department such that one University Principle Investigator cannot see the study data of another University’s Principle Investigator.
3. **RYBBDON’S RESPONSIBILITIES.** Rybbon shall provide the following:
 - A. Ability to create a custom data field to capture a non-identifying study participant number, unique for each of the University’s studies , surveys and rewards programs, passed from Qualtrics, Survey Monkey, or other web survey software, and include that information in reports and downloads available to the University.
 - B. A unique gift card link associated with the electronic gift card/incentive for each program participant (the “Respondent”) in each of the University’s studies , surveys, and rewards programs, which shall enable the University to audit, track, and maintain records for financial purposes. The availability of rewards may be subject to approval from the merchant providing the reward. The pricing of rewards are subject to change.

DS
CR

12/1/2021

DS
JM

Rybbon is not responsible for the loss of any value associated with a reward once it has been claimed.

- C. A choice of options for gift cards with various retailers or bank issued prepaid cards.
- D. Electronic delivery of gift cards.
- E. Reporting capabilities on funds spent, merchant fees, rewards delivered , available refunds to VCU for unclaimed rewards .
- F. Rybbon shall ensure funds remaining in a VCU account at the conclusion of a study will be refunded to the appropriate VCU department sponsor of such study within thirty (30) days upon request .

4. GENERAL TERMS AND CONDITIONS

- A. **PAYMENT:** The University agrees to pay Net 30 days from receipt of an invoice pursuant to and in compliance with the Code of Virginia §§ 2.2-4347 through 2.2-4353, commonly known as the Virginia Prompt Payment Act. The University agrees to forward to Rybbon all reward funding in advance of fulfillment. The University acknowledges and agrees that Rybbon will not be required to process or release rewards until the corresponding reward funding is forwarded and made available to Rybbon. Each University department shall have its own account statement of work with Rybbon, and Rybbon shall maintain distinct accounts for each University department. Rybbon shall individually invoice each University department.
- B. **TAXES:** Rybbon acknowledges all sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.
- C. **APPLICABLE LAW AND COURTS:** This Contract shall be governed by the laws of the Commonwealth of Virginia without regard to choice of law principles. Rybbon agrees that all disputes arising under this Contract shall be brought in the state or federal courts located in Richmond, Virginia. To the extent any provision of the Contract is prohibited by Virginia law, or are otherwise not authorized by Virginia law, due to VCU's status as an agency of the Commonwealth of Virginia, such provision is null and void. Each party shall be responsible for its own legal fees and costs unless otherwise ordered by a court of law.
- D. **ARBITRATION:** Neither Party shall be compelled to arbitrate any matter or otherwise be subject to any form of alternative dispute resolution, but may request and/or opt to participate in alternative dispute resolution in its sole discretion. Any decision or order resulting from arbitration or alternative dispute resolution shall not be binding on the Parties or limit the Parties from pursuing resolution in the appropriate court.
- E. **WAIVER OF CLAIMS:** Notwithstanding anything contained herein to the contrary, VCU is an agency of the Commonwealth of Virginia and as such, pursuant to Va. Code § 2.2-514, cannot waive or settle legal claims that VCU may have against another party nor may VCU bestow any right or obligation that is beyond the duly granted authority of the signatory to bestow or incur on behalf of the Commonwealth of Virginia.
- F. **ANTI-DISCRIMINATION:** Rybbon certifies to the Commonwealth that it will conform to the provisions of the following, if and to the extent applicable to Rybbon and its Services: the

Federal Civil Rights Act of 1964, as amended; the Virginia Fair Employment Contracting Act of 1975, as amended; the Virginians With Disabilities Act; the Americans With Disabilities Act; and Section 2.2-4311 of the Virginia Public Procurement Act.

During the performance of this contract, Rybbon acknowledges and agrees as follows:

- (a) Virginia Commonwealth University is an equal opportunity/affirmative action institution providing access to education and employment without regard to age, race, color, national origin, gender, religion, sexual orientation, veteran's status, political affiliation or disability. As such, Rybbon agrees that, in accordance with Rybbon's applicable policies and procedures, it will not discriminate against any employee or applicant for employment because of age, race, color, national origin, gender, religion, sexual orientation, veteran's status, political affiliation or disability or any other basis prohibited by applicable law related to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Rybbon. Rybbon agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of or terms substantially similar to this nondiscrimination clause.
 - (b) Rybbon, in all solicitations or advertisements for employees placed by or on behalf of Rybbon, will state or reference that Rybbon is an equal opportunity employer.
 - (c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
- G. ETHICS IN PUBLIC CONTRACTING: Rybbon certifies that its proposal is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with its proposal, and that it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- H. IMMIGRATION REFORM AND CONTROL ACT OF 1986: Rybbon certifies that it does not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986.
- I. DEBARMENT STATUS: Rybbon certifies that to the best of its knowledge it is not currently debarred by the Commonwealth of Virginia from submitting proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- J. ASSIGNMENT OF CONTRACT: The Contract shall not be assignable by Rybbon in whole or in part without the written consent of the Commonwealth unless the assignment is to another Rybbon subsidiary, branch or affiliate or in connection with a merger or sales of substantially all assets. Where Rybbon assigns this Contract in part or in whole to another Rybbon subsidiary, branch or affiliate, Rybbon will use commercially reasonable efforts to provide written notice to VCU promptly of such assignment. VCU shall have the right to

terminate this Contract should it object to any such assignment by providing 30 days prior written notice to Rybbon.

- K. **CHANGES TO THE CONTRACT:** The Parties may agree in writing to modify the Contract. An increase or decrease in the price of the Contract resulting from such modification shall be agreed to by the parties as a part of their written Contract to modify the scope of the Contract. All amendments and modifications must be in a writing signed by authorized representatives of each Party.
- L. **NOTICE:** All notices provided hereunder in regard to default, claims, actions, or similar events shall be in writing and delivered personally, or sent by registered or certified mail, return receipt requested, postage prepaid, to the respective party. Any such notice sent by any other means shall not be considered duly given or delivered unless the receiving party affirmatively acknowledges receipt. Notices with respect to any Services and communications specifically for day-to-day servicing purposes shall be sent to the designated VCU or Rybbon personnel.
- M. **INSURANCE:** Rybbon certifies it will have the following insurance coverages at the time the Contract is awarded and any insurance otherwise required by applicable law. Rybbon further certifies that it will reasonably endeavor to maintain these insurance coverages during the entire term of the Contract and that all insurance coverage will be provided by insurance companies authorized by the Virginia State Corporation Commission to sell insurance in Virginia. Minimum Insurance Coverages and Limits required are as follows:
- (a) Worker's Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer.
 - (b) Employers Liability - \$100,000 per occurrence..
 - (c) Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products, and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
 - (d) Automobile Liability (non-owned and hired automobiles) - \$1,000,000 per occurrence.
 - (e) Cyber Security Liability - \$3,000,000 (per occurrence)
- N. **DRUG-FREE WORKPLACE:** During the performance of this contract, Rybbon agrees, in accordance with Rybbon's applicable policies and procedures, to provide a drug-free workplace for Rybbon's employees. For the purposes of this paragraph, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- O. eVA REGISTRATION AND FEES: Rybbon agrees to self-register with the Commonwealth of Virginia's electronic procurement system, eVA (information on eVA can be found at <http://www.eva.virginia.gov>), and agrees to maintain self-registered status for the duration of this Contract. The Commonwealth shall assess eVA transaction fees as specified below for each order resulting from this Contract. The vendor transaction fees shall be assessed only on Rybbon fees and shall not apply to Reward funding. The Vendor Transaction Fee is:

DSBSD-certified Small Businesses: 1%, capped at \$ 500 per order.

Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$ 1,500 per order.

- (a) The specified Vendor Transaction Fee will be invoiced by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and the invoice is payable 30 days after the invoice date.
- (b) Rybbon is responsible for the security of its eVA account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of Rybbon's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to Rybbon's failure to update or protect its account information.
- P. FERPA: To the extent that University provides to Rybbon any identifiable student information, including student address, phone number and email address, the University hereby designates Rybbon as a school official with a legitimate educational interest in using such student information, and Rybbon agrees to use such information only for the purpose of fulfilling its obligations under this Contract and further agrees not to disclose any such student information to any individual other than the student except as required by applicable law, rule or regulation or court or governmental order or as authorized in writing by the University or the individual student. Rybbon acknowledges that this protection of student information is necessary for the University's compliance with the Code of Virginia section 23.1-405(C) and the federal Family Educational Rights and Privacy Act (FERPA).
- Q. LIMITATION OF LIABILITY: Rybbon shall be liable for the direct damages incurred by VCU that are directly caused by the negligence of Rybbon itself, its officers, employees, and agents in performing the Services under this Contract. To the extent permitted by Virginia law, each party's aggregate liability in connection with this contract or any goods, services, actions, or omissions relating to this Contract, shall not exceed the greater of (i) the Rybbon fees paid by VCU to Rybbon during the twelve (12) months preceding the event that gave rise to the damages or (ii) \$20,000. The foregoing limitation of liability shall not apply to damages arising out of or in connection with a breach by Rybbon of its obligations under Section 6 below. As permitted and as limited by applicable law, VCU shall be responsible to Rybbon for liabilities solely caused by VCU.
- R. STATUTORY DAMAGES: VCU is not authorized to waive damages granted or otherwise available by statute.
- S. SOVEREIGN IMMUNITY: VCU is an agency of the Commonwealth of Virginia and is afforded

the protection of sovereign immunity under Virginia law. Any claims against VCU or the Commonwealth are subject to the requirements established under Virginia law for bringing such claims against VCU or the Commonwealth, including the Virginia Tort Claims Act (Va. Code §§ 8.01-195.1 et seq.) and other applicable statutes relating to claims against the Commonwealth or its agencies. Notwithstanding any other provision, nothing in this Contract shall be deemed to be or construed as a waiver of VCU's or the Commonwealth's sovereign immunity, or any other applicable requirements under Virginia law for bringing claims against VCU or the Commonwealth.

- T. **FORCE MAJEURE:** Neither party will be responsible for any losses resulting from delay or failure in performance resulting from any cause, event, or occurrence beyond the control, and without the negligence of, the parties. Such events, occurrences, or causes include, without limitation: war, strikes or labor disputes, civil disturbances, governmental orders, pandemics, fires, natural disasters, and acts of God. Nothing in this section shall reduce either Party's liability for its own negligence.
- U. **AUDIT:** Rybbon shall retain all books, records, and other documents relative to any payments made under this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.
- V. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that VCU shall be bound hereunder only to the extent the funds are appropriated, or otherwise made available, from the Virginia General Assembly or other funding source, or which funds may hereafter be provided for the purpose of this Contract.
- W. **ADDITIONAL GOODS AND SERVICES:** The University may acquire other goods or services that Rybbon provides than those specifically solicited. The University reserves the right, subject to mutual contract, for Rybbon to provide additional goods and/or services under the same pricing, terms and conditions and to make modifications or enhancements to the existing goods and services. Such additional goods and services may include other products, components, accessories, subsystems, or related services newly introduced during the term of the Contract.
- X. **RESTRICTIONS ON USE.**
 - a. The University shall only use Rybbon to send rewards to Recipients in association with a loyalty, award or promotion program. The University shall not utilize Rybbon to send personal gifts.
 - b. No single Recipient shall be sent rewards valued at more than \$10,000 in a single banking day.
 - c. The University shall not further resell rewards acquired from Rybbon.
 - d. Use of the services is subject to any and all applicable federal, state and local laws, regulations and ordinances.
 - e. Rybbon reserves the right to require additional information to verify the University's account information, payment methods and use of rewards. Rybbon reserves the right to reject any orders and payments.
 - f. Rybbon may suspend and/or terminate services to the University upon the University's breach of this Contract, non-payment for services, or upon evidence of

fraudulent or illegal use of services.

- Y. REALSOURCE: This solicitation and resulting Contract shall result in a purchase order or purchase orders issued via VCU's source-to-pay platform, RealSource. Rybbon shall register in RealSource and shall have access to purchase order, invoice, and payment information. Rybbon is responsible for the security of its RealSource portal account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of Rybbon's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to Rybbon's failure to update or protect its account information. If this becomes a cooperative procurement, this clause shall apply to orders placed by VCU only.

5. SPECIAL TERMS AND CONDITIONS

- A. ADVERTISING: Rybbon shall not state in any of its advertising or product literature that the Commonwealth of Virginia or the University has purchased or uses its products or services unless permission is provided by the appropriate, authorized department of the University prior to such advertising.
- B. TRADEMARKS/LOGOS: VCU grants Rybbon a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to use VCU trademarks and logos. VCU shall review, approve, or reject all content used in association with its name, logo, or similar marks prior to its use. All such approvals shall be in writing. Rybbon agrees that all rights, title and interest in and to all VCU's trademarks, logos, and other intellectual property are owned exclusively by VCU.
- C. TERMINATION OF CONTRACT:
- (a) The parties reserve the right to cancel or terminate the Contract for convenience and without cause, in part or in whole, without penalty, upon ninety (90) calendar days written notice to the other party.
 - (b) Either Party may terminate this Contract if the other Party materially breaches this Contract and such breach is not cured within thirty (30) calendar days after receiving written notice from the non-breaching party.
- D. SPECIAL EDUCATIONAL OR PROMOTIONAL DISCOUNTS: During the term of the Contract if Rybbon, in its sole discretion, initiates or enacts any national promotional discount program of sale prices to the U.S. education market segment, then Rybbon shall extend any such special promotional sale prices or discounts promptly to VCU. Such notice to VCU shall also advise the duration of the specific sale or discount price.
- E. INDEMNIFICATION: Rybbon agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, Virginia Commonwealth University, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by Rybbon and any services of any kind or nature furnished by Rybbon, provided that such liability is not attributable to the sole negligence of the using agency or failure of the using agency to use the materials, goods, equipment or services in the manner intended by the parties.

- F. **RYBBON'S RESPONSIBILITIES FOR ITS SUBCONTRACTORS:** Rybbon shall be responsible for completely supervising and directing the work under this Contract and all subcontractors that it may utilize in accordance with industry best practices. Rybbon's Subcontractors who perform work under this Contract shall be responsible to Rybbon. Rybbon agrees that it is as fully responsible for the acts and omissions of its Subcontractors and of persons employed by them as it is for the acts and omissions of its own employees, in accordance with and subject to the terms hereof.
- G. **TERM and RENEWAL OF CONTRACT:** This contract will have a one (1) year initial term (the "Initial Term") and may be renewed by VCU upon mutual written agreement of authorized representatives of both Parties for up to four (4) successive one (1) year periods (each a "Renewal Term") under the terms and conditions of the original Contract or as otherwise agreed in writing by the Parties at such time.
- H. **ADDITIONAL USERS OF CONTRACT:** It is the University's intent to provide other Virginia Association of State College and University Purchasing Professionals (VASCUPP) with access to the University's contracts and to provide Rybbon with opportunities to do business with other VASCUPP institutions of higher education.
- (a) To that end, the following Colleges and Universities listed are the VASCUPP institutions and may have access to the Contract: College of William and Mary, University of Virginia, George Mason University, Virginia Military Institute, James Madison University, Old Dominion University, Virginia Polytechnic Institute & State University, Radford University, University of Mary Washington, and Longwood University. Upon written request from a VASCUPP institution, Rybbon may allow access to the Contract, subject to individual documentation and/or signature requirements pursuant to Rybbon's ordinary customer on-boarding and implementation procedures. This provision allowing the University to provide access to the Contract to VASCUPP institutions is not to be construed as a requirement for Rybbon to provide such access. Although the VASCUPP Agencies may have access to this Contract between Rybbon and VCU, this contract does not bind VASCUPP institutions, which are not parties to this Contract, to use this Contract.
- (b) If the VASCUPP institutions choose to access the Contract and Rybbon agrees to such access, each VASCUPP institution will accept the obligations under the Contract and VCU will have no responsibility for the resolution of any contractual disputes or for payment for services rendered which may arise from a VASCUPP institution accessing the Contract. Rybbon understands and agrees that it shall not have any recourse against VCU with respect to any claim it may have against another VASCUPP institution that accesses this Contract.
- I. **REPRESENTATIONS AND WARRANTIES:** All representations and warranties by the a party in this Contract are made to the best of its knowledge and information.
- J. **GRAMM-LEACH-BLILEY ACT:** If and to the extent such law is applicable to the Services hereunder, Rybbon shall comply with the Act by implementing and

maintaining appropriate safeguards to protect and prevent unauthorized release of student, faculty and staff nonpublic information. Nonpublic information is defined as social security numbers, or financial transactions, bank, credit and tax information.

- K. **CRIMINAL BACKGROUND INVESTIGATION:** Rybbon shall ensure that its employees, full-time or part-time, including newly hired, re-hired, seasonal, and/or temporary, who may have access to VCU confidential or proprietary information, or data about VCU personnel or students, have passed a criminal background check pursuant to the Code of Virginia, § 2.2-1201.1. Criminal background checks shall comply with the standards set forth in VCU's employment policies found at:

<http://www.policy.vcu.edu/sites/default/files/Criminal%20Conviction%20Investigations.pdf>.

Specifically, Rybbon shall ensure an investigation is conducted by a third-party vendor utilizing courthouse records and national databases to obtain records within the past seven (7) years. Convictions related to drugs, violence and/or sexual behavior are generally considered job related due to the nature of the VCU environment and the need to provide reasonable levels of protection for students, patients, employees, visitors and institutional resources.

- L. **VA FOIA:** Nothing contained herein is intended to limit VCU's compliance with the Virginia Freedom of Information Act ("VFOIA"). For clarity, contracts and pricing between VCU and its vendors are not generally considered to be exempt from VFOIA requests.

6. DATA AND INTELLECTUAL PROPERTY PROTECTION

A. Definitions

- (a) "End User" means the individuals authorized by the University to access and use the Services provided by Contractor under this Agreement.
- (b) "Personally Identifiable Information" includes but is not limited to the following: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; "personal information" as defined in Virginia Code section 18.2-186.6 and any successor laws of the Commonwealth of Virginia; personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g; "medical information" as defined in Virginia Code Section 32.1-127.1:05; "protected health information" as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; nonpublic personal information as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; credit and debit card numbers and access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; other financial account numbers, access codes, driver's license numbers; and state- or federal-identification numbers such as passport, visa or state identity card numbers.
- (c) "Securely Destroy" means taking actions that render data written on physical (e.g., hardcopy, microfiche, etc.) or electronic media unrecoverable by both ordinary and extraordinary means. These actions must meet or exceed those sections of the National Institute of Standards and Technology (NIST) SP 800-88 guidelines relevant to data categorized as high security.
- (d) "Security Breach" means a security-relevant event in which the security of a system or procedure used to create, obtain, transmit, maintain, use, process, store or dispose of data

is breached, and in which University Data is exposed to unauthorized disclosure, access, alteration, or use.

- (e) "Services" means any goods or services acquired by the University from the Contractor.
- (f) "University" means Virginia Commonwealth University, its trustees, officers, and employees.
- (g) "University Data" includes all Personally Identifiable Information and other information that is not intentionally made generally available by the University on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student and personnel data.

A. Rights and License in and to the University Data

The parties agree that as between them all rights, including all intellectual property rights in and to University Data, shall remain the exclusive property of the University, and Contractor has a limited, nonexclusive license to use these data as provided in this Agreement solely for the purpose of performing its obligations hereunder. This Agreement does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in the Agreement.

C. Intellectual Property Disclosure/Rights

- (a) Unless expressly agreed to the contrary in writing, all goods, products, materials, documents, reports, writings, video images, photographs or papers of any nature including software or computer images prepared by Contractor (or its subcontractors) solely for the University will not be disclosed to any other person or entity without the written permission of the University.
- (b) Contractor warrants to the University that the University will own all rights, title and interest in any intellectual property created for the University as part of the performance of this Agreement and will have full ownership and beneficial use thereof, free and clear of claims of any nature by any third party including, without limitation, copyright or patent infringement claims. Contractor agrees to assign and hereby assigns to the University all rights, title, and interest in any and all intellectual property created for the University as part of the performance of this Agreement, and will execute any future assignments or other documents needed for the University to document, register, or otherwise perfect such rights. Nothing in this section is intended to or shall be construed to apply to existing intellectual property created or owned by the Contractor that the University is licensing under this Agreement. For avoidance of doubt, the University asserts no intellectual property ownership under this clause to any pre-existing intellectual property of the Contractor, and seeks ownership rights only to the extent Contractor is being engaged to develop certain intellectual property as part of its services for the University.
- (c) Notwithstanding the foregoing, for research collaboration pursuant to subcontracts under sponsored research agreements administered by the University's Office of Sponsored Programs, intellectual property rights will be governed by the terms of the grant or contract to the University to the extent such grant or contract requires intellectual property terms to apply to subcontractors.

D. Data Privacy

- (a) Contractor will use University Data only for the purpose of fulfilling its duties under this Agreement and will not share or disclose such data to any third party without the prior written consent of the University, except as required by this Agreement or as otherwise required by law.
- (b) University Data will not be stored outside the United States without prior written consent from the University.

- (c) Contractor will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill Contractor obligations under this Agreement. Contractor will ensure that employees who perform work under this Agreement have received appropriate instruction and understand how to comply with the data protection provisions of this Agreement and have agreed to confidentiality obligations at least as restrictive as those contained in the Contract.
- (d) The following provision applies only if Contractor will have access to the University's education records as defined under the Family Educational Rights and Privacy Act (FERPA): Contractor acknowledges that for the purposes of this Agreement it will be designated as a "school official" with "legitimate educational interests" in University education records, as those terms have been defined under FERPA and its implementing regulations, and Contractor agrees to abide by the limitations and requirements imposed on school officials. Contractor will use the education records only for the purpose of fulfilling its duties under this Agreement for University's and its End User's benefit, and will not share such data with or disclose it to any third party except as provided for in this Agreement, required by law, or authorized in writing by the University.

E. Data Security

- (a) Contractor will store and process University Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure Contractor's own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved. Without limiting the foregoing, Contractor warrants that all electronic University Data will be encrypted in transmission (including via web interface) in accordance with industry best practices commensurate to the sensitivity of the information such as controls outlined in the Moderate or High control baselines in the latest version of National Institute of Standards and Technology Special Publication 800-53.
- (b) If Contractor stores Personally Identifiable Information as part of this Agreement, Contractor warrants that the information will be stored in accordance with industry best practices commensurate to the sensitivity of the information such as controls outlined in the Moderate or High control baselines in the latest version of National Institute of Standards and Technology Special Publication 800-53.
- (c) Contractor will use industry-standard and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing Services under this Agreement.

F. Data Authenticity and Integrity

Contractor will take reasonable measures, including audit trails, to protect University Data against deterioration or degradation of data quality and authenticity. Contractor will be responsible during the terms of this Agreement, unless otherwise specified elsewhere in this Agreement, for converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.

G. Security Breach

- (a) Response. Upon confirmation of a Security Breach Contractor will timely notify the University consistent with applicable state or federal laws, fully investigate the incident, and cooperate fully with the University's investigation of and response to the incident. Except as otherwise required by law, Contractor will not provide notice of the incident directly to individuals whose Personally Identifiable Information was involved, regulatory

agencies, or other entities, without prior written notification to the University. Unless prohibited by law, such notification to the university must be issued 5 business days before any notices are issued to individuals, regulatory agencies, or other entities.

(b) Liability. In addition to any other remedies available to the University under law or equity, Contractor will reimburse the University in full for all costs incurred by the University in investigation and remediation of any Security Breach caused by Contractor, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; providing one year's credit monitoring to the affected individuals if the Personally Identifiable Information exposed during the breach could be used to commit financial identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Security Breach.

H. Response to Legal Orders, Demands or Requests for Data

(a) Except as otherwise expressly prohibited by law, Contractor will

- i. immediately notify the University of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking University Data;
- ii. consult with the University regarding its response;
- iii. cooperate with the University's reasonable requests in connection with efforts by the University to intervene and quash or modify the legal order, demand or request; and
- iv. provide the University with a copy of its response upon the University's request.

(b) If the University receives a subpoena, warrant, or other legal order, demand (including request pursuant to the Virginia Freedom of Information Act) or request seeking University Data maintained by Contractor, the University will promptly provide a copy to Contractor. Contractor will promptly supply the University with copies of data required for the University to respond and will cooperate with the University's reasonable requests in connection with its response.

(c) Contractor will make itself and any employees, contractors, or agents assisting in the performance of its obligations under the Agreement available to the University at no cost to the University based upon claimed violation of any laws relating to security and/or privacy of the data that arises out of the Agreement. This shall include any data preservation or eDiscovery required by the University.

I. Data Transfer Upon Termination or Expiration

(a) Upon termination or expiration of this Agreement, Rybbon shall maintain Customer Data for five (5) years (the "Retention Period") to comply with Rybbon's and Merchants' legal and regulatory requirements. Following the Retention Period, subject to applicable law, Rybbon shall either delete Customer Data or anonymize it. This requirement shall not apply to the extent Rybbon is required by applicable law to retain some or all of the Customer Data, or to Customer Data it has archived on back-up systems, which Customer Data Rybbon shall securely isolate and protect from any further processing. During this Retention Period, Rybbon shall continue to protect Customer Data in accordance with this Agreement and will not degrade the protection it places on Customer Data.

(b) Contractor will notify the University of impending cessation of its business and any contingency plans. Contractor shall implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the University.

J. Audits

The University reserves the right to require Rybbon to provide a security assessment questionnaire and SOC2 reports once a year.

K. Compliance

- (a) Contractor will comply with all applicable laws and industry standards in performing services under this Agreement. Any Contractor personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use of, and conduct within such facilities. The University will provide copies of such policies to Contractor upon request.
- (b) Contractor warrants that the service it will provide to the University is fully compliant with relevant laws, regulations, and guidance that may be applicable to the service, such as: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH), Gramm-Leach-Bliley Financial Modernization Act (GLB), Payment Card Industry Data Security Standards (PCI-DSS), Americans with Disabilities Act (ADA), Federal Export Administration Regulations, and Defense Federal Acquisitions Regulations.
- (c) If the Payment Card Industry Data Security Standards (PCI-DSS) are applicable to Contractor service provided to the University, Contractor will, upon written request, furnish proof of compliance with PCI-DSS within 10 business days of the request.
- (d) Section 508 Compliance: Contractor shall use commercially reasonable efforts to ensure that the technology it employs complies with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. If requested, the Contractor must provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration. To the extent Contractor has not yet fully complied with Section 508, Contractor shall provide upon request by University a plan to become fully compliant with Section 508.

L. No End User agreements

This Section 6 is the entire agreement as to data and Intellectual Property protection between the University (including University employees and other End Users) and Contractor. In the event Contractor enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with University employees or other End Users, such agreements shall be null, void and without effect, and the terms of this Agreement shall apply.

M. Contractor Account Security

If Contractor is a registered vendor in eVA or RealSource, Contractor is responsible for the security of its portal account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of the Contractor's account. University will not be responsible for a third party's fraudulent collection of University payments due to the Contractor's failure to update or protect its account information.

N. Survival

Contractor's obligations under Paragraphs D, G, H and I shall survive termination of this Agreement until all University Data has been returned or securely destroyed.

IN WITNESS WHEREOF, the parties have signed this Amendment to the Agreement as of the date set forth below.

Rybbon, Inc.

DocuSigned by:
By: Jignesh Shah

57BAADC88E1746A...
Name: Jignesh Shah

Title: Head of Global Integrated Incentives

Date: 12/1/2021

Virginia Commonwealth University

DocuSigned by:
By: John McHugh

EE6DA7427C67468...
Name: John McHugh

Title: Director, Procurement Services

Date: 12/2/2021

1751 Pinnacle Drive Suite 600, McLean, VA 22102
www.rybbon.net

Rybbon Enterprise Annual Plan Agreement

Customer:

Date:

Address:

Account:

Enterprise Plan Description

Enterprise Subscription Term: 1 Year Starting Date of Acceptance Includes 2,000 Deliveries Reward Deliveries \$1.99 per additional delivery if you exceed included deliveries.	\$5,990.00
Giftcards, Visa, Mastercard, Donations, Integrations, Recipient's Choice, Smart Global Choice, Custom Fields, Custom 'From' email domain, Multiple Users, Compliance Reporting, Advanced Branding, API Access, Multiple accounts under plan, Recipient Data Masking, Enterprise Compliance Support, SSO	
Add Ons (Not included, can be added to your plan) PointsJoy, Reward Gallery, HIPPA BAA	
Subscription Total	\$5,990.00

Invoiced upon acceptance: \$5,990.00

Payment due Net 30

- This Enterprise Annual Plan Agreement is made pursuant to and incorporates the December 1, 2021 Master Services Agreement between the parties.
- This Agreement shall automatically renew for additional one-year periods, unless either party gives the other at least thirty (30) days' notice of non-renewal before the end of the relevant subscription term. The pricing during such renewal terms shall be subject to automatic increase, however, during the first three (3) years, pricing increase for this agreement shall not exceed 5% of the pricing in the previous term.
- The Attached Exhibit A SaaS terms are incorporated herein as a part of this Agreement.

[SIGNATURE PAGE FOLLOWS]

DS
CR
12/1/2021

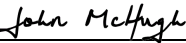
DS
JM

12/1/2021

Pricing provided expires after 30 days. Proprietary & Confidential.

	1751 Pinnacle Drive Suite 600, McLean, VA 22102 www.rybbon.net
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Authorized Customer Signature:

DocuSigned by:


EE6DA7427C67468...
Name: John McHugh

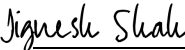
Phone: _____

Date: 12/2/2021

Title: Director, Procurement Services

Email: _____

Rybbon Inc:

DocuSigned by:


57BAADC88E1746A...
Name: Jignesh Shah

Date: 12/1/2021

Title: Head of Global Integrated Incentives



EXHIBIT A SAAS TERMS

I. DESCRIPTION AND DEFINITIONS

Rybbon (“Rybbon” or the “Service”) is a Digital Rewards Service offered through the URL app.rybbon.net (the “Website”) that allows Virginia Commonwealth University (the “Customer”) to send digital rewards (“Rewards”) to your customers, employees and business contacts (“Respondents”). The Service includes the Website, all related websites, and mechanisms, as well as APIs and connectors for integration with third-party services. The Service is owned and operated by Rybbon, Inc., (“Rybbon”, “we”, or “us”). The term “Gift” used in the Service also refers to and is intended to mean the same as Rewards.

II. REWARDS

1. All third party service or Reward providers (each a “Merchant”) of prepaid cards are subject to change without notice.
2. The availability of Rewards to Customer may be subject to approval from the Merchant providing the Reward.
3. The price of Rewards and any reward-specific surcharge fees are subject to change without notice. For clarity, if Customer signed a separate agreement with Rybbon, the Rybbon fees are not subject to change during Customer’s current term of such agreement, provided that Rybbon may change the Rybbon fees applicable to a renewal term upon reasonable notice to Customer and written acceptance by an authorized representative of Customer.
4. If a Reward listed has an incorrect price due to a typographical or human error, Rybbon has the right to refuse or cancel orders placed for the product with the incorrect price.
5. By ordering a Reward, Customer accepts Merchant terms and conditions or terms of use associated with the use of any Reward. In the event of a conflict between this Agreement and any Merchant’s terms governing a Reward, the Merchant terms will prevail solely with respect to the purchase, issuance, redemption, and other use or exploitation of the Reward. Customer is solely responsible for reviewing any and all applicable Merchant terms prior to purchasing the Reward from the Merchant.
6. Rybbon is not responsible for the loss of any value associated with a Reward once it has been claimed. To reduce the likelihood of any potential loss, Rybbon encourages Respondents to redeem Rewards on a timely basis.
7. Customer acknowledges that Rewards sent through the Service are provided by Merchants who provide issuing, fulfilment, customer service and transaction-related services for Merchant-specific rewards, and Rybbon is not liable for any claims related to those services. Rybbon does not serve as the issuer of the Rewards or provide any ongoing transaction related services after the Reward has been claimed.

III. RESTRICTIONS ON USE

1. Customer shall only use Rybbon to send Rewards to Respondents in association with Customer’s internal loyalty, award, or promotion program. Customer shall not utilize Rybbon to send personal gifts.
2. No single Respondent shall be sent Rewards valued at more than \$10,000 in a single banking day. Merchant, as the issuer, is required to comply with all federal, state, and local laws, rules, and regulations relating to the issuance and fulfillment of Rewards including but not limited to an anti-money laundering (AML) compliance program.
3. Customer shall not further resell Rewards acquired from Rybbon.
4. Use of the Service is subject to any and all applicable federal, state, and local laws and ordinances.



5. Rybbon reserves the right to require additional information to verify a Customer's account information, payment methods and use of Rewards. Rybbon reserves the right to reject any Customer accounts, orders, and payments.

IV. PURCHASE & REFUNDS

1. Customer may establish and fund specific promotions (each a "Campaign") to offer and purchase Rewards for Respondents. When Customer places an order in a Campaign, Rybbon will allocate the specific funds ("Campaign Funds") to the Rewards associated with the specific Campaign until the Rewards have been claimed by Respondents. If a Respondent claims a Campaign Reward, the Campaign Funds will be debited consistent with the price of the Reward and any applicable Rybbon fees. This debited amount is non-refundable regardless of whether the Respondent uses the Reward to make purchases. If the Reward offer expires, 100% of the Campaign Funds allocated for the Reward – less any applicable Rybbon fees – will be refunded to Customer's account balance and can be used to fund future orders. If Customer cancels a Reward prior to offering it to a Respondent, 100% of the Campaign Funds allocated for the Reward including any applicable Rybbon fees – will be refunded to Customer's account balance.
2. Customer may withdraw funds from its Rybbon account balance by requesting a check or credit back to the same credit card. Upon termination for any reason, Rybbon will promptly return any account balance to Customer less any outstanding fees owed to Rybbon.
3. No interest shall be paid or owed on funds in Customer's Rybbon account.
4. Customer may be assessed additional fees when paying by Credit Card. Rybbon may limit the types of credit cards it accepts. Rybbon may limit the amount that can be paid using Credit Card.

V. POINTSJOY

1. Pointsjoy is Rybbon's points reward management system, allowing Customers to reward its participants with loyalty points ("Points") that can be redeemed for Rewards.
2. Rybbon does not serve as the issuer of Customer Points within Customer's reward and/or loyalty program ("Reward Program").
3. Customer is responsible for making available to Respondent the applicable Reward Program rules and terms and conditions, including but not limited to redemption rules, expiration policies, cancellation terms, transfer rules, and all other terms of use regarding said Points, and Respondent's participation in Customer's Reward Program.
4. Customer is responsible for making available to Respondents all terms and conditions relating to any taxing liability, including disclosure connected with the receipt or use of Points in Customer's Reward Program.
5. Rybbon makes no representation or warranties, expressed or implied, to Respondents with respect to Customer's Reward Program.
6. Customer's Reward Program is developed, maintained, and solely operated by Customer. Rybbon may only serve as a management system for the tracking of points within Customer's Reward Program.