

**Master Services and License Agreement
between Ocean County College and eCollege.com**

Ocean County College ("OCC") and eCollege.com (a Pearson company incorporated in Delaware) (eCollege.com will hereinafter be referred to as "Pearson"), hereby enter into this Master Services and License Agreement (the "Agreement") effective as of the 31st day of March, 2011 (the "Effective Date").

Subject to the terms and conditions set forth herein and in the attached Exhibits and addenda, if any, the parties hereby agree as follows:

I. PURPOSE AND SCOPE

OCC and Pearson will work in partnership to develop and promote OCC's online programs (the programs developed and/or promoted by Pearson are collectively referred to as the "Online Programs"). It is the parties' joint objective to grow OCC's online programs in accordance with the growth targets set forth in Exhibit A to this Agreement. OCC hereby agrees that during the term of this Agreement, and except as expressly set forth in this Agreement or otherwise agreed to in writing between OCC and Pearson, all of OCC's online programs (whether provided under the OCC Online brand or not) will be provided for under this Agreement and considered to be Online Programs.

II. TERM

The Term of this Agreement commences on the Effective Date and continues until March 30, 2016, with each of the following time periods being a "Contract Year" for purposes of this agreement:

- March 31, 2011 - August 30, 2012
- September 1, 2012 - August 30, 2013
- September 1, 2013 - August 30, 2014
- September 1, 2014 - August 30, 2015
- September 1, 2015 - March 30, 2016

III. OCC ROLES AND RESPONSIBILITIES

OCC shall be responsible for, and shall provide and perform at its sole cost and expense, the following roles and responsibilities, as they relate to the Online Programs:

- a. **Academic Oversight.** OCC will provide institutional and academic guidance, evaluation and oversight for the Online Programs.
- b. **Administrative Services.** OCC will process all financial aid and perform all administrative services that are related to the official student services component of

the Online Programs (for example, administrative services relating to financial aid, admission, and enrollment).

c. **Program Development and Support.** OCC shall be responsible for developing, maintaining and operating the Online Programs and will provide an appropriate number and selection of programs and courses, as needed to accommodate all prospective students generated through OCC's and Pearson's efforts under this Agreement. OCC will retain control and decision-making authority over all academic content and programmatic components of the Online Programs.

d. **Program Consistency and Continuity.** OCC will provide support to the Online Programs in alignment with support provided to other OCC programs.

e. **Faculty Selection.** OCC will be responsible for review and verification of credentials, appointment and coordination of course instructor(s), faculty/facilitators and their staff and their activities. OCC will also be responsible for ensuring that an appropriate number of faculty are available to meet the needs of the Online Programs and projected student enrollment growth.

f. **Course Instruction.** OCC will be responsible for all course instruction and related student and academic support activities and functions.

g. **Content and Curriculum.** OCC shall provide and exercise control over the content and quality of the curriculum and related course materials. Notwithstanding the foregoing, OCC will work in good faith to evaluate, and where appropriate adopt, recommendations from Pearson regarding the need for course audits and supplements to the curriculum and related course materials.

h. **Admissions.** OCC shall be responsible for all decisions regarding the admission and registration criteria of students. OCC will provide admissions resources that are dedicated solely to the Online Programs. OCC will use its best efforts to complete, and communicate the results of all official transcript evaluations for the Online Programs within 48 hours of receipt of the respective student's completed file (excluding weekends and holidays).

i. **Financial Aid.** OCC will be responsible for all tasks and functions related to the financial aid process. OCC will provide financial aid resources that are dedicated solely to the Online Programs. OCC will use its best efforts to complete a review of, and communicate the results of all financial aid applications for the Online Programs within ten (10) business days (and will work in good faith to reduce this number to five (5) business days) of receipt of a completed application.

j. **Tuition and Ancillary Fees.** OCC will collect all revenues and ancillary fees and will be responsible for making distributions to Pearson as set forth herein.

k. **Academic Credit and Degree.** OCC shall be responsible for granting course credits and degrees to students successfully completing an Online Program and who otherwise satisfy the necessary criteria established by OCC for such degrees.

l. **Records.** OCC will be responsible for processing and maintaining all academic, administrative and financial aid records for students who are enrolled in or seeking enrollment in an Online Program.

m. **Access to OCC Enrollment and Marketing Systems, Documents and Training.** Except as otherwise restricted by law, OCC will provide Pearson with immediate and ongoing access to all OCC enrollment and marketing systems (including pertinent documentation and training as may be needed to facilitate this use by Pearson), and will work in good faith with Pearson to facilitate any requests that Pearson may make to extend or enhance such access.

n. **Marketing and Lead Generation.** OCC will promote and market the Online Programs, retaining decision-making authority on the messaging, frequency, methodology, delivery channels and mix for such promotion and marketing; provide coordination and support of marketing efforts between OCC's traditional academic programs and the Online Programs; and ensure coordination of efforts with Pearson's student recruitment activities under this Agreement. In coordination with Pearson, OCC will appoint a preferred lead generation marketing firm and allocate funding to a mutually agreeable marketing budget to help meet the stated online growth goals. OCC and Pearson will work in good faith to (a) within ninety (90) days from the Effective Date, establish suitable performance metrics and success objectives regarding the marketing and lead generation efforts, and (b) document those metrics and objectives through an addendum to this Agreement.

o. **Brand Usage.** OCC hereby grants Pearson the right and license to reproduce, display and use the name, trade names, trademarks, service marks, logos, symbols and trade dress owned or licensable by OCC which is applicable to OCC and/or the Online Programs, to facilitate student recruitment activities and to support and service the Online Programs.

p. **Dedicated Project Manager.** OCC will provide a dedicated project manager to facilitate and manage the performance of OCC's obligations under this Agreement, as well as to provide coordination with Pearson on all activities related to the Online Programs.

q. **Cooperation and Assistance.** OCC will cooperate with Pearson and provide assistance as reasonably requested by Pearson to support Pearson in performance of its duties under this Agreement.

IV. PEARSON ROLES AND RESPONSIBILITIES

Pearson shall be responsible for, and shall provide and perform at its sole cost and expense (except as otherwise specified or limited in this Agreement), the following roles and responsibilities, as they relate to the Online Programs:

- a. **LearningStudio Access.*** Pearson will provide OCC and its authorized users with access to and use of applicable and appropriate portions of Pearson's LearningStudio virtual learning environment, which will be hosted and maintained on Pearson servers and accessed via the Internet through an online campus, for educational, instructional and related administrative purposes. The specific content, features and functionality reflected in the LearningStudio is subject to change and discontinuation by Pearson in its sole discretion; provided however, that the LearningStudio, as well as all core features and functionality which are material to the functioning and use of the LearningStudio, will be maintained by Pearson during the term of this Agreement.
- b. **Integration to OCC SIS System.** Pearson agrees to expose applicable existing APIs for use by OCC, to support OCC's efforts to integrate its student information system to the LearningStudio.
- c. **Learning Outcomes.*** Pearson will provide functionality within the LearningStudio that will allow faculty to: (i) track and grade learning outcomes within courses; (ii) track student activity; and (iii) track student grades through the Learning Studio gradebook.
- d. **Enterprise Reporting Analytics.*** Pearson will provide functionality within the LearningStudio that will allow access to select data assets, enabling data monitoring, predictive models and multi-dimensional analysis. This will give OCC access to data and reports related to student achievement and success, faculty effectiveness, enrollment data and course completion rates.
- e. **ClassLive Pro.** Pearson will provide functionality within the LearningStudio that will allow a real-time training, demonstration, and collaboration environment which enables the delivery of live online learning, training, coaching, mentoring and meeting within Courseware with voice and video synchronous conferencing.
- f. **Technical Support.** Pearson will provide telephone and online support (via chat and email) to OCC's faculty, students and staff who need technical assistance associated with their use of the LearningStudio. This support will be provided on a 24 hours a day, 7 days a week basis. Technical Support does not include support related to the use of OCC's or other third parties' technology, technical issues associated with outside ISPs, networks or third-party software or issues related to user inexperience with systems and settings other than the LearningStudio.
- g. **Operational Support.** Pearson will provide OCC with a single point of contact for the day-to-day operations and support of the Online Programs.
- h. **Training.** Pearson will provide appropriate (to be determined by Pearson in consultation with OCC) training on the LearningStudio to OCC faculty and faculty associates in accordance with the following:

- Five face-to-face training sessions in the first Contract Year (travel and expenses for the applicable Pearson employees will be provided at no additional fee).
- Faculty orientation course.
- Supplemented with online training when needed.

i. **Faculty Support.** Through Pearson's iSupport team, Pearson will provide OCC faculty (who have previously participated in applicable Pearson training) with phone and/or email support that allows contact with course development, instructional multimedia, and instructional design resources for informational consulting relating to the design, development and teaching methodologies of courses for the LearningStudio platform. iSupport hours are 8 AM to 6 PM Mountain Time, Monday through Friday (holidays excluded). Voice mail or email messages received after hours are taken care of the next business day.

j. **General Management.** Pearson will provide an experienced program management, technical and operations team to support OCC in the management, facilitation and coordination of the Online Programs. This team will develop timelines for each phase of the mutually agreed upon business plan and provide an acceptable reporting structure to ensure transparency and effective decision-making between OCC and Pearson. The parties will work in good faith toward the migration of current OCC Online programs to the Online Programs by August of 2011 and to add new program offerings. Except as expressly set forth in this Agreement, Pearson will retain discretion in determining the appropriate levels of effort, investment and resources (staffing and otherwise) applied by Pearson to carry out its obligations under the Agreement; provided, however, that the foregoing shall not be construed to apply to the standard to which Pearson must perform, but rather the means by which Pearson satisfies its obligations.

k. **Student Recruitment.** Pearson will collect, respond to, qualify and manage all inquiries related to the Online Programs; provide follow-up contact; provide enrollment counseling and facilitate prospect decision-making; provide guidance and support for application submission; collect applications and provide them to OCC for admission consideration.

l. **Course Conversion.** Pearson will convert OCC's currently existing online courses to work with the LearningStudio, such that the converted courses will have materially the same functionality as the source course (i.e. feature-to-feature or unit-to-unit), excluding any features not currently supported by the Learning Studio. Pearson and OCC will work in good faith to develop a mutually acceptable project scope (in accordance with Pearson's standard development efforts and methodology for similar projects with other customers) that addresses which courses will be converted and the timing of the conversion activities.

m. **Content Enhancement.** Pearson will provide OCC with instructional design consultation services for the Online Programs, with scope, sequence and outcomes that can be customized by OCC faculty. If such services are desired by OCC, Pearson and OCC will work in good faith to develop a mutually acceptable project

scope (in accordance with Pearson's standard development efforts and methodology for similar projects with other customers). Actual course development is not included.

n. **Commercial Content.** Pearson may provide Pearson's commercial content products ("Pearson Content Products") for select Online Programs, where such Pearson Content Products may strengthen the existing offering or speed the launch of new programs that are in development. The specific Pearson Content Products made available to OCC hereunder shall be subject to the mutual agreement of OCC and Pearson, and provided subject to the terms set forth in Section V below.

o. **Student Support and Retention.** Pearson will use proactive communication, outreach programs and technological integration with OCC information systems to identify at-risk students enrolled in Online Programs. This is done by identifying behavior that correlates to academic performance and attendance, using Pearson's data analytics capabilities. Pearson will use automated, real-time calling strategies customized for each individual student, to increase the likelihood of retention and continuing academic engagement. Additionally, Pearson will provide OCC with access to Pearson's at-risk student report on OCC students.

p. **Implementation.** The use of and access to the LearningStudio and the Pearson Services will be subject to implementation by Pearson, in accordance with Pearson's standard development efforts, methodology and timelines for similar projects with other customers, and as deemed appropriate by Pearson for the activities covered under this Agreement. Activities required for the integration of the LearningStudio and the Pearson Services to other OCC or third party systems or services is not included, unless otherwise expressly specified in the Agreement. Pearson will provide OCC with access, at no additional fee (other than any configuration and/or customization services that may be needed), to existing LearningStudio integrations.

q. **Statement of Work.** Additional services may be contracted for pursuant to a statement of work, on terms agreed to by the parties, which shall be governed by the terms and conditions of this Agreement.

* Items denoted with "*" in the list above may also be used by OCC at no additional charge to supplement its on-campus courses, where such courses are delivered on campus through a lecture or seminar format.

V. LICENSES AND OWNERSHIP

1. LearningStudio.

a. **LearningStudio.** "LearningStudio" shall mean the computer system (including software, hardware, interfaces and other components) used by Pearson to provide the Pearson Services to OCC. As part of its ongoing development efforts, Pearson may, from time to time, make upgrades or enhancements to the LearningStudio. In most

instances, such upgrades and enhancements are made available free of charge to Pearson customers. However, if Pearson requires payment of additional fees in order to use certain upgrades and enhancements, such use shall be at OCC's sole discretion. OCC hereby acknowledges that Pearson has made no commitments as to the exact functionality or timing of upgrades and enhancements to the LearningStudio.

b. License Terms. Pearson hereby grants OCC a non-transferable, non-exclusive, non-sublicenseable license to access and use the applicable portions of the LearningStudio, and all work product created by Pearson pursuant to any Statement of Work, during the term of this Agreement for the sole purpose of OCC and its authorized users receiving the Pearson Services for educational, instructional and related administrative purposes. All such access and use shall be subject to the terms and conditions of this Agreement. All rights not specifically granted herein are reserved by Pearson.

c. Authorized Users. OCC's students, faculty and staff are hereby deemed to be authorized users of the LearningStudio. In all instances, OCC shall be responsible for the actions and inactions of its authorized users with regard to their access and use of the LearningStudio and the Pearson Services.

d. Restrictions. Under no circumstances may OCC or any of its authorized users, without prior written permission from Pearson: (a) use the LearningStudio or Pearson Services to provide products or services to another school, college, university, or other third party; (b) directly or indirectly provide access to the LearningStudio or provide Pearson Services, in whole or in part, to another school, college, university or other third party; (c) sublicense its rights with respect to this Agreement without the written permission of Pearson, or (d) attempt, or allow others, to modify, adapt, decompile, decrypt, disassemble, extract or reverse engineer any part of the LearningStudio or the Pearson Services. OCC represents and warrants that it and its authorized users shall not use the LearningStudio to (a) engage in spamming or other impermissible advertising, marketing or other activities, including, without limitation, any activities that violate anti-spamming laws or regulations; (b) transmit, display or store infringing, obscene, threatening, indecent, libelous, slanderous, defamatory or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; (c) introduce malicious programs (such as viruses, worms or Trojan horses) into the LearningStudio; (d) interfere with or disrupt the integrity or performance of the LearningStudio, the Pearson services or the data contained or used therein; (e) attempt to gain unauthorized access to the LearningStudio or its related systems or networks; or (f) harass or interfere with another user's use of the LearningStudio or the Pearson Services. OCC will, at all times, comply with all applicable local, state, federal, and foreign laws in using the LearningStudio or the Pearson Services. Pearson reserves the right to suspend access to and use of the LearningStudio and the Pearson Services with respect to any individual user that Pearson reasonably believes has undertaken, or participated in, any of the foregoing activities.

e. System Security. Pearson shall provide OCC with the ability to generate passwords and/or user identifications, which shall be used by OCC to provide access to

the LearningStudio for its authorized users. OCC will control and manage access to the LearningStudio and to all OCC Information stored within, or accessible through, the LearningStudio. OCC will instruct its authorized users as to the importance of maintaining the confidentiality of passwords and/or user identifications. OCC acknowledges that OCC's data security may be compromised if OCC's authorized users do not follow all applicable security policies and procedures and take other appropriate steps to maintain the security of the LearningStudio, including, without limitation, maintaining the confidentiality of user identifications and passwords, frequent changing of passwords and maintaining appropriate internal controls to monitor access to and use of the LearningStudio.

f. Location of the LearningStudio. Notwithstanding the foregoing, and except for the license granted in this Agreement, OCC shall not have direct access to the software or infrastructure used to provide the LearningStudio and the Pearson Services to OCC, at any time during or after the term of this Agreement.

g. Ownership. Pearson and its licensors shall retain all right, title and interest in all Pearson proprietary information and property, the LearningStudio and the Pearson Services, including all updates and enhancements, reproductions and corrections thereof and all related patent rights, copyrights, trade secrets, trademarks, service marks, related goodwill and other intellectual property. OCC acknowledges that the license granted under this Agreement does not provide it with title to or ownership of the LearningStudio or the Pearson Services, but only a right of limited use under the terms and conditions of this Agreement. Pearson shall also retain all right, title and interest, including all intellectual property rights therein, in and to any work product or any other work of authorship or invention conceived of, developed or created by Pearson under the terms of this Agreement or any Statement of Work.

2. **Pearson Content Products.**

a. Pearson Content Products License. During the term of the Agreement or for so long as Pearson is authorized to offer the Pearson Content Products to OCC, whichever period is shorter, Pearson hereby authorizes OCC to access and use the Pearson Content Products and provide access to the Pearson Content Products to OCC's faculty, students and administrative staff, solely for educational and instructional use on the LearningStudio. Authorized users may access the Pearson Content Products only in accordance with the terms and conditions set forth in this Agreement and in any end-user license agreement (each a "EULA") or terms of use that may be contained in or with the Pearson Content Products. OCC agrees that no other individuals or third parties shall be allowed access to the Pearson Content Products. OCC understands and acknowledges that use of and access to the Pearson Content Products may be subject to pending conversion or setup of the Pearson Content Products.

b. Pearson Content Products Ownership and Other Terms of Use. Except as expressly set forth in the foregoing, all rights with regards to the products and services offered herein are reserved by Pearson and under no circumstances shall OCC (or its users or students) resell, publish, transfer, distribute, sublicense, provide access to,

copy, adapt, translate, reproduce, modify, enhance, or use the Pearson Content Products or the content contained therein, except for permitted modifications to Pearson Content Products by OCC for classroom purposes, without the express written permission of Pearson. OCC further agrees not to remove or alter any trademark or other proprietary notice in or on any Pearson Content Product. All right, title and interest in and to the Pearson Content Products and the content, materials and data contained therein, and any derivative works thereof (whether authorized or not, including any modifications made, specifically for OCC or to such course offerings in general, by Pearson or any other third party (including OCC and its agents or representatives)), is expressly reserved by Pearson. Pearson shall not be obligated to maintain, revise, enhance or update the standardized Pearson Content Products, unless specifically agreed to in a separate writing from the Agreement. Pearson may suspend use of or access to the Pearson Content Products in connection with any violation of this Agreement or any applicable EULA. The Pearson Content Products shall only be used in conjunction with the LearningStudio and in accordance with the terms and conditions of the Agreement. OCC understands and acknowledges that the Pearson Content Products may be retired or supplanted by new editions at any time, and that Pearson is under no obligation to make new editions or replacement products available to OCC. Notwithstanding OCC's rights to use the Pearson Content Products, Pearson may require OCC to promptly cease (within three business days) using any Pearson Content Products, if (i) Pearson notifies OCC that Pearson no longer has the necessary rights to the Pearson Content Products, (ii) Pearson believes cessation is necessary to limit or avoid liability or (iii) Pearson is otherwise required by law or court order to cease and desist. In such events, Pearson will use commercially reasonable efforts to replace, at no cost to OCC, any affected Pearson Content Products with other materials to be used by OCC pursuant to the terms of this Agreement.

3. **OCC Ownership.** OCC and its authorized users may provide Pearson, either directly or indirectly (through placement of such information, materials, product and data on the LearningStudio by OCC's authorized users) with information, materials and data (the "OCC Information"). As between Pearson and OCC, all such OCC Information is the exclusive and proprietary property of OCC. Pearson shall under no circumstances, sell, lease, assign or sublicense the OCC Information except as provided herein.
4. **OCC Grant of License.** OCC grants to Pearson a limited, nonexclusive license during the term of this Agreement to copy, transmit, use and prepare derivative works of the OCC Information to the extent necessary for Pearson to perform its obligations under this Agreement. This license shall not be construed to permit Pearson to use OCC Information for any other purpose, except as expressly permitted by the Agreement. Except as otherwise restricted by law, Pearson may use anonymous data related to student performance and the activity of OCC's authorized users within the LearningStudio, for product improvement and general research and analytical purposes (which Pearson may share with other third parties).
5. **Additional Products or Services.** Except as specifically otherwise provided for in this Agreement, no other Pearson products and services are included in this

Agreement. Additional fees, in excess of the fees set forth herein, may apply to the use of Third Party Services or additional Pearson products and services.

VI. FEES AND PAYMENT

In consideration of Pearson providing the Pearson Services to OCC, OCC shall pay Pearson for services rendered as set forth below.

1. **Set-up, Training and Implementation Fee.** OCC hereby agrees to pay to Pearson a one-time set-up and implementation fee of \$100,000, with the first \$50,000 due and payable upon the Effective Date and the remaining \$50,000 due and payable within ninety (90) days of the Effective Date.
2. **Student Credit Hour Fees.** As compensation for the Pearson Services performed under this Agreement, OCC will, for courses in the Online Programs, pay Pearson a per credit hour fee for each student enrolled in such courses (the "SCH Fee"), in accordance with the following:

Contract Year	SCH Fee
1	\$19.50
2	\$30.71
3	\$43.00
4	\$56.17
5	\$70.43

3. **Census Date.** An official census of enrolled students will be taken by Pearson for each course (the "Census Data"), on a specified date (to be set in accordance with OCC's applicable add/drop schedule for such courses) after the start of the applicable academic term (the "Census Date"). A student will be counted for purposes of this Agreement if (a) at the Census Date the student has been issued a password by Pearson to access the course pursuant to enrollment procedures agreed to between Pearson and OCC, and (b) Pearson has not received notification prior to the Census Date that the student has withdrawn. Prior to invoicing, Pearson shall deliver the Census Data to OCC for review and reconciliation. Any discrepancies shall be reported to Pearson within 48 hours or such data will be deemed agreed to by the parties.
4. **Student Fees for Online Programs Courses.** Following the official Census Date for each academic term, OCC will pay to Pearson a fee for each enrolled student credit hour for the Online Programs for that term, upon invoicing by Pearson. Such fees shall be calculated for each Online Program course at the time of the official Census Date for each such course, in accordance with the following formula:

(SCH Fee) x (students enrolled in the course) x (credit hours per student for the course)

For example, if 30 students are enrolled in two 3 credit hour Online Programs courses during the first Contract Year, OCC would pay Pearson a fee of $(30 \times 2 \times (3 \times 19.50)) = \$3,510$ for such enrollments.

It is expressly agreed that OCC's obligation to pay Pearson the amount set forth above shall remain in effect notwithstanding (i) the failure of a student to complete the applicable course, or (ii) OCC's failure or inability to collect the tuition or any related fees from that student. All payments shall be made in U.S. dollars.

5. **Due Date and Payment.** OCC shall pay all invoices issued by Pearson within thirty (30) days of the date of the invoice. OCC shall not make deductions of any kind from any payments due Pearson. Pearson may accept any payment without prejudice to Pearson's right to recover any remaining balance or to pursue any other remedy provided in this Agreement, or by applicable law. In the event that any invoice is not paid in full within thirty (30) days of the invoice date, OCC shall pay simple interest at the rate of 1% per month beginning thirty (30) days after the date of the invoice. If OCC fails to pay an invoice within sixty (60) days after the date of the invoice, Pearson may, after providing seven (7) days written notice to OCC, suspend the provision of products and services, including turning off OCC's access to the LearningStudio and the Pearson Services. Pearson reserves the right at any time to condition provision of the Pearson Services on reasonable assurance of payment.
6. **Travel Expenses.** All fees incurred by OCC are exclusive of Pearson's travel-related expenses. OCC agrees to reimburse Pearson for all pre-approved travel and out-of-pocket expenses incurred by Pearson with respect to any on-site professional services engagements (other than the five face-to-face training sessions referenced in Section IV(h) of this Agreement).
7. **Taxes.** The fees hereunder do not include any applicable sales, use, excise, VAT or other taxes or duties levied or based on this Agreement or the Pearson Services provided hereunder, which OCC agrees to pay (or reimburse Pearson for upon invoicing, as the case may be) separately, exclusive of income taxes or taxes based on Pearson's income. If OCC is a tax-exempt entity and provides Pearson with a valid certificate evidencing such tax-exempt status, then Pearson shall not assess OCC for taxes not payable by tax-exempt entities.

VII. TERMINATION

1. **Termination by Mutual Agreement.** This Agreement may be terminated at any time by the mutual, written agreement of OCC and Pearson. On an annual basis, Pearson and OCC will jointly assess the success of the relationship established by this Agreement, and to the extent the parties feel it is necessary or desirable, may mutually agree to terminate the Agreement.
2. **Transition Plan.** Upon any termination or expiration of the Agreement, the Agreement shall automatically enter into a transition period of six months. During this transition period, all of the terms and conditions of the Agreement (including the

respective obligations, rights and responsibilities of Pearson and OCC, except as may be modified by the transition plan) shall remain in full effect, in order to facilitate a smooth transition for the end of the relationship. Pearson will be responsible for compiling and providing OCC with a transition plan within the first sixty (60) days of the transition period, outlining the tasks, deliverables and timelines for transitioning Pearson's responsibilities to OCC management and staff. OCC will continue to pay the fees set forth in Section VI(4) during this transition period.

3. **Termination for Breach.** Except as otherwise set forth herein, this Agreement may be terminated by either party if the other is in material breach of any provision of this Agreement, but only after written notice of default and opportunity to cure has been given to the breaching party. The notice of default must provide for an opportunity to cure of at least thirty (30) days following receipt of notice. If the party receiving the notice has not cured the breach before the cure date stated in the notice then the party giving notice may terminate this Agreement by giving the breaching party written notice of termination.
4. **Effect of Termination or Expiration.** Upon termination or expiration of this Agreement, all licenses granted hereunder shall immediately terminate, and any and all fees set forth herein shall become immediately due and payable. Notwithstanding the termination of this Agreement for any reason, the rights and duties of the parties under Sections V(1)(c-d), V(1)(f), V(1)(g), V(2)(b), V(3), VI(5-7), VI(9), VII(2), VII(4), VIII and IX and all other provisions that by their nature should survive, shall survive such termination and remain in full force and effect.
5. **Non-appropriation of Funding.** Pursuant to N.J.S.A. 18:64A-25.28, this Agreement may be terminated by OCC at any time after the first Contract Year in the event of the unavailability or lack of appropriation of sufficient funds necessary for OCC to continue to offer the Online Programs to students.

VIII. REPRESENTATIONS & WARRANTIES.

1. **Mutual Representations and Warranties.** OCC and Pearson each represents and warrants to the other as follows: (a) the execution, delivery and performance by it of this Agreement have been duly authorized by all necessary corporate action and do not and will not require any consent or approval of its stockholders or owners or violate any provision of any agreement presently in effect having applicability to it or any provision of its charter documents; (b) this Agreement is a legal, valid and binding obligation of it enforceable against it in accordance with its terms and conditions; and (c) it is not under any obligation to any person, or entity, contractual or otherwise, that is conflicting or inconsistent in any respect with the terms of this Agreement or that would impede the diligent and complete fulfillment of its obligations hereunder and that it has all power and authority under all instruments or agreements to which it is a party to enter into this Agreement and to perform its obligation hereunder.
2. **Pearson Representations and Warranties.** Pearson represents and warrants that: (a) the Pearson Services will be performed in a professional manner and Pearson will

use its best efforts to conform to the performance criteria, standards and other descriptions set forth in this Agreement, in compliance with applicable federal, state and local laws, regulations, rules, and ordinances; and (b) all services will be performed by qualified, trained, and properly equipped personnel. PEARSON MAKES NO REPRESENTATION OR WARRANTY THAT THE PEARSON SERVICES OR OCC'S USE THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE. EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, PEARSON DISCLAIMS ANY REPRESENTATION OR WARRANTY CONCERNING ANY PRESENT OR FUTURE USE, INTEGRATION OR COMPATIBILITY WITH ANY OTHER PRODUCTS OR SERVICES.

3. **OCC Representations and Warranties.** OCC represents and warrants to Pearson that it owns the OCC Information or has obtained all rights in the OCC Information to provide the OCC Information to Pearson and convey the licenses granted herein to Pearson so that the use by Pearson to provide the Pearson Services and other services does not violate the intellectual property rights or other rights of a third party. OCC is responsible for meeting the then-current hardware, operating system, browser and other technical requirements necessary to properly use and access the LearningStudio. OCC will comply with all applicable federal, state and local laws, regulations, rules, and ordinances.
4. **Prohibited Contacts.** Pearson and OCC (which, for purposes of this section, includes any marketing firm engaged by or on behalf of OCC) shall each comply with telemarketing laws, rules and regulations on a local, state, and federal level, as applicable with respect to any contacts made by such party or its contractors, customers or affiliates. The term "telemarketing laws, rules and regulations" includes but is not limited to the Telemarketing Sales Rule and the Telephone Consumer Protection Act. OCC may supply leads and related information to Pearson in order for Pearson to perform the Pearson Services. In such instances, OCC represents, covenants, and warrants that each lead it supplies will satisfy the following criteria: (1) OCC has received a request from the lead that it expressly desires to receive additional information via telephone at a date certain, or (2) OCC has received an express request in writing to be contacted via telephone using a form which includes the number to be called and the lead's signature, or (3) the lead is not registered on any state or federal "Do Not Call Lists." Further, OCC will not provide any lead to Pearson if the lead has made a prior "Do Not Call" request to OCC. OCC acknowledges and agrees that it is responsible under this Agreement for the leads it obtains from its contractors, customers or affiliates. OCC and Pearson will work together to identify procedural changes or other measures that would reduce the likelihood of any issues in this area. If Pearson and OCC agree that Pearson will contact leads by any means or medium in addition to telephone (including, without limitation text messages or email), each party will be responsible for ensuring that any leads and other contacts provided by that party can be contacted without such contact resulting in the violation of any applicable federal, state, or local laws, rules, and regulations pertaining to the contact of persons or entities by such means or medium.

IX. GENERAL TERMS AND CONDITIONS

1. **Third Party Services.** If OCC elects to use third party products and/or services (collectively, the "Third Party Services") that are accessed through an integration from the LearningStudio to the third party's applications, the privacy policies and other terms and conditions applicable to the use of such Third Party Services may differ from those applicable to the use of the LearningStudio or the Pearson Services, and OCC's access to and use of the Third Party Services shall be subject to such policies and terms and conditions. To the extent that OCC's use of such Third Party Services requires the transfer of, or access to, any OCC Information or other OCC data by the third party, OCC hereby expressly consents to such transfer and/or access. Pearson makes no representations or warranties as to the Third Party Services, either express or implied, including any implied warranties of merchantability, quality, accuracy, performance, fitness for a particular purpose, or non-infringement, and Pearson shall not be liable to OCC for any claims, expenses, costs or other damages of any kind, arising out of or relating to the Third Party Services or OCC's use thereof. For purposes of clarification, products and services provided by Pearson under this Agreement shall not be considered to be Third Party Services.
2. **Notice.** Unless expressly stated otherwise herein, any notice, demand, request or delivery required or permitted to be given by a party pursuant to this Agreement shall be in writing and in each case addressed to the receiving party at such party's address as set forth in this Agreement or as subsequently modified by the receiving party pursuant to written notice to the other party. Notices shall be effective upon receipt and shall be deemed to be received as follows: (a) when delivered personally, (b) if delivered by nationally recognized overnight courier, effective the business day following the date of shipment, or (c) if by U.S. mail (certified or registered mail return receipt requested, postage prepaid) the earlier of actual receipt or three business days from the date deposited in the mail. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be to the parties as set forth below:

Notice to OCC. Unless hereinafter changed by written notice to Pearson, any notice to OCC, other than invoices and notice with respect to invoices, shall be delivered or mailed to:

Sara Winchester
Vice President of Finance
Ocean County College
College Drive
Toms River, NJ 08754

Unless changed by written notice to Pearson, invoices and notice regarding invoices to OCC shall be delivered or mailed to:

Sara Winchester
Vice President of Finance
Ocean County College
College Drive

Toms River, NJ 08754

Notice to Pearson. Unless hereinafter changed by written notice to OCC, any notice to Pearson shall be delivered or mailed to:

Pearson eCollege
Attn: Legal Department
2154 E. Commons Ave., Suite 4000
Centennial, CO 80122, USA

3. **Non-Exclusive Services.** Pearson provides products and services to other educational institutions that may be similar to, or the same as, those offered as part of the Pearson Services.
4. **Independent Contractors and Responsibility.** The relationship between OCC and Pearson is limited solely to the activities, rights and obligations as set forth in this Agreement. Nothing in this Agreement shall be construed (i) to create or imply a general partnership, limited partnership or other legal entity between OCC and Pearson, (ii) to create any duties or obligations between OCC and Pearson except as expressly set forth herein, or (iii) to grant any direct or implied licenses or any other right other than as expressly set forth herein.
5. **Publicity.** OCC and Pearson, upon the execution of this Agreement, will agree upon the text and timing of an initial public announcement relating to the relationship established by this Agreement as soon as possible after the Effective Date (such agreement not to be unreasonably withheld or delayed); provided however that the parties acknowledge that OCC is a public institution and therefore subject to public records requests. Advance release of information related to this transaction by OCC in accordance with its policies shall not constitute a breach of this Agreement.
6. **Mediation and Applicable Law.** OCC and Pearson shall endeavor to resolve claims, disputes, and other matters in question between them by non-binding mediation. A request for mediation shall be filed in writing with the other party to this Agreement. Any such mediation will be deemed concluded on the 60th day following the request in the absence of a contrary agreement by the parties. This Agreement and all related disputes between the parties shall be construed under and controlled by the laws of the State of New Jersey, excluding its choice of law principles that would require the application of the laws of another jurisdiction.
7. **Force Majeure.** With the exception of a party's obligation to make payments due to the other party (whether based on services performed or guaranteed fees), neither party shall be considered to be in default as a result of its delay or failure to perform its obligations under this Agreement when such delay or failure arises out of causes beyond the reasonable control of the party. Such causes may include, but are not restricted to, acts of God or the public enemy, acts or requirements of any governmental authority, wars, insurrections, riots, blackouts, failure of third party communications services, explosions, earthquakes, lightning, wind, terrorism, attacks

on the LearningStudio (such as hacker activities and ping and denial of service attacks), sabotage, fires, floods, epidemics, strikes and unusually severe weather.

8. **Confidentiality.** Except to the extent counter to applicable law, Pearson and OCC agree to the following terms with respect to the treatment of confidential information. During the term of this Agreement, a party ("**Receiving Party**") may have disclosed to it or come in contact with information of the other party ("**Disclosing Party**") of a sensitive (as determined by the nature of the information itself or due to the circumstances of disclosure) or proprietary nature ("**Confidential Information**"). Confidential Information shall include the terms and conditions of this Agreement, as well as the proprietary information and materials provided or disclosed by each party to the other. Each party hereto represents to the other party that during the term of this Agreement and thereafter, it will not, directly or indirectly, use, disseminate or disclose the Confidential Information to any person or entity (other than to employees, agents and contractors who are bound by similar obligations of confidentiality) for any purpose or at any time, except as expressly authorized by the Disclosing Party or as needed to perform its obligations under this Agreement. The Receiving Party shall use the same standard of care to avoid disclosure of any Confidential Information as it uses with respect to its own confidential or proprietary information, provided that in no event shall the Receiving Party employ less than reasonable efforts to protect any Confidential Information of the other party. Confidential Information shall not include information which: i) is or becomes publicly known or available to the Receiving Party at or after the time of disclosure through no wrongful act of the Receiving Party; ii) is in the possession of or known to the Receiving Party at the time of disclosure without confidentiality restrictions; iii) is rightfully obtained by the Receiving Party from a third party; or iv) is independently developed by the Receiving Party. Notwithstanding anything to the contrary set forth in this section, any disclosure of confidential or proprietary information by means of a third-party attack, probe, theft, or other breach of network security (for which Pearson expressly disclaims all liability) shall not be deemed to be a breach of this section. The terms of this section shall supersede and replace any non-disclosure or confidentiality agreement entered into by the parties prior to the Effective Date. In addition, a party will not be considered to have breached its obligations under this section for disclosing Confidential Information of the Disclosing Party to the extent required to satisfy any legal requirement of a competent governmental authority or court order, provided that promptly upon receiving any such request and to the extent that it may legally do so, such party advises the Disclosing Party prior to making such disclosure in order that the Disclosing Party may object to such disclosure, take action to ensure confidential treatment of the Confidential Information, or take such other action as it considers appropriate to protect the Confidential Information disclosed pursuant to the requirement or request of a governmental agency or disclosure is required by operation of law.
9. **FERPA.** Pearson will not make available or distribute any student information in violation of the Family Educational Rights and Privacy Act. However, OCC acknowledges and agrees that, by granting user identifications and/or passwords, OCC controls, defines and manages access to OCC Information and related records and data that will be used within the LearningStudio. OCC is responsible for (a) compliance with all foreign and domestic privacy and student record laws and regulations that may be

applicable to OCC's use of the LearningStudio or the Pearson Services; (b) securing all necessary prior consents (if any are required) for the collection, storage and use of education records, data and personal information within the LearningStudio; and (c) the creation of, and compliance with, applicable policies regarding the access and use by OCC's authorized users of personally identifiable information stored on the LearningStudio.

10. **Assignment.** OCC shall not assign or otherwise transfer this Agreement, or any of its rights and obligations under this Agreement, without the prior written consent of Pearson, which consent shall not be unreasonably withheld, and any such attempted assignment or transfer without such consent will be null and void.
11. **Non-Solicitation.** Without the prior written consent of Pearson, OCC will not, during the term of this Agreement, and for a period of one (1) year following the termination or expiration of this Agreement, directly or indirectly, hire or solicit for employment any person then employed with Pearson, or employed with Pearson at any time during the prior six (6) months.
12. **Limited Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, SUFFERED BY THE OTHER PARTY, INCLUDING WITHOUT LIMITATION LOST PROFITS OR GOODWILL, BUSINESS INTERRUPTIONS OR OTHER ECONOMIC LOSS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY USE OF OR FAILURE TO BE ABLE TO USE THE LEARNINGSTUDIO OR THE PEARSON SERVICES. DURING THE FIRST TWELVE MONTHS FOLLOWING THE EFFECTIVE DATE, PEARSON'S MAXIMUM AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL FEES PAID TO PEARSON BY OCC DURING THAT FIRST TWELVE MONTHS. THEREAFTER, PEARSON'S MAXIMUM AGGREGATE LIABILITY UNDER THIS AGREEMENT DURING EACH SUBSEQUENT TWELVE MONTH PERIOD WILL IN NO EVENT EXCEED THE TOTAL FEES PAID BY OCC TO PEARSON PURSUANT TO THIS AGREEMENT DURING THE IMMEDIATELY PRECEDING TWELVE MONTH PERIOD. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT, OR OTHERWISE, EVEN IF THE PARTY HAS BEEN WARNED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE, AND EVEN IF ANY OF THE LIMITED REMEDIES IN THIS AGREEMENT FAILS OF THEIR ESSENTIAL PURPOSE.
13. **Removal of OCC Information.** If any OCC Information is or becomes, or in Pearson's opinion is (a) likely to become the subject of a claim that it infringes any party's patents or copyrights or misappropriates such third party's trade secrets, or (b) indecent, obscene, threatening, libelous, slanderous, defamatory, illegal, or otherwise unlawful or tortious, including material that is harmful to children or violates third party privacy or publicity rights, Pearson shall give OCC notice of the potential issue and Pearson may, without liability under the Agreement, remove such OCC Information from the LearningStudio until such time as the issue has been resolved to Pearson's satisfaction.

14. **Cooperation.** Pearson shall not be responsible for any delay in, or inability to perform, any services that results from a delay or failure in performance by OCC. OCC will make its management and technical personnel, who will work with Pearson and will perform those activities described as OCC's responsibility in this Agreement or any Statement of Work, reasonably available to Pearson.
15. **Miscellaneous.** This Agreement (including its exhibits) sets forth the entire understanding of the parties with respect to the subject matter covered by the Agreement and supersedes any and all prior understandings, representations, proposals, communications and agreements, whether written or oral, between the parties with respect to such subject matter. This Agreement may only be amended in a writing executed by both parties. If purchase orders or other documents or acknowledgments are issued by OCC containing terms and conditions in addition to, modifying or contrary to the provisions of this Agreement, those terms and conditions are hereby specifically objected to and shall be of no force or effect; it being the parties' intentions that this Agreement shall govern all matters relating to the subject matter herein. If any provision of this Agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired. No waiver of satisfaction of a condition or nonperformance of an obligation under this agreement will be effective unless it is in writing and signed by the party granting the waiver. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision. The captions and headings in this Agreement are inserted only as a matter of convenience and for reference and in no way define the scope or content of this Agreement or the construction of any provision hereof or of any document or instrument referred to herein. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Execution and delivery of this Agreement may be evidenced by facsimile or PDF transmission.

IN WITNESS WHEREOF, the persons executing this Agreement for and on behalf of the parties hereto represent that they are fully authorized to do so for and on behalf of their respective principals.

Pearson

Ocean County College

By: _____

By: _____

Matt Leavy, President

Printed Name: _____

Title: _____

Exhibit A Growth Targets

	STARTING POINT FY10	FY12	FY13	FY14	FY15	FY16
OCC DL Credits Per Fiscal Year 2010	26,014					
Enrollments/Duplicated Head Count (Avg credits/3)	8,671					
Projected Growth Rate		13%	18%	20%	25%	23%
Prior Year DL Credits	26,014	29,396	34,687	41,624	52,031	63,998
Growth Credits	3,382	5,291	6,937	10,406	11,967	
Total Credits		29,396	34,687	41,624	52,031	63,998



OCEAN
COUNTY COLLEGE

College Drive, PO Box 2001
Toms River, NJ 08754-2001
phone 732.255.0400
fax 732.864.3847

PURCHASE ORDER

B0005214

P.O. No.

This number must appear on all bills of lading,
packages, packing slips, invoices,
and correspondence

SEND ALL INVOICES IN TRIPLICATE TO ACCOUNTS PAYABLE

DATE	SHIP VIA	FOB	TERMS	DATE DELIVERY REQUIRED	REQUISITION NO.
03/30/11	BEST-WAY	FOB DESTINATION	NET 30	06/30/11	0018855

VENDOR

PEARSON ECOLLEGE
ECOLLEGE.COM
2154 E COMMONS AVE
#4000
CENTENNIAL CO 80122

SHIP TO: OCEAN COUNTY COLLEGE
College Drive • Toms River, NJ 08753

***DELIVERY LOCATION:** Central Receiving

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
001			Not To Exceed \$100,000.00 *** First year of a five-year contract. ***** \$100,000 Set-up, training & implementation fee. ***** No amount determined at this time. Orig: A. Feneis Ref Req 18855 *** Board Action : 03/28/11 +++ <div style="text-align: right;">TOTAL:</div>		\$100,000.00

COPY

VENDOR MUST COMPLY WITH TERMS AND CONDITIONS ATTACHED

NOTICE: The College is exempt by statute from payment of all Federal, State and Municipal Excise, Sales and other Taxes.

VENDOR ID#	BUYER	AUTHORIZED DEPT. APPROVAL	ACCOUNT NO.
0130290	J. Lamparello		11-4-1-20800-71315

* RECEIVING HOURS:

8:00 am to 3:00 pm
Monday to Friday

AUTHORIZED SIGNATURE

SARA WINCHESTER
VICE PRESIDENT OF FINANCE



OCEAN
COUNTY COLLEGE

College Drive, PO Box 2001
Toms River, NJ 08754-2001
phone 732.255.0400
fax 732.255.0388
web <http://purchasing.ocean.edu>

PURCHASE ORDER

B0007950

P.O. No.

This number must appear on all bills of lading, packages, packing slips, invoices, and correspondence

SEND ALL INVOICES TO APECK@OCEAN.EDU

DATE 04/01/16	SHIP VIA BEST-WAY	FOB FOB DESTINATION	TERMS NET 30	DATE DELIVERY REQUIRED 06/30/17	REQUISITION NO. 0028030
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VENDOR

INSIDE TRACK INC.
1620 MONTGOMERY ST
STE 230
SAN FRANCISCO CA 94111

SHIP TO:

OCEAN COUNTY COLLEGE
1 College Drive • Toms River, NJ 08753

* DELIVERY
LOCATION:

Central Receiving

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
			BLANKET PURCHASE ORDER FOR THE RECRUITMENT & RETENTION SERVICES ***** ALL TERMS CONDITIONS AND PRICING ARE AS PER: RFP 15/16 Q-10. ***** PURCHASE ORDER/CONTRACT AMOUNT IS NOT TO EXCEED: \$613,000.00 ***** ALL INVOICES MUST REFERENCE THE CORRECT PURCHASE ORDER NUMBER AND BE SENT DIRECTLY TO ACCOUNTING AT: apeck@ocean.edu ***** OCC CONTACT: JEFF HARMON T: 732-255-0400, EX 2499 ***** BOARD APPROVAL ON: MARCH 28, 2016 *****		
TOTAL:					\$613,000.00

COPY

VENDOR MUST COMPLY WITH TERMS AND CONDITIONS ATTACHED

NOTICE: The College is exempt by statute from payment of all Federal, State and Municipal Excise, Sales and other Taxes.

VENDOR ID# 0449842	BUYER M. Bowcock	AUTHORIZED DEPT. APPROVAL	ACCOUNT NO. 11-4-1-20810-70501
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PAGE 1

* RECEIVING HOURS:

8:00 am to 3:00 pm

AUTHORIZED SIGNATURE

SARA WINCHESTER, EXECUTIVE VICE PRESIDENT OF FINANCE AND ADMINISTRATION