

E-LEARNING PROGRAM DEVELOPMENT AND DISTRIBUTION MASTER AGREEMENT

This e-Learning Program Development and Distribution Master Agreement (hereinafter the "Agreement") is entered into by and between Compass Knowledge Group, LLC (the "Company") a limited liability corporation under the laws of the State of Florida with offices located at 4501 S. Kirkman Road, Suite 200, Orlando, Florida and the Board of Trustees of the University of Illinois with principal offices in Urbana, Illinois on behalf of the College of Applied Health Sciences on the Chicago campus (the "University"), each referred to herein as a "Party," and, together, as the "Parties."

WHEREAS, the University's faculty has developed certain curriculum and content (the "Content") for degree and certificate programs; and

WHEREAS, the Company is an e-Learning services and solutions company that combines technology, expertise and services for the purpose of providing e-Learning programs and solutions for higher education; and

WHEREAS, the Parties desire to enter into this Agreement for the purposes described herein.

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

ARTICLE 1

Unless defined elsewhere herein, all capitalized terms in this Agreement shall have the meanings ascribed to such terms in Article 2 herein.

PURPOSE AND SCOPE

1.1 Purpose. The Parties hereby contract for the purpose of:

- (a) designing, developing, administering, managing, marketing, selling and distributing certain e-Learning program(s), each of which will be identified and more fully described in a separate e-Learning Program Term Sheet attached hereto and made a material part hereof throughout the Territory utilizing the Content, Courses, Documentation and Derivative Works therefrom, and in connection therewith providing additional products and services;
- (b) sharing materials, methods, information, resources, expertise and services with respect to the foregoing;
- (c) educating and granting, upon satisfaction of criteria established by the University, educational credits and degrees or certificates to the Students enrolled in the e-Learning Programs and to perform those attendant services in connection therewith;

- (d) working together in a manner that is consistent with the foregoing; and
- (e) establishing a Steering Committee to recommend guidelines and manage the foregoing.

The foregoing shall hereinafter be known as the "Project."

- 1.2 Scope.** The relationship between the Parties and the Project is limited solely to the activities, rights and obligations as set forth in this Agreement, Appendix I of the Request for Proposal (RFP) RPP919, the Company's response thereto (including all Best and Final letters) and any applicable addenda. Nothing in this Agreement shall be construed (i) to create or imply a general partnership, limited partnership or other legal entity between the Parties, (ii) to make either Party the agent of the other for any purpose, (iii) to alter, amend, supersede or vitiate any other arrangements between the Parties, (iv) to give either Party the right to bind the other, (v) to create any duties or obligations between the Parties except as expressly set forth herein, (vi) to grant any direct or implied licenses or any other right other than as expressly set forth herein or, (vii) to require the University to utilize the services of the Company for any on-line learning program other than one for which a Program Term Sheet has been entered into by the Parties or (viii) to prohibit or restrict the business activities of either party except as may be otherwise specifically stated herein.
- 1.3 Compliance with Laws.** In carrying out its responsibilities under this Agreement, each Party agrees that, in all material respects, its activities will be conducted in compliance with all applicable state and Federal laws, rules and regulations in jurisdictions in which the activities are conducted.
- 1.4 Family Educational Rights and Privacy.** University and Company acknowledge that certain information about University's students is contained in records maintained by University and/or Company and that this information is confidential by reason of University policy and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g). Both parties agree to protect these records in accordance with the Act and University policy. To the extent permitted by law, nothing contained herein shall be construed as precluding either party from releasing such information to the other so that each can perform its respective responsibilities.
- 1.5 Use of Third Parties.** Except as otherwise expressly prohibited herein, either Party may utilize the services of third parties in connection with the management and supervision of the core services to be provided by such Party hereunder. If any Subcontractor is to be used in the management and supervision of the core services required under this Agreement, Company has provided the name(s), address(es) and amount(s) expected to be paid to Subcontractor(s) and a description of which portion(s) of the work will be subcontracted out is listed below or in a separate Exhibit to this Agreement.

Company may not use the services of other Contractors or Subcontractors in the management and supervision of the core services not named herein without prior written permission of University. If at any time during the term of the Agreement, the Company adds or changes any Subcontractor, Company shall promptly notify,

in writing, University Contract Representative of the names and addresses and the expected payment each new or replaced Subcontractor will receive under the Agreement.

- 1.6 **Administration; Prospectus.** Each e-Learning Program and the Project operations shall be administered by the Steering Committee in accordance with the provisions of Article 3 hereof. The Parties have or will develop and adopt a development and delivery plan (the "Prospectus" as further defined in Article 2 hereof) for each e-Learning Program named in the Program Term Sheet. Each Party will use commercially reasonable efforts to implement and execute the Prospectus in accordance with the terms of this Agreement. Should a clear conflict exist or occur between this Agreement and the Prospectus, this Agreement shall control. In the event of an ambiguity between the Prospectus and this Agreement, the ambiguity shall be resolved in accordance with Section 3.4 of this Agreement.
- 1.7 **Nature of Interests.** The interests of the Parties with respect to this Agreement shall be personal property for all purposes. Unless otherwise specifically agreed, all property owned by a Party, whether real or personal, tangible or intangible, shall continue to be the exclusive property of such Party.

ARTICLE 2

DEFINITIONS

For the purposes of this Agreement, including any exhibits made a part of this Agreement, the following definitions shall apply:

- 2.1 **Affiliate.** "Affiliate" means any corporation, firm, partnership, or other entity which directly or indirectly controls or is controlled by or is under common control with a Party to this Agreement. "Control" means ownership, directly or through one or more Affiliates, of more than fifty percent (50%) of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or more than fifty percent (50%) of the equity interests in the case of any other type of legal entity, status as a general partner in any partnership, or any other arrangement whereby a Party controls or has the right to control the Board of Directors or equivalent governing body of a corporation or other entity.
- 2.2 **Agreement.** "Agreement" (also referred to as "Contract" or "Master Agreement") means this Agreement, as amended from time to time and all exhibits and addenda attached hereto. Words such as "herein," "hereinafter," "hereto," and "hereunder" refer to this Agreement as a whole, unless the context otherwise requires.
- 2.3 **Chief Academic Officer.** "Chief Academic Officer" means the Chief Academic Officer of the Company, or his/her duly appointed successor.
- 2.4 **Code.** "Code" means the United States Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

- 2.5 Company.** "Company" means Compass Knowledge Group, LLC, also referred to as "Contractor".
- 2.6 Company Decision.** "Company Decision" means a decision with respect to a matter which the Company shall make in its sole discretion, subject to the terms hereof, without the necessity of prior consultations or discussions by the Steering Committee or between the Parties. All Company Decisions are specifically identified as such hereunder.
- 2.7 Company Provided Material.** "Company Provided Material" shall have the meaning ascribed to it in Section 15.2.
- 2.8 Confidential Information.** "Confidential Information" means any and all tangible embodiments of the e-Learning Program Model and all information which is disclosed by one Party to the other hereunder and identified as Confidential Information at the time of disclosure including contractual terms and information protected by the Family Education Rights and Privacy Act of 1974 (FERPA), as amended, information regulated by the Securities Exchange Act of 1934, as amended, except to the extent that such information (i) as of the date of disclosure is demonstrably known to the Party receiving such disclosure, as shown by written documentation, other than by virtue of a prior confidential disclosure to such Party or its Affiliates; (ii) as of the date of disclosure is in, or subsequently enters, the public domain, through no fault or omission of the Party receiving such disclosure; (iii) as of the date of disclosure or thereafter is obtained from a third party free from any obligation of confidentiality to the disclosing Party; (iv) is created or developed by a receiving Party, without use of the Confidential Information of the disclosing Party by persons who did not have access to the disclosing Party's Confidential Information; or (v) is required by law or legal process to be disclosed to a third party.
- 2.9 Content.** "Content" shall have the meaning set forth in recital paragraphs of this Agreement. Content may include without limitation informational material in any hardcopy, electronic other form, syllabi, outlines, manuals, schedules, presentations, readings, guidelines, case studies, audio, video and related computer software. The University shall be responsible for the development of Content as described in Section 4.3.1 of this Agreement.
- 2.10 Course.** "Course" means a set of assignments and activities designed to fulfill a particular set of learning objectives within a specified period of time which make up an e-Learning Program. The University shall be responsible for the development of Courses as described in Section 4.3.1 of this Agreement.
- 2.11 Course Instructor(s).** "Course Instructor(s)" means individuals who design, lead, and conduct the Courses.
- 2.12 Course Management System.** "Course Management System" means the e-Learning platform and application (e.g., Blackboard, WebCT or the like) and the related technology, hosting and help desk required to deliver the e-Learning Programs as contemplated by this Agreement.

- 2.13 Derivative Work.** “Derivative Work” means a work that is based upon one or more preexisting works, such as a revision, modification, translation, abridgment, condensation, expansion, or any other form in which such preexisting works may be recast, transformed, or adapted, and that, if prepared without authorization of the owner of the copyright in such preexisting work, would constitute a copyright infringement. For purposes hereof, a Derivative Work shall also include any compilation that incorporates such a preexisting work.
- 2.14 Documentation.** “Documentation” means user manuals and other written materials that relate to the e-Learning Programs, Courses and Content, including materials useful for design (e.g., course manuals, flow charts, and principles of operation). Documentation shall include any modifications or revisions to such manuals and other written materials that correct errors, support new releases of or improve the e-Learning Programs or provide other incidental updates and corrections. The University shall be responsible for the development of Documentation as described in Section 4.3.1 of this Agreement.
- 2.15 e-Learning Program(s).** “e-Learning Program(s)” means the collaborative commercial development of the distance learning degree and certificate programs referenced in the Program Term Sheet(s) attached hereto which are to be conducted by the Company and the University pursuant to this Agreement. The e-Learning Programs shall include without limitation the Content, Courses, Documentation and Derivative Work therefrom created for or contributed to such e-Learning Programs. The University shall be responsible for the development of such Content, Courses and Documentation, as described in Section 4.3.1 of this Agreement.
- 2.16 Effective Date.** The "Effective Date" means the date on which this agreement for each e-Learning Program shall be effective as set forth in each Program Term Sheet attached to this Agreement.
- 2.17 Enrollment Advisor.** “Enrollment Advisor” means individual(s) selected and employed by the Company to perform student recruitment functions.
- 2.18 Enrollment Dates.** “Enrollment Dates” means the times during the academic year when students may enter and enroll in an e-Learning Program.
- 2.19 Expert Presenter(s).** “Expert Presenter(s)” means individuals selected by the University who are deemed experts in a subject matter and who deliver video and audio multimedia presentations or demonstrations on his/her subject of expertise for incorporation into the Courses or who participate in the instructional process as requested by the University.
- 2.20 Facilitators.** “Facilitators” means the faculty member(s) appointed by the University who shall be responsible for guiding and evaluating Students toward achieving the learning objectives of each Course.
- 2.21 Faculty.** “Faculty” means Course Instructors, Expert Presenters, Facilitators and other like individuals who are appointed by the University and who may be full time or adjunct personnel.
- 2.22 Instructional Services.** “Instructional Services” means the services described in Sections 4.3.4.3, 4.3.4.4, 4.3.4.5, 4.4.4.1 and 4.4.4.2 of this Agreement.

- 2.23 Intellectual Property Rights.** "Intellectual Property Rights" means and includes: (i) all Trademark rights, business identifiers, trade dress, service marks, trade names and brand names, all registrations thereof and applications therefore and all goodwill and rights associated with the foregoing; (ii) all copyrights, copyright registrations and copyright applications, and all other rights associated with the foregoing and the underlying works of authorship; (iii) all patents and patent applications, and all domestic and international proprietary rights associated therewith; (iv) all contracts or agreements granting any right, title, license or privilege under the intellectual property rights of any third party; (v) all inventions, know-how, discoveries, improvements, designs, trade secrets, shop and royalty rights, employee covenants and agreements respecting intellectual property and non-competition and all other types of intellectual property; (vi) all moral rights; and (vii) all claims for infringement or breach of any of the foregoing.
- 2.24 Net Instructional Fees.** "Net Instructional Fees" means the base amount used to calculate the distribution of revenues to each of the parties. The Net Instructional Fees represents the net revenues realized by the Program after the costs and fees set forth in this Section 2.24 have been deducted. Deductions shall include (a) trade, cash and quantity discounts or rebates actually allowed or taken; (b) credits or allowances given or made for rejection of, and for uncollectible amounts with respect to, the subject e-Learning Program and its Courses; (c) credit card fees paid to non-Affiliates; (d) sales, transfer and other excise taxes levied on the sale or delivery or performance of the subject e-Learning Program and its Courses (including any tax such as value added or similar tax or government charge), other than franchise or income tax of any kind whatsoever.
- 2.25 Parties.** "Parties" means the entities entering into this Agreement, and their successors and assigns.
- 2.26 Partnership Director.** "Partnership Director" means the individual selected and hired by the Company responsible for e-Learning Program development, liaison with the University, and overall service of the Project.
- 2.27 Program(s).** "Program(s)" shall have the meaning set forth in recital paragraphs of this Agreement.
- 2.28 Program Director.** "Program Director" means the lead faculty member or administrator appointed by the University to direct an e-Learning Program.
- 2.29 Program Manager.** "Program Manager" means the individual selected and employed by the Company to support the students and Faculty of an e-Learning Program, including assisting Students with re-enrollment in future terms.
- 2.30 Program Model.** "Program Model" means the proprietary e-Learning model of the Company that includes, without limitation, the cohort delivery structure, scalable carousel course offerings with minimal sequencing, student-centered multi-dimensional teaching-learning system, layered student support system, marketing strategy and student recruitment communication design.
- 2.31 Program Term Sheet.** The Parties will develop and agree upon the key terms for each e-Learning Program which they wish to undertake and such terms shall be set forth in a

- separate Program Term Sheet. The Program Term Sheet(s) and any modifications or amendments thereto must be signed by the Parties.
- 2.32 **Project.** "Project" shall have the meaning set forth in Article 1.1, above.
- 2.33 **Prospectus.** "Prospectus" means the development and delivery plan for each e-Learning Program that includes at a minimum the roles and responsibilities of the e-Learning Program faculty and staff as it pertains to the University and the Company, e-Learning Program curriculum, admission requirements, development schedules and timelines, and curriculum delivery structure.
- 2.34 **Steering Committee.** "Steering Committee" means the committee of the Company and the University representatives established pursuant to Article 3 hereof to administer the affairs of the Project.
- 2.35 **Students.** "Students" means all prospective as well as actual enrollees in the e-Learning Programs and Courses.
- 2.36 **Term.** "Term" means the term of this Master Agreement, which shall commence upon final execution of the Agreement by all parties and will extend for a period of ten (10) years in accordance with Section 12.1. Each e-Learning Program's Term shall be set forth in the individual Program Term Sheets. All Programs shall have a commencement date prior to the expiration of the Master Agreement Term. The Parties agree to evaluate the Master Agreement every five (5) years to address outstanding Program Term Sheets that may outlive the Term of the Master Agreement.
- 2.37 **Territory.** "Territory" means the world.
- 2.38 **Title IV.** "Title IV" means any program, loan, grant or function applicable to Title IV of the Higher Education Act, as amended ("HEA"), any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA.
- 2.39 **Title IV Student.** "Title IV Student" shall mean any student enrolled in any Course within any e-Learning Program who is subject to a Title IV program, loan, grant or function.
- 2.40 **Trademarks.** "Trademarks" means the distinctive marks of authenticity (including without limitation trademarks, service marks and trade dress) of the Parties which are distinctive from others including names, symbols and forms of words.
- 2.41 **University.** "University" means the University of Illinois at Chicago. Within the University, there exist various Colleges and Departments who may initiate an e-Learning Program under this Agreement ("College").
- 2.42 **University Decision.** A "University Decision" means a decision with respect to a matter which the University shall make in its sole discretion, subject to the terms hereof, without the necessity of prior consultations or discussions by the Steering Committee or between the Parties. All decisions which are the University Decisions are specifically identified as

such hereunder and shall, in no event, be contrary to University rules, policies, statutes and/or procedures.

- 2.43 University Licensed Material.** "University Licensed Material" shall have the meaning ascribed to it in Section 15.1.

ARTICLE 3

STEERING COMMITTEE

- 3.1 Decision Making.** Subject to any express provisions of this Agreement designating certain decisions as "Company Decisions" or "University Decisions," decisions which need to be made with respect to this Agreement, and the general affairs and activities of the Parties with respect to the Project and the development, supply, delivery and other activities related to the e-Learning Programs as described herein shall be made, administered, managed and coordinated by a committee (the "Steering Committee") consisting of an equal number (which number shall be two (2) unless the Parties otherwise agree) of representatives designated by each of the Company and the University. Separate Steering Committees shall be established for each of the e-Learning Programs and Projects managed by the Company. The Steering Committees shall plan, administer and monitor their respective e-Learning Programs and Projects, including approving enrollment goals. In planning and monitoring the e-Learning Programs and the Projects, the Steering Committees shall allocate tasks and responsibilities taking into account each Party's respective specific research, development, teaching, marketing and student enrollment and retention capabilities and expertise in order to avoid duplication and to enhance synergies.
- 3.2 Steering Committee Designees.** Each Party shall designate one of its representatives on each Steering Committee as its "Co-Chair." Each Party shall have the right at any time to substitute individuals, reasonably acceptable to the other Party, on a permanent or temporary basis, for any of its previously designated representatives to a Steering Committee, including its Co-Chair, by giving written notice thereof to the other Party.
- 3.3 Steering Committee Meetings.**
- 3.3.1 Schedule of Meetings.** The Steering Committee shall meet (by teleconference or videoconference and/or in person) at such times as the Committee deems appropriate, but at least semi-annually. Representatives of each Party or of its Affiliates, in addition to the members of the Steering Committee, may attend Steering Committee meetings as non-voting observers at the invitation of either Party with the approval of the other Party, which shall not be unreasonably withheld.
- 3.3.2 Quorum; Voting; Decisions and Expenses.** At each Steering Committee meeting, a majority of the members of the Steering Committee designated by the Parties present at such meeting shall constitute a quorum. Each Steering Committee member shall have one vote on all matters before the Steering Committee. Provided a quorum is present, all decisions of the Steering Committee shall be made by majority vote of all of the members of the Steering Committee. In the event that the Steering Committee is unable to resolve any

matter before it, such matter shall be resolved as set forth in Article 3.4 hereof. The Steering Committee shall keep accurate minutes of its deliberations that record all proposed decisions and all actions recommended or taken. Each Party shall each bear their own expenses and that of their respective Steering Committee members related to their participation on the Steering Committee and attendance at Steering Committee meetings.

- 3.4 Dispute Resolution.** In the event that the Steering Committee shall not be able to reach a decision or take an action on any matter which is reserved to the Steering Committee hereunder, then: (i) the matter in question shall first be referred for resolution to the Chief Executive Officer of the Company and the Dean of the College of Applied Health Sciences at the University (or a designated senior officer of the University), and in the event that said officers shall be unable to resolve such matter after reasonable efforts to do so and after the passage of a reasonable period of time under the relevant circumstances, but in no event more than thirty (30) days, such matter shall be resolved in accordance with the procedures for resolving disputes under this Agreement as set forth in Article 16.

ARTICLE 4

OBJECTIVES, DUTIES AND RESPONSIBILITIES

- 4.1 Objectives of the e-Learning Programs and the Project.** The objective of the e-Learning Programs shall be to provide individuals with more knowledge in their field and with an academic credential essential for advancing in their professions as a result of the e-Learning Programs. The objective of the Project is to operate the e-Learning Programs in a prudent and profitable manner. In carrying out the objective of the e-Learning Programs and the Project, the Parties shall each use commercially reasonable efforts to perform such tasks as are set forth to be performed by them under the terms of this Agreement in accordance with all applicable laws, ordinances, rules, regulations, orders, licenses and other requirements now or hereafter in effect.

4.2 Mutual Obligations.

- 4.2.1 Collaborative Efforts and Reports.** The Parties agree that the successful execution of the e-Learning Programs will require the collaborative use of both Parties' areas of expertise. The Parties shall keep the Program Directors, Partnership Director and the Steering Committee fully informed about the status of the portions of the e-Learning Programs they respectively perform separately and/or jointly.

- 4.2.2 Information Exchange.** Subject to any confidentiality obligations to third parties, the Company and the University shall cooperate in the development, operation and performance of the e-Learning Programs and shall exchange information and materials as necessary to carry out the duties and responsibilities described herein. The Parties expect that such exchange of information and materials will involve short-term on-site visits by personnel of one Party to the facilities of the other to encourage close collaboration between the Parties. Such visits will have defined purposes and be scheduled reasonably in advance and shall be subject to the confidentiality obligations herein.

- 4.2.3 Program Evaluation.** The Parties will conduct regular Course, services, and e-Learning Program evaluations to assess the effectiveness of each e-Learning Program; including participating in joint review for continuous improvement of the e-Learning Programs.
- 4.2.4 Timeliness.** The University and the Company shall use their best efforts to make all decisions and perform all tasks required of the Parties in a timely manner.
- 4.2.5 Joint Obligations.** Each Party shall apply commercially reasonable efforts to the performance of all aspects of its obligations under this Agreement and to bring the e-Learning Programs into commercial use as quickly as reasonably possible but in no event later than the time periods set forth in the Prospectus. The Parties intend that the initial Prospectus and Program Term Sheet entered into under this Agreement will be for the Department of Biomedical and Health Information Sciences. The Parties may, but shall not be required, to enter into additional Program Term Sheets involving e-Learning Programs that may be initiated by other departments within the University. The decision whether to enter into a Program Term Sheet for an e-Learning Program shall in each and every instance be a University Decision.
- 4.3 Duties of the University.** The University shall be responsible and shall provide at its sole cost and expense, unless otherwise specifically indicated herein or in the Program Term Sheet attached hereto, the following duties and services, and all decisions related to performing and providing of such duties and services shall be the University Decisions unless specifically indicated otherwise in the Program Term Sheet attached hereto.
- 4.3.1 Curriculum and Content.** The University shall be responsible for the following Content matters:
- 4.3.1.1 Development and Delivery of the Content and Other Materials.** Development and delivery of the Content and materials, syllabus, Course outlines, Course manuals, Course schedules, Documentation, multimedia presentations, readings, assignment guidelines, student/faculty assessments, case studies, hard copy materials, audio, video and related computer software for each of the e-Learning Programs in accordance with the procedures, requirements and schedules set forth in the Prospectus. The Parties, in consultation with the Steering Committee, will use their best efforts to develop materials in a timely fashion and to develop collaborative solutions in the event of an unforeseen delay in the production schedule. The University shall provide the Company with appropriate materials for each e-Learning Program, in a manner and form/format satisfactory to the Company (e.g., the format in which such materials must be delivered to the Company for upload to a promotional site or for reprinting of marketing collateral, such as course descriptions in .pdf or Word format delivered by electronic mail), for the Company to perform its obligations under this Agreement, all of which shall be provided according to the Prospectus for each e-Learning Program.

4.3.1.2 Control of Academic Curricula and Content. Academic programming and curriculum shall be a University Decision. The University shall make decisions with respect to, and shall be fully responsible for, the Content and quality of the curriculum of each e-Learning Program. Such curricula shall be established in accordance with all applicable laws and regulations and with the policies, procedures and guidelines of the University. Notwithstanding the foregoing, the University shall use its best efforts to maximize the use of the e-Learning Program Model, which will be updated, modified and amended as reasonably necessary.

4.3.2 Faculty and Staff. The University shall be responsible for the following Faculty activities and matters:

4.3.2.1 Reviewing credentials, selection, appointment, administering, hiring, evaluation, coordination, and discharging of the Program Directors, the Faculty, their staff, and their activities.

4.3.2.2 Payment of all expenses and compensation of the University personnel including, without limitation, the Program Directors, the Faculty, and their staff and their activities.

4.3.2.3 Participation by the Program Directors, the Faculty, and their staff, as reasonably requested and at such times as determined by the Steering Committee, in Course development activities, Course presentations, promotional events, marketing, training, and planning sessions.

4.3.3 Admission and Registration of Students. The University shall be responsible for the following Student matters:

4.3.3.1 Admissibility and Administration of Students. The University shall be responsible for all decisions regarding the admission and registration criteria of Students. The University shall provide to Students referred to each e-Learning Program by the Company or any other party such services as are reasonably necessary for admission, registration, withdrawal, financial aid, recording of grades, and awarding of certificates, degrees, and licenses in accordance with the University's policies and procedures for administering student services, as amended from time to time.

4.3.3.2 Collection of Fees. The University shall be responsible for all activities related to the collection of all Instructional Fees and other fees with respect to each e-Learning Program, except those fees the Parties agree in writing shall be collected by the Company.

4.3.3.3 Processing Of Student Loans and Grants. The University shall be responsible for performing any function required by any statutory provision of or applicable to Title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA and any other Student lender including, but not limited to, processing student financial

aid applications, determining student eligibility, and processing payments to Students.

4.3.3.4 Reporting. The University shall provide read-only Web access to the University's student information system or report in writing to the Company each Student application as received and Student enrollment data weekly during registration for each academic term, at the conclusion of registration, at the conclusion of drop/add for registration, and as otherwise necessary, in accordance with the confidentiality terms of this Agreement and any applicable laws.

4.3.4 Technology. The University shall be responsible for the following technology matters:

4.3.4.1 The University shall provide technology, access, technical helpdesk support for students and faculty and instructional services to support each e-Learning Program, including without limitation all facilities, personnel and materials required therefore.

4.3.4.2 The University shall provide and maintain the Course Management System including without limitation the procurement and payment of any and all licenses necessary for the University, Company, Program Managers and Directors, Faculty and Students to use such Course Management System as contemplated hereunder and under any Prospectus made a part hereof.

4.3.4.3 The University shall provide instructional design support to Faculty to develop their Courses.

4.3.4.4 The University shall convert Course Content to the Course website using the Course Management System software.

4.3.4.5 The University shall produce multimedia presentations as defined by the Course Instructors and the Program Directors.

4.3.4.6 The University shall (a) provide the Company access to an A Record for a 4th level sub-domain off of the University main domain that points to an IP address on the Company server strictly for the purposes of marketing of the Project and maintenance of each e-Learning Program web site, and provide an MX record that points to the Company Exchange service IP address for purposes of this Project, which means the University shall provide the Company a universal resource locator (URL) name associated with the University's web URL, the content of which will reside on the Company's server, and the University will designate an email domain affiliated with this same web address; and (b) provide a "Course Designer Level" access to the course materials for the Company appointed Program Manager for maintenance of the Course and support for Students and Faculty. Course Management System

"Administrative System Access" shall be granted only to a University information technology services employee.

4.3.5 Granting Credits, Certificates, and Degrees. The University shall be responsible for granting Course credits, certificates and degrees to Students who successfully complete the e-Learning Courses and the e-Learning Programs and who otherwise satisfy the necessary academic criteria established by the University for such college credits, certificate, and degree.

4.4 Duties of the Company. The Company shall be responsible for distance learning services described in this Section 4.4 and such other duties as are described in the Program Term Sheet, Appendix I of the Request for Proposal (RFP) RPP919, the Company's response thereto and any applicable addenda. The Company shall be responsible for and shall provide at its sole cost and expense unless otherwise indicated in the Program Term Sheet the following duties and services and all decisions related to performing and providing of such duties and services shall be Company Decisions unless otherwise specifically indicated otherwise in the Program Term Sheet:

4.4.1 Marketing. The Company shall be responsible for all marketing activities to generate qualified prospective student interest to meet enrollment goals including the following. However, the determination of which of these specific marketing activities the Company will undertake shall be within the sole and absolute discretion of the Company, with advisement from the University.

4.4.1.1 Market Research. The Company shall be responsible for all activities related to determination of the marketplace size, demand, acceptance, competition, and probability. This shall include all activities related to the execution of market research with specific benchmarks established periodically by the Company necessary to develop and execute the marketing strategy.

4.4.1.2 Development of Marketing Campaign. The Company shall be responsible for the development of the marketing campaign, identification of the appropriate media mix, and design of referral and employer/association outreach strategies.

4.4.1.3 Development of Promotional Literature and Collateral. The Company shall be responsible for the design, development, printing, and purchase of marketing and promotional literature in hardcopy and electronic formats as the Company determines in its discretion to undertake, subject to the approval of the University and Steering Committee.

4.4.1.4 Development of Mailing Lists. The Company shall purchase, develop and test all mailing lists.

4.4.1.5 Execution of Market Strategy. The Company shall be responsible for all activities related to the execution, tracking, and reporting of the marketing campaign.

4.4.1.6 Dissemination of Program Collateral and Application Materials. The

Company shall disseminate via hardcopy and electronic means, application materials, and other literature to interested persons and groups.

4.4.1.7 Development and Maintenance of the Program Promotional Website.

The Company shall design, create, improve, promote, maintain, and update a promotional website for each e-Learning Program to market the e-Learning Programs via the Internet, subject to approval by the University.

4.4.1.8 Prospective Student Leads Management. The Company shall track prospective student leads and shall report results to the Steering Committee.

4.4.2 Student Recruitment. The Company shall be responsible for the following Student recruitment matters:

4.4.2.1 Student Advisement and Processing. The Company and its Enrollment Advisors shall be responsible for all activities related to initial contact with prospective Students, description of the e-Learning Programs, explanation of distance e-learning, advisement about the admissions requirements, guidance regarding the financial aid application process, notification of schedules and deadlines, answering prospective Students' questions regarding the foregoing, and making referrals to appropriate University resources. Assistance will be given for verification of receipt of information necessary for admissions and registration, providing updates, mailing of application and registration packets, telephone support in the application process, processing of information including but not limited to student personal statement, prospective student interviews, and information about other university processes, and receipt of necessary student documentation as requested by the University.

4.4.2.2 Student Follow-up. The Company shall maintain periodic contact with prospective students and shall be responsible for all activities relating to receipt and response to prospective Student requests for further information, schedules, and handouts.

4.4.2.3 Management of Prospective Student Database. The Company shall be responsible for all activities related to entry, coordination, tracking, and control of prospective Student contact and application status information provided by the University, whether in electronic and hardcopy format, including maintaining confidentiality of such information unless such information falls within an exception to "Confidential Information" as that term is defined herein.

4.4.2.4 Management of Telephone Database. The Company shall be responsible for all activities related to creation of scripts that may be used in discussions with, and management of telephonic contact with,

prospective Students. Such scripts shall be based on discussions with representatives of the University to develop messages that incorporate the University's philosophy and culture.

4.4.3 Management and Retention Activities. The Company shall be responsible for the following management and Student retention matters:

4.4.3.1 Student Retention. The Company shall be responsible for activities related to logistical and basic technical support for Students directly related to retention-building activities. Such activities may include learning preparedness assessments and interventions targeted for at-risk profiles, student and graduate satisfaction surveys, regular monitoring of student activity based on course websites with faculty and student follow-up as required, and basic response to student technology needs during Company business hours.

4.4.3.2 Student Re-enrollment. The Company shall be responsible for advising and directing Students about future required coursework, course selection, and re-enrollment procedures.

4.4.3.3 Faculty Support. The Company shall provide logistical and course development scheduling support to the Faculty.

4.4.3.4 Administration of e-Learning Programs. The Company shall manage the daily Project administration aspects of the e-Learning Programs which are assigned to the Company pursuant to each Prospectus.

4.4.3.5 Dissemination of Multimedia. The Company shall manage the activities related to dissemination of hardcopy multimedia materials to Students, as needed.

4.4.3.6 Daily Personnel Management. The Company shall manage activities related to hiring, discharging and performance review of Chief Academic Officer, Partnership Director, e-Learning Program Managers, Enrollment Advisors, and their assistants and other Company personnel associated with the Project.

4.4.4 Instructional Services. The Company shall be responsible for the following Instructional Services:

4.4.4.1 e-Learning Program Model. The Company shall provide the University, for purposes of the Project, with the non-exclusive right to use the Company's e-Learning Program Model and shall through the Chief Academic Officer and Partnership Director make available reasonable e-learning consultation and assistance to the Program Directors, the Faculty and their staff at all reasonable times throughout the Term of this Agreement in carrying out their duties and responsibilities in connection with this Agreement, the e-Learning Program Model, the Prospectus and the operation of the Project.

4.4.4.2 Assistance in Curriculum Development. The Company shall coordinate

activities related to scheduling, processing, assisting and coordinating deadlines with the University to achieve required outcomes, including templates and handbooks.

ARTICLE 5

FUNDING

- 5.1 **e-Learning Programs and Project Funding.** Each Party shall fund and be responsible for the payment of all costs and expenses associated with performing the duties assigned to it in this Agreement and any Prospectus with respect to each e-Learning Program and the Project, unless otherwise specifically stated herein, in the Program Term Sheet or any Prospectus. Unless otherwise specifically stated herein, in the Program Term Sheet, or any Prospectus, each Party shall, to the extent it uses any third Party products or services to perform its duties hereunder, fund and pay for all costs and expenses of such third Party products and services.
- 5.2 **Other Fees and Expenses.**
- 5.2.1 **Launch Fee.** The University agrees to pay an invoice (which will not be due any earlier than the commencement of the marketing activities set forth in Section 4.4.1 above), a one-time fee per e-Learning Program to the Company to launch each e-Learning Program as specified and mutually agreed upon in the Program Term Sheet. Company agrees that said payment shall be made in accordance with and pursuant to University of Illinois state statute, and established University policies and procedures.

ARTICLE 6

RIGHTS IN WORK PRODUCT

- 6.1 **"Subject Work Product"** as used herein means any and all tangible materials resulting from work first performed under this Agreement including all data, documentation, reports or other information, including but not limited to computer programs, writings, sound recordings, pictorial reproduction, drawings, audio-visual materials, graphical representations, copyrights, patents, inventions or discoveries made within the scope of work, defined in scope of services.
- 6.2 **Ownership Rights.** Subject Work Product produced in the performance of this Agreement shall be owned by University. Company represents that Subject Work Product shall be original and not infringing on any pre-existing third party rights. Company hereby assigns all right, title and interest in all Subject Work Product to University. Company understands the University shall have the exclusive right to use Subject Work Product for any purpose, including but not limited to use, reproduction, distribution, sale, licensing and sublicensing of the Subject Work Product and the development of derivative works based in whole or in part on the Subject Work Product, without further compensation to Company.

6.3 Pre-Existing Rights. University acknowledges that in the course of its performance under the Company, Company may use products, software, materials and methodologies proprietary to Company (“Pre-existing Material”), and University agrees that it shall have or obtain no ownership rights in such Pre-existing Material. University acknowledges that Company provides similar services for a broad range of other clients and agrees that Company shall be free to work for other clients in matters that do not involve the use of any Subject Work Product.

Subject to the terms of this Agreement, Company grants to University a royalty-free, nonexclusive, irrevocable, worldwide license to use, duplicate and disclose, in whole or in part, and to publish, translate, perform and otherwise utilize any such Pre-existing Material which is delivered to University. The right to use the Pre-existing Material terminates upon termination of the Agreement, and it is limited solely as necessary to receive the services under the Agreement.

Unless the prior written permission of University is obtained, Company shall not incorporate in Subject Work Product tangible or intangible property owned by third parties (excluding property provided by the University). If University permits third party property to be incorporated into subject Work Product, Company shall obtain for University, and others acting on its behalf, a royalty-free, nonexclusive, irrevocable, worldwide license to use, duplicate and disclose, in whole or in part, and to publish, translate, perform and otherwise utilize all such tangible and intangible property at no additional cost to University.

6.4 Use and Publication Restrictions on Company. Company will not publish, have published, disclose or otherwise disseminate any Subject Work Product except as may be approved in advance, in writing by University.

6.5 No Restrictive Markings. The Company shall not put any restrictive markings upon any Subject Work Product unless otherwise specified in this Agreement.

6.6 Administrative Confidential Information. The Company shall not publish or otherwise disclose in any manner, except to the University and except matters of public record, any information or data obtained under this Agreement from private individuals, organizations, or public agencies, whereby the information furnished by any particular person or establishment can be identified, except with the prior written consent of such person or establishment.

6.7 Patents – Inventions. Company agrees to furnish University promptly with complete information about any invention or discovery first made while directly working under this Agreement. University shall have the sole power to determine whether or not a patent application shall be filed, and to determine the disposition of the title to and rights under any application or patent that may result. The judgment of University shall be accepted as final, and Company agrees to execute all documents and do all things necessary or proper to carry out the judgment of University. This provision should apply solely to the Subject Work Product, and any of the Pre-existing Material.

- 6.8 University of Illinois Campus Guidelines for HTML and Graphics Logo Usage.** Company must adhere to all guidelines provided for the use of the official local campus designation, logo, and HTML and Graphic/Logo usage for each campus of the University of Illinois. Included in the guidelines for each campus are the following:

For the Chicago campus, see:

http://www.uic.edu/home/wdw/logos/uic_logos.shtml

For the Springfield campus, see: <http://www.uis.edu/mediaguides/style/> and see <http://www.uis.edu/webpolicy/guidelines.html>

For the Urbana-Champaign campus, see: <http://www.admin.uiuc.edu/cam/iii/iii-1.html> and

See <http://www.admin.uiuc.edu/log>

For the University as a whole, see <http://www.uillinois.edu/our/graphicstandards/>

ARTICLE 7

LICENSE

7.1 License.

- 7.1.1** The University hereby grants to the Company for the Term of this Agreement a royalty-free non-exclusive right and license to use, produce, reproduce, distribute, perform, display, promote, advertise, sell, and otherwise market the e-Learning Programs, or any parts thereof, produced in furtherance of this Agreement, including any foreign language versions, in all configurations and formats, for all digital/electronic technology systems, whether now known or hereinafter developed, throughout the Territory for the sole and exclusive purpose of performing its obligations under this Agreement. This license includes, subject to the limitations provided in this Section 7.1.1, a license under all copyrights now existing or later created with respect to the Content, Courses, Documentation and Derivative Work therefrom.
- 7.1.2** The University shall have sole responsibility for obtaining any licenses and rights in all Intellectual Property Rights of third parties with respect to the Content, Documentation and Derivative Work therefrom necessary to enable the Company to perform its duties pursuant to this Agreement as intended. The Company shall have the sole responsibility for obtaining any licenses and rights in all Intellectual Property Rights of third parties with respect to any materials that Company provides and uses in performing its duties pursuant to this Agreement as intended.
- 7.1.3** Except for the licenses and other rights expressly granted herein to the Company, it is understood and agreed that as between the Parties the University shall retain all right, title, and interest in its Intellectual Property Rights, including the original Content, Course, Documentation, and Derivative Work and all copyrights therein, and that the University will own all modifications or improvements made to the original Content or other Derivative Works. Notwithstanding any other provision to the contrary, the Company shall retain all rights, title, and interest in and to its distance learning methodologies (including without limitation the Program Model) before, during and after the Term of this Agreement, including without limitation all copyright, trademark, and other

Intellectual Property Rights in and to such methodologies and any representation or documentation of such methodologies in any form or configuration, whether now known or hereinafter developed. Nothing in this Agreement shall give the University any interest in the Intellectual Property Rights of the Company. At its own cost and expense, each Party agrees to execute any documents and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Section 7.1.3.

- 7.2 **Trademarks.** The University also hereby grants the Company, for the Term of this Agreement, the royalty-free non-exclusive right and license to use and display throughout the Territory the name, trade names and Trademarks of the University, if any, for the promotion, advertisement, selling, and exploitation of the e-Learning Programs; provided, however, that such use of the foregoing shall be approved in advance by the University's Director of Publications or similar position. Company acknowledges the University's interest in maintaining a high level of quality in connection with the use and display of the University Trademark in order to enhance University's goodwill as symbolized by its Trademarks. Accordingly, Company agrees that the University's Trademarks shall be operated and run in accordance and conformance with the standards and specifications specified in a style guide or other documentation (or both) provided by University to Company.
- 7.3 **Necessary Acts, Further Assurances.** The University shall at its own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of Sections 7.1.1., 7.1.2. and 7.2 hereof.

ARTICLE 8

DISTRIBUTIONS

- 8.1 **Initial Enrollment Report** No later than ten (10) business days after the drop/add_date during each academic term of each e-Learning Program; the University shall report enrollments to the Company ("Initial Enrollment Report"). The Initial Enrollment Report shall include the number of students enrolled in the Program by degree-seeking classification and the anticipated Net Instructional Fees to be received by the Program, including but not limited to tuition waivers. The Initial Enrollment Report shall be organized in a format acceptable to the Parties.
- 8.2 **Method of Billing.** To receive payment, the Company shall provide an invoice for the full amount depicted in the Initial Enrollment Report which corresponds to the applicable percentage of the Net Instructional Fees (the "Distributions") pursuant to the Program Term Sheet with respect to each e-Learning Program, as appropriate. Company must submit an appropriately itemized invoice to University for services performed. Invoices are to be sent in duplicate to the Chief Fiscal Office of the appropriate college and the Program Director. The Agreement Number (or Purchase Order Number, if

(applicable) must be included on the invoice.

- 8.3 Distribution Rate.** Company shall receive compensation at the rate established in the applicable Program Term Sheet attached hereto for the period of this contract for all services performed.
- 8.4 Maximum Price.** The estimated maximum price for this Agreement is the total compensation for the services as indicated in the Program Term Sheets.
- 8.5 Net Distribution Statement.** No later than ten (10) business days after the end of each academic term, the Parties shall commence reconciliation of any outstanding or adjusted Net Instructional Fees with payment to the Party due within thirty (30) days. In the event there is an additional amount due to a Party, then such Party must submit an appropriately itemized invoice to the other Party for the amount of the reconciliation. For invoices to the University, invoices are to be sent in duplicate to the Chief Fiscal Office of the appropriate college and the Program Director. For invoices to the Company, invoices are to be sent to Chief Financial Officer. The Agreement Number (or Purchase Order Number, if applicable) must be included on the invoice.

The University shall provide the Company with a written statement in a form reasonably acceptable to the Parties reciting the Net Instructional Fees received or recouped by the University from the sale of the Courses for each e-Learning Program, including but not limited to the number of Students enrolled in each Course, the amounts billed and collected from Students/enrollees, and all deductions applied in the calculation of Net Instructional Fees as described in Article 2 hereof. The statement shall also include any other charges incurred, refunds, discounts, allowances, returns, credits and reportable sales of the Courses for each e-Learning Program. Such statements shall be furnished to the Company regardless of whether any Courses were sold during the academic term. The receipt or acceptance by the Company of any such statement, or the receipt or acceptance of any Distribution by the Company shall not prevent the Company from subsequently challenging, in accordance with the provisions of Article 9 below, the validity or accuracy of such statement or payment.

- 8.6 Method of Payment.** University agrees to pay Company no more frequently than twice per academic term for services rendered for the contract period in accordance with the percentages specified in the appropriate Program Term Sheet. Any applicable discount will be taken if payment is processed within the stated time. Company agrees that said payment shall be made in accordance with and pursuant to University of Illinois state statute, and established University policies and procedures, upon approval of invoices submitted by the Company. Such approval shall not be unreasonably withheld.

University may notify Company of a breach in the event of: a) Unsatisfactory work performed; b) Failure of Company to make required payments to Subcontractors; c) Damage to University property or related liability; or d) Incomplete, inaccurate, or unauthorized billing.

- 8.8** **Late Charges.** Time is of the essence with respect to all Distributions to be made hereunder. Payment of interest may be available if University fails to comply with the State Prompt Payment Act (30 Illinois Compiled Statutes 540).
- 8.8.1 Amounts Withheld.** All amounts withheld pursuant to the Code or any provision of any applicable tax law with respect to any payment or distribution to the Parties shall be treated as amounts distributed to the Parties pursuant to this Article, for all purposes under this Agreement.
- 8.9 Account Settlement Legal Action.** Company shall not settle or compromise any account, or initiate any form of legal action on University accounts placed for collection without prior written authority from University Office of University Counsel. In the event that approval for legal action is sought, Company will provide the name and address of the attorney who will be retained, and, if approved, cause the attorney to send a copy of all pleadings to University when filed in the case. Company will secure advance approval of University for specific amount of all court costs to be incurred. Company will advance all court costs. Company shall be reimbursed for the reasonable advances of court costs out the first monies collected from the debtor. No commission is payable on court costs.

ARTICLE 9

AUDIT

- 9.1** The Company shall have the right to have an independent certified public accountant (the "Auditor") perform an audit (the "Audit") of the University's determination of the amount of the Distributions due the Company hereunder. The Company may exercise such right by giving the University 30 days notice prior to the commencement of the next school year semester. The University agrees to cooperate with the Company and the Auditor, including providing reasonable access to the financial books, records and materials regarding the e-Learning Programs. The Company agrees to perform no more than two audits per school year.
- 9.2** If any Audit indicates a discrepancy, any difference shall be immediately due and payable to the proper Party with costs of said Audit to be borne by the offending Party in the event the discrepancy is greater than five thousand dollars (\$5,000).
- 9.3 Record Retention and Audits.** 30 Illinois Compiled Statutes 500/20-65 requires Contractor (and any Subcontractors) to maintain, for a period of three (3) years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to University under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by University and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. Contractor agrees to cooperate fully with any audit and to provide full access to all relevant materials. Failure to maintain the required books and

records shall establish a presumption in favor of University for the recovery of any funds paid by University under this Contract for which adequate books and records are not available. University shall maintain its records according this Section 9.4.

ARTICLE 10

COMPENSATION AND FEES

- 10.1 No Compensation or Fees.** Except as specifically provided for in Section 5.2 "Other Fees and Expenses" or any other part of this Agreement, no Party shall receive any compensation or fees for services rendered with respect to the Project unless as otherwise agreed in writing between the Parties.

ARTICLE 11

CONFIDENTIAL INFORMATION AND RESTRICTIVE COVENANTS

- 11.1 Confidentiality.**

11.1.1 The University and the Company each agree that any disclosure of the other Party's Confidential Information to any of its officers, employees, consultants or agents or those of any of its Affiliates and licensees and sublicensees shall be made only if and to the extent necessary to carry out its rights and responsibilities under this Agreement, shall be limited to the maximum extent possible consistent with such rights and responsibilities and shall be made only to persons who are bound by written confidentiality obligations to maintain the confidentiality thereof and not to use such Confidential Information except as expressly permitted by this Agreement or to the extent required by applicable law or legal process. The University and the Company each agree not to disclose the other Party's Confidential Information to any third parties under any circumstance without the prior written approval from the other Party (such approval not to be unreasonably withheld), except as required in any application for regulatory approvals, or as otherwise required by law or legal process, and except as otherwise expressly permitted by this Agreement. Each Party will notify the other Party if disclosure is required, but any additional action to prevent release or otherwise protect Confidential Information must be undertaken by the Party in receipt of such notice at its own expense. Each Party, upon the other's request, will return (or destroy and provide written confirmation of such destruction) all the Confidential Information disclosed to it by the other Party pursuant to this Agreement, including all copies and extracts of documents and all manifestations in whatever form, within sixty (60) days of the request following the termination of this Agreement; provided, however, that a Party may retain Confidential Information of the other Party relating to any license or right to use the Content, Courses, Documentation or Derivative Work therefrom or other materials or Trademarks which survives such termination and one copy of all other Confidential Information may be retained in inactive archives solely for the purpose of establishing the contents thereof.

11.1.2 The University and the Company each represent that all of its employees and the

employees of its Affiliates, and any consultants to such Party or its Affiliates, participating in the Project activities who shall have access to Confidential Information of the other Party shall be bound by written obligations to maintain such information in confidence and not to use such information except as expressly permitted herein. Each Party agrees to enforce confidentiality obligations to which its employees and consultants (and those of its Affiliates) are obligated.

- 11.2 Publicity.** Neither Party may disclose the terms of this Agreement without the prior written consent of the Steering Committee; provided, however, that either Party may make such a disclosure to the extent required by law or legal process without prior consent, which disclosure shall be on reasonable prior notice to the other Party. The Parties, upon the execution of this Agreement, will agree upon the text and the exact timing of an initial public announcement relating to the transactions contemplated by this Agreement as soon as possible after the Effective Date (such agreement not to be unreasonably withheld or delayed). Thereafter, the Parties will agree on the text and the timing of any subsequent public announcements regarding this Agreement or the transactions contemplated herein; provided, however, that once any written statement is approved for disclosure by the Steering Committee, either Party may make subsequent public disclosure of the contents of such statement without the further approval of the other Party or the Steering Committee. Any costs incurred for public relations in respect of this Agreement shall be paid by the Party incurring the expense.
- 11.3 Limitation on Disclosures.** Notwithstanding any provision in this Agreement, neither Party shall be obligated hereunder to disclose to the other Party any information which it is prohibited from disclosing by law or under any agreement with a third Party.
- 11.4 Prohibition on Hiring.** Neither Party shall, during the term of this Agreement and for a period of one (1) year thereafter, solicit for employment any person who was employed by the other Party or its Affiliates during such period, whether such person is hired as an employee or consultant, unless authorized in writing by the other Party, or unless such person has not been employed by the other Party for at least 12 months prior to his or her hiring or solicitation. Notwithstanding the foregoing, neither Party shall be restricted from hiring an applicant for a position who has responded to an advertisement directed to the public without any direct contact from the hiring Party.
- 11.5 Saving Provisions.** If any covenant or provision contained in this Article 11 is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity of any other covenant or provision. If, in any arbitration or judicial proceeding, a tribunal shall refuse to enforce all of the separate covenants deemed included in this Article 11, then such unenforceable covenants shall be deemed eliminated from the provisions hereof for the purpose of such proceedings to the extent necessary to permit the remaining separate covenants to be enforced in such proceedings.

ARTICLE 12

TERM, TERMINATION AND DISENGAGEMENT

- 12.1 Term.** This Agreement shall take effect as of the Effective Date and shall continue for a period of ten (10) years. The Parties agree to evaluate the Master Agreement every five

(5) years to address outstanding Program Term Sheets that may outlive the Term of the Master Agreement.

12.2 Termination.

12.2.1 Initial Termination Conditions.

- (a) This Agreement and all e-Learning Programs may be terminated in any one or more of the following ways: (i) by mutual consent of the University and the Company; or (ii) by one Party upon written notice in the event that (a) the other Party shall have dissolved, ceased active business operations or liquidated, unless such dissolution, cessation or liquidation results from reorganization, acquisition, merger or similar event, or (b) bankruptcy or insolvency proceedings, including any proceeding under Title 11 of the United States Code, have been brought by or against the other Party and, in the event such a proceeding has been brought against such Party, remains undismissed for a period of sixty (60) days, or an assignment has been made for the benefit of such Party's creditors or a receiver of such Party's assets has been appointed (a "Bankruptcy Event");
- (b) Any e-Learning Program may be terminated in any one or more of the following ways: (i) by mutual consent of the University and the Company; (ii) by one Party upon default of the other Party in the full and timely observance or performance of its material covenants or obligations under this Agreement with respect to such e-Learning Program upon providing thirty (30) days prior written notice in the case of a payment breach and sixty (60) days' prior written notice in the case of any other such breach by the other Party, which notice shall specify the nature of the default and the steps to be taken to cure such default; provided, however, that if such default is cured by the defaulting Party within such thirty (30) or sixty (60) day period, such notice of termination shall be deemed null and void as if the same had never been given and such e-Learning Program shall not be terminated pursuant thereto, or (iii) upon thirty (30) days prior written notice given by either Party if there are less than that certain number (as set forth in the e-Learning Program Term Sheet) of unique Students enrolled in the subject e-Learning Program (the "Minimum Number of Students") during the time period (the "Time Period") set forth in the e-Learning Program Term Sheet.

12.2.2 Termination of the Agreement for Cause.

Should either Party breach any terms or provisions of the Agreement, such Party shall serve written notice on the other Party setting forth the alleged breach and demanding compliance with such Party. Unless within thirty (30) calendar days after receiving such notice, the allegation shall be contested or such breach shall cease and arrangements be made for corrections, the non-breaching Party may cancel the Agreement by giving thirty (30) days notice, in writing of its intention to cancel this Agreement.

In the event of cancellation for breach, Company shall be paid for work performed in accordance with Section 12.4.

- 12.3** If either Party shall fail to perform or observe or otherwise breaches any of its material obligations under this Agreement, in addition to any right to terminate this Agreement or an e-Learning Program(s), as the case may be, the non-defaulting Party may elect to obtain other relief and remedies available under law provided, however, that where practicable the non-defaulting Party must provide the notice and opportunity to cure described in Section 12.2.1(b) prior to pursuing such relief. Such non-defaulting Party must seek relief and remedies in accordance with Article 15 hereof.
- 12.4** Notwithstanding any provision herein to the contrary, the rights and obligations set forth in Articles 4, 6, 7.1.3, 8, 9, 11, 12.3, 12.4, 13, 15, 16 and 17 and all sections incorporated by reference therein shall survive the expiration or early termination of this Agreement. Furthermore, a termination of any one or more of the e-Learning Programs shall have no effect on the other e-Learning Programs and this Agreement with respect to such programs. In addition, Distributions (i) earned by the Company prior to any such expiration or termination, and (ii) Distributions that would otherwise be due the Company subsequent to such termination or expiration but for such termination or expiration (the "Post termination Distributions") for Students recruited by the Company and still served by the Company post termination shall be paid to the Company as provided in Article 8 notwithstanding such termination or expiration with the understanding that the Post Termination Distribution amount shall be calculated only with respect to those Students enrolled in the Program or Courses as of the date of such expiration or termination and for so long as such Students remain enrolled in the Program or Courses unless such Students re-enroll in the Program or Courses within one year of dropping or failing to re-enroll and then for so long as such Students are enrolled in the Program or Courses.

ARTICLE 13

REPRESENTATIONS, WARRANTIES AND COVENANTS

- 13.1 Mutual Representations.** The University and the Company each represents to the other as follows:
- 13.1.1 Authorization.** The execution, delivery and performance by it of this Agreement have been duly authorized by all necessary corporate or other organizational action and do not and will not (a) require any consent or approval of its stockholders, owners or directors or (b) violate any provision of any agreement, law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to it or any provision of its charter documents.
- 13.1.2 Binding Agreement.** This Agreement is a legal, valid and binding obligation of it enforceable against it in accordance with the terms and conditions hereof.

13.1.3 No Inconsistent Obligation. It is not under any obligation to any person or entity, contractual or otherwise, that is conflicting or inconsistent in any respect with the terms of this Agreement or that would impede the diligent and complete fulfillment of its obligations hereunder and that it has all power and authority under all instruments or agreements to which it is a party to enter into this Agreement and to perform its obligations hereunder. Without limiting the generality of the foregoing, the University has not granted to any third party any rights to its Content that are inconsistent with this Agreement.

13.2 Company Warranties.

13.2.1 The Company represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, is or shall be at the time of performance qualified to do business and in good standing as a foreign corporation in each jurisdiction in which the performance of its obligations hereunder requires such qualification and where any failure to qualify would have a material effect, and has all requisite power and authority, corporate or otherwise, to conduct its business as now being conducted, to own, lease and operate its properties and to execute, deliver and perform this Agreement.

13.2.2 The Company represents and warrants that it presently has, or will have during the term of this Agreement, permission to use any Company Provided Material as defined in Section 15.2 in all manners contemplated hereunder, both published and unpublished and that there are no other agreements with any other Party in conflict herewith and that, with respect to the Company Provided Material, the copyright, patents Trademarks and any other Intellectual Property Rights that may be associated with or utilized for the Project, if any, are valid under the applicable copyright, patent Trademark and other intellectual property laws.

13.2.3 The Company further represents that it has no actual knowledge that the Company Provided Material, whether owned or licensed, infringe upon the valid rights of any third party.

13.3 The University Warranties.

13.3.1 The University represents and warrants that it presently has, or will have during the term of this Agreement, permission to use and to enable the Company to use the University Licensed Material as defined in Section 15.1 in all manners contemplated hereunder, both published and unpublished, and that it is presently the owner, or will own during the term of this Agreement, all rights, title and interest in and to any Trademarks licensed hereunder and that there are no other agreements with any other Party in conflict herewith and that, with respect to the University Licensed Material, the copyright, patents Trademarks and any other Intellectual Property Rights that may be associated with or utilized for the Project, if any, are valid under the applicable copyright, patent Trademark and other intellectual property laws.

- 13.3.2** The University further represents that it has no actual knowledge that the University Licensed Material, whether owned or licensed, infringe upon the valid rights of any third party.
- 13.3.3** To the best of its knowledge, the University is in material compliance with applicable laws, regulations, and accrediting body standards, possesses all required educational approvals and accreditations, and has no actual knowledge of any basis for the revocation or material limitation of any of its educational approvals or accreditations.
- 13.3.4.** The University will not work with any other third party vendor for the purposes of carrying out the Company duties as defined in Section 4.4 of this Agreement for the e-Learning Programs identified on a Program Term Sheet during the period that the Program Term is in effect. The University will not grant a license to any other person or entity for the purpose of carrying out any Company duties as defined in Section 4.4 of this Agreement for the e-Learning Programs identified on a Program Term Sheet or for the purpose of offering any e-learning programs similar to the e-Learning programs developed in connection with a Program Term Sheet entered into by the Parties under this Agreement. Notwithstanding the above, the Parties acknowledge and agree that the University, its officers and employees may undertake unrestricted efforts to promote and market the e-Learning Programs by whatever means without violating any provision of this Agreement.
- 13.3.5** The University represents and warrants that it is a public body, corporate and politic of the State of Illinois, duly organized and validly existing.
- 13.4** **WARRANTY DISCLAIMER.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY WITH RESPECT TO ANY TECHNOLOGY, GOODS, SERVICES, RIGHTS OR OTHER SUBJECT MATTER OF THIS AGREEMENT AND HEREBY DISCLAIMS WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY AND ALL OF THE FOREGOING.

ARTICLE 14

INFRINGEMENTS

- 14.1** The Company shall inform the University promptly in writing of any alleged infringement of which it is made aware of the Content, Courses, Documentation, any Derivative Works therefrom or the University's Trademarks by a third party with respect to any Content or other materials provided pursuant to this Agreement and of any available evidence thereof.

ARTICLE 15

CLAIMS

- 15.1 Infringement Claims Related to University-Provided Material.** In the event that the Company and/or its employees, agents, officers and directors is the subject of any Claim that use of the Content, Courses, Documentation or any Derivative Work therefrom, the University Trademarks, or of any other part of an e-Learning Program provided by the University ("University Licensed Material") in accordance with the terms of this Agreement infringes any "Intellectual Property Rights" or other rights of any third party, the Company shall notify the University as soon as practicable upon becoming aware of such Claim. If any University Licensed Material or part thereof or its use is held by a court of competent jurisdiction to constitute an infringement of any third party's rights, the University shall at its expense and option: (1) procure the right for the Company to continue using the University Licensed Material; (2) replace the University Licensed Material with non-infringing equivalent material conforming to the applicable specifications required by this Agreement; or (3) modify the University Licensed Material to make it non-infringing while conforming to the applicable specifications. If none of the foregoing options is economically feasible, the University shall so notify the Company and the Company shall be entitled to terminate the subject e-Learning Program.
- 15.2 Infringement Claims Related to Company-Provided Material.** In the event that the University and/or its employees, agents, officers and directors is the subject of any Claim that the Company's use of any material provided by the Company ("Company Provided Material") in accordance with the terms of this Agreement infringes any "Intellectual Property Rights" or other rights of any third party, the University shall notify the Company as soon as practicable upon becoming aware of such Claim. If any Company Provided Material or part thereof or its use is held by a court of competent jurisdiction to constitute an infringement of any third party's rights, the Company shall at its expense and option: (1) procure the right for the Company to continue using the Company Provided Materials; (2) replace the Company Provided Material with non-infringing equivalent material conforming to the applicable specifications required by this Agreement; or (3) modify the Company Provided Material to make it non-infringing while conforming to the applicable specifications. If none of the foregoing options is economically feasible, the Company shall so notify the University and the University shall be entitled to terminate the subject e-Learning Program.
- 15.3 Liability**
Neither party to this Agreement shall be liable for any negligent or wrongful acts, either of commission or omission, chargeable to the other, unless such liability is imposed by law. This Agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owned by one party against the other or against a third party.
- 15.4 Definition of Claims.** As used in this Article 15, the term "Claim" shall include (i) all liabilities; (ii) all losses, damages, judgments, awards, settlements, costs and expenses (including, without limitation, interest including prejudgment interest in any litigated matter), penalties, court costs and attorneys fees and expenses; and (iii) all demands, claims, suits, actions, costs of investigation, causes of action, proceedings and assessments incurred by a Party as provided herein.
- 15.5 Materiality and Limitation.** The Parties recognize that many of the representations, warranties and covenants set forth in this Agreement are qualified by the term "material." For purposes of this Agreement and this section, the Parties hereby agree that a "material" event(s) has occurred if the impact of such event(s) has resulted or is

reasonably likely to result in costs, expenses and/or damages (i.e., Claims) for any event(s) singularly or in the aggregate in excess of Five Thousand Dollars (\$5,000.00).

15.6 Procedure for Defense of Claims. Once a Party the ("Defending Party") has been notified of a Claim as set forth in Sections 15.1, 15.2 or 15.3, such Party shall defend, negotiate and/or settle such Claim at its expense through counsel of its choice. The Party subject to such Claim has the right to be informed and consulted with respect to the negotiation, settlement or defenses of such Claim and to retain counsel to act on its behalf, but the fees and expenses of such counsel shall be paid by the Party subject to such Claim, unless the named parties to any action or proceeding include both Parties and a representation of both by the same counsel would be inappropriate due to the actual or potential differing interests between them (such as the availability of different defenses).

15.6.1 Whether or not the Defending Party assumes upon notice control of negotiation, settlement or defense of any Claim, the Defending Party shall not settle any Claim of which it is notified hereunder without written consent of the Party subject to such Claim, which consent shall not be unreasonably withheld, conditioned or delayed, unless such settlement provides solely for monetary damages or other monetary payments.

ARTICLE 16

DISPUTE RESOLUTION

16.1 Dispute Resolution.

16.1.1 General. In the event of any dispute, difference or question arising between the Parties in connection with this Agreement, the construction thereof, or the rights, duties or liabilities of either Party, and which dispute cannot be amicably resolved by the good faith efforts of the persons designated under Article 3.1, then such dispute may be resolved by non-binding arbitration conducted in the manner set forth in Article 16.1.2, or the Parties may seek to enforce their rights in the courts of competent jurisdiction without first engaging in non-binding arbitration.

16.1.2 Arbitration. In the event of the occurrence of a dispute which cannot be amicably resolved by the good faith efforts of the persons designated under Article 3.1, either Party may, by written notice to the other Party, request non-binding arbitration to resolve such dispute notice, which notice (an "Arbitration Notice") shall inform the other Party of such dispute and the issues to be resolved and shall contain a list of three (3) recommended individuals to serve as the arbitrator. Within ten (10) business days after the receipt of such Arbitration Notice, the other Party shall respond by written notice to the Party requesting the arbitration indicating whether that Party agrees to attempt resolution through Arbitration. Arbitration proceedings may commence only upon mutual agreement of the Parties. If both Parties agree to Arbitration, the notice of response shall contain a list of three (3) recommended individuals to serve as the arbitrator and which may add additional issues to be resolved. The recommended arbitrators shall be individuals with experience in the e-Learning higher education industry and shall not be an employee, director, shareholder or agent of

either Party or of an Affiliate or subsidiary of either Party, or otherwise involved (whether by contract or otherwise) in the affairs of either Party. If, within twenty (20) business days after receipt of such Arbitration Notice, the Parties shall have mutually agreed upon an individual to serve as a arbitrator, then the arbitrator shall conduct a arbitration in an effort to resolve such dispute as follows: (i) Within thirty (30) business days after selection, the arbitrator shall hold a hearing to resolve each of the issues identified by the Parties. Each Party shall be represented at the hearing by up to two (2) employees of such Party, one of whom is an officer of such Party, and may be represented by counsel. The hearing shall be held in Illinois. No discovery will be conducted, unless the Parties otherwise mutually agree. (ii) At least ten (10) business days prior to the date set for the hearing, each Party shall submit to the other Party and the arbitrator in writing a proposed ruling on each issue to be resolved, which writing (A) may, in addition to containing the proposed rulings, contain arguments or analyses of the facts or issues and (B) shall be limited to not more than twenty (20) pages. (iii) Each Party shall be entitled to no more than three (3) hours of hearing time to present oral testimony. The oral testimony of both Parties shall be presented during the same calendar day. Such time limitation shall include any direct, cross or rebuttal testimony, but such time limitation shall only be charged against the Party conducting such direct or rebuttal testimony. It shall be the responsibility of the arbitrator to determine whether the Parties have had the presentation time to which they are entitled. (iv) At the hearing or within thirty (30) days thereafter, the arbitrator shall provide the Parties with the arbitrator's non-binding ruling on each such issue. The arbitrator shall, in rendering his decision, apply the substantive law of the State of Illinois, without giving effect to its principles of conflicts of law, and without giving effect to any rules or laws relating to arbitration. The arbitration proceeding shall be confidential. Except as required by law or legal process, no Party shall make (or instruct the arbitrator to make) any public announcement with respect to the proceedings or rulings of the arbitrator without the prior written consent of each other Party. The existence of any dispute submitted to arbitration, and the rulings of the arbitrator, shall be kept in confidence by the Parties and the arbitrator, except as required by applicable law or legal process. (vi) Each Party shall pay its own costs (including, without limitation, attorney's fees) and expenses in connection with such arbitration. The fees and expenses of the arbitrator shall be shared equally by the Parties.

ARTICLE 17

GENERAL PROVISIONS

- 17.1 Notices.** Any notice to be given to the University, or the Company under the terms of this Agreement shall be in writing and may be delivered personally, by telecopy, telex or other form of written electronic transmission, or by registered or certified mail, postage prepaid, or by some other means by which receipt can be confirmed and shall be addressed as follows:

If to the Company: 5401 S. Kirkman Road, Suite 200
Orlando, FL 32819-7949

Attn: Daniel J. Devine, CEO
Fax: 407-573-2009

If to the University: Dean Charlotte Tate
Office of the Dean (MC 518)
College of Applied Health Sciences
808 South Wood Street, 169 CMET
Chicago, IL 60612-7305

With copy to: The appropriate Program Director

Either Party may hereafter notify the other in writing of any change in address. Any notice shall be deemed duly given (i) when personally delivered, (ii) when telecopied, telexed or transmitted by other form of written electronic transmission (upon confirmation of receipt) or (iii) on the third day after it is mailed by registered or certified mail, postage prepaid, as provided herein.

- 17.2 Further Actions.** The Parties agree to execute such documents or perform such acts as may be reasonably necessary in order to give effect to the intentions expressed in this Agreement.

17.3 Interpretation; Severability. The captions used in this Agreement are for convenience only and shall not be construed in interpreting this Agreement. In the event of any ambiguity or inconsistency between this Agreement and the Program Term Sheet, the Program Term Sheet shall control. If any portion of this Agreement shall be held illegal, invalid or inoperative then so far as is reasonable and possible:

 - (a) The remainder of this Agreement shall be considered valid and operative; and
 - (b) Effect shall be given to the intent manifested by the portion held invalid or inoperative.

17.4 Successors and Assigns. This Agreement shall bind the Parties, their successors, heirs, personal representatives and assigns. Nothing herein contained shall affect any restrictions on transfer or assignments set forth elsewhere in this Agreement. The University reserves the right to terminate the Agreement if the succeeding party is deemed not acceptable.

17.5 Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all Parties hereto have signed the same document. All counterparts shall be construed together and shall constitute one Agreement.

17.6 Meaning of Terms. Where the context so requires, the use of the neutral gender shall include the masculine and feminine genders, the singular shall include the plural and vice versa, and the word "person" shall include corporation, firm, company, or other form of association.

- 17.7 Governing Law.** This agreement shall be governed by and construed in accordance with the laws of the State of Illinois, USA.
- 17.8 Entire Contract.** This Agreement, attachments and incorporated references constitute the full and complete understanding of the Parties with respect to the subject matter hereof and supersedes any prior contracts, arrangements, communications, whether oral or written, with respect to the subject matter. In case of any conflict between this Agreement and any attachments or incorporated references, the terms of this Agreement shall prevail. No modification, renewal, extension or waiver of this Agreement or of any of the provisions of this Agreement, shall be binding upon either Part unless reduced to writing and duly executed as provided for in the Agreement. Each Party acknowledges that it is entering into this Agreement solely on the basis of the representations contained herein, and for its own purposes, and not for the benefit of any third party.
- 17.9 Force majeure.** Neither Party shall be responsible for delay or failure to perform its obligations under this Agreement to the extent such delay or failure is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods or other similar cause wholly beyond the Party's control, or for any of the foregoing that affect third party suppliers of goods or services if no alternate source of such supply is available to the Party. Each Party shall notify the other in the event a force majeure will cause a delay or failure of performance as early as practicable.
- 17.10 Waiver.** The delay or failure by a Party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of the Party's right thereafter to enforce those rights, nor shall any single waiver or partial exercise of such right preclude any other or further exercise thereof or of any other right.
- 17.11 Amendments.** This Contract shall not be amended, modified, altered or changed except by mutual agreement confirmed in writing by each party to this Contract. Contractor agrees to waive any and all claims for adjustment in regard to any services performed without prior receipt of an appropriate written amendment.
- 17.12 Assignment.** This Contract may not be assigned, in whole or in part, by either party without the prior written approval of the other party, except in connection with a merger or sale of all or substantially all of the assets of such party provided, however, that the obligations of such party under this Contract shall not be extinguished or otherwise affected by any such assignment. Except for an assignment as set forth in this Section 17.12, the University reserves the right to terminate the Agreement if the party to which the assignment is intended is not acceptable to the University.
- 17.13 Tax Status: University.** University is an instrumentality of the State of Illinois, and as such it is exempt from federal income tax under Section 115 of the Internal Revenue Code. The Internal Revenue Service also recognizes University as exempt from federal income tax under Section 501(c) (3). In addition, University is exempt from the following Illinois state and local taxes: Income Tax, Real Property Tax, Retailers' Occupation Tax, Service Occupation Tax, Use Tax and Service Use Tax. Certificates of exemption will be provided upon separate request.
- 17.14 Independent Contractor.** Contractor shall independently perform all services specified in this Contract, except as provided herein. Contractor shall have sole control over the

manner and means of providing the work and services performed under this Contract including the selection and use of any Subcontractors used in the performance of the required services. Contractor's relationship to University under this Contract shall be that of Independent Contractor. Contractor shall not be considered an agent or employee of University for any purpose. Contractor shall not hire University employees to perform any portion of the work or services provided for herein, including clerical, secretarial and similar incidental services, except with the prior written approval of University.

- 17.15 Covenant Against Contingent Fees.** Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon a contract or understanding for a commission, percentage, brokerage, or contingency fee, excepting bona-fide employees or bona-fide established commercial or selling agencies maintained by Contractor for purposes of securing business. For breach or violation of this warranty, University shall have the right to annul this Contract without liability, or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
- 17.16 University's Right of Inspection.** University reserves right to inspect and investigate thoroughly the establishment, facilities, equipment, business reputation, and other qualifications of Contractor and any of its Subcontractors throughout the life of the Contract.
- 17.17 Conflict of Interest.** Contractor affirms that, to the best of its knowledge, there exists no actual or potential conflict between Contractor's family, business, or financial interests and its services under this Contract; and, in the event of change in either its private interests or services under this Contract, Contractor will raise with University any questions regarding possible conflict of interest which may arise as a result of such change.
- 17.18 Discrepancies and Omissions.** Should anything which is necessary for a clear understanding of the work be omitted from the Contract documents, or should it appear that various instructions are in conflict, Contractor shall secure written instructions from University Contract Representative before proceeding with the work affected by such omissions or discrepancies.
- 17.19 Parking.** University provides no free parking for Contractor, its employees, or its representatives. Contractors may contact University campus parking office for availability of parking in University's lots. All vehicles belonging to Contractor shall clearly display parking permits issued by University campus parking office.

ARTICLE 18

CERTIFICATIONS

Willfully falsifying certifications or affirmations may subject Contractor to criminal penalties including fines and/or imprisonment. Contractor shall inform University immediately if it would no longer be able to make these certifications or representations at any time during the term hereof.

- 18.1 Delinquent Payments Certification.** Contractor certifies that it, or any affiliate, is not

barred from being awarded a contract under 30 ILCS 500. Section 50-11 prohibits a person from entering into a contract with a State agency if it knows or should know that it, or any affiliate, is delinquent in the payment of any debt to the State as defined by the Debt Collection Board. Section 50-12 prohibits a person from entering into a contract with a State agency if it, or any affiliate, has failed to collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act. Contractor further acknowledges that the contracting State agency may declare the contract void if this certification is false or if Contractor, or any affiliate, is determined to be delinquent in the payment of any debt to the State during the term of the contract.

- 18.2 **Anti-bribery.** Contractor certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5 from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.
- 18.3 **Loan Default.** If Contractor is an individual, Contractor certifies pursuant to 5 Illinois Compiled Statutes 385 that he/she is not in default for a period of six (6) months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education.
- 18.4 **Convicted of Felony.** Contractor certifies that it is not barred pursuant to 30 Illinois Compiled Statutes 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

- 18.5** **Barred from Contracting.** Contractor certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 Illinois Compiled Statutes 5/33E or a similar law of another state.
- 18.6** **Drug Free Workplace.** Contractor certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this Contract. The Drug Free Workplace Act requires, in part, that Contractors with twenty-five (25) or more employees certify and agree to take steps to ensure a drug-free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the Contract.
- 18.7** **International Boycott.** Contractor certifies that pursuant to 30 Illinois Compiled Statutes 582 neither it nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act (Public Act 88-671).
- 18.8** **Non-Discrimination and Equal Employment Opportunity.** Contractor agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). Contractor agrees to incorporate this clause into all Subcontracts under this Contract.
- 18.9** **Record Retention and Audits.** 30 Illinois Compiled Statutes 500/20-65 requires Contractor (and any Subcontractors) to maintain, for a period of three (3) years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to University under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by University and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. Contractor agrees to cooperate fully with any audit and to provide full access to all relevant materials. Failure to maintain the required books and records shall establish a presumption in favor of University for the recovery of any funds paid by University under this Contract for which adequate books and records are not available.
- 18.10** **State-Appropriated Funds.** If this Contract is funded from State of Illinois-appropriated funds, Contractor understands pursuant to 30 Illinois Compiled Statutes 500/20-60(b) that this Contract is subject to termination and cancellation without any

penalty, accelerated payment, or other recoupment mechanism as provided herein in any fiscal year for which the Illinois General Assembly fails to make an appropriation to make payments under the terms of this Contract. In the event of termination for lack of appropriation, Contractor shall be paid for services performed under this Contract up to the effective date of termination.

- 18.11 Exclusions Party List Certification.** Contractor certifies that neither it nor any of its employees or subcontractors who may provide services pursuant to this Contract is currently subject of an investigation or proceeding to exclude it as a provider under Medicare or Medicaid or under any other federal or state health care program or under any third party insurance program, nor is it currently excluded or debarred from submitting claims to Medicare or Medicaid or to any other federal or state health care program or to any third party insurer. Contractor represents and warrants it has checked the U. S. General Service Administration's (GSA) Excluded Party Listing System (EPLS), which lists parties excluded from federal procurement and non-procurement programs. The EPLS website includes GSA/EPLS, the U.S. Department of Health and Human Services (HHS) Office of Inspector General's (OIG) List of Excluded Individuals/Entities (LEIE), and the U.S. Department of Treasury's (Treasury) Specially Designated Nationals (SDN) list. Contractor also represents and warrants it has checked the Illinois Department of Public Aid (IDPA) OIG Provider Sanctions list of individuals and entities excluded from state procurement with respect to Contractor's employees and agents. See the following websites: <http://epls.arnet.gov> and <http://www.state.il.us/agency/oig/search.asp>. University will terminate contract without penalty to University if Contractor becomes excluded during life of this Contract.
- 18.12 Labor Certification.** Contractor certifies in accordance with 30 ILCS 583/10 that no foreign made equipment, materials, or supplies furnished to the State under the contract have been produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.
- 18.13 Felony Certification.** Contractor certifies in accordance with 30 ILCS 500/50-10.5 that no officer, director, partner or other managerial agent of the contracting business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of five years prior to the date of the bid or contract. Contractor acknowledges that the contracting agency shall declare the contract void if this certification is false.
- 18.14 Environmental Certification.** Contractor certifies in accordance with 30 ILCS 500/50-14 that it has not been found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Civil Penalties of the Environmental Protection Act for a period of five years prior to the date of the bid or contract. Contractor acknowledges that the contracting agency shall declare the contract void if this certification is false.
- 18.15 Federal Funding**
If this Contract is federally funded, Contractor certifies that:

- a. It is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
- b. It has not, within a three (3) year period preceding this Contract, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or Contract under a public transaction, violation of Federal or State Antitrust Statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement of receiving stolen property.
- c. It is not presently indicted or criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses enumerated in Part b of this certification.
- d. It has not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State or Local) terminated for cause or default.
- e. No Federal appropriated funds have been paid or will be paid by Contractor to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- f. If any non-Federal funds have been paid or will be paid by Contractor to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, Contractor shall complete and submit Federal Standard Form "Disclosure Form to Report Lobbying", in accordance with its instructions.
- g. It shall require that the language of this certification be included in the award documents for all sub-awards at all tiers and that all sub-recipients shall certify accordingly.

ARTICLE 19

INSURANCE

Contractor shall cause a Certificate of Insurance to be issued showing the following required coverage in no less than the minimum coverage limits listed below. The insurance companies providing coverage must have a B+:VI or better rating in the current edition of Best's Key Rating Guide. Contractor must agree to maintain such insurance for the duration of the project or the term for which services will be rendered.

A.	Worker's Compensation and Occupational Diseases Employer's Liability (Part B)	Illinois Statutory Limits \$ 500,000 per occurrence
B.	Commercial General Liability (occurrence coverage) General Aggregate Products – Completed Operation Aggregate Personal and Advertising Injury Fire Damage	\$ 1,000,000 each occurrence \$ 2,000,000 \$ 2,000,000 \$ 1,000,000 \$ 100,000
C.	Commercial Auto Liability, if applicable Combined Single Limit OR Bodily Injury Property Damage	\$ 1,000,000 each occurrence \$ 1,000,000 each occurrence \$ 1,000,000 each occurrence

Additional insurance requirements for this contract are checked below:

- | | |
|--|---|
| <input type="checkbox"/> Professional Liability – Specialty Errors and Omissions | \$ 1,000,000 per claim
\$ 3,000,000 in aggregate |
| <input type="checkbox"/> Professional Liability – Medical Malpractice | \$ 1,000,000 per claim
\$ 3,000,000 in aggregate |
| <input type="checkbox"/> Employee Dishonesty | \$ 150,000 each occurrence |

Umbrella liability insurance may be used to meet the general liability coverage limit requirements.

Subcontractors must comply with the same insurance coverage requirements as Contractor. Subcontractors shall submit the required Certificate of Insurance through the primary Contractor.

With respect to the required Commercial General Liability insurance, The Board of Trustees of the University of Illinois shall be named as an additional insured. In order to meet this requirement, the following wording should appear on any Certificate of Insurance provided: "The Board of Trustees of the University of Illinois is an additional insured for any liability incurred by University arising from the activities of Contractor and/or Subcontractor performing work on behalf of Contractor."

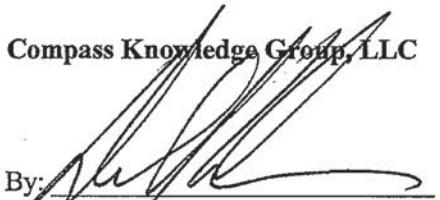
If Professional Liability is required, when any professional services are performed in connection with this Contract, Professional Liability for Contractor and its employees and agents shall be maintained to include coverage for errors, omissions, and negligent acts related to the rendering of such professional services with limits not less than \$1,000,000 per claim and \$3,000,000 in the aggregate. Coverage extensions shall include contractual liability. When policies are renewed or replaced, any retroactive date must coincide with, or precede commencement of services by Contractor or subcontractor under this Contract. A claims-made policy that is replaced or not renewed must have an extended reporting period not less than two (2) years.

Contractor shall furnish any original Certificate(s) of Insurance evidencing the required coverage to be in force on the date of this Contract, and any renewal Certificate(s) of Insurance if coverage has an expiration or renewal date occurring during the term of this Contract to the University of Illinois, Purchasing Division, 809 S. Marshfield, m/c 560, Chicago, IL 60612. The receipt of any

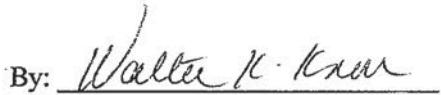
certificate does not constitute Contract by University that insurance requirements have been met. Failure of University to obtain certificates or other insurance evidence from the vendor/contractor shall not be deemed a waiver by University. Failure to comply with insurance requirements may be regarded as a breach of contract terms.

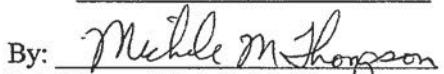
IN WITNESS WHEREOF, the Parties have entered into this Agreement.

Compass Knowledge Group, LLC

By: 
Print Name: Daniel J. Devine
Title: CEO
Date: 19 DECEMBER 2007

**The Board of Trustees of the
University of Illinois**

By: 
Print Name: Walter K. Knorr
Title: Comptroller
Date: 12/28/07

By: 
Print Name: Michele M. Thompson
Title: Secretary

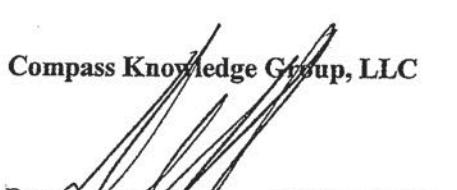
Program Term Sheet #1
UIC Department of Biomedical and Health Information Sciences (BHIS)
Health Informatics Degree and Certificate Programs

- 1. Programs:** Master of Science in Health Informatics; Post Master's Certificate in Health Informatics; Post-Baccalaureate Certificate in Health Informatics
- 2. Effective Date:** The effective date is December ___, 2007, with a program launch term at the beginning of the Summer semester 2008
- 3. Enrollment Dates:** Beginning with Fall, Spring, and Summer with the intention to move to Fall A, Fall B, Spring A, Spring B, Summer A, Summer B, as appropriate and feasible
- 4. Steering Committee Designees;**
For the University: Dr. June Wencel-Drake and Dr. Larry Pawola or their duly appointed representatives
For the Company: Dr. Gloria Pickar and Mr. Rob Bishop or their duly appointed representatives
- 5. Term:** Initial program term is two (2) years from the program launch term at the end of which the number of students matriculating in the programs will be assessed (see #9 of this Program Term Sheet #1); if minimum number of students is attained, a second program term of two (2) years may be granted at the end of which the number of students matriculating in the programs will be assessed (see #9 of this Program Term Sheet #1); the minimum number of students will be assessed at the end of each of the next three (3) years; the contract may continue up to the total of 7 complete years from the program launch date providing a material breach of the Agreement has not occurred (see #9 of this Program Term Sheet #1).
- 6. Exceptions to Duties of the University and Company:**
There are no known exceptions.
- 7. Launch Fee:** Notwithstanding anything herein to the contrary, the University agrees to pay upon the presentation of an invoice (which will not be due any earlier than the commencement of the marketing activities set forth in Section 4.4.1 above), a one-time fee to the Company in the amount of seventy-five thousand dollars (\$75,000) to launch these e-Learning Programs.
- 8. Distribution of Net Instructional Fee Revenue:** With respect to these Programs during each enrollment term, the Company will receive as consideration for performing its duties described herein the percentage of the Net Instructional Fees (the "Company Distribution") and the University will receive the percentage of the Net Instructional Fees ("the University Distribution") as follows:
 - FTE Students 1-350 recruited by the Company: 45% to the Company and 55% to the University of Net Instructional Fees collected by the University.
 - FTE Students 351+ recruited by the Company: 50% to the Company and 50% to the University of Net Instructional Fees collected by the University.

- University Employees and Students on Tuition Waivers: 0% to the Company
 - Students already matriculating into the online HI program: 45% to the Company and 55% to the University of Net Instructional Fees collected by the University.
 - Joint HI degree students from within the University not recruited by Compass, or other students who require BHIS-HI courses in their graduate or undergraduate programs: 35% to the Company of Net Instructional Fees collected by the Biomedical and Health Information Sciences (BHIS) department. Reconciliation of any outstanding or adjusted Net Instructional Fees for these students due to either Party as defined in Section 8.5 of the E-Learning Program Development and Distribution Master Agreement will occur week six (6) of the next academic semester with payment as defined in Section 8.5 of said Master Agreement.
 - Other students enrolled in online MS HI courses as electives with no tuition revenue to BHIS: 0%
- “FTE Student” for purposes of this Agreement means a degree or certificate-seeking student recruited by the Company and enrolled in the BHIS Department. This will represent an unduplicated headcount person enrolled and matriculated in the prescribed course load for a working professional e-Learning Student (e.g., six (6) credit hours per academic term for a graduate student).
9. Minimum Number of BHIS Students (as defined in Section 11.2.1(b)): 150 BHIS FTE Students within two (2) calendar years and 250 BHIS FTE Students within four (4) calendar years, and then 250 BHIS FTE Students to be maintained at the end of each of the following three (3) years (for a total of seven (7) years) after the first course offering. Failure to attain and maintain the minimum number of students shall be considered a material breach of the Agreement granting the non-breaching party all rights and remedies set forth in the Agreement.

IN WITNESS WHEREOF, the Parties agree to the terms of this Program Term Sheet for each e-Learning Program as of the Effective Date set forth above.

Compass Knowledge Group, LLC

By: 
Print Name: Daniel J. Devine
Title: CEO
Date: 19 DECEMBER 2007

The Board of Trustees of the
University of Illinois

By: Walter K. Knorr
Print Name: Walter K. Knorr
Title: Comptroller
Date: 12/28/07

By: Michele M. Thompson
Print Name: Michele M. Thompson
Title: Secretary

AMENDMENT I TO CONTRACT BETWEEN
THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS
AND
COMPASS KNOWLEDGE GROUP, LLC

This Amendment 1 modifies Contract [UIC Reference CC080333] by and between the Board of Trustees of the University of Illinois, a body corporate and politic, on behalf of the University of Illinois at Chicago, College of Applied Health Sciences/Office of the Dean, herein referred to as "University" and Compass Knowledge Group, LLC, herein referred to as "Contractor".

Whereas, the Contractor and University entered into an Agreement for the term of the period February 15, 2008 through June 30, 2009;

Whereas, the University and Contractor desire to amend the contractual relationship under the said Agreement;

Now therefore, in consideration of mutual covenants contained herein, it is agreed by and between the parties to amend the Agreement as follows:

- I. Page 6, e-Learning Master Agreement, Article 2.24, Net Instructional Fees: *Add the following to the end of the paragraph:*

The Net Instructional Fee to be paid through June 30, 2009 is an estimated amount of \$1,411,721.00 at the same terms and conditions.

- II. In all other respects, the Contract is hereby reaffirmed and ratified.

In witness whereof, Contractor and the University have caused this Amendment I to be executed on the date and year first written below.

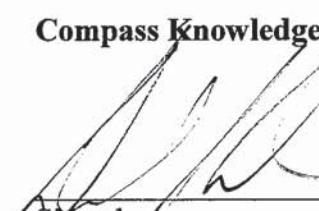
**The Board of Trustees of the
University of Illinois**

By: Walter K. Knorr
Walter K. Knorr, Comptroller

Date: 8/1/08

Attest: Michele M. Thompson
Michele M. Thompson, Secretary

Compass Knowledge Group, LLC


Signed

Daniel Devine
Type or print name

CEO

Title

Date: 07-28-08

UNIVERSITY OF ILLINOIS

Chicago • Springfield • Urbana-Champaign

Purchasing Division

Office of Business and Financial Services
Room 310, M/C 560
809 South Marshfield Avenue
Chicago, Illinois 60612

June 1, 2009

Compass Knowledge Group, LLC
2145 Metro Center Blvd.
Suite 400
Orlando, FL 32835-7632
Attn: Cindy Wheatley

NOTICE OF EXERCISE OF OPTION TO GRANT A SECOND PROGRAM TERM
(Contract No. CC080333)

The Board of Trustees of the University of Illinois ("University"), pursuant to that certain Master Agreement and Program Term Sheet #1, dated December 28, 2007, (as amended August 1, 2008), between the University and Compass Knowledge Group, LLC, hereby exercises its option to grant a second program term for one (1) additional 24 month period, commencing July 1, 2009 through June 30, 2011 for an estimated amount not to exceed \$2,097,372.00. All other terms and conditions of the Master Agreement and Program Term Sheet #1, including all executed amendments thereto, shall remain unchanged and in full force and effect for the second program term.

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

By: Walter K. Knorr
Walter K. Knorr, Comptroller *mk*

Date: 6/15/09

Attest: Michele M. Thompson
Michele M. Thompson, Secretary

**The following signatures are required on
Contracts of \$250,000.00 or more:**

Approved:

B. Joseph White by Maria S. DeLeonidas
B. Joseph White, President
Chief Executive Officer

Thomas R. Bearrows *T*
Thomas R. Bearrows, University Counsel
Chief Legal Counsel

John B. Oletta
*Assoc. University
Counsel*

Cc: UIC Department
CC080333 Contract File

Pearson Online Learning Services

E-LEARNING PROGRAM MASTER SERVICES AGREEMENT

This e-Learning Program Master Services Agreement is entered into as of the last signature date appearing below, to take effect as of May 18, 2015 (the "Effective Date") by and between NCS Pearson, Inc., a Minnesota corporation ("Pearson") and The Board of Trustees of the University of Illinois, a public body corporate and politic of the State of Illinois (the "University"). Pearson and the University will be singularly referred to herein as a "Party" and collectively as the "Parties."

WHEREAS, the University and Compass Knowledge Group, LLC ("CKG") entered into the e-Learning Program Development and Distribution Master Agreement effective December 28, 2007 ("2007 Agreement"), for the support of certain online educational programs offered by the Department of Biomedical and Health Information Sciences in the College of Applied Health Sciences at the University of Illinois at Chicago ("BHIS-UIC"); and,

WHEREAS, Pearson is the successor in interest to CKG, and is currently providing services to the University under the 2007 Agreement; and,

WHEREAS, this Agreement is made pursuant to University's contract award to Pearson under RFP #ALS273 for Online Learning Support Services.

NOW, THEREFORE, for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Introduction

Pearson and the University have entered into this Agreement for the purpose of marketing, promoting, and delivering e-learning program(s) to students enrolled in online educational programs offered by BHIS-UIC.

1.2 Definitions.

1.2.1 "Academic Director" means the person designated by University as the director of an e-Learning Program.

1.2.2 "Agreement" means this Master Services Agreement, as amended from time to time and all exhibits, schedules and ancillary documentation, including, but not limited to, e-Learning Program Term Sheets.

1.2.3 "B2U" means the Pearson Business 2 University Program described more particularly at <http://embanet.com/our-services/business-to-university>.

1.2.4 “Census Date” means the last day an e-Learning Program student can drop an e-Learning Program Course and obtain a refund under published University refund policy.

1.2.5 “Confidential Information” means information that is identified as “confidential” either verbally or in writing at the time of disclosure. Confidential Information will include, at a minimum: (i) all education records and information protected by FERPA and/or Title IV of the Higher Education Act (as such laws may be amended from time to time), (ii) Intellectual Property, (iii) information concerning students that is protected from disclosure under University privacy policies and applicable privacy laws, and (iv) the pricing of services provided by Pearson as set forth in an e Learning Program Term Sheet marked by Pearson as “Confidential and Proprietary Financial/Commercial Information”. Confidential Information does not include information: (1) that was known by the receiving Party, as shown by written documentation, other than as a result of a prior confidential disclosure to such Party; (2) that is in the public domain through no fault or omission of the receiving Party; (3) that is obtained from a third party free from any obligation of confidentiality to the disclosing Party; (4) that is created or developed by the receiving Party, without use of the Confidential Information of the disclosing Party, by persons who did not have access to the disclosing Party’s Confidential Information; or (5) is required by law or legal process to be disclosed to a third party.

1.2.6 “Content” means the descriptive attributes of a collection of University courses, such as course descriptions, course sequences, intended learning outcomes, and course topics, that constitute an area of specialization as well as units of learning, usually defined by expected outcomes, including syllabi, assignments, tests, notes, presentations, and examples created for classroom and learning programs that are used to deliver Courses.

1.2.7 “Course” means an academic or training delivery framework developed by Pearson with a set of assignments and activities within an e-Learning Program developed pursuant to this Agreement that is designed to fulfill a particular set of learning objectives within a specified period of time

1.2.8 “e-Learning Program” means the set of Courses and other curriculum items, including all concentrations, specialties, and tracks, which make up the distance learning degree and/or certificate program of study for the University to be conducted by Pearson and the University pursuant to this Agreement.

1.2.9 “e-Learning Program Term Sheet” means the existing or future document that specifies each e-Learning Program outlining the key terms for each E-Learning Program. The Parties will execute a separate e-Learning Program Term Sheet for new e-Learning Programs, the form and content subject matter of which is more specifically set out in Schedule A.

1.2.10 “FERPA” means the Family Education Rights and Privacy Act of 1974 (as amended).

1.2.11 “Gross Receipts” means (1) gross tuition, fees, and charges arising from any and all student enrollments in the e-Learning Program or Courses, without regard to whether such amounts are paid or the method of payment, less (2) (a) permitted B2U discounts granted to e-Learning Program Students, (b) amounts refunded to students who have withdrawn from Courses

pursuant to published University refund policy, and (c) discounts or waivers provided to University employees pursuant to published University tuition remission policy or policies. No other discounts, credits, scholarships, awards, or write-offs shall be taken into account in calculating Gross Receipts.

1.2.12 “Instructor” means a University employee or contractor providing certain services in support of a Course, including instructing, grading, moderating online work groups and mentoring and assisting students enrolled in the Courses.

1.2.13 “Instructor(s) of Record” mean the University faculty member who is responsible for instructing, teaching and directly administering each Course.

1.2.14 “Intellectual Property” means for each Party, or any third party, respectively, the rights of a Party, or such third party, in and to: (i) all trademark rights, logos, trade dress, service marks, trade names and brand names; (ii) all copyrights, copyright registrations and copyright applications; (iii) all patents and patent applications; (iv) all inventions, know-how; improvements, enhancements, derivative works, inventions, so-called “look & feel”, graphic design elements, graphic user interface, order of operations, order of Content presentment and related configuration, ideas, concepts, know-how, discoveries, improvements, designs, trade secrets, shop and royalty rights, computer programs, applications and files; and/or (vi) all rights in any derivative works of the foregoing.

1.2.15 “Marketing Materials” means (i) all marketing copy, slogans, art work and related materials associated with any e-Learning Program marketing materials that are created and developed by Pearson; and (ii) all web sites and web site content created and developed by Pearson for the marketing effort of e-Learning Programs.

1.2.16 “Parties” or individually, “Party” means the entities entering into this Agreement, and their successors and permitted assigns.

1.2.17 “Pearson Intellectual Property” means all Intellectual Property that is combined or associated with, or incorporated into (or that is any part of) the Courses or otherwise a part of an e-Learning Program, whether originally conceived, created, developed, authored, or otherwise owned by Pearson or by its affiliates, subsidiaries, licensors or others pursuant to Sections 2.2 and 2.4.1, including, but not limited to, e-Learning Program delivery components, such as flash, media course structure, instructional design and multimedia development, Marketing Materials, and marketing databases. For the avoidance of doubt, Pearson Intellectual Property does not include the Content.

1.2.18 “Term” means the term of this Agreement set out in Section 8.1.

1.2.19 “University Intellectual Property” means all Intellectual Property (except Pearson or third party Intellectual Property) that is combined or associated with, or incorporated into (or that is any part of) the Courses or otherwise a part of an e-Learning Program, whether originally conceived, created, developed, authored, or otherwise owned by University.

1.2.20 “University Systems” means those University student and applicant databases to which Pearson requires access to meet its obligations and services under this Agreement.

Examples of University Systems may include the University's student applicant tracking system, student information system, and learning management system. The Parties agree to work together to determine the specific systems to be included in University Systems to which Pearson will have access.

1.3 Headings.

The division of this Agreement into Articles, Sections and Schedules and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.

1.4 Agreement Structure and e-Learning Program Term Sheets.

The Parties shall execute an e-Learning Program Term Sheet for one or more individual e-Learning Programs under this Agreement. Each e-Learning Program Term Sheet will set out the specific obligations of each Party with respect to the specific e-Learning Program(s). In the event of any conflict and/or inconsistency between this Agreement and a Program Term Sheet, the order of precedence shall be as follows: (a) the Agreement, and (b) the e-Learning Program Term Sheet. Pearson shall only be obligated to perform those services as specifically set forth in this Agreement, and/or e-Learning Program Term Sheet.

The University and Pearson shall use their reasonable efforts to propose, discuss, settle, agree to, execute and deliver such e-Learning Program Term Sheets as may be required after the Effective Date to more particularly define the e-Learning Program(s) that will be subject to this Agreement, including all associated Course and Content requirements and specifications. Once each e-Learning Program Term Sheet is agreed upon by each of the Parties, each e-Learning Program Term Sheet will be signed by the Parties and become a part of this Agreement.

1.5 Schedules.

The following schedule is attached to and forms a part of this Agreement:

- Schedule A – e-Learning Program Term Sheet #1

ARTICLE 2 **OBJECTIVES, DUTIES AND RESPONSIBILITIES OF PEARSON**

Pearson shall be responsible for and provide, at its sole cost and expense unless otherwise expressly stated herein or in an e-Learning Program Term Sheet, the following obligations and services:

2.1 Market Research and Assessment.

Pearson will provide research and assessment regarding the market viability of prospective University online programs for the purpose of evaluating whether the Parties wish to enter into a new e-Learning Program Term Sheet pursuant to this Agreement.

2.2 Marketing Services.

2.2.1 Pearson shall undertake commercially reasonable marketing efforts, subject to the nature of the e-Learning Program, and the Academic Director's review and prior written approval, to develop, promote, market and sell the e-Learning Programs. Pearson will manage, implement and be responsible for: (i) marketing and tracking the associated e-Learning Program databases; (ii) activities related to entry, coordination, tracking, and control of the associated e-Learning Program marketing databases; (iii) activities related to determination of the associated e-Learning Program marketplace acceptance, size and probability; (iv) activities related to the execution of the associated e-Learning Program market research via direct mail, telephone surveys and other methods with specific benchmarks established periodically by Pearson necessary to develop and execute marketing strategy; (v) dissemination of such print and electronic marketing materials; (vi) such database management of electronic and hardcopy mailing lists for secondary mailings; (vii) activities related to creation of script and management of telephonic contact with potential students for such e-Learning Programs; (viii) activities related to direct response marketing (which may include direct mail, trade publication advertising, Internet, telemarketing, inbound and outbound); and (ix) public relations and attending trade shows related to such e-Learning Programs, subject to the approval of the University. The Parties agree and confirm that Pearson's performance of all such obligations as expressly provided and required in the relevant e-Learning Program Term Sheet will be deemed to fully satisfy Pearson's commercially reasonable marketing efforts first set out in this Section 2.2.1.

2.2.2 The University agrees that, subject to the University's existing and future proprietary rights and interests in any name, trade name, logo, domain names that are associated with the University's goodwill, brand indicia, trademark, service mark, and Content, Pearson shall own all right, title and interest in and to: (i) all Marketing Materials; (ii) all data regarding prospective Program students, including names and contact information in Pearson's marketing database, developed as a result of Pearson's marketing activities under this Agreement; and (iii) all Pearson market research findings, marketing strategy, and marketing execution tactics and methodologies.

2.2.3 The University authorizes Pearson to bid on, organically rank, and drive traffic for relevant keywords (including branded, non-branded, online-specific, and generic keywords) for use by Pearson in both national and geo-targeted marketing campaigns solely for e-Learning Programs offered by BHIS-UIC under this Agreement. The University agrees that such traffic will be directed to uniquely designed landing pages and/or an independent e-Learning Program web site that will be designed, developed, and hosted by Pearson. In order to ensure proper representation of the e-Learning Program, the University agrees to place links to e-Learning Program landing pages on relevant pages within the University's web sites in a manner, and in specific locations, mutually agreeable to the Parties. The University shall provide Pearson with

all consents and take all actions necessary to effectuate the authorizations and permissions in this section 2.2.3.

2.2.4 Pearson and the University agree that neither Party shall use the Marketing Materials for any purpose other than to market and promote the e-Learning Programs pursuant to this Agreement.

2.2.5 In the event that this Agreement is terminated for any reason, Pearson shall provide the University a personal, non-transferable and non-exclusive license, subject to a reasonable license fee payable by the University to Pearson, with the right to use all or any part of the tangible and material form of the Marketing Materials, such as brochures, art work, and the hard copy manifestation of the e-Learning Program's website's marketing content, that have been produced and printed (material form) by Pearson as at the date of such termination.

2.3 Recruitment Services.

Pearson shall use commercially reasonable methods to counsel and recruit qualified prospective students for the e-Learning Programs. Pearson shall contact and advise prospective students concerning e-Learning Program requirements. Pearson shall collect admissions applications and submit same for the University's consideration. University shall retain sole authority and control over all admissions decisions and other academic matters.

2.4 Student Support Services.

Pearson shall use commercially reasonable methods to advise, support, and retain students through completion of the e-Learning Programs. Pearson shall receive and promptly respond to student requests for information and assistance. Pearson shall use commercially reasonable standards to protect student data, both electronic and otherwise, from unauthorized disclosure. Notwithstanding the foregoing, if Pearson has access to education records as such term is defined in FERPA and its implementing regulations, Pearson shall be under the same legal obligation as University to treat education records in a confidential manner and in accordance with FERPA.

ARTICLE 3 **OBLIGATIONS AND CONTRIBUTIONS OF THE UNIVERSITY**

The University shall be responsible for and provide at its sole cost and expense (unless otherwise indicated in this Agreement) the following obligations and services:

3.1 Content and Curriculum.

The University will be solely responsible for the development and timely delivery to Pearson of all academic course Content. Academic programming and Content for all e-Learning Programs will be owned by the University. The University shall exercise control over, and be exclusively responsible for, the Content and quality of the Content of the e-Learning Program. The University shall undertake an annual review of each Course and provide all reasonably

required improvements, revisions, additions, deletions and Content refreshment that may be required (whether due to information currency, discipline development, or any other reason related to Course quality and completeness).

3.2 Instructor of Record.

The University shall be responsible for the review of credentials, appointment and coordination of each Instructor of Record. The University agrees that all Instructors of Record will have the experience, qualifications and expertise to perform their respective obligations in connection with each Course they are associated with and that the care, quality and performance of each Instructor of Record will be of a reasonably diligent and professional quality that is generally consistent with best academic and teaching practices for such academic programs in the United States. For greater certainty, employment or retainer (including all remuneration, benefits, statutory deductions and remittances) with respect to Instructors of Record (and other employees or independent contractors of the University) are the sole responsibility of the University and Pearson will have no obligations, responsibilities or duties whatsoever concerning same.

3.3 Academic Credit and Degree.

The University shall be responsible for assessing and granting all e-Learning Program accreditations, such as Course credits and degrees, to students whom the University determines have successfully completed an e-Learning Program and who otherwise satisfy the necessary academic criteria established by the University for such accreditation. For greater certainty, all Course and e-Learning Program student evaluations, performance assessments, and accreditation entitlements shall be the sole and absolute responsibility and discretion of the University.

3.4 Admissions.

The Academic Director shall be responsible for determining the student capacity of the e-Learning Program, including the number of students to be admitted, and the number of Course sections offered, in order to maintain the academic quality of each Course and the e-Learning Program. The University shall be responsible for (a) setting Program admission and registration criteria, and (b) all Program admission decisions.

3.5 Records.

The University will have the sole duty and responsibility to maintain all academic records in accordance with the University's policies and practices, and in compliance with all applicable laws and regulations. Upon the University's request, Pearson shall promptly provide the University with any academic records concerning this Agreement that are in Pearson's possession or under its control.

3.6 Licenses; Third Parties.

Without limiting Article 9 hereof, the University shall obtain and take all actions necessary to maintain, at its own expense, any approvals, consents, and licenses from third parties for the Content, and for any software or equipment that University requires to meet its

contractual obligations hereunder which, when met, allow Pearson to perform, in turn, its obligations this Agreement. Subject to the confidentiality obligations set forth herein, the University shall promptly provide to Pearson, upon Pearson's reasonable request, material information regarding the University's agreements with third parties that directly affect the e-Learning Programs and/or Pearson's rights to have access to, host, or to otherwise possess or use the Content. The University shall promptly disclose to Pearson any Intellectual Property rights of faculty, including Instructors of Record, associated with any Content of which it becomes aware that may adversely affect the ability of either Party to perform its obligations under this Agreement. Without limiting the foregoing, the University shall ensure that it has secured, in writing, or by operation of University policies, all right, title, and interest (whether by license or otherwise), including necessary assignment of moral rights from all Instructors of Record or faculty, for the University and Pearson to use the Content that is associated with each Course for the purposes of this Agreement.

3.7 University Domains

The University shall: (1) provide Pearson access to an A Record for a 3rd level sub-domain off the University's main domain that points to an IP address on Pearson' server strictly for the purpose of providing the services pursuant to this Agreement; and (2) provide an MX record that points to an Pearson service IP address for the purposes of the e-Learning Program, which means the University shall provide Pearson a universal resource locator (URL) name associated with the University's web URL, the content of which will reside on Pearson' server, and the University will designate an email domain affiliated with the same web address.

3.9 Access to University Systems

The University shall provide all Pearson employees assigned to an e-Learning Program with user names and passwords to access the University Systems without the necessity of requiring Social Security numbers, home addresses, driver's license numbers, or other personal identifying information from said Pearson employees. Pearson employees who are granted access to University Systems must comply with all University polices and rules concerning access, use, and security of University Systems. University may at any time suspend or terminate access to University Systems by any Pearson employee if such employee is found to have violated University policies or rules, or if University has reasonable cause to believe that a violation is about to occur. University will promptly notify Pearson of any such suspension or termination.

3.10 Accreditation and Regulatory Compliance

The University shall take all actions necessary to maintain appropriate accreditations for BHIS-UIC, and Title IV eligibility, and shall comply with all terms of its program participation agreement with the U.S. Department of Education then in effect. The University acknowledges and agrees that it is solely responsible for obtaining all necessary state, federal, and accrediting body approvals for all e-Learning Programs under this Agreement.

ARTICLE 4 **LICENSE**

4.1 License to Pearson.

The University hereby grants to Pearson for the Term of this Agreement a personal, non-transferable (except as otherwise provided in this Agreement), and non-exclusive license to use, modify, revise, augment, create derivative works of, develop, produce, reproduce, manufacture, distribute, host, perform, display, promote, advertise, sell, and otherwise exploit the Content (and all other goods, things, information and information technology that the University may provide Pearson pursuant to each e-Learning Program Term Sheet) for the purposes of this Agreement, including the hosting of e-Learning Programs, and the creation of either foreign language versions or new versions of the e-Learning Program. The University further grants Pearson, for the Term of this Agreement, the world-wide, royalty-free, non-exclusive right and license to use and display the name, trade names and trademarks associated with the University of Illinois at Chicago (the "University of Illinois at Chicago Trademarks") for the promotion, advertisement, selling and exploitation of the e-Learning Programs. Pearson must adhere to all guidelines provided for the use of the official local campus designation, logo, and HTML and graphic/logo available at: <http://marketing.uic.edu/marketing-toolbox/>

ALL OTHER RIGHTS AND INTERESTS CONCERNING THE CONTENT, THE UNIVERSITY OF ILLINOIS AT CHICAGO TRADEMARKS, AND UNIVERSITY INTELLECTUAL PROPERTY, ARE RESERVED BY THE UNIVERSITY. FOR THE AVOIDANCE OF DOUBT, NO RIGHT OR LICENSE IS GRANTED TO PEARSON TO USE OR DISPLAY ANY NAMES, TRADE NAMES AND TRADEMARKS ASSOCIATED WITH UNIVERSITY'S OTHER CAMPUSES. NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS UNIVERSITY GRANTING ANY LICENSE UNDER ANY RIGHTS, INCLUDING ANY INTELLECTUAL PROPERTY, OWNED BY ANY THIRD PARTY.

4.2 License to the University.

Pearson hereby grants to the University for the Term of this Agreement a personal, non-transferable and non-exclusive license to use the Pearson Intellectual Property to perform, display, promote, advertise, sell, and otherwise exploit the e-Learning Programs that are produced pursuant to this Agreement, including any foreign language (direct translations) versions, but not for the purpose of creating or developing any derivative works or new versions of the e-Learning Program. For greater certainty, unless otherwise expressly agreed to in writing between the Parties, the University shall not (directly or indirectly) create, author, develop or produce any modifications, changes, revisions, adaptations, derivative works, alterations, deletions from, additions to, or customizations of all or any part of any Pearson property (including the Pearson Intellectual Property) or confidential information. ALL OTHER RIGHTS AND INTERESTS CONCERNING PEARSON INTELLECTUAL PROPERTY ARE RESERVED BY PEARSON.

4.3 Pearson Course Contributions.

Pearson will solely and exclusively own all right, title and interest in all Pearson Intellectual Property, whether same is created, authored, or developed pursuant to this Agreement or otherwise.

4.4 Rights to Content and Program.

Subject to Section 4.3, the University and/or the (i) Instructor of Record, (ii) Instructor, (iii) author of the Content (collectively “Content Owner(s)”), will retain all right, title, and interest in the Content and any derivative works, modifications, revisions, augmentations, or improvements that the University and/or I Content Owner(s) makes or creates to the original Content including trademarks, service marks and related goodwill associated with the Content. University will solely and exclusively own all right, title and interest in all University Intellectual Property, whether same is created, authored, or developed pursuant to this Agreement or otherwise.

4.5 Author Consents

The University shall secure from an author of Content that is to be included in an e-Learning Program, including Instructor of Record, the right for Pearson to use the author’s likeness, name and biographical materials for the purpose of promoting and delivering that Course pursuant to this Agreement.

ARTICLE 5 **REMUNERATION**

5.1 Service Fees.

As full consideration for all of the obligations and services performed by Pearson pursuant to this Agreement, the University shall pay Pearson the service fees that are set out, and as calculable in, each applicable e-Learning Program Term Sheet (the “Service Fee”).

5.2 Payment by University.

No later than five (5) business days after the Census Date of each academic term, the University shall provide Pearson with a written statement in a form reasonably acceptable to both Parties setting forth, at a minimum, (a) the number of students enrolled in each Course, (b) the gross tuition amounts billed each student enrolled in a Course, and (c) all deductions, if any, to be applied in the calculation of Gross Receipts pursuant to Section 1.2.10 of this Agreement (“Course Enrollment Statement”). After receipt of the Course Enrollment Statement, Pearson shall provide the University an invoice for Service Fees applicable to each e-Learning Program. The terms of payment shall be net thirty (30) days after receipt of each such invoice. Payments that are made by University on proper invoices after the time prescribed in the State Prompt Payment Act (30 Ill. Comp. Stat. 540) will be subject to interest at the rate of 1.0% per month.

5.3 Reconciliation

The University shall provide Pearson with a written accounting, for reconciliation purposes, no later than ten (10) business days after the completion of each academic term containing accurate, complete and current information concerning all such collections, deductions, and remittances by the University in accordance with this Article 5. Any resulting credits or charges shall be reconciled on the following term's invoice for Service Fees.

ARTICLE 6

AUDIT

6.1 Right to Audit.

The University shall have the right, at the University's expense, to have an independent certified public accountant (the "Auditor") perform an audit (the "Audit") of Pearson's performance of its financial obligations to the University under Article 5, exercisable by at least twenty (20) days prior written notice delivered to Pearson, including providing reasonable access to Pearson's relevant financial books, records and materials regarding each e-Learning Program's financial affairs. For greater certainty, any Audit will only be conducted for the limited purpose of verifying the Service Fee that is payable by the University to Pearson hereunder. Such audit will not interfere with the conduct of Pearson's business operations. If the Audit determines that Pearson has been over compensated by any amount for such Audit period, then Pearson shall immediately repay such overcompensation to the University.

Pearson shall have the right to have an Auditor perform an Audit of the University's reporting of information affecting the Service Fee, exercisable by at least twenty (20) days prior written notice delivered to the University, including providing reasonable access to University's relevant financial books, records and materials regarding each e-Learning Program's financial affairs. For greater certainty, any Audit will only be conducted for the limited purpose of verifying the Service Fee that is payable by the University to Pearson hereunder. Such audit will not interfere with the conduct of University's business operations. If the Audit determines that the University has been over compensated by any amount for such Audit period, then University shall immediately repay such overcompensation to Pearson.

6.2 Maintenance of Books and Records.

The Parties shall maintain and keep accessible and available all books and records relative to the obligations hereunder for inspection for the longer of: (i) three (3) years after termination or expiration of this Agreement, or (ii) such time as is required by Title IV of the Higher Education Act (as amended) or other applicable law of which the University advises Pearson in writing.

ARTICLE 7
CONFIDENTIAL INFORMATION AND NON-COMPETITION

7.1 Confidentiality.

The University and Pearson each agree to maintain the Confidential Information of the other Party in the same manner that it maintains its own confidential information, but in no event, less than a commercially reasonable standard of care. The University and Pearson each agree that any disclosure of the other Party's Confidential Information to any of its officers, employees, consultants, contractors, or agents shall be made only if and to the extent necessary to carry out its rights and responsibilities under this Agreement, and shall be limited to the maximum extent possible consistent with such rights and responsibilities. Except as set forth above, the University and Pearson each agree not to disclose the other Party's Confidential Information to any third parties under any circumstance without the prior written approval from the other Party (such approval not to be unreasonably withheld), except as required in any application for regulatory approvals or as otherwise required by law. Each Party will notify the other Party if disclosure is required in any application for regulatory approvals or by law, but any additional action to prevent release or otherwise protect the Confidential Information must be undertaken by the Party in receipt of such notice at its own expense.

7.2 Publicity.

Neither Party shall disclose the terms of this Agreement without the prior written consent of the other Party; provided, however, that any Party hereto may make such a disclosure to the extent required by law. Notwithstanding the foregoing, the Parties agree that Pearson may release an initial public announcement relating to the transactions contemplated by this Agreement provided that the contents of such public announcement are approved in writing, in advance by the University, such approval to be provided within a reasonable period of time. Any public announcement that has been previously approved by the Parties may be subsequently released during the Term of this Agreement without further approval. Any costs incurred for public relations in respect of this Agreement will be paid by the Party incurring the expense.

7.3 Return of Confidential Information.

Upon the termination or expiration of this Agreement for any reason, each Party shall immediately discontinue all use of the Confidential Information of the other Party. Within sixty (60) days of the termination or expiration of this Agreement for any reason, each Party shall return (or destroy) all the Confidential Information of the other Party, and an officer of each Party shall certify that all such materials have been returned (or destroyed). Notwithstanding the foregoing, one copy of all Confidential Information (except any FERPA-protected education records in the possession of Pearson) may be retained in inactive archives solely for the purpose of establishing the contents thereof.

7.4 Prohibition on Solicitation.

Neither Party shall, during the Term of this Agreement and for a period of one (1) year thereafter, solicit any person who was employed by the other Party hereto or its affiliates during

such period, whether such person is hired as an employee or consultant, unless authorized in writing by the other Party, or unless such person has not been employed by the other Party for at least twelve (12) months prior to his or her solicitation. Advertisements and hiring for open positions which are directed to the general public will not constitute a violation of this provision.

7.5 Restrictive Covenant.

During the Term, the University, as a material condition of this Agreement, shall not (a) use, commercially exploit, distribute, market, license, or otherwise allow any other person to use or have the benefit of, all or any part of, the e-Learning Program except solely and exclusively for the University's internal and non-commercial operations; or (b) indirectly or directly compete in any manner with any e-Learning Program offered by BHIS-UIC.

ARTICLE 8 **TERM AND TERMINATION**

8.1 Term.

This Agreement will take effect as of the Effective Date and continue for an initial term of seven (7) years, so long as an e-Learning Program Term Sheet is in effect, unless terminated earlier pursuant to Section 8.3. An e-Learning Program Term Sheet may be renewed pursuant to Section 8.2. The initial term and any applicable renewal term mean the "Term."

8.2 Renewal.

This Agreement may be renewed by mutual written consent for one (1) additional three-year period. To be effective, any renewal of this Agreement must be set forth in a written amendment duly executed by the authorized representatives of both Parties. Notwithstanding anything to the contrary contained herein, or in any e-Learning Program Term Sheet: (i) the Term of this Agreement shall not exceed ten (10) years; and (ii) no Program Term (as defined in an e-Learning Program Term Sheet) shall extend beyond the expiration date of the then current Term. An e-Learning Program Term Sheet may be renewed by mutual written consent of the Parties. If a Party wishes to renew an e-Learning Program Term Sheet, it will so notify the other Party at least one year prior to the expiration of the e-Learning Program Term Sheet.

8.3 Termination.

This Agreement may be terminated prior to the expiration of its Term in the following ways: (i) by mutual written consent of the University and Pearson; (ii) by one Party upon written notice to the other Party hereto in the event that (a) a Party has dissolved, ceased active business operations or liquidated, unless such dissolution, cessation or liquidation results from reorganization, acquisition, merger or similar event, or (b) bankruptcy or insolvency proceedings, including any proceeding under Title 11 of the United States Code, have been brought by or against another Party and, in the event such a proceeding has been brought against such Party, remains dismissed for a period of sixty (60) days, or an assignment has been made for the benefit of such Party's creditors or a receiver of such Party's assets has been appointed (a

“Bankruptcy Event”); (iii) by one Party upon default of another Party hereto in the full and timely observance or performance of a material covenant or obligation under this Agreement, upon thirty (30) days prior written notice in the case of a payment breach and sixty (60) days’ prior written notice in the case of any other such breach by the other Party, which notice will specify the nature of the material default and the steps to be taken to cure such default; provided, however, that if such default is cured by the defaulting Party within such thirty (30) or sixty (60) day period, such notice of termination will be deemed withdrawn, null and void and this Agreement will not be terminated pursuant thereto; and (iv) either Party may terminate an individual Program Term Sheet upon one hundred twenty (120) days prior written notice if there are less than the number of unique Students enrolled in the e-Learning Program (“Minimum Number of Program Students”) during a designated academic term as set forth in the Program Term Sheet. In the event that all Program Term Sheets are terminated, then this Agreement will also terminate.

8.4 Termination Obligations.

Without limiting any other provisions of this Agreement, the Parties will remain liable for all obligations and will be entitled to all rights accruing prior to termination as well as those obligations and rights which survive the termination or expiration of this Agreement pursuant to Section 13.14. For greater certainty, upon termination or expiration of this Agreement, other than upon a default by Pearson pursuant to Section 8.3(iii), Pearson will be entitled to all Service Fees earned prior to such expiration or termination and for all Service Fees that arise in connection with all students recruited by Pearson for so long as such students remain enrolled in online courses at the University (“Post-Termination Fees”). University shall pay Pearson all Post-Termination Fees not later than thirty (30) business days after the expiration of any obligation of the University to return financial aid funds for withdrawing students. The University shall provide Pearson with a written accounting no later than ten (10) business days after the completion of each semester containing accurate, complete and current information concerning all such collections, deductions, and remittances by the University in accordance with this Article, and shall pay any residual amounts determined to be owed at that time.

8.5 Continuing Obligations and Teach-out.

Without limiting any other provisions of this Agreement, the Parties shall remain liable for all obligations accruing prior to termination, including without limitation Service Fees earned by Pearson. At the option of the University (to be exercised by written notice to Pearson), this Agreement shall remain in effect, to complete any Courses then in progress and any reasonable transition period for then registered students.

8.6 Commencement of Services and Superseding of 2007 Agreement.

This Agreement shall supersede the 2007 Agreement for all e-Learning Program Term Sheets entered into by the Parties contemporaneous with or after the date on which the Parties have executed this Agreement. The 2007 Agreement, and all e-Learning Program Term Sheets entered into by the Parties thereunder, shall terminate and be of no further legal force or effect as of the Effective Date of this Agreement.

8.7 Other Relief.

If a Party to this Agreement fails to perform or otherwise breaches any of its material obligations under this Agreement, in addition to any right to terminate this Agreement, the non-defaulting Party may elect to obtain other relief and remedies available under law or in equity.

ARTICLE 9

REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 University Representations.

- i. Organization. The University represents that it is a public body, corporate and politic of the State of Illinois, and has all requisite power and authority, corporate or otherwise, to conduct its business as now being conducted, and to execute, deliver and perform this Agreement.
- ii. Right to Use. The University represents that it presently has, or will have during the Term of this Agreement, permission to use (and for Pearson to access, display, and use) any Content as set forth in this Agreement.
- iii. Infringement. The University represents that it has no actual knowledge that the Content infringes upon the valid intellectual property rights of any third party.
- iv. Compliance with Laws. To the best of its knowledge, University represents that it is in material compliance with all applicable laws, regulations, and accrediting body standards, possesses all required educational approvals and accreditations, is a Title IV eligible institution with a program participation agreement with the U.S. Department of Education presently in effect, and has no actual knowledge of any basis for the revocation or material limitation of any of its educational approvals or accreditations.
- v. No Legal Violation. The performance of this Agreement by the University will not violate any provision of any agreement, law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to either this Agreement, or to any provision of the University of Illinois Act (110 Ill. Comp. Stat. 305).
- vi. Binding Agreement. This Agreement is a legal, valid and binding obligation of the University enforceable against it in accordance with its terms and conditions.

vii. No Inconsistent Obligation. The performance of this Agreement by the University will not infringe, breach, contravene or detrimentally affect any other person's contractual, confidentiality or intellectual property rights, and the University does not require any authorization, consent, permission, or approval otherwise from any other person concerning the ability of the University to perform all, or any part of, this Agreement (including permitting Pearson to take possession of, host, use, operate, maintain, or otherwise have access to any Course, Content, information technology, or information). The University is not under any obligation to any person, or entity, contractual or otherwise, that is conflicting or inconsistent in any respect with the terms of this Agreement or that would prevent, delay, interfere with, or otherwise impede the diligent and complete fulfillment of the University's obligations hereunder.

9.2 Pearson Representations.

- i. Organization. Pearson represents that it is a corporation duly organized, validly existing and is in good standing under the laws of the jurisdiction of its incorporation and it holds the required registrations to perform its obligations hereunder.
- ii. Right to Use. Pearson represents and warrants that it presently has, or will have during the Term of this Agreement, permission to use (and for the University to use) any Pearson Intellectual Property as set forth in this Agreement.
- iii. Incentive Compensation – Title IV Compliance. Pearson represents and covenants that its compensation of its employees, consultants and any other persons who perform any student recruitment activities for the University under this Agreement is and will continue to be in accordance with 20 U.S.C. § 1094(a)(20), or any successor provision, and the regulations promulgated thereunder by the U.S. Department of Education, currently located at 34 C.F.R. § 668.14(b)(22). Pearson agrees to maintain, during the term of this Agreement and for a period of at least three years after the expiration or termination of this Agreement, complete and accurate books and records relating to its compensation of its employees and other persons who perform any student recruitment activities for the University under this Agreement.
- iv. Binding Agreement. This Agreement is a legal, valid and binding obligation of Pearson enforceable against it in accordance with its terms and conditions.
- v. No Inconsistent Obligation. Pearson is not under any obligation to any person, or entity, contractual or otherwise, that is conflicting or inconsistent in any respect with the terms of this Agreement or that would impede the diligent and complete fulfillment of its obligations hereunder.

9.3 WARRANTY DISCLAIMER.

EXCEPT AS SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATION OR WARRANTY WITH RESPECT TO ANY TECHNOLOGY, GOODS, SERVICES, RIGHTS OR OTHER SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES HEREBY DISCLAIM ALL OTHER REPRESENTATIONS AND WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 10 **RISK MANAGEMENT**

10.1 Infringement Claims Relating to University-Provided Material.

In the event that Pearson and/or its employees, agents, officers and directors is the subject of any claim that use of the Content, any University Intellectual Property, or the University of Illinois at Chicago Trademarks, or of any other part of an e-Learning Program provided by the University, and used by Pearson in accordance with the terms of this Agreement (collectively, the "University Licensed Material") infringes any intellectual property rights of any third party, Pearson shall notify the University as soon as practicable upon becoming aware of such claim. If any University Licensed Material or part thereof or its use is held by a court of competent jurisdiction to constitute an infringement of any third party's rights, the University shall at its expense and option: (1) procure the right for Pearson to continue using the University Licensed Material; (2) replace the University Licensed Material with non-infringing equivalent material conforming to the applicable specifications required by this Agreement; or (3) modify the University Licensed Material to make it non-infringing while conforming to the applicable specifications. If none of the foregoing options is economically feasible, the University shall so notify Pearson and Pearson, shall be entitled to terminate the subject e-Learning Program.

10.2 Infringement Relating to Pearson Intellectual Property.

In the event that University and/or its trustees, employees, agents, and officers is the subject of any claim that use of any Pearson Intellectual Property infringes any intellectual property rights of any third party, University shall notify Pearson as soon as practicable upon becoming aware of such claim. If any Pearson Intellectual Property or part thereof or its use is held by a court of competent jurisdiction to constitute an infringement of any third party's rights, Pearson shall at its expense and option: (1) procure the right for the University to continue using Pearson Intellectual Property; (2) replace Pearson Intellectual Property with non-infringing equivalent material conforming to the applicable specification required by this Agreement; or (3) modify Pearson Intellectual Property to make it non-infringing while conforming to the applicable specifications. If none of the foregoing options is economically feasible, Pearson shall so notify University and University shall be entitled to terminate the subject e-Learning Program.

10.3 Notice of Infringement.

Each Party shall inform the other promptly in writing of any alleged infringement of an Intellectual Property Right relating to an e-Learning Program by a third party and of any available evidence thereof.

10.4 Right to Assume Litigation Defense.

Each Party will have the right, but not be obligated, to defend and litigate at its own expense any Infringement Claim to which it may be liable under this Article 10.

10.5 Cooperation.

The Parties shall fully cooperate and assist each other in all respects with the defense of any such claim brought by third party that is covered under this Article 10, including to testify when requested and to make available all relevant records, papers, information, samples, specimens, and the like. Such cooperation and assistance is in all cases subject to the advice and authorization of a Party's legal counsel.

10.6 Limitation and Exclusion of Liability.

Except as otherwise agreed in Sections 10.1 and 10.2 hereof and for any breaches of Sections 8.3, 8.4, 9.1 and 9.2, the Parties agree and confirm that: neither Party will, in any circumstance, be liable, responsible or obligated for any indirect, third party, consequential, special or punitive liability, damages, compensation, award, loss, harm, injury, cost or expense whatsoever regardless of the cause of action for same arose, including contract, tort, negligence, common law, equity, statute or otherwise; and each Party's sole, exclusive and exhaustive liability, responsibility and remedy to the other Party shall be strictly limited, in the aggregate for all occurrences during the Term, to no more than the greater of (a) \$2,000,000 or (b) the applicable required minimum coverage amounts set forth in Section 10.7 below.

10.7 Insurance.

Pearson shall maintain insurance and cause a Certificate of Insurance to be issued showing the following required coverage in no less than the minimum coverage limits listed below. The insurance companies providing coverage must have a B+:VI or better rating in the current edition of Best's Key Rating Guide.

A.	Worker's Compensation and Occupational Diseases Employer's Liability (Part B)	Statutory Limits \$500,000 per occurrence
B.	Commercial General Liability (occurrence coverage) General Aggregate Products – Completed Operation Aggregate Personal and Advertising Injury Fire Damage	A minimum for each occurrence: \$ 1,000,000 \$ 2,000,000 \$ 2,000,000 \$ 1,000,000 \$ 100,000
C.	Commercial Auto Liability, if applicable Combined Single Limit OR Bodily Injury Property Damage	A minimum for each occurrence \$ 1,000,000 each occurrence \$ 1,000,000 each occurrence \$ 1,000,000 each occurrence

Additional insurance requirements for this contract are checked below:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Professional Liability – Specialty Errors and Omissions | \$ 1,000,000 per claim
\$ 3,000,000 in aggregate |
| <input type="checkbox"/> Professional Liability – Medical Malpractice | \$ 1,000,000 per claim
\$ 3,000,000 in aggregate |
| <input type="checkbox"/> Employee Dishonesty | \$ 150,000 each occurrence |

Umbrella liability insurance may be used to meet the general liability coverage limit requirements.

Subcontractors must comply with the same insurance coverage requirements as Pearson. Subcontractors shall submit the required Certificate of Insurance through Pearson.

With respect to the required Commercial General Liability insurance, The Board of Trustees of the University of Illinois shall be included as an additional insured. In order to meet this requirement, the following wording should appear on any Certificate of Insurance provided: "The Board of Trustees of the University of Illinois is an additional insured for any liability incurred by University arising from the activities of Contractor and/or Subcontractor performing work on behalf of Contractor." When any professional services are performed in connection with this Agreement, Professional Liability coverage for Pearson and its employees and agents shall be maintained to include coverage for errors, omissions, and negligent acts related to the rendering of such professional services with limits not less than \$1,000,000 per claim and \$3,000,000 in the aggregate. Coverage extensions shall include contractual liability. When policies are renewed or replaced, any retroactive date must coincide with, or precede commencement of services by Pearson or subcontractor under this Agreement. A claims-made policy that is replaced or not renewed must have an extended reporting period not less than two (2) years.

Pearson shall furnish any original Certificate(s) of Insurance evidencing the required coverage to be in force on the date of this Contract, and any renewal Certificate(s) of Insurance if coverage has an expiration or renewal date occurring during the term of this Agreement to the University of Illinois, Purchasing Division, 809 S. Marshfield, m/c 560, Chicago, IL 60612. The receipt of any certificate does not constitute agreement by University that insurance requirements

have been met. Failure of University to obtain certificates or other insurance evidence from Pearson shall not be deemed a waiver by University. Failure to comply with insurance requirements may be regarded as a breach of contract terms.

ARTICLE 11 **DISPUTE RESOLUTION**

[Intentionally Omitted]

ARTICLE 12 **CERTIFICATIONS**

Willfully falsifying certifications or affirmations may subject Pearson to criminal penalties including fines and/or imprisonment. Pearson shall inform University immediately if it would no longer be able to make these certifications or representations at any time during the term hereof.

12.1 Delinquent Payments Certification

Pearson certifies that it, or any affiliate, is not barred from being awarded a contract under 30 ILCS 500. Section 50-11 prohibits a person from entering into a contract with a State agency if it knows or should know that it, or any affiliate, is delinquent in the payment of any debt to the State as defined by the Debt Collection Board. Section 50-12 prohibits a person from entering into a contract with a State agency if it, or any affiliate, has failed to collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act. Pearson further acknowledges that the contracting State agency may declare the contract void if this certification is false or if Pearson, or any affiliate, is determined to be delinquent in the payment of any debt to the State during the term of the contract.

12.2 Anti-Bribery

Pearson certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5 from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

12.3 Loan Default

If Pearson is an individual, Pearson certifies pursuant to 5 Illinois Compiled Statutes 385 that he/she is not in default for a period of six (6) months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education.

12.4 Convicted of Felony

Pearson certifies that it is not barred pursuant to 30 Illinois Compiled Statutes 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

12.5 Barred from Contracting

Pearson certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 Illinois Compiled Statutes 5/33E or a similar law of another state.

12.6 Drug Free Workplace

Pearson certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this Agreement. The Drug Free Workplace Act requires, in part, that contractors with twenty-five (25) or more employees certify and agree to take steps to ensure a drug-free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the Agreement.

12.7 International Boycott

Pearson certifies that pursuant to 30 Illinois Compiled Statutes 582 neither it nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act (Public Act 88-671).

12.8 Non-Discrimination and Equal Employment Opportunity

Pearson agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. Pearson shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). Pearson agrees to incorporate this clause into all Subcontracts under this Agreement.

12.9 Record Retention and Audits

30 Illinois Compiled Statutes 500/20-65 requires Pearson (and any Subcontractors) to maintain, for a period of three (3) years after the later of the date of completion of this Agreement or the date of final payment under the Agreement, all books and records relating to the performance of the Agreement and necessary to support amounts charged to University under

the Agreement. The Agreement and all books and records related to the Agreement shall be available for review and audit by University and the Illinois Auditor General. If this Agreement is funded from contract/grant funds provided by the U.S. Government, the Agreement, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. Pearson agrees to cooperate fully with any audit and to provide full access to all relevant materials. Failure to maintain the required books and records shall establish a presumption in favor of University for the recovery of any funds paid by University under this Agreement for which adequate books and records are not available.

12.10 State-Appropriated Funds

If this Agreement is funded from State of Illinois-appropriated funds, Pearson understands pursuant to 30 Illinois Compiled Statutes 500/20-60(b) that this Agreement is subject to termination and cancellation without any penalty, accelerated payment, or other recoupment mechanism as provided herein in any fiscal year for which the Illinois General Assembly fails to make an appropriation to make payments under the terms of this Agreement. In the event of termination for lack of appropriation, Pearson shall be paid for services performed under this Agreement up to the effective date of termination.

12.11 Exclusions Party List Certification

Pearson certifies that neither Pearson nor any of Pearson's directors, officers, employees, agents and subcontractors who may provide services pursuant to this Agreement (individually an "Agent") is presently debarred, suspended, proposed for debarment, declared ineligible or otherwise excluded from transactions with the U.S. Government or by any federal government agency. Pearson shall provide University immediate written notice if Pearson learns that this certification was erroneous when made or if Pearson or any Agent hereafter becomes debarred, suspended, proposed for debarment, declared ineligible or otherwise excluded from transactions with the U.S. Government or by any Federal agency. Pearson further certifies that neither Pearson nor any Agent is presently subject to an investigation or proceeding to exclude either as a provider under Medicare or Medicaid or under any other federal or state health care program or under any third party insurance program, nor is currently excluded or debarred from submitting claims to Medicare or Medicaid or to any other federal or state health care program or to any third party insurer. University may terminate this Agreement immediately without any penalty to University if either of these certifications was erroneous when made or becomes no longer valid during the Term.

12.12 Labor Certification

Pearson certifies in accordance with 30 ILCS 583/10 that no foreign made equipment, materials, or supplies furnished to the State under the contract have been produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction.

12.13 Child Labor Certification

Pearson certifies in accordance with Public Act 94-0264 that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been produced in whole or in part by the labor of any child under the age of 12.

12.14 Felony Certification

Pearson certifies in accordance with 30 ILCS 500/50-10.5 that no officer, director, partner or other managerial agent of the contracting business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of five years prior to the date of the bid or contract. Pearson acknowledges that the contracting agency shall declare the contract void if this certification is false.

12.15 Environmental Certification

Pearson certifies in accordance with 30 ILCS 500/50-14 that it has not been found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Civil Penalties of the Environmental Protection Act for a period of five years prior to the date of the bid or contract. Pearson acknowledges that the contracting agency shall declare the contract void if this certification is false.

12.16 Federal Funding

If this Agreement is federally funded, Pearson certifies that:

- It is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
- It has not, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction, violation of Federal or State Antitrust Statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement of receiving stolen property.
- It is not presently indicted or criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses enumerated in Part □b of this certification.
- It has not within a three (3) year period preceding this Agreement had one or more public transactions (Federal, State or Local) terminated for cause or default.
- No Federal appropriated funds have been paid or will be paid by Pearson to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Contract, the making of any

Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

- If any non-Federal funds have been paid or will be paid by Pearson to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, Pearson shall complete and submit Federal Standard Form "Disclosure Form to Report Lobbying", in accordance with its instructions.
- It shall require that the language of this certification be included in the award documents for all sub-awards at all tiers and that all sub-recipients shall certify accordingly.

12.17 State Board of Elections Certification Required by Public Act 95-0971

If Pearson does \$50,000 worth of business annually with the State of Illinois, including the state universities, Pearson is required to register with the State Board of Elections and obtain from them a certificate confirming your registration. Responses to Invitations to Bid, Requests for Proposals, Requests for Information, and all other types of procurement solicitations are included in the calculation of this \$50,000 annual amount, whether you receive a resulting award or not. If Pearson does less than \$50,000 worth of business annually, Pearson may be exempt from the registration requirement.

Please refer to Public Act 95-0971, which is available at <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=095-0971&GA=095>, and the State Board of Elections website (www.elections.il.gov) for more specific information on whether Pearson is required to register or not. Information on how to submit copies of the registration certificate to the Chief Procurement Officer for Higher Education is available at the Illinois Public Higher Education Procurement Bulletin website (<http://www.procure.stateuniv.state.il.us>).

12.18 Information Technology Accessibility Act 095-0307

As required by the Illinois Public Act 095-0307, all information technology, including electronic information, software, systems, and equipment, developed for or provided under this contract must comply with the applicable requirements of the Illinois Information Technology Accessibility Act Standards as posted at <http://www.dhs.state.il.us/iitaa>.

12.19 Iran

Pearson certifies that it has complied with the disclosure requirement of Section 50-36 of the Illinois Procurement Code (30 ILCS 500/50-36) requiring companies seeking to do business with the University to make certain disclosures related to the conduct of business with the nation of Iran.

ARTICLE 13 **GENERAL PROVISIONS**

13.1 Relationship of the Parties.

The relationship between the Parties is limited solely to that of independent contractor. Nothing in this Agreement will be construed to create or imply a partnership, agency, employer/employee, or other legal relationship between the Parties. Either Party may utilize the products and/or services of third party contractors in connection with the performance of services under this Agreement without the written consent of the other Party.

13.2 Entire Agreement.

This Agreement, together with all duly executed e-Learning Program Term Sheets, constitute the entire agreement and understanding between the Parties relating to the subject matter of this Agreement and supersede all prior agreements, conditions, warranties, representations, arrangements and communications, whether oral or written, with respect to the subject matter hereof.

13.3 No Waiver.

The waiver by either Party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach. A waiver will be effective unless it is in writing and signed by the Party giving it, and no such waiver will constitute a waiver for any other provisions (whether or not similar).

13.4 Time of the Essence

The Parties' time obligations herein are of the essence in the performance of any obligation or duty to the extent any time requirements are specifically set out in this Agreement.

13.5 Currency.

All references to currency in this Agreement are to US Dollars.

13.6 Severability.

If any portion of this Agreement is held to be illegal, invalid or inoperative then so far as is reasonable and possible: (i) the remainder of this Agreement will be considered valid and

operative; and (ii) effect will be given to the intent manifested by the portion held invalid or inoperative.

13.7 Amendments

This Agreement may be modified only upon the mutual consent of Pearson and the University that is reflected in a written amendment executed by the duly authorized representatives of both Parties.

13.8 Compliance with Law.

The Parties agree that this Agreement and all activities in any way relating to it shall be conducted in compliance with applicable state and federal laws, rules and regulations in jurisdictions in which the activities are conducted. Pearson agrees to materially comply with the University's policies with respect to privacy of educational records that are provided to Pearson in writing at the Effective Date and subsequently upon amendment or modification to such policies. For purposes of this Section 13.8, University may provide Pearson via email with an electronic link to relevant University policies located on University webpages to satisfy the requirement that University provide the policies in writing to Pearson.

13.9 Governing Law.

This Agreement will be governed by and construed in accordance with the laws of the State of Illinois, without regard to its law governing conflict of laws. Each Party hereby irrevocably waives any trial, or other litigation proceedings, by jury (which such waiver the Parties have fundamentally relied upon to enter into this Agreement).

13.10 Further Assurances.

The Parties shall execute such other documents or perform such acts as may be reasonably necessary to give effect to the intentions expressed in this Agreement.

13.11 Notices.

Any notice to be given to the University or Pearson under the terms of this Agreement may be delivered by any one of the following methods: (i) personally, (ii) by commercial or U.S. Postal Service overnight mail service, (iii) by registered or certified mail, postage prepaid, return receipt requested, and shall be addressed as follows:

If to Pearson: 2145 MetroCenter Blvd., Suite 400
Orlando, FL 32835-7632

Phone: (800) 511-5636 ext. 5504

Attention: Chief Operating Officer

If to the University: University of Illinois at Chicago
College of Applied Health Sciences
808 South Wood St., 169 CMET
Chicago, IL 60612-7305

Attention: Dean of the College

With copies to: the Academic Director for the applicable e-Learning Program

And

University of Illinois at Chicago
Purchasing Division (MC 560)
809 South Marshfield Avenue, 3rd Floor
Chicago, IL 60612-7203

A Party may hereafter notify another in writing of any change in address. Any notice shall be deemed duly given (i) when personally delivered, (ii) when delivered by commercial or U.S. Postal Service overnight mail service(upon confirmation of receipt) or (iii) on the third day after it is mailed by registered or certified mail, return receipt requested, postage prepaid, as provided herein.

13.12 Assignment.

Neither Party may assign this Agreement without first obtaining the written consent of the other Party, which consent shall not be unreasonably withheld (but which is subject to any approval(s) that may be required to be obtained by University under applicable law or regulation), except that Pearson may assign this Agreement, including all licenses granted hereunder, to an affiliate or subsidiary of Pearson, provided that any such assignment by Pearson shall not relieve or excuse Pearson from any of its obligations under this Agreement.

13.13 Subcontracting.

Pearson shall provide an attachment listing all known or anticipated subcontracts with an annual value of \$50,000 or more. The attachment shall include the proposed value of each subcontract and the name and address of the subcontractor. Pearson shall not subcontract any portion of the Services without University's prior written permission and shall promptly notify University of any proposed change in subcontractors, together with all relevant information requested by University.

13.14 Counterpart Execution.

This Agreement may be executed in any number of counterparts and may be maintained in electronic form with the same effect as if all Parties hereto have signed the same document. All counterparts will be construed together and constitute one Agreement.

13.15 Survival.

Those sections and articles of this Agreement which by their terms provide the Parties with certain rights and/or impose obligations that are to be exercised or performed after the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the last signature date appearing below.

NCS Pearson, Inc.

By:



Todd Hitchcock
Vice President General Management
Chief Operating Officer
Pearson Online Learning Services

Date:

02/23/2015

**The Board of Trustees of the University
of Illinois**

By:



Walter K. Knorr
Comptroller

Date:

2/24/2015

CONFIDENTIAL AND PROPRIETARY FINANCIAL/COMMERCIAL INFORMATION

**Program Term Sheet #1
Health Informatics and Health Information Management Programs**

This e-Learning Program Term Sheet (“Program Term Sheet”) is entered into by and between NCS Pearson, Inc. (“Pearson”) and the Board of Trustees of the University of Illinois with principal offices in Urbana, Illinois, on behalf of the Department of Biomedical and Health Information Sciences in the College of Applied Health Sciences on the University of Illinois at Chicago campus (“University”) pursuant to the e-Learning Program Master Services Agreement between the Parties (“Agreement”).

1. **Programs.** The e-Learning Programs governed by this Program Term Sheet are:
 - a. Master of Science in Health Informatics and Post Master’s Certificate in Health Informatics (collectively, “HI Program”).
 - b. Bachelor of Science in Health Information Management and Post-Baccalaureate Certificate in Health Information Management (collectively, “HIM Program”). For the avoidance of any doubt, University offers a Bachelor of Science HIM traditional on-ground degree program on the University of Illinois at Chicago campus that is not an e-Learning Program and which is not covered by this Program Term Sheet.
2. **Program Term.** The term of this Program Term Sheet will commence on the Effective Date of the Agreement, which is the first day of the University of Illinois at Chicago’s 2015 summer session (May 18, 2015), and end on the last day of the Spring 2022 term (the “Program Term”). The Program Term may be extended by mutual consent for an additional three (3) years as provided in the Agreement.
3. **Services Provided.** Pearson shall provide the following services to the University with respect to the HI Program and the HIM Program (collectively, the “Services”):
 - a. Market Research and Assessment per Section 2.1 of the Agreement.
 - b. Marketing Services per Section 2.2 of the Agreement.
 - c. Recruitment Services per Section 2.3 of the Agreement.
 - d. Student Support Services per Section 2.4 of the Agreement.

4. **Service Fees.** As consideration for providing the Services, the University shall distribute Gross Receipts attributable to the HI Program and the HIM Program pursuant to the following chart:

Number of Program Students		Distributions	
Start	End	Pearson Gross Receipts % (Service Fees)	University Gross Receipts %
1	350	45%	55%
351+		50%	50%

This chart shall be applied on a program-by-program basis. The student enrollment numbers of the HI Program and the HIM Program shall not be aggregated for purposes calculating Service Fees pursuant to this chart.

5. **Minimum Number of Program Students.** The Minimum Number of Program Students for purposes of Section 8.3(iv) of the Agreement shall be 150 in any Spring or Fall term of the Program Term. "Program Students" means the sum of the unduplicated student headcounts in both the HI Program and the HIM Program.

WHEREFORE, the Parties have entered into this Program Term Sheet on the date of the last signature below.

NCS Pearson, Inc.

By:



Todd Hitchcock
Vice President General Management
Chief Operating Officer
Pearson Online Learning Services

Date: 02/23/2015

The Board of Trustees of the University of Illinois

By:



Walter K. Knorr
Comptroller

Date: 2/24/2015