

University of Washington &
Noodle Partners
Master Services Agreement

Master Service Agreement

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Master Service Agreement

MASTER SERVICE Agreement (“Agreement”) between Noodle Partners, Inc. (“Noodle Partners”), a Delaware corporation whose address is 860 Broadway, New York, New York 10003 and University of Washington (“UW” or “University”), a public University, whose address is 4300 Roosevelt Way NE, 3rd Floor, Seattle, WA 98105, effective as of the date indicated below.

WHEREAS, UW and its faculty have expressed the need to launch certain online programs designated in the Appendices hereof (“Program” or “Programs”);

WHEREAS, Noodle Partners and the UW have agreed that Noodle Partners will create, supervise and manage sophisticated and high quality online academic programs designated by the UW, and set forth in the Appendices of this Agreement;

WHEREAS, nothing in this Agreement is intended to diminish or impair the role of the UW’s faculty in establishing and maintaining the curriculum, grading, admissions decisions, and student discipline decisions related to the online programs;

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein set forth, the sufficiency of which are acknowledged, Noodle Partners and the UW (each a ‘Party’, collectively “Parties”) hereby agree as follows:

1. Definitions

As used throughout this Agreement, the following terms shall have the meaning set forth below:

“Academic Year” means the academic year as published by the UW in its academic calendar.

“Academic Term” means the quarter, term or summer session, approximately three (3) months in length, during which the Programs are taught and delivered.

“Affiliate” of a Party means any other party that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Party. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a party, whether through the ownership of voting securities, by contract or otherwise.

“Agreement” means purchase order and/or the entire written agreement between the UW and Noodle Partners, including any exhibits, Riders, and other materials incorporated by reference.

“Change in Control” means (a) any merger, consolidation, acquisition or similar transaction(s) resulting in the stockholders of Noodle Partners, immediately before such transaction or transactions, not retaining a majority of the voting power of the surviving entity (but excluding a change in ownership resulting from the sale of greater than fifty

(50%) of ownership in Noodle Partners as part of a public offering), or (b) a sale of all or substantially all of Noodle Partners' assets.

"Noodle Partners Group" means, collectively, Noodle Partners and all Providers and Subcontractors..

"Debarment" means an action taken by a federal official to exclude a person or business entity from participating in transactions involving certain federal funds.

"Improper Influence" means any influence that induces or intends to induce a UW employee or officer to give special consideration or award an Agreement on any basis other than the merits of the matter.

"Learning Stack" means the integrated learning stack provided by and supported by the Noodle Partners Group, including the content management system, learning management system, synchronous video, plagiarism review, online proctoring, video management services, and other required tools. The Learning Stack may include software licensed directly by the UW.

"Materials" means all information in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and sound reproductions.

"Ownership" includes the right to copyright, patent, and register, and the ability to transfer, these rights.

"Personal Information" means (i) any educational record of a student or applicant, or (ii) non-public personal information that relates to applicants, students, or the UW's personnel that could be used, either directly or indirectly, to identify any such person.

"Personally Identifiable Information" means any records or information relating to an identified or identifiable natural person, such as name, identification number, location data, online identifiers, or factor(s) specific to physical, physiological, genetic, mental, economic, cultural, or social identity or characteristics, or is identified as personally identifiable data (or a similar term) by any applicable law, that:

- a. Is created, received, or maintained by the University and transmitted to, accessed by, or otherwise made available to Noodle Partners in connection with Noodle Partners' performance of the Work; or
- b. Upon which Noodle Partners performs Data Processing in performing the Work; or
- c. Is appended to, aggregated with, or associated with any University Personal Data (UPD) originating from the University that was transmitted to or accessed by Noodle Partners in connection with Noodle Partners' performance of the Work.
- d. Notwithstanding the foregoing, UPD does not include personal data relating to Noodle Partners' or Subcontractor's personnel or personal data that is acquired from non-UW sources and is processed by Noodle Partners not in association with the Work.

“Platform” means the technology platform created by Noodle Partners that serves as an administrative portal for the UW’s administrators and employees of Noodle Partners and its Providers. The Platform handles the collection of data from various systems, visualization of that information, and tools that facilitate communication and management of the Program(s).

“Program(s)” means the academic courses or the degree or certificate programs designed by the UW and supported by Noodle Partners.

“Program Agreement” or “PA” means the Program set forth in Appendix E1 and any additional Appendices executed in the future by the Parties.

“Provider(s)”, “Critical Provider(s)”, and “Strategic Provider(s)” are service and technology Subcontractor(s) that are both sourced and supervised by Noodle Partners as set forth in Appendix B.

“RCW” means the Revised Code of Washington. All references in this Agreement to RCW chapters or sections shall include any successor, or replacement statute.

“Regulation” means any federal, state, local, or UW regulation, law, rule, or ordinance.

“Rider” means additional terms and conditions, other than as set forth in this Agreement that address a specific UW requirement based on the scope and nature of Work.

“Subcontract” means any separate agreement or contract between Noodle Partners and an individual or entity that is a Subcontractor to perform all or a portion of the duties and obligations that Noodle Partners is obligated to perform pursuant to this Agreement.

"Subcontractor" means one not in the employment of Noodle Partners, and/or entity that owns or controls, is owned or controlled by, or is under common ownership or control of Noodle Partners, who is performing all or part of those services under this Agreement under a separate contract with Noodle Partners, and/or any person or entity appointed by or on behalf of Noodle Partners to carry out any portion of the Work. The terms "Subcontractor" and "Subcontractors" means Subcontractor(s) in any tier. Control for the context of this paragraph, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract, or otherwise.

"UW" means the University of Washington, any division, section, office, unit, or other entity of the University of Washington, or any of the officers or other officials lawfully representing the University of Washington.

“Work” refers to all services, work, and activities involved in providing the materials, work product deliverables, or other obligations that are the subject Services (defined below) of the Agreement.

2. Description of Services

UW is engaging Noodle Partners as an independent contractor to provide specific products and services, combined with the support and maintenance thereof, as set forth

in Appendix B and further specified or modified in each Program Agreement (the “Service(s)”).

Noodle Partners shall, for each Program listed in Appendix E1 and in any additional Appendices executed in the future by the Parties provide products and services to build, market and administer the Programs and will use commercially reasonable efforts to accomplish the goals as set forth in Appendix B.

UW and Noodle Partners rely on the Platform to support and maintain their work; the service level agreement for these technologies is set forth in Appendix C.

3. Program Governance Group

In order to help ensure success the Parties shall establish a Program governance group (the “Program Governance Group”) responsible for oversight, planning and strategy-setting with respect to all Programs to be developed under this Agreement.

a. Composition and Decision Making

The Program Governance Group will be comprised of appropriate representatives of each Party, including each Party’s Authorized Representative(s) which shall be defined in each Program Agreement. Each Party may substitute its representatives in its sole discretion upon notice to the other Party.

UW will have sole decision-making authority over all academic and budgetary decisions. The Program Governance Group is merely a mechanism for the Parties to consult and cooperate to help ensure full transparency and efficient decision-making.

b. Program Initiation Responsibilities

With respect to each Program, the Program Governance Group or a subcommittee appointed by the Program Governance Group shall establish a set of protocols (the “Program Protocols”) within forty-five (45) days of executing the Program Agreement, setting forth:

- i. the budget for Program costs, fees and expenses, including work performed by Providers (the “Program Budget”) and a process for any changes to an agreed upon Program Budget;
- ii. a Program development protocol that clearly outlines the responsibilities of each Party with respect to the development, implementation, and administration of the Program. As reasonable and practical, this development protocol shall specify the processes, the roles and responsibilities and approval processes associated with the Program;
- iii. a Program development timeline that includes deadlines for the achievement of key milestones, a scheduled delivery date and launch date (the “Program Timeline”); the Parties hereby agree that time is of the essence with respect to the Program timeline;

- iv. a schedule for regular Program progress reports from the Program Governance Group to update the UW on the achievement of milestones, the allocation of the Program Budget, the performance of Providers, and any anticipated issues or decisions to be made with respect to the Program Protocols; and
 - v. the Parties agree that in the event that any date on which performance is to occur falls on a Saturday, Sunday or state or national holiday, then the time for such performance shall be extended until the next business day thereafter occurring.
- c. Ongoing Responsibilities
- i. The Program Governance Group shall meet on a quarterly basis or more frequently as necessary to carry out its responsibilities.
 - ii. For each year a Program Agreement is in place, and three months before the end of any Academic Year, Noodle Partners will propose a set of Program Protocols for the next Academic Year, and the Parties will employ best efforts and good faith to approve them within thirty (30) days.
 - iii. UW's Authorized Representative must approve, propose changes to, or reject each Program Budget within thirty (30) days of the Program Governance Group presenting the Program Budget and approve, propose changes or reject any changes to the Program Budget within fourteen (14) days of presentation of the proposed changes. Each set of Program Protocols shall be subject to approval by the UW's Authorized Representative and shall be signed by the Parties and attached as an Exhibit to the applicable Program Agreement and incorporated by reference therein.
 - iv. The Program Governance Group or a subcommittee appointed by the Program Governance Group shall provide a forum for the planning, discussion, coordination, and review of each year's budget and all Program activities, including specifically (i) reviewing Providers' performance and determining and approving those Providers that are Strategic Providers, (ii) resolving any issues concerning Providers who fail to perform the Services in accordance with Program Protocols or whose performance is otherwise unsatisfactory to the UW, including by directing Noodle Partners to replace such Providers, (iii) reviewing, monitoring and anticipating any issues with respect to each year's budget and the Program's alignment with the applicable Program Protocols, and (iv) coordinating on scheduled maintenance of each Program. Notwithstanding anything to the contrary herein, the Program Governance Group shall not be authorized to impose any fee, expense or obligation on UW unless such fee, expense or obligation is approved by UW's Authorized Representative.

4. Authorized Representative

- a. Noodle Partners and the UW will each designate a person for this Agreement and for each Program (each, an “Authorized Representative”) whom shall serve as each Party’s primary point of contact regarding the planning, implementation and provision of the Service, and who will have the authority to act on behalf of his or her Party, and whose actions may be relied upon by the other Party as set forth in Appendix A. Each Authorized Representative shall:
 - i. attend Program Governance Group meetings, as needed;
 - ii. obtain and provide the other Party applicable information, data, decisions and approvals as required by Noodle Partners to perform the Service and by the UW to perform its obligations hereunder, within a reasonable time frame after receiving such a request;
 - iii. resolve issues regarding the Service;
 - iv. inform the other Party of any changes in leadership or of stakeholders related to the Agreement and exert reasonable efforts to aid as necessary during a transition in leadership.
- b. The rights and duties of the Parties, conferred to their Authorized Representatives, with respect to change orders are as follows:
 - i. Noodle Partners’ Authorized Representative(s) for the Agreement may request Change Orders for any Program under this Agreement. Noodle Partners’ Authorized Representative for a specific Program (as named in a PA) may request Change Orders within the scope of that Program.
 - ii. UW’s Authorized Representative(s) for the Agreement may approve requested Change Orders for any Program under this Agreement. UW’s Authorized Representative for a specific Program (as named in a PA) may approve request Change Orders within the scope of that Program.
 - iii. If Noodle Partners’ Authorized Representative perceives that UW’s Authorized Representative have given instructions, stated a position, or through other action or omission have changed the Program Timeline, and if meeting the change involves extraordinary cost that was not reasonably foreseeable under the commercial terms of the Program, then Noodle Partners’ Authorized Representative shall notify the UW in a writing (which may be via email) requesting a change to either the cost compensation, means of execution, or time requirements of the Program.
 - iv. As reasonably practicable, UW’s Authorized Representative will endeavor to confer with Noodle Partners’ Authorized Representative on a requested Change Order in order to finalize on all aspects of the change. To the extent that only partial agreement is possible, UW’s Authorized Representative may authorize a change of the means of execution and/or time requirements. Noodle Partners shall then proceed under the partially agreed Change Order terms and the cost compensation shall be resolved through unanimous

agreement of the members of the Program Governance Group or under section 26 of this Agreement (Dispute Resolution).

5. Fees

UW will pay Noodle Partners' fees as set forth in Appendix D and in the PAs. UW is not obligated to pay for Tier 2 Fees in an amount in excess of the total amounts set forth in the Program Budget unless agreed to in advance by UW's Authorized Representative.

6. Term and Termination

- a. Term. The term of this Agreement (the "Master Term") is effective as of March 4, 2020 (the "Effective Date") and shall continue until the expiration date of the program term of the last to expire of the PAs attached hereto, including those that may be executed after the Effective Date, unless this Agreement, including all of the attached PA's, is earlier terminated.
- b. Agreement Termination for Cause. Either Party may terminate this Agreement or any of the individual Program Agreements by written notice to the other, if (i) such Party notifies the other Party of a material breach of this Agreement or a Program Agreement and (ii) the other Party fails to cure such material breach within sixty (60) days (thirty (30) days in the case of a failure to make a due payment) from receipt of such notice (in each case, "Cause"). For the avoidance of doubt, termination of any Program Agreement under this paragraph does not automatically result in the termination of any other Program Agreement or the Agreement.
- c. Effect of Termination.
 - i. Survival. Any provisions of this Agreement that are expressly intended to survive for a period after termination shall survive termination or expiration of this Agreement.
 - ii. Teach-Out Period. Upon termination or expiration of the Agreement or the Program Agreement, the UW may elect to extend the Agreement or any Program Agreement to allow Noodle Partners and the UW to continue to provide only the Services necessary under such Program Agreement until students in such Program at the time of termination or expiration have either graduated from or stopped participating in such Program (the "Teach-Out Period").
 1. Noodle Partners will only provide those Services necessary to complete the Teach-Out Period.
 2. Noodle Partners will receive all applicable Noodle Partners Fees and relevant Tier 2 Fees per Appendix D of the Agreement for the entire length of the Teach-Out Period as if the Agreement and the applicable Program Agreement were still in effect.

- iii. Accrued Rights. Termination of this Agreement or any PA shall not prejudice either Party's rights to any sums due or accrued under this Agreement or any PA prior to such termination and shall not prejudice any cause of action or claim accrued or to accrue on account of any breach or default. Upon termination of this Agreement or any PA for any reason, any and all fees, due to Noodle Partners prior to the termination or expiration of the Agreement or any PA shall become immediately due and payable.

7. Additional Terms Pertaining to Breach, Default, and Termination

- a. Breach: A breach of a term or condition of this Agreement shall mean any one or more of the following events:
 - i. Noodle Partners fails to perform the Services by the date required or by a later date as may be agreed to in a change order or written amendment to this Agreement signed by the UW. Noodle Partners will not be held responsible for failure to meet deadlines that are caused directly by any delay by the UW.
 - ii. Noodle Partners breaches through no fault of the UW, any warranty or fails to deliver any Service as per Appendix B or comply with any term in this Agreement. For avoidance of doubt, UW may take possession of defective and/or non-conforming goods or services, as a means of mitigating its damages and/or pending additional effort by Noodle Partners to cure the breach through repair or replacement. Such use or possession by the UW shall not be deemed as acceptance nor excuse Noodle Partners;
 - iii. Noodle Partners makes any general assignment for the benefit of creditors and is unable to perform its responsibilities set forth in this Agreement;
 - iv. Noodle Partners becomes insolvent or in an unsound financial condition so as to endanger performance hereunder and is unable to perform its responsibilities set forth in this Agreement;
 - v. Noodle Partners becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors and is unable to perform its responsibilities set forth in this Agreement;
 - vi. Any receiver, trustee, or similar official is appointed for Noodle Partners or any of Noodle Partners' property and Noodle Partners is unable to perform its responsibilities set forth in this Agreement;
 - vii. Noodle Partners is determined to be in violation of any regulations and that such determination renders Noodle Partners unable to perform any material aspect of this Agreement.
 - viii. UW breaches any of its material obligations contained in this Agreement

Default: Either Party may be declared in default for a material breach of any term or condition.

- b. Termination by Mutual Agreement: The Parties may terminate this Agreement in whole or in part, at any time, by mutual agreement.

8. Termination Procedures

After receipt of a valid notice of termination by the UW to Noodle Partners for cause prior to the end of the Term, and except as otherwise directed by the UW, Noodle Partners shall:

- a. Stop work, as reasonably practicable, under this Agreement on the date, and to the extent specified, in the notice;
- b. Place no further orders or Subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the Work under this Agreement that is not terminated;
- c. To the extent permitted by the applicable Subcontracts and as reasonably practicable, assign to the UW, in the manner, at the times, and to the extent directed by the UW, all of the rights, title, and interest of Noodle Partners under the orders and Subcontracts so terminated, so that in which case the UW has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and Subcontracts;
- d. Upon UW's payment of all outstanding liabilities to Noodle Partners, settle all outstanding liabilities and all claims arising out of such termination of orders and Subcontracts, with the approval or ratification of the UW to the extent the UW may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to the UW and deliver in the manner, at the times, and to the extent directed by the UW any existing property which, if this Agreement had been completed, would have been required to be furnished to the UW;
- f. Complete performance of such part of the Work as shall not have been terminated by the UW; and
- g. Take such action as may be necessary, or as the UW may reasonably direct, for the protection and preservation of the property related to this Agreement which is in the possession of Noodle Partners and in which the UW has or may acquire an interest.

The UW shall pay to Noodle Partners the agreed upon price, if separately stated, for completed Work and services or goods accepted by the UW. Upon good cause, the UW may withhold from any amounts due Noodle Partners a sum that UW reasonably determines to be necessary to protect the UW against potential loss or liability. The rights and remedies of the UW provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

9. Non-Interference and Non-Circumvention

- a. Noodle Partners will not during the Master Term and for a period of one year thereafter employ or retain any of UW's employees or contractors who, to Noodle Partners' knowledge, shall have provided services or otherwise had material interactions with Noodle Partners' personnel in connection with the Programs. During such period, Noodle Partners will also not negotiate with any such employees or contractors for any such employment or retention.
- b. The academic units at the UW participating in this contract with Noodle Partners will not during the Master Term and for a period of one year thereafter directly recruit any of Noodle Partners' employees or Provider(s) who have provided, directly or indirectly, services to UW (or to Noodle Partners) in connection with the Service or any of the Programs (collectively, "Covered Providers").

The Parties agree that quantifying losses arising from UW's breach of this Section is inherently difficult to determine, and therefore the Parties agree that as liquidated damages UW's obligation to pay all of the fees set forth on Appendix D shall continue in full for any period after the expiration or termination of the Agreement during which UW shall be in breach of this Section. The Parties stipulate that payment of such sums is not a penalty, but rather a reasonable measure of damages, based on the Parties' experience and the nature of losses that may result.

- c. The terms "employ," "retain," "employment" and "retention" as used in this Section shall be broadly construed to include the direct or indirect employment, hiring, or retention of a person or entity as a full-time employee, part-time employee, independent contractor, Provider, agent, consultant, advisor or any similar classification.

10. Incentive Compensation Rule

Noodle Partners shall compensate its employees engaged in the recruitment of Program students, or in the supervision of such employees, only in accordance with the provisions of 34 CFR § 668(b)(22), ("the Incentive Compensation Rule"). Noodle Partners shall compensate any Provider engaged in the recruitment of Program students only in accordance with the provisions of the Incentive Compensation Rule and such Providers shall be required to compensate their employees in accordance with the provisions of the Incentive Compensation Rule.

11. Accessibility

Noodle Partners represents that it is committed to promoting and improving accessibility of all its products as specified in the University of Washington IT Accessibility Guidelines (<https://uw.edu/accessibility/guidelines>), and will remain committed throughout the term of this Agreement. If the Services are not in conformance with all applicable federal and state disability laws, policies, and regulations as of the Effective Date, Noodle Partners shall use reasonable efforts to update the Services so as to be in conformance therewith. In the event any issues arise regarding Noodle Partners' compliance with applicable federal or state disability laws, policies and regulations, University may send communications to Noodle

Partners as specified who will assign a person with accessibility expertise to reply to University within two (2) business days.

To the extent that UW receives from an individual Program student a request for a reasonable accommodation related to such Program student's disability, UW shall have primary responsibility for assessing and responding to such request. However, to the extent a reasonable accommodation is within the scope of Noodle Partners' course development obligations or other Services under this Agreement, Noodle Partners shall reasonably assist UW in providing such reasonable accommodations to Program students in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act and the University of Washington IT Accessibility Checklist located at <https://depts.washington.edu/uwitats/checklist/>. To the extent that providing a Program student with a reasonable accommodation is within Noodle Partners' sole control, Noodle Partners shall take reasonable efforts to provide the reasonable accommodation. To the extent that a Program student or prospective Program student requests a reasonable accommodation from Noodle Partners rather than UW, Noodle Partners shall refer such request to UW.

UW understands that while Noodle Partners will ensure that the products and services it provides will comply with the accessibility laws set forth in this paragraph, it is also incumbent upon UW to take appropriate measures to ensure that it and its faculty understand and comply with those laws. Neither party will be responsible for the violation of any accessibility law by the other party. If UW or its faculty have any questions about whether any action taken by it or its faculty is in compliance with an accessibility law, UW will raise the issue before the Program Governance Group and Noodle Partners will appropriately advise and assist on those issues.

If Noodle Partners is using UW's technology, including but not limited to its learning management system ("LMS"), it is UW's obligation to ensure that it complies with the accessibility requirements of this paragraph and UW holds Noodle Partners harmless for any violations caused by UW in this regard.

All accessibility accommodations, whether provided by UW or Noodle Partners, is at UW's expense, except for items improperly provided by Noodle Partners under the scope of work in this agreement such that Noodle Partners did not meet the specifications set forth in the scope of work.

12. Advance Payments Prohibited

No payments in advance of or in anticipation of goods or services to be provided under this Agreement shall be made by the UW except as authorized by Appendix D.

13. Amendments

- a. This Agreement may be amended by mutual agreement of the Parties. No material alterations in any of the terms, conditions, delivery, price, quality, quantity or specifications shall be effective unless the alteration is expressly acknowledged and accepted in writing by the UW.

- b. Automatic extensions and renewals are not authorized unless included in this Agreement or stated in writing executed by the UW.

14. Antitrust Assignments

Noodle Partners hereby assigns to UW any and all claims for price fixing or overcharges relating to goods, products, services and/or materials purchased under this Agreement, except as to overcharges that result from antitrust violations commencing after the price is established under this Agreement and that are not passed on to the UW under an escalation clause.

15. Assignment

Except as provided herein, neither Party may assign this Agreement or any rights and obligations hereunder, without the prior written consent of the other Party, not to be unreasonably withheld; however, that either Party may assign this Agreement, or any of its rights or obligations, to an Affiliate of such Party or in connection with a Change in Control, without any consent of the other Party.

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by Noodle Partners without prior written consent by the UW, except as provided herein. Provision of monies due under this Agreement shall only be assignable with prior written permission of the UW, except as otherwise agreed to by the Parties in this Agreement.

16. Attorney's Fees

In the event of litigation or other action brought to enforce the Agreement's terms, each Party shall bear its own attorney's fees and costs.

17. Compliance with Applicable Law

At all times during the term of this Agreement, Noodle Partners shall comply with all applicable federal, state and local laws and regulations, including but not limited to, nondiscrimination laws and regulations. To the extent that Noodle Partners will provide performance to any UW Medicine entity, Noodle Partners agrees to comply with all UW Medicine Compliance policies and the UW Medical Center Corporate Compliance Plan. Any material violation of this section shall be considered a material breach of this Agreement. Noodle Partners agrees to indemnify and hold the UW harmless from any and all damages or claims caused by Noodle Partners' failure to comply with this Section.

18. Compliance with Federal Civil Rights Law

Noodle Partners and Providers/Subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and providers/subcontractors take affirmative action to employ and advance in employment individuals without regard to race,

color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

19. Confidentiality

- a. Announcements: UW authorizes Noodle Partners to announce the existence of its relationship with UW to the general public with explicit advance written approval by the UW, but not to discuss any of UW's Confidential Information as set forth below.
- b. Confidential Information: The Parties may use information gained by reason of this Agreement only for the purpose of this Agreement. The Parties shall not disclose, transfer, or sell any such information to any party, except as provided by law. The Parties shall maintain the confidentiality of all confidential information gained by reason of this Agreement and shall return or certify the destruction of such information if requested in writing by the other Party.

Nothing in this section entitled "Confidential Information" will preclude Noodle Partners from (i) disclosing non-"Personally Identifiable Information" as necessary and appropriate to perform Noodle Partners' Platform analytics as set forth in this Agreement and (ii) sharing with its insurance agents and financial advisors the terms of this Agreement that are necessary for Noodle Partners to obtain those professional services. It is agreed upon and understood that said information shall not be used for commercial purposes.

20. Conflict of Interest

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the UW may, in its sole discretion, by written notice to Noodle Partners terminate this Agreement if it is found after due notice and examination by the UW that there is a material violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any similar statute involving Noodle Partners in the procurement of this Agreement, or the provision of goods or services under this Agreement. If this Agreement is terminated as provided herein, the UW shall be entitled to pursue the same remedies against Noodle Partners as it could pursue in the event of a breach of this Agreement by Noodle Partners. The rights and remedies of the UW provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

21. Copyright and Intellectual Property Provisions

Unless otherwise provided, all Materials Noodle Partners produces for UW under this Agreement shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the UW. The UW shall be considered the author of such Materials. If the Materials Noodle Partners produces for UW under this Agreement are not considered "works for hire" under the U.S. Copyright laws, Noodle Partners hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to the UW effective from the moment of creation of such Materials. For Materials that are delivered under this Agreement, but that incorporate pre-existing materials not produced under this Agreement, Noodle Partners grants to the UW a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute,

prepare derivative works, publicly perform, and publicly display. Noodle Partners warrants and represents that Noodle Partners has all rights and permissions, including intellectual property rights, moral rights, and rights of publicity, necessary to grant such a license to the UW. The UW shall receive prompt written notice of each notice or claim of copyright infringement received by Noodle Partners with respect to any Materials delivered under this Agreement. The UW shall have the right to modify or remove any restrictive markings placed upon the Materials by Noodle Partners.

22. Proprietary Rights of UW

Subject only to Noodle Partners' right to generate and provide reports with non-Personally Identifiable Information pursuant to this Agreement and in any separate Program Agreements, UW shall have sole and exclusive ownership of all rights, title and interest in and to any and all content of the Programs, including content used in its courses, and student Personally Identifiable Information disclosed by UW to Noodle Partners ("Student Data").

Except to the extent necessary to perform and analyze the Services, Noodle Partners shall not publish, circulate, or disseminate Student Data without the prior written consent of UW, which consent may be withheld in UW's sole discretion. Any provision herein notwithstanding, to the extent permitted by applicable law, Noodle Partners may use Student Data and other data from the Programs in an aggregated, non-personally identifiable manner and not for commercial purposes

UW hereby grants to Noodle Partners a license in its trademarks, service marks and trade names used in connection with the Programs (the "Trademarks") to use in connection with the content or appearance (to users) of the Programs, including in connection with the promotion and marketing of the Programs. Noodle Partners shall have the right to sublicense its use of the Trademarks to its Providers solely in connection with the Programs as contemplated herein. Any such Noodle Partners Subcontractor or Provider shall, as a prerequisite to being granted a sublicense, be subject to all of the requirements related to the Trademarks contained herein. Any and all use by Noodle Partners or Subcontractors/Providers of the Trademarks shall be subject to UW's prior written approval, and such approval may be withheld in UW's sole and absolute discretion. Once the content or appearance of any use of the Trademarks in context is approved in writing by UW in its sole and absolute discretion, no further approval shall be required hereunder for repurposing such content or appearance in any different media that would be consistent with any marketing plan that UW otherwise approves; provided that UW may, upon reasonable advance notice, withdraw any such approval.

Noodle Partners and Providers shall include all notices, symbols, and legends with respect to the UW Trademarks, as are or may be required by applicable federal, state, and local trademark and copyright laws or which may be reasonably requested by UW. The UW Trademarks shall also be used in accordance with other trademark guidelines as may be set forth at <https://www.washington.edu/brand/>, provided such guidelines do not conflict with other specific provisions of this Agreement.

Modification or alteration of UW Trademarks is strictly prohibited. The UW Trademarks

should not be obscured or changed in such a way which would dilute the integrity of the UW Trademarks or their brand recognition. Noodle Partners and Providers shall not use UW Trademarks in any manner that would demean or disparage the UW Trademarks or UW.

Noodle Partners and Providers shall not associate, display, or use UW Trademarks in such a way as to create the impression that UW's Trademarks are owned by or the property of anyone other than UW.

Noodle Partners (and Providers) acknowledge: (1) UW 's right, title, and interest in and to the UW Trademarks; (2) UW 's exclusive right to use and license the use of the UW Trademarks; and (3) that the UW Trademarks have inherent and/or acquired distinctiveness. Noodle Partners (and Subcontractors/Providers) agrees not to claim any title to the UW Trademarks or any right to use the UW Trademarks except as permitted by this Agreement. Noodle Partners (and Subcontractors/Providers) therefore agrees that, except for the rights granted herein, Noodle Partners (and Subcontractors/Providers) has no interest in or ownership of the UW Trademarks.

Noodle Partners and Subcontractors/Providers shall at no time adopt or use, without UW's prior written consent, any variation of the UW Trademarks or any other name, trademark, or other identifier of UW, including translations of any mark likely to be similar to or confusing with the UW Trademarks. Noodle Partners and Subcontractors/Providers shall not contest or deny the validity or enforceability of the UW Trademarks or oppose or seek to cancel any registration by UW, or aid others in doing so, either during the Term of this Agreement or at any time thereafter.

Any and all goodwill arising from Noodle Partners' (and Subcontractor's/Provider's) use of the UW Trademarks shall inure solely to the benefit of UW, and neither during, nor after the termination of this Agreement, shall Noodle Partners (or Subcontractors/Providers) assert any claim to the UW Trademarks or such goodwill, or take any action that could be detrimental to the goodwill associated with the UW Trademarks or with the UW.

23. Proprietary Rights of Noodle Partners

Noodle Partners shall have sole and exclusive ownership of all right, title, and interest in and to the specific proprietary materials and methodology used by Noodle Partners for providing the Services hereunder (for clarity, excluding the substantive teaching content of the Programs); all media and documentation relating to the design, development, operation, testing, or use of the Services or any additions or modifications thereto; all media and documentation relating to the training and evaluation of Noodle Partners personnel; all data and analyses related to Noodle Partners' performance of the Services; and all intellectual property rights associated therewith (including, without limitation, rights to patents, copyrights, trade secrets, and know-how).

Noodle Partners shall have sole and exclusive ownership of all right, title, and interest in, but not necessarily limited to: (i) its Platform and (ii) any software that Noodle Partners creates and does not expressly identify as a work made for hire for UW (collectively, "Noodle Partners IP"). In no event, shall the Proprietary Rights of Noodle Partners or of

UW include proprietary products provided by Noodle Partners' Providers, such as, but not limited to, Zoom.

24. Covenant Against Contingent Fees

Noodle Partners warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established agents, as defined in the FAR Subpart 3.4, maintained by Noodle Partners for the purpose of securing business. The UW shall have the right, in the event of breach of this clause by Noodle Partners, to annul this Agreement without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage, or contingent fee.

25. Delivery

Delivery shall be accomplished by the date and time in the applicable purchase order or contract document. Material noncompliance that constitutes a material breach under the law is grounds for termination for cause for failure to deliver on time.

26. Dispute Resolution

If a dispute arises out of or relates to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration or some other dispute resolution procedure. This section does not preclude either Party from pursuing any other options in a dispute as available under applicable law.

27. Federal Exclusion and Debarment

Noodle Partners, by accepting the terms of this Agreement, certifies that Noodle Partners is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions. Noodle Partners shall include the above mentioned requirement in any and all Subcontracts in which it enters. In the event that Noodle Partners becomes debarred, suspended or ineligible from participating in transactions, Noodle Partners shall notify the UW in writing within three (3) working days of an event. To the extent that Noodle Partners will provide performance to any UW Medicine entity, Noodle Partners hereby represents and warrants that Noodle Partners is not currently, and at no time has been sanctioned, debarred, suspended, or excluded by any federally funded healthcare program, including without limitation, Medicare and Medicaid. Noodle Partners hereby agrees to immediately notify UW of any threatened, proposed, or actual sanctions, debarment action, suspension, or exclusion by or from any federally funded health care program during the term of this Agreement.

28. Force Majeure

Neither Noodle Partners nor the UW shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Noodle Partners or the UW. Such causes may include, but are not restricted to, acts of God or the public enemy,

acts of a governmental body other than the UW acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of Noodle Partners, the UW, or their respective Providers or Subcontractors.

29. Indemnification

- a. Noodle Partners shall indemnify, defend, and hold the UW, the Board of Regents of the UW, and their officers, employees, students, and agents harmless from and against all claims for damages, costs (including attorney's fees), or liability, relating to the death or injury to any persons or the damage of any property resulting from or arising out of the acts or omissions of Noodle Partners or its employees, agents, Providers, or Subcontractors in connection with this Agreement. Noodle Partners expressly agrees to indemnify, defend, and hold harmless the UW for any claim arising out of or incident to Noodle Partners' or any Provider's or Subcontractor's performance or failure to perform this Agreement. Noodle Partners shall be required to indemnify, defend and hold harmless the UW only to the extent a claim is caused in whole or in part by negligent acts or omissions of Noodle Partners. Noodle Partners waives its immunity under Title 51 RCW to the extent it is required to indemnify the UW, the Board of Regents of the UW, and their officers, employees, students and agents as provided herein.
- b. UW shall indemnify, defend, and hold Noodle Partners, and its directors, officers, and employees harmless from and against all claims for damages, costs (including attorney's fees), or liability, relating to the death or injury to any persons or the damage of any property resulting from or arising out of the acts or omissions of UW or its employees, agents, or Subcontractors in connection with this Agreement. The UW expressly agrees to indemnify, defend, and hold harmless the Noodle Partners for any claim arising out of or incident to UW's performance or failure to perform this Agreement. The UW shall be required to indemnify, defend and hold harmless Noodle Partners only to the extent a claim is caused in whole or in part by negligent acts or omissions of UW or its employees, agents, or Subcontractors in connection with this Agreement.
- c. Prompt notice must be given of any claim. The Party that is providing the indemnification will have control of any defense or settlement, subject to the approval of the other Party, not to be unreasonably withheld.

30. Independent Contractor

The Parties intend that an independent contractor relationship is created by this Agreement. Noodle Partners and its employees or agents performing under this Agreement are not employees or agents of the UW. Noodle Partners, its employees, or agents performing under this Agreement will not hold himself/herself out as, nor claim to be, an officer or employee of the UW or of the State of Washington by reason hereof, or act as attorney in fact, nor will Noodle Partners make any claim of right, privilege or benefit that would accrue to such employee. Conduct and control of the work will be solely with Noodle Partners.

31. Infringements

The Parties agree to defend, indemnify, and hold harmless each other against all claims for patent, copyright, or franchising infringements arising from the purchase, installation, or use of material ordered under this Agreement, and to assume all expenses and damage arising from such claims.

32. Insurance

If Noodle Partners' performance under this Agreement will involve Work falling into any of the categories enumerated within this section, Noodle Partners shall maintain, during the performance of this Agreement, all relevant types of insurance in amounts equal to or exceeding those listed below. Upon request, Noodle Partners shall, prior to the commencement of Work under this Agreement, provide the UW Procurement Services Department, at 4300 Roosevelt Way NE, Seattle, WA 98105-4718, or other University unit identified in the Agreement, with a certificate of insurance evidencing proof of insurance coverage, and shall name the Board of Regents of the UW as an additional insured. All insurance policies shall contain an appropriate severability of interests clause. UW reserves the right to require additional types of insurance, and/or higher insurance limits, as circumstances require. Noodle Partners shall provide appropriate proof of insurance under this section upon request, regardless of type or amount. Upon request, Noodle Partners shall submit to UW within fifteen (15) days of the Agreement effective date, a certificate of insurance that outlines the coverage and limits defined in this section. Noodle Partners shall submit renewal certificates as appropriate during the term of the Agreement. Noodle Partners shall maintain insurance of at least the following types and amounts:

- a. Commercial General Liability Insurance. For service contracts in which Noodle Partners will perform a significant portion of the Work under this Agreement on the UW Campus, within UW facilities, in contact with UW employees or students, or upon request, Noodle Partners shall maintain Commercial General Liability Insurance, and provide proof of such upon request, in the following amounts:
 - i. \$2,000,000 per occurrence;
 - ii. \$3,000,000 aggregate;
 - iii. \$100,000 damage to premises.
- b. Automobile Liability Insurance. For Agreements including services delivered pursuant to this Agreement involving the use of vehicles, either owned, unowned, or hired by Noodle Partners, Noodle Partners shall maintain Automobile Liability Insurance, and provide proof of such, in the following amount:
 - i. \$1,000,000 per occurrence; owned, unowned, and hired vehicles shall be covered;
 - ii. Noodle Partners may provide Combined Single Limit for bodily injury and property damage.
- c. Professional Liability/Errors and Omissions Insurance. For services delivered pursuant to this Agreement, either directly or indirectly that involve or require

professional services, skill, and/or judgment, or upon request, Noodle Partners shall maintain Professional Liability/Errors and Omissions Insurance, and provide proof of such upon request, in the following amounts:

- i. \$2,000,000 per claim;
- ii. \$3,000,000 aggregate.

For Agreements under this subsection, the provision of Professional Liability/Errors and Omissions Insurance shall replace Noodle Partners' obligation to maintain and provide proof of Commercial General Liability Insurance.

- d. Foreign Liability Insurance. For services provided under this Agreement which will be performed outside of the United States and upon request, Noodle Partners shall maintain the following types and levels of insurance and provide proof of such upon request: International Commercial General Liability coverage with a limit of at least \$2,000,000 per occurrence including products/completed operations coverage; International voluntary workers' compensation coverage per statutory requirements; International automobile liability insurance with limits of at least \$1,000,000 per occurrence.

33. Liens, Claims and Encumbrances

Noodle Partners warrants and represents that all materials, equipment, or services delivered herein are free and clear of all liens, claims, or encumbrances of any kind.

34. Limitation of Liability

Each Party shall be liable regardless of the form of action, for any consequential, incidental, indirect, or special damages, including for actions based on a claim or demand based on a release of information, or patent, copyright, or other intellectual property infringement. This section does not modify any specific agreement regarding liquidated damages or any other conditions expressly agreed elsewhere between the Parties. It is agreed upon and understood that each Party's liability for consequential, indirect, incidental, or special damages shall be capped at one million dollars (\$1,000,000.00 USD).

In no event shall either Party's respective directors, officers be liable to the other Party for any indirect, incidental, special, consequential, exemplary, or punitive damages arising out of or relating to its obligations under this Agreement, even if the other has been advised of the possibility of such damages. Notwithstanding the foregoing, each of the Parties will be liable to the other for any direct damages: (a) resulting from the breach of any warranty set forth in this Agreement; (b) related to personal injury, death, or tangible personal property damage caused by it in its performance of this Agreement; and (c) any indemnification obligation in this Agreement.

35. Order of Precedence and Conflict of Terms

In the event of any inconsistencies or conflicting terms and conditions in this Agreement, such inconsistency or conflict shall be resolved by giving precedence in the following order: any negotiated Agreement between the UW and Noodle Partners; federal flow down terms and conditions (if applicable); federal, state, or local laws or regulations.

In the event of a conflict or inconsistency between the Agreement and a Program Agreement, the Program Agreement shall control and govern the rights and obligations of the Parties.

36. Miscellaneous Fees/Charges

The UW reserves the right to short pay invoices that include unidentified or miscellaneous fees and charges not included in Noodle Partners' quote, proposal, or contract with the UW or other writing. Miscellaneous fees/charges may include, but are not limited to: tariffs, special handling or packaging, fuel surcharge, compliance charge, paper invoice fee, merchant bank fee, energy surcharge, additional time fee.

37. Payment, Payment Method

UW shall process invoices for payment, when UW receives a properly completed invoice. If an adjustment in payment is necessary due to dispute, the Parties agree to follow the process outlined in this section below.

All invoices sent to UW by Noodle Partners are due net 30 days upon receipt.

A one percent (1%) late fee ("Late Fee") (RCW 39.76.011) per month per payment (or portion thereof) will be applied to the net due amount of any properly completed invoice from Noodle Partners that is not paid within thirty (30) days of receipt by the UW with the exception of any specific amount that is the subject of a good faith dispute by UW.

Payment shall not be considered late if a check, warrant or electronic transmittal notice has been mailed or issued within the time specified. The UW utilizes a Bank of America ePayables payment method for purchase order transactions. Noodle Partners shall accept payment via this method. More information about the ePayables process can be found at <http://f2.washington.edu/fm/ps/epayables>. All invoices must be submitted in accordance with instructions provided with the order, whether verbal or written. Noodle Partners enabled in Ariba and receiving orders via the Ariba network, must submit invoices via the Ariba network. .

In the event UW disputes any portion of an invoice, UW shall submit to Noodle Partners the timely full payment of the undisputed portion of the invoice, along with written documentation detailing the disputed amount. Dispute documentation must be received by Noodle Partners within thirty (30) days of the payment due date or the right to dispute that payment obligation will be deemed waived by UW.

38. Proprietary Information/Public Records

Noodle Partners must clearly identify any material such as, but not restricted to, valuable formulae, design, drawing, and research data claimed to be exempt from public records request, as allowable by law (RCW 42.56.270), along with a statement of the basis for such claim of exemption. Pricing and entire bid packages are not considered proprietary and are subject to public record requests. The UW will give notice to Noodle Partners of any request for disclosure of such information. Failure to so label such materials or to timely respond after notice of request for public disclosure has been given shall be deemed a waiver of any claim that such materials are, in fact, exempt.

39. Publicity

The Parties shall not mention, imply or utilize the name and/or logo or other marks of the other Party in any publicity matters, regardless of media format, without the prior written consent of the other Party.

40. Record Maintenance and Right of Inspection

The Parties shall maintain, at no additional cost, all records and other materials relevant to this Agreement for a period of six (6) years, in accordance with Chapter 40.14 RCW following the date of termination or expiration of this Agreement. At no additional cost, these records shall be subject at all reasonable time to inspection, review or audit by Noodle Partners and the UW, personnel duly authorized by the UW, and any representatives of the Washington State Government, including the Office of the State Auditor, and/or the Federal Government, including but not limited to, the Comptroller General, or any authorized representative of the General Accounting Office (GAO), so authorized by statute, regulation or this Agreement. The Parties shall provide reasonable access to all such records, upon request, including, but not limited to, any access to the audited Party's facilities necessary to examine these records during the period specified in this section. If any litigation, claim, or audit is initiated before the expiration of the six (6) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

41. Rejection

The Services, as outlined in Appendix B as elected in each Program Protocol attached to each Program Agreement, purchased herein are subject to approval by the UW.

42. Riders to this Agreement

Upon the approval of Noodle Partners, such approval not to be unreasonably withheld, UW reserves the right to supplement this Agreement with additional Rider(s) that addresses certain risk area(s) or additional conditions associated with the Work to be performed by Noodle Partners. A Rider may be required during Agreement negotiation and formation, or, during the term of the Agreement as an amendment. Based upon the type, nature, and purpose of the Work and this Agreement, the Rider may address areas such as: civil rights, educational mission specific requirements, health-care specific requirements, payment processing, privacy, special technical requirements, special insurance coverages, specific compliance requirements, etc.

43. Rights and Remedies

The Parties failure to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay any right or remedy provided in this Agreement or by law, or the acceptance of (or payment for) materials, equipment, or services, shall not release the other Party from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the state to insist upon the strict performance of this Agreement.

44. Severability

If any term or condition of this Agreement is deemed invalid by any court, such invalidity shall not affect the validity of the other terms or conditions of this Agreement.

45. Subcontracting

As set forth in each Program Protocol, Noodle Partners, with the requisite approval from the UW, will provide many of the Services herein through outside Providers and Subcontractors. Noodle Partners will source, manage, and create agreements with Providers and Subcontractors to provide services that conform to Noodle Partners' best practices. Noodle Partners will direct its Subcontractors to agree to terms that are substantially similar to the following provisions, as set forth herein:

Section 9 (Non-Interference and Non-Circumvention); Section 10 (Incentive Compensation Rule); Section 11 (Accessibility); Section 17 (Compliance with Applicable Law); Section 18 (Compliance with Federal Civil Rights Law); Section 19 (Confidentiality); Section 20 (Conflict of Interest); Section 21 (Copyright and Intellectual Property Provisions); Section 22 (Proprietary Rights of UW); Section 24 (Covenant Against Contingent Fees); Section 27 (Federal Exclusion and Debarment); Section 29 (Indemnification); Section 31 (Infringements); Section 32 (Insurance); Section 33 (Liens, Claims and Encumbrances); Section 39 (Publicity); Section 40 (Record Maintenance and Right of Inspection); Section 41 (Rejection); Section 45 (Subcontracting); and Section 47 (Representations and Warranties).

46. Taxes

All payments accrued on account of property taxes, payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for Noodle Partners or its staff shall be the sole responsibility of Noodle Partners. Where required by state statute or regulation, Noodle Partners shall pay for and maintain in current status all taxes that are necessary for Agreement performance. Unless otherwise indicated, the UW agrees to pay State of Washington sales or use taxes on all applicable services and materials purchased. No charge by Noodle Partners shall be made for federal excise taxes and the UW agrees to furnish Noodle Partners with an exemption certificate where appropriate. Noodle Partners shall calculate and enter the appropriate Washington State and local sales tax on the invoice. Tax is to be computed on new items after deduction of any trade-in in accordance with WAC 458-20-247.

47. Representations and Warranties

- a. Quality:
 - i. Noodle Partners warrants all goods, products and Materials delivered under this order shall materially conform to specifications herein, shall be materially free from defects in material and workmanship, and shall be fit for the intended purpose. All goods, products and Materials that are defective shall be repaired or replaced upon notification by the UW. All costs of replacement, including shipping charges, shall be borne by Noodle Partners.

- ii. Critical Dates: If services or delivery of goods, products, or materials specifies a time requirement, Noodle Partners shall meet it, but shall not be liable for delays to the extent caused by the University of Washington.
- b. Price: Noodle Partners warrants that prices of materials, equipment, and services set forth herein are reasonably commercially competitive.
- c. Financial Status: Noodle Partners warrants that at the time of the commencement of its performance under this Agreement, it has not commenced bankruptcy proceedings and that there are no judgments, liens or encumbrances of any kind affecting title to any goods that are the subject of this Agreement.
- d. Valid & Legal: Each Party represents and warrants solely to and for the benefit of the other that (i) when executed and delivered, this Agreement will constitute a legal, valid, and binding obligation enforceable against it in accordance with its terms and (ii) its performance of this Agreement, and the other Party's exercise of such other Party's rights under this Agreement, will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any agreement or instrument by which it is bound, or any laws, rules or regulations to which it is subject.
- e. Standing: Each Party represents and warrants to the other that each has the corporate power and authority to enter into and perform this Agreement and is in good standing and that the person executing this Agreement on behalf of such Party has been duly authorized and empowered by all necessary corporate actions to execute this Agreement.
- f. Commitment: UW represents and warrants that it will have the appropriate level of commitment from its faculty to ensure their compliance with Noodle Partners' reasonable requests for assistance on matters necessary to effectuate the terms of this Agreement and attendant Program Agreements.

48. Third-Party Beneficiaries

Nothing in this Agreement, express or implied, is intended to or shall confer upon any non-party any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

49. Notices

Any notices or communications required or permitted to be given by this Agreement must be (a) given in writing, and (b) personally delivered; mailed by prepaid, certified mail, or overnight courier; or transmitted by electronic mail (including PDF) with receipt acknowledged, to the Authorized Individuals set forth herein at Appendix A.

50. Headings

The headings and subheadings in this Agreement are for convenience of reference only and shall not constitute a part hereof or define, limit or otherwise affect the meaning of any of the terms or provisions hereof.

51. Entire Agreement

This Agreement, including all of the Appendices hereto (which are deemed to be a part of and incorporated herein) comprises the entire understanding of the Parties with respect to the subject matter hereof and supersedes all pre-existing agreements, whether oral or in writing, between them respecting the subject matter of this Agreement. Any representation, promise, or condition in connection with any such subject matter that is not incorporated in this Agreement shall not be binding upon either Party. No modification, renewal, extension or waiver, and no termination of this Agreement or any of its provisions, shall be binding upon the Party against whom enforcement of such modification, renewal, extension, waiver or termination is sought, unless made in writing and signed on behalf of such Party by an authorized officer thereof.

Agreed to as of this 7th day of April, 2020.


University of Washington

By:

Name: Lynn Magill
Title: Senior Contract Specialist

Noodle Partners, Inc.

By:

A handwritten signature in black ink, appearing to read 'John S. Katzman', is written over a horizontal line. The signature is stylized with a large 'J' and 'K'.

Name: John S. Katzman
Title: Chief Executive Officer

A faint, circular watermark of a globe is visible in the background of the signature area.

Appendix A: Authorized Representative for the Agreement

Noodle Partners

Name	Keri Hoyt
Title	President
Work Email	KHoyt@Noodle.com
Work Phone	646.289.7812
Mailing Address	Noodle Partners 860 Broadway, 6th Floor New York, NY 10003

University of Washington

Name	Lynn Magill
Title	Senior Contract Specialist- Procurement Services
Work Email	lmagill@uw.edu
Work Phone	206.221.8082
Mailing Address	University of Washington Roosevelt Commons West 4300 Roosevelt Way NE, Box 354967 Seattle, WA 98105

Appendix B: General Description of Noodle Partners Services

This Appendix contains the Services offered by Noodle Partners under the Agreement. Noodle Partners provides Tier 1 Services under the fee structure set forth in Appendix D, Section 1; it provides Tier 2 Services at fees approved by UW and described in Appendix D, Section 2.

1. Tier 1 Services

Noodle Partners will work with UW to create and manage online and agile Programs. Specifically, it will provide:

- a. Strategy. For each Program, Noodle Partners will consult with UW to set strategy on critical design issues; on each, UW will maintain full approval rights through its customary system of governance. Noodle Partners will:
 - assist UW's faculty to clarify Program design, including to define the unique substantive benefits of the Program and identify core components and placement of those components in the Program and in the orientation of Program faculty and students;
 - work with UW to jointly define how the Program will be positioned in juxtaposition to UW's campus-based program, and set policy for students working both on campus and online;
 - outline the marketing and enrollment strategies used to promote the Program and present qualified applicants to UW. It will define the necessary interactions between campus-based and online marketing and enrollment, including the use of scholarships and financial aid;
 - work schedule the course build and revision process, including deciding which Providers will be needed to fulfill the Program design and necessary defined learning objectives;
 - consult with UW's technology groups to assess how the Platform and Learning Stack will be integrated with UW's systems; and
 - create a detailed project plan mapping out each aspect of building and managing the Program.
- b. Management. For each Program, Noodle Partners will manage the provision of the individual Tier 2 Services below. To do this, Noodle Partners will:
 - hire a Seattle-based general manager who will be responsible for the overall relationship and performance of the Services and any issue escalation;
 - assemble a team of professionals to support the general manager and the University including a technical, marketing, enrollment, academic, and student success lead as well as resources to support faculty in teaching online, assist in instructional design firm selection, and a person to assist in public relations to draft and publish press releases about the partnership;
 - work with UW to develop a Program Budget for the Program, and a set of evaluative rubrics by which the Program will be continually assessed;
 - manage all aspects of Tier 2 Services on an ongoing basis;

- monitor Program results against evaluative rubrics and make modifications as necessary; and
 - for any Tier 2 Services that will be provided by Providers, Noodle Partners will evaluate and select Providers who have demonstrated excellence in the various aspects of the Program development, negotiate competitive pricing for their work, and supervise and support their work.
- c. Platform. Noodle Partners provides an administrative portal for UW's administrators and employees of Noodle Partners and its Providers. Accessed through the subdomain v.UW, the Platform:
- collects data from UW's data systems, including its student information system (SIS), learning management system (LMS), and customer relationship manager (CRM);
 - benchmarks and visualizes key information, including marketing performance, the enrollment funnel and student engagement;
 - integrates tools to facilitate communication and the management of the Programs among UW, Noodle Partners and its Providers;
 - maintains uptime as per Appendix C, and will adhere to the data privacy standards as per the Agreement.

2. Tier 2 Services

The Parties expect that each Program will have unique needs, but all of the following service areas are necessary to the success of a Program. While UW may choose to offer a Service internally, Noodle Partners expects to provide most of these Services as approved by UW as part of the Program Budget.

- a. Marketing. Noodle Partners will deliver a marketing plan detailing promotion strategies necessary to build awareness of the Program and to execute that plan to generate a flow of quality applications from prospective Program students. Noodle Partners will create marketing strategies and tactics consistent with the UW's brand (including the use of colors and logos), message, and quality standards, subject to the input and approval of the UW's marketing and admissions teams. Subject to the Program Protocols, Noodle Partners and its Providers will:
- prepare and distribute promotional literature, advertising copy, design ideas and other marketing materials deemed necessary and appropriate to promote the Program;
 - craft and manage paid advertising campaigns;
 - develop and manage a Program search engine optimization strategy;
 - design and publish marketing websites (including microsites, landing pages, and lead forms) for Programs on behalf of UW;
 - manage affiliate marketing leads;
 - craft and deploy an email nurture campaign;
 - identify digital PR opportunities for faculty, coordinate article placement, and assist in ghostwriting, as necessary;

- establish, develop, author, operate, and maintain Program social media pages and accounts on behalf of UW on various social media platforms and websites, which may include but not be limited to, Facebook, LinkedIn, Instagram, Twitter, etc.; and
 - provide market research reports to UW on the marketplace, competition, pricing, and other factors that affect the Programs, as well as suggest additional program opportunities for UW.
- b. Enrollment Services. Noodle Partners and its Providers will counsel and recruit qualified prospective Program students. Noodle Partners will contact and advise prospective Program students concerning Program requirements. Noodle Partners will facilitate the collection of admissions applications through UW's application system for UW's consideration. UW shall retain sole authority and control over all admissions decisions and other academic matters. Subject to the Program Protocols, Noodle Partners will:
- create a written recruitment plan that includes scripts, processes, and expectations for the Program and execute the plan, which shall be subject to UW's approval and modifications, as necessary;
 - hire, train, evaluate, and manage enrollment advisors to represent UW and the Program accurately and responsively to prospective students;
 - host informational webinars for prospective students;
 - meet with the UW's point of contact for the Program to discuss enrollment on a weekly basis;
 - be responsible for the facilitation of collecting of student applications and delivery through an application system designated by UW.
- c. Field Placement Noodle Partners and its Providers will assist applicable Programs with the placement of students into a practicum, where they receive the practical experience needed to complete their degree. Subject to the Program Protocols, Noodle Partners will:
- message and communicate with current and prospective students regarding field placement and field education consistent with UW's brand and quality standards;
 - ensure that all field placement sites meet UW and appropriate standards and quality expectations;
 - ensure that students are provided with the opportunity to obtain the necessary number of field placement sites; and
 - provide designated UW representatives access to the field placement software and data in order to coordinate an effective field placement process for students across all program formats.
- d. Instructional Design: Noodle Partners and its Providers will be responsible for instructional design and the development of courses, while UW will be responsible for providing input and academic course content from faculty and other relevant subject matter experts. Without limiting the generality of the foregoing, Noodle Partners can work with UW's administration and faculty to determine the roles and responsibilities of relevant team members from Noodle Partners, Providers and

UW for the instructional design support to develop and build the courses in the Platform. Subject to the Program Protocols, Noodle Partners will:

- work with faculty to develop and affirm Program goals and align learning experiences with those goals;
- match instructional designers with faculty members to build media-rich, compelling courses that align to universal design principles;
- create, improve, and publish online courses that capitalize on existing and as-yet-undetermined content, including online educational resources (OER)
- ensure compliance with the latest ADA-mandated functionality and mobile-enabled access;
- verify that course content complies with institutional style guides;
- perform course structure review that includes an adaptable set of standards derived from accreditation requirements, empirical research in online course design, and instructional design best practices;
- conduct technical quality reviews to verify that course settings, content and activities function properly before the course is published;
- perform course quality review assessing the course against Quality Matters and Noodle Partners' EPIIC rubric;
- work with UW assistive technology team to make sure course materials (e.g. readings) are accessible and deploy the JAWS screen reader before publishing each course to assess compatibility and accessibility;
- provide scope and storyboard templates for each course, customized to UW's specifications, to be completed by UW's subject matter experts (Noodle Partners understands that each course may differ in terms of its specific allocation or development of customized instructional media);
- review and advise on course content and will upload finalized courses into the Learning Stack once each course is approved by UW;
- maintain courses and make the necessary technical changes and course corrections to affect all faculty teaching the course;
- work with UW to articulate and execute against the annual process for updating and refreshing courses and identify data to monitor and help structure a data party to review data, discuss patterns, identify and prioritize changes;
- develop and integrate all course content into the Platform;
- make courses available to all UW Program students, faculty and administration through the Learning Stack;
- provide support to faculty and instructors facilitating courses in the Programs. Noodle Partners can deliver to UW's faculty a faculty orientation covering topics approved by UW that support, enable and facilitate the development of course content by the faculty;
- provide technical assistance and recommendations with respect to content and techniques that best use the available technologies and methods embodied in the Learning Stack in order to meet the needs of the course, the Program, and UW's students;
- ensure that the courses meet UW's requirements as well as the requirements of all applicable licensing and regulating bodies;

- ensure that each Provider provides VPAT as part of their contract, which evaluates and codifies its 508 compliance measures;
 - be responsible for gathering ongoing data of Program students to assist with overall Program evaluation, including student satisfaction with the Program, evaluation of instructors and such other matters.
- e. State Authorization Services. Noodle Partners and its Providers will provide research and guidance to UW in connection with obtaining and renewing state authorizations for the Programs that will enable UW to offer the Programs in the states in which the Program Governance Group determines. UW is responsible for all filings and fees associated with obtaining all necessary authorizations and accreditations for the Programs.
- f. Student and Faculty Support Services. Noodle Partners and its Providers will advise and support Program students and faculty. This support will encompass technology, logistic, and any other issue impairing their successful work. Specifically, Noodle Partners will:
- write job descriptions and source and vet potential candidates for instructor positions;
 - prior to each Term start, provide students with course material ordering information; expectations, pre-reading and syllabus for each course; information on how to register for class; and other such required materials;
 - assist in facilitating capstone projects by identifying sponsors and connecting students with sponsored projects;
 - provide phone, chat, and email support and guidance to students through a team of student success coaches. Coaches will work with students to outline their goals for the Program, troubleshoot potential obstacles for success, provide time management support, walk students through the Program requirements, answer academic calendar questions, walk students through the process of registering a disability, registering for classes and informing students of add/drop/incomplete deadlines, and supporting students throughout the Program; Coaches may refer students to UW academic advisors or relevant department for questions beyond the aforementioned items by creating tickets, connecting them to the appropriate advisor or department, and follow up to confirm that the problem has been resolved;
 - provide 24/7 phone, chat, and email technical support through a UW branded platform to address general questions, LMS functional support, video conferencing support, username assistance, or video/audio troubleshooting;
 - create a blended orientation course, guided by research and best practices, for students to take prior to the start of the Program. The course will welcome students to the University community, establish expectations of community member behavior, share support resources, orient students to the online classroom, curriculum, and expectations, orient students to the LMS and give them the opportunity to practice using LMS tools;

- proactively reach out to and support students who need additional support in the Program or who have shown patterns of at-risk behavior (e.g. a student who receives a low grade, misses a synchronous class; or hasn't logged into the LMS in the past seven days); and
 - support and train faculty through one-on-one coaching to use the Learning Stack and teach course sections successfully, provide teaching resources and reference materials, and bring to the attention of UW's faculty when a student appears to be struggling.
- g. Career Coaching. Noodle Partners and its Providers will deliver career support and resources through a technology platform that guides students through the career placement process. Coaches will be trained on the Program, its specializations, and the nuances of placement.
 - h. Immersion. Noodle Partners and its Providers will assist faculty and staff in developing face-to-face components of the program (Immersion) led by University faculty, staff, or instructors that meet the curricular and co-curricular needs of the Program. Noodle Partners will hire and manage Providers to plan the logistical components of the immersion. This can include, but is not limited to, managing immersion student registration and communications, arranging accommodations, and coordinating meals and social outings.
 - i. Learning Stack. Noodle Partners and its Providers will provide an integrated learning stack, including the Learning Management System, synchronous video, plagiarism review, online proctoring, video management services, and other required tools. At the direction of UW, Noodle Partners will adapt the stack to include components (e.g. the LMS) to be more consistent with UW's own learning technology stack.
 - j. Technology Integration. Noodle Partners and its Providers will work with UW to ensure the integration of the Platform and Learning Stack with UW's technologies.

3. Providers

Noodle Partners will provide many of the Tier 2 Services listed above through outside subcontractors, or "Providers". Noodle Partners will source, manage, and create agreements with Providers to provide services that conform to Noodle Partners' best practices (each agreement, a "Subcontract").

- a. Strategic Providers. "Strategic Providers" are service and technology providers whose fees are projected to exceed more than \$100,000 per calendar year.
- b. Provider Approval and Review. In the event that it rejects a Strategic Provider, UW agrees to, at Noodle Partners' option, allow Noodle Partners a commensurate amount of additional time to meet Program milestones (e.g., Program launch) to allow Noodle Partners time to contract with another mutually acceptable Strategic Provider. UW will either accept or reject a Strategic Provider presented by Noodle Partners as soon as practicable, and will use best efforts to do so within ten (10) business days. If UW fails to make a decision on whether to approve or reject a Strategic Provider in a timely manner, UW acknowledges that Noodle Partners will

not be held accountable for meeting applicable Program milestones as per the Program Protocols.

- c. Withdrawal of Approval. UW may withdraw its approval with respect to a specific Provider or Providers at any time with ten (10) days' notice to Noodle Partners for good reason provided. If UW needs to withdraw approval of a Provider for reasons relating to legal compliance, UW shall notify Noodle Partners and Noodle Partners will act expeditiously to comply with UW's request.
- d. Critical Providers. "Critical Provider(s)" means a Provider that performs part of the available Noodle Services that is critical to the success of the Program(s). Noodle Partners will use commercially reasonable efforts to ensure that the fees charged by Critical Providers are at a fair market rate for the nature and scope of their Services. UW agrees to the use of these Critical Providers, and acknowledges that if UW chooses not to hire any of the Critical Providers Noodle Partners has selected, Noodle Partners will not be held accountable for achieving any of the Program's goals that are related to such Critical Providers' area of the Services. Critical Providers include, but is not limited to Services in the following areas: the microsite, data integration, benchmark services for the call centers, and market research.
- e. Provider Selection. For branding and instructional design services, Noodle Partners will present several Provider options to UW to make its Provider selection.

4. UW's Support

The following describes the ways that UW will support the Program, the Program students, and Noodle Partners in its provision of the Services.

- a. Admissions. Admissions decisions are within the sole purview of UW based on criteria established by UW and consistent with any University, State, or accreditation regulations.
- b. Enrollment Services. Participation in recruitment webinars to assist in answering questions and communicating with prospective students when they are making their final decisions.
- c. Financial Aid. UW will be solely responsible for the administration of all financial aid programs; Noodle Partners shall not be involved in any manner in the award or disbursement of financial assistance or perform any work related to any of UW's responsibilities related to financial aid.
- d. Delivery of Degree. UW is responsible for student education and evaluation, including assignments, exams, grading and grading policy, probation standards, and the awarding and recording of credits and degrees, credentials and/or certificates, and the discipline and/or dismissal of students.
- e. Accrediting Agency Application Submission. UW will be responsible for securing any accreditations, registrations and state and international authorization and licensure approvals with respect to the Programs as may be necessary to operate

in any jurisdiction or to otherwise accomplish the activities set forth in this Agreement.

- f. Instructional Design. UW will designate a Program Director to be the Noodle Partners' Academic Lead's primary point of contact for coordinating academic program parameters, availability of subject matter experts, and UW's participation in the course development process. Given the inter-relatedness of courses in the Programs, UW will work with Noodle Partners to create parameters related to course design, development, and delivery that apply to all courses in Programs, including, but not limited to, uniform design, adherence to best practices, and faculty and student orientation materials.
- g. Faculty Hiring and Management. UW will select and employ and manage all faculty working with the Program.
- h. Student Support. UW will provide academic, administrative, and student services support to all students in the Program, including course-availability concerns, Program planning, assisting students in selecting electives or concentrations, field placement or practicum selection, graduation clearance, internships or independent studies, financial aid questions, concerns with a faculty member, and concerns for student or student community safety.
- i. Support Desk. UW will provide necessary IT support including SIS support, proprietary campus technology and account issues that Noodle Partners' support desk team does not have access to resolve.
- j. Administrative Access. To the extent required for Noodle Partners to provide Services hereunder, UW will provide Noodle Partners and Providers the necessary data from the appropriate sources or systems required to create and manage the Programs. For Marketing Services, UW will delegate the website to Noodle Partners' DNS servers for purposes of Noodle Partners fulfilling its obligations under this Agreement. Data will be supplied to Noodle Partners and Providers via Application Programming Interface (API) or other mutually agreed, secure transfer methods. In addition, UW will give Noodle Partners and Providers minimum necessary permissions to build and administer its Services in the LMS. In connection with such access, UW may require Noodle Partners and Providers to agree to additional systems access terms. To the extent UW does not grant Noodle Partners with the necessary data, access or cadence, Noodle Partners will not be held accountable for performing Services impacted by that lack of data, access or cadence.
- k. Relevant Program Information. UW will coordinate with Noodle Partners to provide Noodle Partners relevant information pertaining to ground-based and online students' admissions, performance and post-graduation outcomes, as well as relevant faculty and staff information (subject to the requirements of the FERPA and other relevant laws and regulations), solely to be used by Noodle Partners in connection with providing the Services.

Appendix C: Support and Maintenance of Noodle Partners Platform

1. Scheduled Maintenance

Noodle Partners and its Providers, may, from time to time, provide to UW updates, enhancements, modifications, improvements in and to their services, during the Master Term. Noodle Partners and its Providers will use commercially reasonable efforts to notify UW in advance of any disruptions.

2. Noodle Partners Platform Availability

- a. Noodle Partners will use commercially reasonable efforts to make its Platform generally available 24 hours a day, 7 days a week except for:
 - i. Scheduled maintenance or planned downtime (which Noodle Partners shall schedule during off-peak hours to the extent reasonably practicable); or
 - ii. Downtime caused by circumstances beyond Noodle Partners' reasonable control including, without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, war, acts of terrorism, strikes or other material labor problems, computer or telecommunications failures or delays involving hardware or software not within Noodle Partners' possession or reasonable control, and network intrusions or denial of service attacks. Noodle Partners will use commercially reasonable efforts to keep data and other information stored by UW in Noodle Partners' database secure, as outlined in the University of Washington IT Special Terms and Conditions.
- b. Noodle Partners Platform will not be deemed to be unavailable for:
 - i. any outage that results from any maintenance performed by Noodle Partners of which UW is notified three (3) days in advance; during Noodle Partners' scheduled maintenance windows; or as a result of UW's request outside of scheduled maintenance;
 - ii. any outage of the Service due to errors in or availability of UW's information content or application programming or software, acts or omissions of UW or its agents, failures of equipment, software, technology or facilities provided by UW or any third Party, or network unavailability outside of the Noodle Partners network;
 - iii. delays or failures due to circumstances beyond Noodle Partners' reasonable control that could not be avoided by its exercise of reasonable care;
 - iv. suspension or termination by Noodle Partners, as permitted in this Agreement, of UW's right to access the Service.

3. Noodle Partners Platform Customer Support

- a. Customer Support: Customer support is provided Monday through Friday, 9AM to 6PM Eastern Time, excluding national holidays.
- b. Tier 1 Customer Support: Noodle Partners will provide Tier 1 support to administrators to the Response Times below. Tier 1 or "front line" support is responsible for addressing basic, repetitive issues like forgotten passwords, and other straightforward and simple problems. The goal for this tier is to handle 70%-80% of the user problems before finding it necessary to escalate the issue to Tier 2.
- c. Tier 2 Customer Support: Noodle Partners will provide Tier 2 support to UW or UW's Tier 1 Provider for all issues escalated by Tier 1 support according to the Response Times below. Tier 2 support is responsible for addressing more complex issues requiring engineering or deeper system knowledge and expertise.
- d. Response Times: Noodle Partners guarantees a Response Time to UW according to the priority and severity of the reported issue:

		<i>Severity</i>		
		<i>Major</i>	<i>Medium</i>	<i>Minor</i>
<i>Priority</i>	High	15 minutes	1 hour	2 hours
	Medium	1 hour	4 hours	1 business day
	Low	1 business day	1 business day	1 business day

Priority Definitions

- High: Critical functions are unavailable or affected
- Medium: Important functions are unavailable, but business can continue
- Low: Minor functions are unavailable; business can continue

Severity Definitions

- Major: All or a large number of users are affected
- Medium: Limited number of users are affected
- Minor: One or Few users are affected

Response times are measured from the moment the issue is reported to Noodle Partners to the moment that Noodle Partners responds to the initial request ("Response Times").

e. Resolution Times

Noodle Partners is unable to guarantee resolution times, as they will vary. Noodle Partners agrees in good faith to resolve issues as swiftly as possible and communicate regularly with UW until issues are resolved.

Appendix D: Fees and Payment Terms

1. Tier 1 Fees

For the fees listed in this Section, Noodle will provide its expertise and perform those duties set forth in Tier 1 Services in Appendix B. The fees indicated are Noodle Partners' standard Service fees for that function and shall apply unless modified in a Program Agreement (PA) for a particular Program:

- a. \$22,000/month for the first UW Program as outlined in the PAs and \$8,000/month for each additional UW Program ("Program Fee"). The \$22,000 base fee shall be amortized and split proportionately across the number of Programs that have executed Program Agreements under this agreement. Noodle shall invoice each Program separately for its share of the monthly base fee, as well as their individual Program Fees.
- b. A cumulative fee for all credit hours taken by all students accessing any Program or portion of the Program during an Academic Year calculated as per the Program Credit Fees Chart below ("Credit Fees"):

Program Credit Fees Chart (Based on total UW enrollment across all Programs)	
Credit Tier	Fee per Credit
For the first 15,000 credits	@\$68
Then, for the next 15,000 credits	@\$52
Then, for the next 15,000 credits	@\$36
Then, for the next 15,000 credits	@\$20
Then, for all credits thereafter	@\$4

By way of clarification, if the cumulative total of all credits taken by all students accessing any Program during such Academic Year ("Total Credits") equals 9,500, the fee per credit will be equal to \$68 per credit or \$646,000. If the Total Credits is 32,000, the fee will be 15,000 times \$68 per credit (\$1,020,000) plus 15,000 times \$52 per credit (\$780,000) plus 2,000 times \$36 per credit (\$72,000) for a total of \$1,872,000.

Each of the Program Fees and Credit Fees (together "Noodle Partners Fees" or "Tier 1 Fees") will increase by 2.5% on each annual anniversary of the Effective Date hereof during the Master Term of this Agreement.

2. Tier 2 Fees

- a. As per the Tier 2 Services Section of Appendix B, each Provider will charge such fees and expenses as set forth in its applicable subcontract (together, the "Tier 2

Fees”). Noodle Partners will pay those fees directly to the Provider and UW will reimburse Noodle Partners for those fees.

- b. These Tier 2 Fees will be prorated for partial months as appropriate.
- c. Any changes in Tier 2 Fees (e.g. anniversary increases) will be in accordance with the terms of the applicable subcontract and agreed to by the Parties in the applicable budget.

3. Payment Terms

The components of Tier 1 Fees and Tier 2 Fees will be invoiced and due as follows:

- a. Program Fees will be invoiced for each Academic Term in advance. The first Program Fees payment will be due as of the Effective Date.
- b. Credit Fees invoiced for each Academic Term will be calculated based on the cumulative total of all credit hours taken by all students accessing any portion of the Program through such Academic Term within such Academic Year after giving credit for all previous Credit Fees invoiced for such Academic Year. A reconciliation of Credit Fees invoiced will be done with the last Credit Fees invoice for the last Academic Term of each Academic Year. Credit Fees calculated by student enrollment will be invoiced the day after the add/drop deadline for each Academic Term.
- c. Beginning at the Effective Date, Noodle Partners will invoice Tier 2 Fees on a monthly basis in advance for the Services expected to be rendered during that Academic Term. At the end of each Academic Term, Noodle Partners will provide a reconciliation and adjustment of Tier 2 Fees, so that any overpayment is credited and any underpayment is charged to UW on the invoice for the next Academic Term. Tier 2 Fees calculated by student enrollment will be invoiced the day after the add/drop deadline for each Academic Term.

Appendix E1: Program Agreement (“PA”) for the Masters of Science in Information Management (“Information Management Program”)

1. Authorized Representative

Name	Anind Dey
Title	Dean of the Information School
Work Email	anind@uw.edu
Work Phone	206.543.1794
Mailing Address	1851 NE Grant Ln, Seattle, WA 98105

2. Program Management

Noodle Partners will act as Program Manager for the Master of Science in Information Management (the “Information Management Program”).

3. Renewal

- a. Program Term: The term of this PA will be effective as of March 4, 2020 (the “Information Management Program Effective Date”), and shall continue thereafter until four years after the first cohort of students begins the Program (the “Information Management Program Term”).
- b. Program Renewal: Noodle Partners and UW will begin discussions in good faith of the size, scope, and terms of each renewal no less than twelve (12) months prior to the then current expiration of the Information Management Program Term.
- c. Termination for Convenience: The UW may terminate this Program Agreement, in whole or in part, at any time and for any reason by giving thirty (30) calendar days written notice to Noodle Partners. UW shall pay a termination charge that encompasses (a) an amount not to exceed all agreed upon costs and expenses set forth in the then current annual Program Budget that UW has not yet paid plus up to 10% of such amount to reimburse Noodle Partners for any early termination penalties charged by its Subcontractors; (b) all Program Fees due through the end of the then current Information Management Program Term; and (c) Credit Fees on all Information Management Program students enrolled as of the date of termination until the end of the then current Term of the Information Management Term (“Termination Charge”). UW may withhold payment of a portion of a Termination Charge if UW has a good faith belief to do so. Where a Termination Charge is applicable, both parties agree to negotiate in good faith and to

limit those charged to those supported by valid documented expenses incurred by Noodle Partners prior to the date of termination. Should the parties not agree to a satisfactory settlement, the matter shall be handled in accordance with Section 17 ("Dispute Resolution").

- c. Termination Due to Change in Funding: If the funds the UW relied upon to establish this Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on funding by the entity funding the UW, the UW may immediately terminate this Agreement by providing written notice to Noodle Partners. The termination shall be effective on the date specified in the termination notice.

To the extent that the UW is temporarily unable to pay Noodle Partners pursuant to this section because the funds the UW relied upon to establish this Agreement are withdrawn, the UW will in good faith make its best efforts to ensure and allocate funds as required by this Agreement should those funds become available. If the UW terminates the Agreement pursuant to this provision, it is still responsible to reimburse Noodle Partners for any amounts the UW then owes to Noodle Partners. UW is also responsible to reimburse Noodle Partners for any Program Agreement costs it has incurred as a result of UW's termination.

4. Incorporation into Agreement

The Parties to this Appendix agree that this PA is subject to all of the terms of the Agreement including all attached Appendices.

Agreed to as of this 7th day of April, 2020

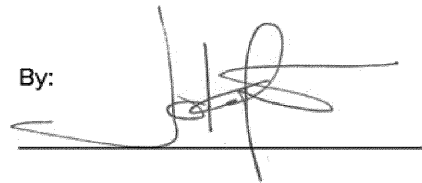
University of Washington

By:

Name: Lynn Magill
Title: Senior Contracts Specialist

Noodle Partners, Inc.

By:



Name: John S. Katzman
Title: Chief Executive Officer

UNIVERSITY OF WASHINGTON
PERSONAL DATA PROCESSING AGREEMENT (FOR USE WITH IT SPECIAL TERMS AND
CONDITIONS)

Introduction, Parties, AND Effective Date THIS PERSONAL DATA PROCESSING AGREEMENT (“PDPA”) IS HEREBY INCORPORATED INTO THE MASTER SERVICES AGREEMENT, DATED March 16, 2020, BETWEEN THE UNIVERSITY OF WASHINGTON AND NOODLE PARTNERS (THE “AGREEMENT”). THE PARTIES AGREE AS FOLLOWS:

1. Definitions

- a. **“Controller”** refers to the person or entity that determines the purpose and means for Data Processing.
- b. **“Data Breach”** means any Data Breach as defined within the IT Special Terms and Conditions, University Personal Data undergoing Data Processing by Noodle Partners.
- c. **“Data Processing”** means any operation(s) performed on University Personal Data, whether or not by automated means, such as collection, recording, organization, storage, adaptation, alteration, retrieval, consultation, access, use, disclosure by transmission, dissemination, combination, restriction or destruction.
- d. **“Data Request”** means a request to exercise rights available under any applicable law with respect to University Personal Data.
- e. **“Processor”** refers to the person or entity that performs Data Processing on behalf of the Controller.
- f. **“University Personal Data” or “UPD”** means any records or information relating to an identified or identifiable natural person, such as name, identification number, location data, online identifiers, or factor(s) specific to physical, physiological, genetic, mental, economic, cultural, or social identity or characteristics, or is identified as personally identifiable data (or a similar term) by any applicable law, that:
 - i. Is created, received, or maintained by the University and transmitted to, accessed by, or otherwise made available to Noodle Partners in connection with Noodle Partners’ performance of the Work; or
 - ii. Upon which Noodle Partners performs Data Processing in performing the Work.

Notwithstanding the foregoing, UPD does not include personal data relating to Noodle Partners’ or Subcontractor’s personnel or personal data that is acquired from non-UW sources and is processed by Noodle Partners not in association with the Work.

2. Standard of Care

- a. Noodle Partners represents and warrants that any Data Processing shall be by personnel who (a) are obligated to maintain confidentiality under applicable law or job expectations, and (b) are sufficiently trained and experienced to use reasonable

care commensurate with state of the art professional practices to comply with the obligations in this PDPA.

- b. Noodle Partners shall ensure that there are appropriate personnel vetting processes, and appropriate policies and/or controls over activities as necessary to safeguard UPD per this PDPA and applicable law.
- c. Prior to the disclosure of UPD to, or the commencement of Data Processing by any Subcontractor, Noodle Partners shall establish at least the same level of protection for UPD as those set out in this PDPA and applicable law. If a Subcontractor fails to fulfill its data protection obligations under this PDPA or applicable law, Noodle Partners shall remain fully liable to the University for the performance of that Subcontractor's obligations.

3. Purpose and Limits of Data Processing

- a. The Description of Data Processing Exhibit to this PDPA sets forth certain information relating to the Data Processing by Noodle Partners for the purpose of carrying out the Work. Noodle Partners may only engage in Data Processing for the limited purpose described in the Description of Data Processing Exhibit (the "Purpose"). Noodle Partners shall limit its Data Processing to include only the minimum UPD needed to fulfill the Purpose. Noodle Partners' Data Processing will not involve any secondary uses of UPD beyond the Purpose. Without limiting the generality of the foregoing, Noodle Partners shall not use any UPD to market or sell goods or services outside of what is agreed upon by the Parties to persons named or otherwise identified in UPD.

4. Non-Disclosure and Data Requests

- a. IT SPECIAL TERMS AND CONDITIONS §III.2a IS HEREBY INCORPORATED BY REFERENCE.
- b. IT SPECIAL TERMS AND CONDITIONS §III.4 IS HEREBY INCORPORATED BY REFERENCE

5. Compliance and Data Transfers

- a. Noodle Partners shall conduct all Work and Data Processing in full compliance with any and all applicable statutes, regulations, rules, standards and orders of any official body with jurisdiction over Noodle Partners or the University. Applicable statutes, regulations, rules, or orders may include, but are not necessarily limited to:
 - i. The Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. §1232g; 34 CFR Part 99);

- ii. The Health Insurance Portability and Accountability Act (“HIPAA”), 42 U.S.C. § 300gg and 29 U.S.C § 1181 et seq. and 42 USC 1320d et seq.; and/or the Washington Health Care Information Act, Ch. 70.02 RCW; and
- iii. European Union General Protection Data Regulation (“GDPR”), Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016. With respect to Data Processing of UDP performed by Noodle Partners under the Agreement, and for the purposes of GDPR, the University is the Controller and Noodle Partners is the Processor. The University’s obligations and rights with respect to GDPR are set forth in the Agreement and this PDPA. The Agreement, this PDPA, and any directions contained in notices from the University to Noodle Partners pursuant to § J.4 together constitute the University’s documented instructions to Noodle Partners for the purposes of GDPR. The subject matter of the Data Processing with respect to GDPR is the Work, as defined above, in the Agreement, and/or in the Description of Data Processing Exhibit to this PDPA (including any change(s) pursuant to § D.1). Compliance with GDPR includes, without limitation, the following:
 - 1. Noodle Partners shall provide the University with assistance and information required by GDPR, to the extent applicable, as it relates to Data Processing. As contemplated by GDPR, Noodle Partners’ provision of assistance may relate to data protection impact assessments, prior consultations, demonstration of compliance with Article 28 of GDPR, and audits. Noodle Partners will also immediately notify the University if, in its opinion, a University instruction infringes GDPR.
 - 2. Noodle Partners shall provide relevant information about its Providers and Subcontractors to the extent necessary for University to exercise due diligence pursuant to the purpose of this PDPA.
- b. For Data Processing that involves transfers of UPD from the European Economic Area, Switzerland, or the United Kingdom to a country that does not ensure an adequate level of data protection (including, but not limited to, the United States) within the meaning of the applicable laws of the foregoing territories, the Standard Contractual Clauses (accessible at <https://privacy.uw.edu/files/SCCs.docx>) shall govern such transfers.
- c. The Information Security Indemnification obligations related to compliance under IT SPECIAL TERMS AND CONDITIONS §III.8.b.i shall also apply to the compliance obligations of this PDPA

6. Safeguarding Data

- a. Taking into consideration the nature, scope, context and purposes of the Data Processing, the likelihood and potential severity of risks to the rights and freedoms

of natural persons, and the risk of Data Breach, Noodle Partners represents and warrants that it shall implement security measures appropriate to such risks relevant to:

- i. The de-identification, anonymization, pseudonymization, and encryption of UPD;
 - ii. The ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems, facilities, and services;
 - iii. The ability to restore the availability of and access to UPD in a timely manner in the event of a physical or technical incident; and
 - iv. A process for regularly testing, assessing, and evaluating the effectiveness of technical, physical, and administrative measures for ensuring the security of the Data Processing.
- b. Noodle Partners' measures for protecting UPD shall (a) meet or exceed industry best practices for safeguarding personal data, and (b) be based on the concepts of privacy by design and by default.

7. Data Breach Response

- a. Noodle Partners shall have sufficient capabilities for detecting, identifying, and responding to a Data Breach.
- b. IT SPECIAL TERMS AND CONDITIONS §III.5.b IS HEREBY INCORPORATED BY REFERENCE.
- c. IT SPECIAL TERMS AND CONDITIONS §III.5.c IS HEREBY INCORPORATED BY REFERENCE.
- d. IT SPECIAL TERMS AND CONDITIONS §III.5.d IS HEREBY INCORPORATED BY REFERENCE.
- e. Notwithstanding the foregoing, unless Noodle Partners is required by law to provide the aforementioned notice and/or services in a particular manner, the University shall control the time, place, content, and manner of such notice and services.
- f. The Information Security Indemnification obligations related to data breach under IT SPECIAL TERMS AND CONDITIONS §III.8.b.iii shall also apply to the compliance obligations of this PDPA.

8. Disposition of UPD Upon Termination or Fulfillment of Purpose

- a. The duration of Data Processing by Noodle Partners shall be no longer than the expiration or termination of the Agreement or fulfillment of the Purpose with respect to UPD, whichever is earlier.
- b. IT SPECIAL TERMS AND CONDITIONS §III.10.a IS HEREBY INCORPORATED BY REFERENCE.

9. General Terms

- a. SURVIVAL AND ORDER OF PRECEDENCE. This PDPA shall survive the expiration or earlier termination of the Agreement. With respect to the subject of this PDPA, in the event the provisions of this PDPA conflict with any provision of the Agreement, or Noodle Partners' warranties, support agreement, or service level agreement, the provisions of this PDPA shall prevail.
- b. SEVERABILITY. If any provision of this PDPA is found to be unenforceable, the remainder of the Agreement and this PDPA shall remain in effect.
- c. HEADINGS FOR CONVENIENCE ONLY. Any and all subject headings are not substantive and are for convenience only.
- d. NOTICES. Any notices or communications required or permitted to be given by this PDPA must be (a) given in writing, and (b) personally delivered; mailed by prepaid, certified mail, or overnight courier; or transmitted by electronic mail (including PDF) with receipt acknowledged, to the party to whom such notice or communication is directed, or to the mailing address or regularly monitored electronic email address of such party.

IN WITNESS WHEREOF, this PDPA has been executed as of the date of the last party to sign below ("Effective Date"). If signed in counterparts, then each shall be considered an original thereof.

Agreed to as of this 7th day of April, 2020

University of Washington

By:

Name: Lynn Magill
Title: Senior Contracts Specialist

Noodle Partners, Inc.

By:

Name: John S. Katzman
Title: Chief Executive Officer

DESCRIPTION OF DATA PROCESSING EXHIBIT

This Description of Data Processing Exhibit to the Personal Data Processing Agreement (the “PDPA”) sets forth certain information relating to the Data Processing, current as of the date of the last signature below (including in a countersigned version of this Description of Data Processing Exhibit), that the Parties anticipate will be carried out in connection with the Work as defined in the PDPA. This version of this Description of Data Processing Exhibit may be superseded by subsequent versions issued in accordance with Section § D.2 of the PDPA.

1. Nature and Purpose

UW is working with Noodle Partners to support their online programs.

2. Categories of Data Subjects

Prospective graduate students

3. Types of Personal Data

Demographic, courses, enrollment, grades, completion, engagement, quizzes, homework, assessments, attendance, behavior, extracurricular activities

4. Noodle Partners Contact Person

Darwin Abella, Chief Privacy Officer, 860 Broadway, NY 10003, dabella@noodle.com, (917) 734-7972

5. University Dept/Unit Contact Person

Hala Annabi, The Information School, Box 352840, Mary Gates Hall, Ste. 370, Seattle, WA 98195-2840 206.685.9937 hpannabi@uw.edu Subcontractors

[Noodle Partners must list all Providers and Subcontractors that will perform any GDPR-governed Data Processing (such as cloud storage providers, hosting providers, etc.), with an explanation of each Provider/Subcontractor’s Data Processing activities. If GDPR does not apply or Noodle Partners does not use any Provider or Subcontractors for GDPR-governed Data Processing, insert “Not Applicable”.]

Agreed to as of this 7th day of April, 2020

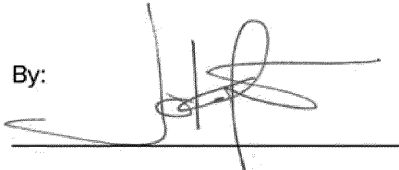
University of Washington

By:

Name: Lynn Magill
Title: Senior Contracts Specialist

Noodle Partners, Inc.

By:



Name: John S. Katzman
Title: Chief Executive Officer

UNIVERSITY OF WASHINGTON

IT SPECIAL TERMS AND CONDITION

Introduction, Parties, AND Effective Date

THESE IT SPECIAL TERMS AND CONDITIONS ARE HEREBY INCORPORATED INTO THE MASTER SERVICES AGREEMENT BETWEEN THE UNIVERSITY OF WASHINGTON (UNIVERSITY) AND NOODLE PARTNERS, DATED March 16, 2020 (THE “AGREEMENT”), AS OF THE “EFFECTIVE DATE” LISTED BELOW. IN CONSIDERATION OF THE MUTUAL PROMISES IN THE CONTRACT AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

1. Definitions

“**Data Breach**” means, for the purposes of this Agreement, any adverse event (including technical or physical incidents) where there is harm to University Data, individuals, host(s), or network(s). This includes, but not by way of exclusion, events indicating that University Data may have been accessed, disclosed, or acquired without proper authorization, unlawfully, or contrary to the terms of the Agreement.

“**Malicious Code**” refers to malware, spyware, adware, ransomware, rootkit, keylogger, virus, trojan, worm, bot, or other code or mechanism designed to, without consent collect information, gain access, assert control, alter, and/or cause harm to the systems or data of an effected host, network or environment.

“**University Data**” means all records and information created, received, maintained, or transmitted by the University, which are accessed, created, used, stored, copied, or distributed by Noodle Partners, in connection with the Work under the Agreement.

“**Noodle Partners Group**” has the same meaning as “Noodle Partners Group” as the term is defined within the Agreement.

“**Noodle Partners**” has the same meaning as “Noodle Partners” as the term is defined within the Agreement.

“**Work**” has the same meaning as “Work” as the term is defined within the Agreement.

2. Declarations

Parties understand and acknowledge:

- a. The ownership, title, rights, and control over all forms of records and information, including University Data, is set forth in the Agreement, and nothing in this Agreement shall alter any such rights.. Any privileges or license granted to Noodle Partners Group under these IT Special Terms and Conditions, or the Agreement shall be narrowly construed, to permit only the least amount of access, creation, use, storage, copying, and/or distribution of University Data that is necessary for

the Work. University control over University Data specifically includes determining notification requirements in a potential Data Breach.

- b. Noodle Partners is in the best position to control the manner and means of how the Work is performed. Therefore, the express intent of the parties is to hold Noodle Partners accountable for information security and privacy standards and practices of Noodle Partners Group, but only as they pertain to the Work.
- c. Noodle Partners is already familiar with the compliance requirements of applicable information and security statutes, rules, and regulations related to the Work or University Data. Noodle Partners conducts business consistent with leading principles and practices of information security and privacy.
- d. University has a continuing valid interest in obtaining current records and information from Noodle Partners as assurance that Noodle Partners Group is meeting expected standards of performance, and to substantiate Noodle Partners' representations.

3. Operative Provisions

a. Standard of Care

- i. Noodle Partners represents and warrants that, with regard to protecting the confidentiality, availability, and integrity of University Data, the Work shall be undertaken with all due care, skill and judgment commensurate with good professional practices.
- ii. Noodle Partners represents and warrants that the Work shall be undertaken by personnel capable of performing work commensurate with the required standard of care.

b. University Data Control

- i. University Data shall not be disclosed by NOODLE PARTNERS GROUP to a third party, unless the University grants permission in writing to NOODLE PARTNERS to disclose, or unless such disclosure is required by applicable law.
- ii. Markings on all University Data - indicating copyright, trademark, other proprietary intellectual property interest, reason for confidentiality, or reason on distribution shall be preserved

4. Compliance

- a. Noodle Partners represents and warrants the Work, the handling of University Data, and the general conduct business with University, shall all be undertaken in full compliance with any and all applicable statutes, regulations, rules, standards and orders of any official body with jurisdiction over Noodle Partners Group or University.

- b. Where the Work or University Data is subject to the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. §1232g; 34 CFR Part 99) and the use of educational records within the context of the Work is consistent with a “legitimate educational interest”, then Noodle Partners acknowledges that it will be designated as a “school official” as defined in FERPA and its implementing regulations.
- c. Where the Work or University Data is subject to the Export Administration Regulations (EAR), or International Traffic in Arms Regulations (ITAR), Noodle Partners shall provide the University Office of Sponsored Programs such assistance as necessary to ensure compliance.

5. Compelled Disclosure

- a. If NOODLE PARTNERS receives any subpoena, discovery request, court order, or other legal request or order that calls for disclosure of any UNIVERSITY DATA, then NOODLE PARTNERS shall promptly notify the University unless specifically prohibited by law from doing so. NOODLE PARTNERS’s notification shall give the University sufficient time to object to the disclosure, obtain a protective order, or otherwise protect UNIVERSITY DATA by limiting disclosure. NOODLE PARTNERS shall provide the University with prompt and full assistance in the University’s efforts to protect UNIVERSITY DATA. Any disclosure pursuant to this section shall be limited to the minimum disclosure required by law.
- b. NOODLE PARTNERS shall assist the University by implementing technical and organizational measures, to the extent practicable, in order for the University to meet its obligations (as reasonably understood by the University) to respond to requests for production or disclosure of UNIVERSITY DATA held by NOODLE PARTNERS. NOODLE PARTNERS shall promptly notify the University if NOODLE PARTNERS receives a Data Request, assist the University in the University’s response, and respond to the Data Request directly only on the documented instructions of the University or as required by applicable laws to which NOODLE PARTNERS is subject, in which case NOODLE PARTNERS shall, to the extent permitted by applicable laws, inform the University of NOODLE PARTNERS’s legal obligations before any response to the Data Request.

6. Data Breach Response

- a. If the nature of the Work involves Noodle Partners Group equipment, software, product(s), host(s), network(s), or environment(s) that may expose University Data to a potential Data Breach, then Noodle Partners shall have an appropriate incident response plan. University may, at its discretion, request Noodle Partners to participate in response planning for Data Breach scenarios and/or “lessons learned” activities following an event that was or might have been a Data Breach.
- b. If Noodle Partners has reason to believe that a Data Breach has occurred, then, without undue delay, NOODLE PARTNERS shall notify the University of said Data Breach. Such notification to the University shall include sufficient information to enable the University to meet its obligations under applicable law.

- c. In the event of a Data Breach, NOODLE PARTNERS shall cooperate with the University to:
 - i. Investigate and identify the nature of the Data Breach;
 - ii. Preserve relevant evidence;
 - iii. Contain, remediate, and mitigate the Data Breach; and
 - iv. Notify the University of any additional or newly-emerged information beyond the initial Data Breach notification to the University described above.

In the event of a Data Breach caused in whole or part by NOODLE PARTNERS, the University may instruct NOODLE PARTNERS, at NOODLE PARTNERS' expense, to(i) provide notice when required by applicable law, or when a Data Breach is likely to result in harm to individuals and/or risk to the University; and/or (ii) provide Services such as credit monitoring or identity theft protection to individuals, when appropriate, and when the absence of such services is likely to result in harm to individuals and/or where such individuals would have a reasonable expectation that such services be provided. Alternatively, the University may elect to provide the aforementioned notice and services itself.

UW will pay for any Data Breach that is a result of its own conduct.

- d. If recovery from the adverse effects of the Data Breach necessitates Noodle Partners' assistance in the reinstallation of Noodle Partners Group's technology product(s) (including hardware or software) that are connected with the Work, then Noodle Partners shall cause such assistance in reinstallation to be provided. If Noodle Partners Group is responsible for the Data Breach, then reinstallation assistance shall be at no cost to the University.
- e. If it appears to the University, in its reasonably-exercised discretion, that services or technology provided by Noodle Partners are a source of the Data Breach, and present an unreasonable risk, then the University may opt to discontinue use of that source of the Data Breach and the University's corresponding payment obligations under the Agreement shall be adjusted equitably.

7. Information Security Architecture

- a. This section III.6 applies to the extent that Noodle Partners Group owns, supports, or is otherwise responsible for host(s), network(s), environment(s), or the Work involves services wherein Noodle Partners has care, custody or control of University Data. For avoidance of doubt, this section shall apply when Noodle Partners Group provides cloud-hosted infrastructure, platform, or application as a service.
- b. Noodle Partners represents and warrants that the design and architecture of Noodle Partners Group's systems (including but not limited to applications and infrastructure) shall be informed by the principle of defense-depth; controls at

multiple layers designed to protect the confidentiality, integrity and availability of data.

- c. Noodle Partners shall cause Noodle Partners Group to make appropriate personnel vetting/background checks, have appropriate separation of duties, and undertake other such workflow controls over personnel activities as necessary to safeguard University Data.
- d. Noodle Partners shall cause Noodle Partners Group to follow change management procedures designed to keep Noodle Partners Group's systems current on security patches and prevent unintended or unauthorized system configuration changes that could expose system vulnerability or lead to a Data Breach.
- e. To the extent that the Work involves software that was developed, in whole or part, by any of Noodle Partners Group, then Noodle Partners represents and warrants that such portion of the Work was developed within a software development life cycle (SDLC) process that includes security and quality assurance roles and control process intended to eliminate existing and potential security vulnerabilities.
- f. Noodle Partners Group shall have appropriate technical perimeter hardening. Noodle Partners Group shall monitor its system and perimeter configurations and network traffic for vulnerabilities, indicators of activities by threat actors, and/or the presence of Malicious Code.
- g. Noodle Partners Group shall have access, authorization, and authentication technology appropriate for protecting University Data from unauthorized access or modification, and capable of accounting for access to University Data. The overall access control model of Noodle Partners Group systems shall follow the principal of least privileges.
- h. Noodle Partners Group shall safeguard University Data with encryption controls over University Data both stored and in transit. Noodle Partners Group shall discontinue use of encryption methods and communication protocols which become obsolete or have become compromised.
- i. Noodle Partners Group shall maintain a process for backup and restoration of data. Noodle Partners represents and warrants that within the context of the Work, the appropriate members within Noodle Partners Group are included in and familiar with a business continuity and disaster recovery plan.
- j. Noodle Partners Group facilities will have adequate physical protections, commensurate with leading industry practice for similar Work.
- k. Noodle Partners shall, at its own expense, conduct an information security and privacy risk assessment, no less than annually, in order to demonstrate, substantiate, and assure that the security and privacy standards and practices of Noodle Partners meet or exceed the requirements set out under these IT Special Terms and Conditions. Upon written request, Noodle Partners shall furnish

University with an executive summary of the findings of the most recent risk assessment

- l. University reserves the right to conduct or commission additional tests, relevant to the Work, in order to supplement Noodle Partners' assessment. Noodle Partners shall cause Noodle Partners Group to cooperate with such effort.
- m. If the findings of the risk assessment identifies either: a potentially significant risk exposure to University Data, or other issue indicating that security and privacy standards and practices of Noodle Partners do not meet the requirements set out under these IT Special Terms and Conditions, then Noodle Partners shall notify University to communicate the issues, nature of the risks, and the corrective action plan (including the nature of the remediation, and the time frame to execute the corrective actions).

8. University Rights and Remedies

All University rights and remedies set out in these special terms are in addition to, and not instead of, other remedies set out in the Agreement, except to the extent that the Agreement specifies a waiver, limitation on damages or liability, or exclusion of remedies.

9. Information Security Indemnification

- a. It is the intent of the parties that all indemnity obligations of Noodle Partners with respect to information security be allocated within this section and that any exclusions or limitation of liability language elsewhere within the Agreement not apply to Noodle Partners' information security indemnification obligations.
- b. Noodle Partners agrees to defend, indemnify and hold University harmless from and against any and all claims, demands, suit, proceedings, judgment, award, damages, costs, expenses, fees, losses, fines of a penal nature, civil penalties, and other liabilities (including the obligation to indemnify others) arising from or connected to:
 - i. **Any violation by Noodle Partners Group of such information security and privacy statutes, ordinances, rules, regulations, and orders of any official body with jurisdiction over Noodle Partners Group or University that are applicable under the compliance provisions of these special terms and conditions.**
 - ii. **Any Data Breach, in proportion to the extent of Noodle Partners Group's fault.**

10. Information Security Insurance Coverage

Noodle Partners shall, at its own expense, provide and maintain in force the appropriate kinds of insurance and minimum amounts of coverage, sufficient to support Noodle Partners' information security indemnity obligations, as further specified in the attached CYBER LIABILITY RIDER, hereby incorporated by reference.

11. Transition Services

- a. As part of the winding up of services, associated with the expiration or termination of the Agreement, Noodle Partners shall follow the University's instructions as to the preservation, transfer, or destruction of University Data. If, after requesting that University provide instructions, University fails to do so, then the instructions shall be deemed to be that NOODLE PARTNERS shall not destroy and not retain any University Data, but shall transfer to the University any and all University Data in NOODLE PARTNERS' possession within forty-five (45) days.
- b. If the Contract terminates due to a material breach or unresolvable dispute, then Noodle Partners shall, at University's written request, negotiate in good faith a transition plan to continue to provide the Work, at Contract rates, pending University's reasonable efforts to obtain a substitute Noodle Partners to provide the Work.

12. Opportunity to Cure

In the event of a material breach of these IT Special Terms and conditions by Noodle Partners Group, the University reserves its rights to terminate the Agreement and seek all other available remedies as set forth therein. In lieu of exercising such rights to terminate, University may opt to extend to Noodle Partners an opportunity to cure Noodle Partners Group's material breach (for a period not less than as may be specified in the Agreement), and shall contact Noodle Partners, in writing, to describe issues where corrective action is sought. Within ten (10) business days, Noodle Partners will provide a response, in writing, to explain how Noodle Partners shall address all issues to University's satisfaction. If Noodle Partners' response is, in whole or part, unacceptable to University, then University may refer the matter to the dispute resolution provision of the Agreement or seek other reasonable means to resolve outstanding issues. To the extent that Noodle Partners' response describes acceptable corrective actions, then University and Noodle Partners shall coordinate in furtherance of executing Noodle Partners' corrective actions. Noodle Partners shall make a written request to University to confirm that satisfactory performance of corrective actions has cured the material breach. Such acceptance shall not be unreasonably withheld.

CYBER LIABILITY RIDER

Introduction, Parties, AND Effective Date

THIS CYBER LIABILITY RIDER IS HEREBY INCORPORATED INTO THE MASTER SERVICES AGREEMENT, DATED March 16, 2020, BETWEEN THE UNIVERSITY OF WASHINGTON (UNIVERSITY) AND NOODLE PARTNERS (THE "AGREEMENT"), AS OF THE "EFFECTIVE DATE" LISTED BELOW. IN CONSIDERATION OF THE MUTUAL PROMISES IN THE AGREEMENT AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS

1. Information Security

a. Insurance Coverage

- i. In addition to the types of insurance, and limits of insurance required by Agreement, Noodle Partners shall, at its own expense, provide and maintain in force the kinds of insurance and minimum amounts of coverage, sufficient to support Noodle Partners' information security indemnity obligations, not less than as set forth in subsection "b." Cognizant of the variety of policy forms currently within the insurance industry, the coverages provided under this section may be maintained in one or more types of insurance policies, irrespective of the name of the type of policy or coverage, such that Noodle Partners is in material compliance with the requirements of this rider.
- ii. The types of coverages required under the Agreement by this Cyber Liability Rider are:
 1. **Internet Professional Liability/ Media Liability/ Errors and Omissions Coverage**, with limits of at least \$2 million per occurrence / in the aggregate. Relevant policies must include coverages for:
 - a. Where the nature of Work includes providing a service for a fee: claims arising out of a failure of the insured's internet professional services or claims arising out of the rendering or failure technology services by insured. Works requiring cover include, without limitations, activities by Noodle Partners' as an internet service provider, application service provider, web portal, web content developer, web site or web-facing application designer, professional services provider that delivers some portion of such services over the internet. Types of claims include, without limitation: any form of improper "deep-linking", plagiarism, misappropriation of intellectual property, and/or unauthorized disclosure of trade secret, confidential, or other protected private or personal information.
 - b. Where the nature of the Work includes providing or relying upon a product: claims arising from the failure of insured technology products (including hardware and software) to perform its intended function or purpose.
 - c. Where the nature of the Work includes any activities involving access by Noodle Partners to University's hosts or networks, and/or requires Noodle Partners Group to store University Data: claims arising from insured security /

privacy controls failure including but not limited to: failure of contractor to prevent the transmission of Malicious Code; failure to prevent unauthorized host or network use; failure to prevent unauthorized host or network access; failure to handle, manage, store, destroy, or otherwise control University Data; failure to prevent collection of protected personal information, and failure to provide individuals access to information and controls about their personal data as required by law.

- d. Cyber Liability/ID Theft and Extortion Insurance, with limits of at least \$2 million per occurrence and in the aggregate. Relevant policies must include coverages for:
 - i. Claims arising from first- and third-person Cyber Extortion or any credible threat or series of related threats to attack insured hosts or networks in a specific way.
 - ii. Claims arising from Crisis management, response costs and public relations expense, including liability arising from failure to notify, legal expenses, and computer forensic expenses.
 - iii. Claims arising from Unauthorized Access to or use of data, a Loss of Data or Denial of Service incident effecting insured host(s) or network(s)
- e. Where the Agreement includes IT Special Terms and Conditions and the potential net aggregate compensation paid or to be paid by University to Noodle Partners over the term of the Agreement exceeds \$25,000: Umbrella liability, with limits of at least \$1 million in the aggregate, which after other coverages required of Noodle Partners Group under the Agreement, shall be primary to any other insurance of the University, but only for the risks and liabilities assumed under the Agreement.

OPTIONAL EXHIBIT 1 - IDENTIFICATION OF CONTRACT CONTACTS

The parties may have optionally provided additional reference information in this section, as a convenience for the administration of the executory contract.

CONTACT INFORMATION

Parties have provided the following contact information to facilitate communication on issues arising under these IT Special Terms and Conditions:

University Contact name:

University Contact

Department/Organizational Unit:

University Contact telephone:

University Contact email:

University Contact address:

Noodle Partners Contact name:

Darwin Abella

Noodle Partners Contact telephone:

646.289.7812

Noodle Partners Contact email:

dabella@noodle.com

Noodle Partners Contact address:

860 Broadway, 6th Floor

New York, NY 10026

OPTIONAL EXHIBIT 2 –ASSURANCE DOCUMENTATION

The Parties may have optionally provided additional reference information in this section, as a convenience for the administration of the executory contract. Parties agree that this contract is both complete and binding irrespective whether any additional documentation information is provided in this exhibit.

Parties have attached the following documentation to this exhibit (check all that apply):

<u>Ref</u>	<u>Document Description</u>	<u>Document Title</u>	<u>Date</u>
§III.3.d	Export control license.		
§III.2.a.iv	Hardcopy of most recently published privacy policy. Please include the URL in the “Document Title”		
§III.6.k	Executive Summary findings from most recent Risk Assessment		
§III.9.d	Proof of insurance coverage		
§III.12	Additional amendments or writings which alter the order of precedence between provisions.		