

Pearson Online Learning Services

E-LEARNING PROGRAM MASTER SERVICES AGREEMENT

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

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

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

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

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

ARTICLE 1 INTERPRETATION

1.1 Introduction

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

1.2 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.3 Headings.

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

1.4 Agreement Structure and e-Learning Program Term Sheets.

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

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

1.5 Schedules.

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

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

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

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

2.1 Market Research and Assessment.

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

2.2 Marketing Services.

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

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

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

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

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

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

2.3 Recruitment Services.

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

2.4 Student Support Services.

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

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

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

3.1 Content and Curriculum.

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

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

3.2 Instructor of Record.

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

3.3 Academic Credit and Degree.

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

3.4 Admissions.

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

3.5 Records.

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

3.6 Licenses; Third Parties.

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

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

3.7 University Domains

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

3.9 Access to University Systems

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

3.10 Accreditation and Regulatory Compliance

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

ARTICLE 4

LICENSE

4.1 License to Pearson.

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

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

4.2 License to the University.

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

4.3 Pearson Course Contributions.

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

4.4 Rights to Content and Program.

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

4.5 Author Consents

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

ARTICLE 5 **REMUNERATION**

5.1 Service Fees.

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

5.2 Payment by University.

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

5.3 Reconciliation

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

ARTICLE 6

AUDIT

6.1 Right to Audit.

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

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

6.2 Maintenance of Books and Records.

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

ARTICLE 7
CONFIDENTIAL INFORMATION AND NON-COMPETITION

7.1 Confidentiality.

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

7.2 Publicity.

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

7.3 Return of Confidential Information.

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

7.4 Prohibition on Solicitation.

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

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

7.5 Restrictive Covenant.

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

ARTICLE 8 **TERM AND TERMINATION**

8.1 Term.

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

8.2 Renewal.

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

8.3 Termination.

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

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

8.4 Termination Obligations.

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

8.5 Continuing Obligations and Teach-out.

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

8.6 Commencement of Services and Superseding of 2007 Agreement.

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

8.7 Other Relief.

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

ARTICLE 9

REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 University Representations.

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

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

9.2 Pearson Representations.

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

9.3 WARRANTY DISCLAIMER.

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

ARTICLE 10 **RISK MANAGEMENT**

10.1 Infringement Claims Relating to University-Provided Material.

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

10.2 Infringement Relating to Pearson Intellectual Property.

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

10.3 Notice of Infringement.

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

10.4 Right to Assume Litigation Defense.

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

10.5 Cooperation.

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

10.6 Limitation and Exclusion of Liability.

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

10.7 Insurance.

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

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

Additional insurance requirements for this contract are checked below:

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

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

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

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

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

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

ARTICLE 11 **DISPUTE RESOLUTION**

[Intentionally Omitted]

ARTICLE 12 **CERTIFICATIONS**

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

12.1 Delinquent Payments Certification

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

12.2 Anti-Bribery

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

12.3 Loan Default

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

12.4 Convicted of Felony

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

12.5 Barred from Contracting

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

12.6 Drug Free Workplace

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

12.7 International Boycott

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

12.8 Non-Discrimination and Equal Employment Opportunity

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

12.9 Record Retention and Audits

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

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

12.10 State-Appropriated Funds

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

12.11 Exclusions Party List Certification

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

12.12 Labor Certification

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

12.13 Child Labor Certification

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

12.14 Felony Certification

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

12.15 Environmental Certification

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

12.16 Federal Funding

If this Agreement is federally funded, Pearson certifies that:

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

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

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

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

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

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

12.18 Information Technology Accessibility Act 095-0307

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

12.19 Iran

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

ARTICLE 13 **GENERAL PROVISIONS**

13.1 Relationship of the Parties.

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

13.2 Entire Agreement.

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

13.3 No Waiver.

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

13.4 Time of the Essence

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

13.5 Currency.

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

13.6 Severability.

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

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

13.7 Amendments

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

13.8 Compliance with Law.

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

13.9 Governing Law.

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

13.10 Further Assurances.

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

13.11 Notices.

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

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

Phone: (800) 511-5636 ext. 5504

Attention: Chief Operating Officer

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

Attention: Dean of the College

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

And

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

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

13.12 Assignment.

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

13.13 Subcontracting.

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

13.14 Counterpart Execution.

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

13.15 Survival.

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

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

NCS Pearson, Inc.

By:

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

Date:

02/23/2015

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

By:

Walter K. Knorr
Comptroller

Date:

2/24/2015

CONFIDENTIAL AND PROPRIETARY FINANCIAL/COMMERCIAL INFORMATION

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

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

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

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

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

5. **Minimum Number of Program Students.**
- 

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

NCS Pearson, Inc.

By:

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

Date: 02/23/2015

The Board of Trustees of the University of Illinois

By:

Walter K. Knorr
Comptroller

Date: 2/24/2015

Learning Management System Integration Agreement

This Learning Management System Integration Agreement (herein referred to as the "Agreement") is made, as of the 24th day of June, 2015 (the "Effective Date"), by and between Pearson Education, Inc., a Delaware corporation ("Publisher"), and The Board of Trustees of the University of Illinois at Urbana-Champaign ("INSTITUTION") (each a "Party" and, collectively, the "Parties").

Whereas, INSTITUTION operates Learning Management System software as part of its educational mission; and

Whereas, Publisher provides online products that may be integrated with INSTITUTION's Learning Management System software (the "Products") as described in the attached Exhibit A; and

Whereas, Publisher desires to provide to INSTITUTION's students, use of the Products in accordance with Publisher's End User License Agreement and Privacy Policy provided by Publisher to users upon registration for a Product (the "EULA"); and

Whereas, prior to such adoption and use of the Products by the INSTITUTION, the INSTITUTION has required Publisher to agree to the terms of this Agreement;

Now, therefore, the Parties agree as follows:

1. Products

- 1.1. During the term of this Agreement, Publisher agrees to authorize INSTITUTION to use any Product that relates to any eBook published by Publisher, if available, as to each INSTITUTION course where the INSTITUTION faculty member has designated and assigned that eBook for that course.
- 1.2. The Products include eBooks, and access to the Products will be sold to students individually via access codes sold in the INSTITUTION's bookstore and via access codes sold at Publisher's eCommerce platform. Except for the prices Publisher will charge students directly for purchase of the Products, there shall be no additional charge to integrate the Products with INSTITUTION's Learning Management System software.

2. Confidential Information

- 2.1. "Confidential Information" means all network infrastructure information about any INSTITUTION computer network and all personally identifiable information of any INSTITUTION student provided to or acquired by the Publisher in furtherance of this Agreement.
- 2.2. Use of Confidential Information. Publisher shall:
 - 2.2.1. Maintain the Confidential Information in confidence, using such degree and care as is appropriate to avoid unauthorized use or disclosure;
 - 2.2.2. Not directly or indirectly disclose any Confidential Information to anyone outside of Publisher, except as needed to perform Publisher's obligations under this Agreement or with INSTITUTION's prior written consent, or as otherwise provided herein;
 - 2.2.3. Not make use of any Confidential Information for its own purposes or the benefit of anyone or any other entity other than INSTITUTION, except as permitted in Section 2.2.2; and
 - 2.2.4. Not take any act or omission with respect to the Confidential Information that is inconsistent with the terms of this Agreement.

2.3. **Return of Confidential Information.** Upon the termination or earlier expiration of this Agreement, or at any time INSTITUTION so desires, Publisher will, within a reasonable period of time and at Publisher's option, deliver to INSTITUTION or destroy all Confidential Information and copies thereof, including, but not limited to memoranda, notes, records, reports, media and other documents and materials which Publisher may then possess or have under its control. This provision shall not apply to the extent that Publisher is required to retain any such Confidential Information by any applicable law, rule or regulation, or by any internal record retention policy, or by any competent judicial, governmental, supervisory or regulatory body or by any backup computer systems that cannot be reasonably deleted.

2.4. **Disclosure of Confidential Information.** Publisher may disclose Confidential Information only as follows:

2.4.1 Publisher may disclose Confidential Information to its and its affiliates' employees, subcontractors, consultants and agents ("Personnel") having a need to use such information in furtherance of this Agreement. Publisher shall instruct all such Personnel as to their obligations under this Agreement and that they shall be bound by the terms and conditions of this Agreement. Publisher shall be responsible for all of its Personnel's compliance with the terms and conditions of this Agreement; and

2.4.2. Publisher may disclose Confidential Information if such disclosure is required by law. However, Publisher shall notify INSTITUTION in writing, in advance of such disclosure, and provide INSTITUTION with copies of any requirement so that it may take appropriate action to protect the Confidential Information.

2.5. **Relief.** Publisher shall promptly notify INSTITUTION in the event that it learns that any of its Personnel who has or had access to Confidential Information has violated the terms of this Agreement, and Publisher shall reasonably cooperate with INSTITUTION in regaining possession of the Confidential Information. This provision shall not in any way limit such other remedies as may be available to INSTITUTION at law or in equity.

3. General Provisions

3.1. **Term.** This Agreement shall be effective beginning on the Effective Date and shall continue for a period of one (1) year thereafter, and shall automatically renew for a term of one (1) year on each successive anniversary thereof, unless either Party provides the other with written notice of nonrenewal at least sixty (60) days prior to the end of the initial term or the then current renewal term. This Agreement shall automatically terminate in the event INSTITUTION ceases to utilize eBooks provided by Publisher pursuant to this Agreement.

3.2. **Notice.** Any and all notices shall be in writing and delivered in person, by overnight delivery or by facsimile transmission. For the purposes of notice, the addresses of the Parties, unless changed by formal notice, shall be as set forth in Exhibit B, attached hereto.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed, as of the day and year first written above.

PUBLISHER- Pearson Education, Inc.

Signed: _____
Printed Name: _____
Title: _____

A157BC31E4B2472...
Andrew P. Smedira

CFO

25 June 2015

University of Illinois at Urbana-Champaign

Signed: _____
Printed Name: _____
Title: _____

Bradley W Henson
Associate Director for
Contracts, Purchasing Division
2016.06.03 16:54:58 -05'00'

Exhibit A – Products

eBooks
MyLabs
Mastering

Exhibit B – Addresses of the Parties

To INSTITUTION:

University of Illinois Purchasing Division
1817 S Neil St, Suite 212
Champaign, IL 61820
Attn: Director

with a copy to:

Technology Services at Illinois
1304 W Springfield Ave
Urbana, IL 61801
Attn: Dean/Director

To Publisher:

Pearson Education, Inc.
330 Hudson Street
New York, NY 10013
Attn:

and a copy of notices only to:

Pearson Education, Inc.
200 Old Tappan Road
Old Tappan, NJ 07675
Attn: Associate General Counsel, North America

AMENDMENT No. #1
To Contract between the Board of Trustees of the University of Illinois
and
Pearson Education, Inc.

This Amendment No. #1 amends the Contract between The Board of Trustees of the University of Illinois and Pearson Education, Inc. that was effective on June 24, 2015 (CN-00018534).

1. In Article 3.1, the following sentence is added to the end of the paragraph: " This agreement shall automatically expire ten (10) years from the effective date, unless terminated at an earlier date based on the provisions of this contract."
2. Exhibit C FERPA Addendum to Services Agreement is hereby incorporated into the contract.

This amendment with its attachments incorporates the following into Contract # CN-00018534:

Exhibit C – FERPA Addendum to Services Agreement

All other terms of the original Contract remain unchanged. This amendment is effective on the date of final execution.

THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ILLINOIS

PEARSON EDUCATION, INC.

The Board of Trustees of the University of Illinois

By: 
Paul N. Ellinger, Interim Comptroller

By: 
Bradley Henson, Director of Purchasing

Paul N. Ellinger, Interim Comptroller

Date: 03/10/2022

By: 
[Robert Klein \(Mar 4, 2022 13:33 EST\)](#)

Title: Finance Director

Date: 03/04/2022

Robert Klein

Type or Print Name

EXHIBIT C

UNIVERSITY OF ILLINOIS
FERPA Addendum to Services Agreement # CN-
00018534

This Addendum (“Addendum”) supplements the services agreement (“Agreement”), entered into between Pearson Education, Inc. (“Service Provider”) and The Board of Trustees of the University of Illinois (“University”).

This Addendum is effective on the date of last signature.

In the case of a conflict between this Addendum and the Agreement, this Addendum shall control.

- 1. Role of Service Provider:** Service Provider performs an institutional service or function (“Services”) for University under the Agreement and is considered a “school official” under the Family Educational Rights and Privacy Act (“FERPA”).
- 2. Acknowledgment of CDI Access and Ownership:** The Agreement grants Service Provider access to covered data and information (“CDI”) provided by University and by its students, faculty, administrators, and staff (collectively “Constituents.”) CDI includes all paper and electronic information used, maintained, processed, transmitted, received, or created by Service Provider or University in connection with the Services, as well as all data and information shared with or entrusted to Service Provider by Constituents. All rights in CDI, including intellectual property rights, shall remain the exclusive property of the providing party.
- 3. Prohibition on Unauthorized Use or Disclosure of CDI:** Service Provider shall hold all CDI in strict confidence. Service Provider shall not use or disclose CDI except as expressly permitted or required by the Agreement, by this Addendum, or by law. Specifically, Service Provider shall not use or disclose CDI for Service Provider’s marketing or other commercial purposes. Service Provider shall protect all CDI according to commercially acceptable standards and no less rigorously than it protects its own confidential information.
- 4. Return or Destruction of CDI:** Upon termination or expiration of the Agreement, Service Provider shall return all CDI to University unless University requests that the CDI be destroyed. This provision also shall apply to all CDI in the possession of Service Provider’s subcontractors or agents, if any. Service Provider shall complete such return or destruction promptly after the conclusion of this Agreement. Service Provider shall certify in writing to University that return or destruction has been completed.
- 5. Remedies:** If University determines in good faith that Service Provider has materially breached any of its obligations under this Addendum, University, in its sole discretion, may require Service Provider to submit to a plan of monitoring and reporting; provide Service Provider with a 30-day period to cure the breach; or terminate the Agreement immediately if University determines cure is not possible. Before exercising any of these options, University shall provide written notice to Service Provider describing the violation and the action that University intends to take.
- 6. Maintenance of the Security of Electronic Information:** Service Provider shall develop, implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentiality, integrity, and availability of all electronically maintained or transmitted CDI received from or on behalf of University or Constituents. Service Provider shall extend the requirement

for these measures by contract to all subcontractors. Service Provider shall at all times store and process CDI so that it is subject to the legal jurisdiction of the United States of America and/or one or more of its states, and free from all foreign legal jurisdiction. Service Provider shall assure that transmission of CDI between Service Provider and University and Constituents is encrypted using a protocol acceptable to University (e.g., TLS, not SSL, and no weak cipher suites).

7. Reporting of Unauthorized Disclosures or Misuse of CDI: Within three (3) days after discovery, Service Provider shall report to University any use or disclosure of CDI not authorized under this Addendum. Service Provider's report shall identify: (i) the nature of the unauthorized use or disclosure; (ii) the CDI used or disclosed; (iii) what Service Provider has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and (v) what corrective action Service Provider has taken or shall take to prevent future similar unauthorized use or disclosure. Service Provider shall provide such other information, including a written report, as reasonably requested by University.

8. Compliance with Applicable Laws: Service Provider shall comply with all privacy and security laws applicable to its use, storage, maintenance, processing, transmission, and disposal of CDI, including but not limited to: FERPA, 20 U.S.C. § 1232g; and the Illinois Personal Information Protection Act (“PIPA”), 815 ILCS 530. In the event of a security breach within Service Provider's control that implicates either FERPA or PIPA, Service Provider shall bear all responsibility and expense for complying with the disclosure and notification requirements.

9. Assistance with Litigation: Service Provider shall make itself and its employees, subcontractors, and agents available to University, at no cost to University, to testify as witnesses, in litigation or administrative proceedings filed against the University, its trustees, officers, employees, or agents based upon an alleged violation of applicable laws arising out of this Agreement. The parties shall facilitate the lawful disclosure of CDI pursuant to any applicable laws or by request or order of any court, administrative body, or government agency; provided, however, that before making such a disclosure of CDI, Service Provider shall, to the extent legally permissible, give University and all affected Constituents prior written notice of the proposed disclosure, which must identify: the CDI that Service Provider intends to disclose; the legal authority under which Service Provider believes it is required to make such disclosure; the persons or entities to whom Service Provider intends to disclose the CDI; and the date on which Service Provider is required to make the disclosure.

10. Indemnity: Service Provider shall indemnify University from all liabilities and losses, including penalties, fines, reasonable attorney fees and related expenses and costs, arising from third party demands, claims, or lawsuits regarding Service Provider's negligent performance of or breach of Service Provider's obligations under this Agreement; provided that (i) University shall provide Service Provider with prompt written notice of any such claims, (ii) to the extent legally permissible, Service Provider shall be afforded the opportunity to manage the defense and/or settlement of any such claims, and (iii) University shall provide reasonable assistance, at Service Provider's expense, in the defense and/or settlement of such claims.

Each party has caused its authorized signatory to sign this Addendum on its behalf. If any conflict exists between the terms of the Agreement and this Addendum, this Addendum shall govern.

THE BOARD OF TRUSTEES
OF THE UNIVERSITY OF
ILLINOIS

The Board of Trustees of the University of Illinois

By: [REDACTED]
Paul N. Ellinger, Interim Comptroller

BY: Bradley Henson, Director of Purchasing

PEARSON EDUCATION, INC.

BY: [REDACTED]
Robert Klein (Mar 4, 2022 13:33 EST)

TITLE: Paul N. Ellinger, Interim Comptroller

TITLE: Finance Director

DATE: 03/10/2022

DATE: 03/04/2022

CN-00018534 Amendment 1- 439635_Pearson Education - Final Version for Signature 3-2-22

Final Audit Report

2022-03-04

Created:	2022-03-03
By:	patricia.leighton@pearson.com
Status:	Signed
Transaction ID:	CBJCHBCAABAA7SoT-uKvTlshtA3q1rzEGRfODtAcv8qx

"CN-00018534 Amendment 1- 439635_Pearson Education - Final Version for Signature 3-2-22" History

-  Document created by patricia.leighton@pearson.com
2022-03-03 - 11:01:37 PM GMT- [REDACTED]
-  Document emailed to Robert Klein (robert.klein@pearson.com) for signature
2022-03-03 - 11:02:45 PM GMT
-  Email viewed by Robert Klein (robert.klein@pearson.com)
2022-03-04 - 6:33:05 PM GMT- [REDACTED]
-  Document e-signed by Robert Klein (robert.klein@pearson.com)
Signature Date: 2022-03-04 - 6:33:39 PM GMT - Time Source: server- [REDACTED]
-  Agreement completed.
2022-03-04 - 6:33:39 PM GMT

MASTER LICENSE AGREEMENT
Contract No. LSR - 318381

This Master License Agreement ("Master Agreement") by and between **NCS Pearson, Inc.**, a Minnesota corporation, with its corporate offices located at 5601 Green Valley Drive, Bloomington, MN 55437 and its affiliates (hereinafter referred to individually and collectively as "Pearson") and **The Board of Trustees of the University of Illinois**, a non-profit university, with offices located at 901 S. Sixth Street, Champaign, IL 61820 ("Licensee"), is entered into as of the date of last signature ("Effective Date").

WHEREAS, Pearson is the owner of a copyright, or has obtained a license from the owner of the copyright, under which Pearson may itself, or may allow others to use, publish, translate and distribute the Test and/or the Test Data either in whole or in part (as hereinafter defined);

WHEREAS, Licensee, from time to time, may desire to obtain a non-exclusive, non-transferable, non-refundable, non-sublicensable limited license from Pearson in order to adapt, use, reproduce and administer the Test and/or the Test Data either in whole or in part; and

WHEREAS, Pearson is willing to grant to Licensee a non-exclusive, non-transferable, non-refundable, non-sublicensable limited license under the terms and conditions of this Master Agreement.

NOW THEREFORE, in consideration of the premises and the mutual agreements contained herein, the parties agree as follows:

TERMS AND CONDITIONS

1. **Definitions.** For purposes of this Master Agreement the following definitions will apply:
 - 1.1. "Additional License Fee" means the fee, as specified in a Statement of Work (SOW), that Licensee will pay to Pearson for any Use of the Test in excess of the number specified in the SOW.
 - 1.2. "Change Order" means written notice to the other party of any proposed change, modification or amendment to any SOW.
 - 1.3. "Contractor" means any individual or organization other than the Licensee that performs any portion of the Project.
 - 1.4. "Electronic Device" means a secure, password-protected portable tablet device which has a screen display of at least 9.4 by 6.6 inches so it is large enough for the materials to display appropriately (e.g., an iPad but not an iPad mini or an iPhone), a laptop computer, or desktop computer where the Licensed Materials will be hosted and administered.
 - 1.5. "Hosting Site" means the secure, password protected website with the URL address indicated on the applicable Statement of Work.
 - 1.6. "Intellectual Property (IP) Rights" means all intellectual property rights and interests including, without limitation: (i) all copyrights and copyrightable subject matter, including any and all worldwide applications, registrations, renewals, and extensions thereof and all rights of reproduction and publication, rights to create derivative works and all of the rights incident to copyright

ownership; (ii) all trade secrets, defined as any and all confidential information, technology, ideas, know-how, and proprietary processes and formulae; (iii) all inventions, designs, models, mask works, patents, and pending patent applications; (iv) all trademarks, tradenames, service marks, logos, and other commercial symbols of Pearson or its licensors, associated at any time with the Licensed Materials, whether registered or unregistered, and pending trademark applications applicable to the Licensed Materials; and (v) all causes of action heretofore and hereafter accrued in favor of the owner of such intellectual property rights for infringement of any one or all of the aforesaid intellectual property rights.

- 1.7. **“License”** means a non-exclusive, non-transferable, non-refundable, non-sublicensable limited license granted by Pearson to Licensee pursuant to a SOW to use the Licensed Materials subject to the terms of this Master Agreement and the applicable SOW.
- 1.8. **“License Fee”** means the non-refundable fee, as specified in an executed SOW, that is to be paid by Licensee to Pearson for the License.
- 1.9. **“Licensed Materials”** means, with respect to each License, the Test, the associated test scoring program, and the Test Data, either in whole or in part, as identified in the applicable SOW.
- 1.10. **“Licensed Use”** means the permission granted by Pearson to the Licensee in the applicable SOW.
- 1.11. **“Project”** means the project identified in a SOW and approved by Pearson.
- 1.12. **“Project Results”** means the participant data, and Licensee's analysis thereof, which Licensee gathers or develops during implementation of the Project and is therefore not a derivative of the Licensed Materials.
- 1.13. **“Site”** means the territories or remote locations, identified in a SOW, where the Test will (1) be administered or scored by Licensee or (2) be accessed via the Hosting Site/Electronic Device, if applicable.
- 1.14. **“SOW Expiration Date”** means the date upon which the License expires as specified in the applicable SOW.
- 1.15. **“Standardization Data”** means all raw forms, scores, and data collected during the standardization of a product and all results of analyses on the data for the purposes of test publication, this includes the normative data, clinical data, and validity data collected.
- 1.16. **“Statement of Work” or “SOW”** means the form, substantially in the form attached and incorporated herein as Exhibit A and as may be revised from time to time, to be completed by Licensee and approved by Pearson, containing details of the Project, the Licensed Materials and other terms relating to the grant of a License.
- 1.17. **“Test”** means the Pearson measure or scale, as well as associated Test Data, either in whole or in part, identified in a SOW. Unless the context requires otherwise, if the Project includes the use of a Translated Test, then all references to Test in the Master Agreement shall be construed and interpreted to include Translated Test.

- 1.18. "Test Data" means all Test items and related material created for or derived from the administration, scoring, reporting, and analysis of the Test; including but not limited to scales; raw scoring tables, algorithms, or instructions; normative data; Standardization Data; item weights; profiles; standard-score conversion tables; reference-sample norming tables; reporting formats; internal results (both published and unpublished), together with all revisions and derivative works of the foregoing. Notwithstanding the foregoing, Test Data does not include Project Results.
- 1.19. "Test Scoring Program" means an application that performs computerized administration and /or scoring of the Test, and includes all output (such as reports) generated by such application. If computerized administration and/or scoring is part of the Project, then the Test Scoring Program will either (1) be created by Licensee using Test Data provided by Pearson, or (2) be created by Licensee using, Test Data developed by Licensee pursuant to this License. In all cases, Licensee shall only use the Test Scoring Program for the sole purpose of scoring and analyzing the Test administered as part of the Project described in the SOW.
- 1.20. "Translated Test" means the translated or adapted version of the Licensed Materials which is either (1) provided by Pearson to Licensee or (2) created by the Licensee if such right is granted in the applicable SOW. Unless otherwise permitted in writing by Pearson, the Translated Test may only be utilized and administered during the specific Project named in the applicable SOW.
- 1.21. "Use of the Test" means a single administration of the Test in the modality specified in the applicable SOW to a single participant in a Project and the scoring of the results.

2. Grant of License.

- 2.1. Statements of Work. Licensee shall submit all requests for Licenses to Pearson by using a Statement of Work.
- 2.2. License. Subject to the terms and conditions of this Master Agreement, every SOW upon becoming effective as aforesaid, shall constitute the grant of a License.
- 2.3. Contractor's Confirmation. If Licensee employs or otherwise engages a Contractor to perform any task for which the Licensee would have required a License had Licensee performed the task itself, Licensee must obtain from each Contractor, and provide to Pearson upon request, a written confirmation that the Contractor agrees to be bound by the provisions of Sections 5.6 ('Audit Rights'), 6 ('Translated Test Quality'), 7 ('Proprietary Rights'), 8 ('Limitation on Exercise of Proprietary Rights'), 9 ('Proprietary Rights Notice'), and 10 ('Standards') of this Master Agreement as if all references to Licensee therein were references to Contractor.
- 2.4. Electronic Device / Hosting Site. If the Project identified in the applicable SOW includes Licensee placing the Licensed Materials on an Electronic Device or Hosting Site, then:
 - 2.4.1. Licensee is obligated to prevent anyone who has access to the Electronic Device and/or Hosting Site from downloading, copying, printing, or reproducing in any form whatsoever, the Licensed Materials. If required by Pearson, Licensee will review and provide responses to Pearson's platform security requirements questionnaire, and such responses will be incorporated into the applicable SOW as an Exhibit.

- 2.4.2. Licensee is obligated to immediately restrict access by each subject/examinee to the Licensed Materials appearing on the Electronic Device and/or Hosting Site upon his or her completion of the network administration of the Test.
 - 2.4.3. Licensee is solely responsible for determining whether the Hosting Site and related data processing activities are in accordance with all applicable laws and regulations.
 - 2.4.4. Pearson's permission for Licensee to use a particular Electronic Device and/or Hosting Site does not constitute an endorsement or recommendation of such Electronic Device and/or Hosting Site.
3. Change Orders. In the event Licensee or Pearson wishes to make a change to any SOW, the requesting party shall provide written notice to the other party in accordance with the procedures set forth below:
 - 3.1. A change proposed by either party shall be initiated by a Change Order to the other party which details the changes to the applicable SOW, including, but not limited to, a description of the change(s) and additional fees added to the SOW.
 - 3.2. Upon receipt of a Change Order, the receiving party shall use commercially reasonable efforts to respond promptly.
 - 3.3. All Change Orders must be executed by a duly authorized representative of each party in order to be effective. Upon full execution, such Change Order shall constitute an amendment to the SOW. Pearson is not obligated to grant any Change Order.
4. Term. The term of this Master Agreement will begin on the Effective Date and, subject to the early termination provisions contained in this Master Agreement, continue until three (3) years after the Effective Date (the "Initial Term"). Pearson and Licensee may extend and/or renew the Initial Term by written amendment.
 - 4.1. Licensee agrees, without qualification of any kind, to cease all activities covered by this Master Agreement upon the earlier to occur: (i) the SOW Expiration Date or (ii) termination of this Master Agreement, except as may be required in order to continue performing those activities pursuant to any and all surviving SOW(s). In the event of termination not caused by a violation of Section 14 ('Termination'), any Project with an active SOW which has not expired as of the date of the Master Agreement termination may continue until the SOW Expiration Date indicated in the applicable SOW executed by both parties. If this Master Agreement is terminated for any reason, no new SOWs will be issued.
5. License Fees; Taxes; Payments; Reporting; and Audit.
 - 5.1. License Fee. In exchange for the grant of the License, Licensee agrees to pay Pearson the License Fee(s), in accordance with Section 5.3 ('Payment').
 - 5.2. Taxes. All payments to Pearson specified in the applicable SOW are expressed as net amounts and will be made free and clear of, and without reduction for, any foreign or domestic taxes. Any tax handling will be in accordance with Pearson's tax policies and procedures.

- 5.3. Payment. The License Fee will be payable within thirty (30) days from the date the invoice is received by Licensee. Pearson will send invoices electronically or by Postal Service to the physical address and/or email address located in the applicable SOW.
- 5.4. Reporting. Within sixty (60) days after the earlier to occur of (i) the SOW Expiration Date, or (ii) termination of this Master Agreement in accordance with Section 14 ('Termination'), Licensee will deliver to Pearson a true and accurate report of the activities and number of Uses of the Test conducted by Licensee, pursuant to the SOW under this Master Agreement, so as to show a statement and accounting for each Use of the Test ("Report"). All Use of the Test in excess of the number specified in the applicable SOW will be accounted for in the Report and any fees due for excess use shall be payable to Pearson as specified in this Master Agreement.
- 5.5. Books and Records. Licensee will maintain books of account and records pertaining to its exercise of the rights granted under this Master Agreement in accordance with generally accepted accounting principles.
- 5.6. Audit Rights. Pearson will have the right to inspect and audit Licensee's books of accounts and business records and operations relating to Licensee's fulfillment of its obligations and exercise of the License, at the sole expense of Pearson. However, if such audit results in a finding by Pearson that Licensee underpaid Pearson by more than 10% or if Pearson conducts an audit due to Licensee's failure to provide the Report, Licensee will bear the cost of the audit and remit any unpaid amounts to Pearson within five (5) days. Pearson may utilize its own staff or independent certified public accountants to conduct such an inspection and audit. Any such inspection and audit will be conducted during normal business hours, at a time reasonably acceptable to Licensee, at the place(s) where such books, records and operations are normally maintained. The provisions of this Section 5.6 will survive for a period of three (3) years after termination of this Master Agreement.

6. Translated Test Quality. If the Project identified in the applicable SOW includes translation of the Test by Licensee, then the following provisions apply:

- 6.1. The Test shall be translated by Licensee, or under its direction and supervision, into the language in accordance with generally accepted translation standards and procedures, and in accordance with the standards of the American Psychological Association, as documented in the publication, Standards for Educational and Psychological Testing or the International Testing Commission Guidelines on Test Use. The translation(s) shall: (i) be done by a proficient and qualified speaker of the translation's respective language; and (ii) be done under the supervision of a qualified professional in the assessment of this content area.
- 6.2. Licensee shall, at Licensee's expense, have the translation reviewed by one or more individuals who are proficient in English and the translation's respective language and who are professionally qualified in the assessment of this content area, in order to help Licensee verify that the items of the Translated Test measure the same constructs as in English.
- 6.3. The Translated Test shall: (i) be grammatically correct; (ii) be accurate at the basic level of meaning; (iii) read naturally in the translated language; (iv) carry the same connotations as the original test; and (v) maintain the integrity of the underlying psychological or other clinical constructs assessed by the test.

6.4. A clean digital copy (in PDF or other mutually agreed upon format) of the validated Translated Test shall be provided to Pearson prior to use in the Project, together with a certificate of linguistic validity and, at the request of Pearson, a back translation into English with an explanation of any departures from a literal translation.

7. Proprietary Rights.

7.1. Proprietary Rights in the Licensed Materials. Licensee acknowledges that Pearson and its licensors claim valuable proprietary rights in the Licensed Materials including copyrights and/or trade secret rights. Licensee agrees that all Intellectual Property Rights in the Licensed Materials, and in any derivatives of the Licensed Materials, will be and remain in Pearson and its licensors. No ownership rights in and to the Licensed Materials are transferred to Licensee under this Master Agreement. Licensee will take such reasonable actions as may be required to protect the right, title, and interest of Pearson and its licensors in the Licensed Materials.

7.2. Notice of Potential Infringement. Licensee will immediately report to Pearson any infringement or unauthorized use of, or challenge to, the Licensed Materials or other Intellectual Property Rights of Pearson or its licensors of which Licensee becomes aware. Such a report should include: the license, the study, Test (including translations, if applicable), dates, and entities involved.

- i. Pearson has the sole discretion in determining whether any action will be taken on account of any infringement, unauthorized use, or challenge of such Licensed Materials or other intellectual property rights. Pearson will have no obligation or liability to Licensee with respect to any act or failure to act with respect to such infringement, unauthorized use, or challenge. Pearson will have the sole control over any legal actions it decides to bring.
- ii. At the request of Pearson, Licensee will execute and deliver any instruments and documents and render such assistance and do such acts as may be necessary or advisable, in the opinion of Pearson, to protect and maintain the right, title, and interest of Pearson and its licensors in the Licensed Materials and in the other intellectual property rights.
- iii. In the event that Licensee acquires an independent right to bring action(s) arising out of this Master Agreement, Licensee hereby agrees that Licensee will not initiate any such litigation without the prior written consent of Pearson.

7.3. Proprietary Rights in the Project Results. Subject to Pearson and/or Pearson's licensors' proprietary rights in and to the Licensed Materials, and subject further to the terms and conditions of this Master Agreement, Pearson agrees that Licensee will own all intellectual property rights in the Project Results. Upon completion of the Project, Licensee agrees to provide Pearson with a copy of any published Project Results, and hereby grants to Pearson a perpetual, royalty-free, non-exclusive license to use, reproduce, and distribute copies of the Project Results, to the extent that such Project Results relate to the Licensed Materials and subject to any third-party rights.

- i. Notwithstanding the foregoing, if Standardization Data is included in the applicable SOW as part of the Licensed Materials, then Licensee will (1) send to Pearson a copy of any Project Results (whether published or not) related to the use of the Standardization Data, (2) send for Pearson's review any report of the Licensed Use of the Standardization Data prior to publication by the Licensee and prior to presentation at any conference. Published

reports of the Licensed Use shall not include reproduction of any of the Standardization Data, actual test items, or answers thereto unless permission is explicitly granted in the applicable SOW.

- 7.4. **Proprietary Rights in Derivative Works**. If the Project in the applicable SOW includes creation of a derivative work by Licensee (such as a translation or adaptation of the Test, creation of a Test Scoring Program, or any other derivative of the Licensed Materials), then Licensee hereby transfers, conveys, grants, and assigns to Pearson and/or its licensors and shall, in the future, transfer, convey, grant, and assign to Pearson and/or its licensors, irrevocably and absolutely all right, title and interest, including all Intellectual Property Rights, in the derivative work free and clear of any encumbrance, security, interest, claims or rights of Licensee or any other persons whatsoever. Licensee warrants and agrees that it shall execute such additional documents and perform such additional acts as may be necessary or appropriate to enable Pearson or its licensors to perfect or protect the proprietary rights in the derivative work , including executing any agreements affirming proprietary rights or transfers of proprietary rights from any third party. More specifically, Licensee confirms and agrees that it has obtained or will obtain from its employees, Contractors, consultants and any other person who developed or will develop the derivative work all assignments required to assign the rights in such work as herein provided and agrees that it will obtain all assignments required to assign the rights in the derivative work (including a waiver of all claims to moral rights in and to the derivative work) to Pearson and/or its licensors in the future. Licensee agrees and confirms that Licensee and all independent contractors and other persons involved by Licensee in the creation or development of the derivative work shall provide all assistance and execute such documents as may reasonably be required by Pearson or its licensors for the establishment, preservation and enforcement of Pearson's and/or its licensors' Intellectual Property Rights in the derivative work without any cost to Pearson or its licensors, other than reimbursement of reasonable out of pocket expenses.
- 7.5. **Proprietary Rights in Derivative Works Where Copyright is Unassignable**. If the Project identified in the applicable SOW includes creation of a derivative work by Licensee (such as a translation or adaptation of the Test, creation of a Test Scoring Program, or any other derivative of the Licensed Materials), and if any portion of the derivative work cannot be assigned under applicable laws, Pearson is hereby granted an exclusive, world-wide, royalty free, sub-licensable, time-unlimited, irrevocable license for unlimited use in any form known or hereafter created to the derivative work. Licensee retains only a revocable nonexclusive right (excluding the right to reproduce any of the items in any publication) to use the derivative work solely in connection with the Project, which shall terminate upon the conclusion of the Project whereupon all unused copies of the derivative work shall be destroyed. No further use of the derivative work, including without limitation the distribution or publication thereof, is allowed. Licensee hereby agrees not to take any action to enforce any copyright or moral rights Licensee may have in the derivative work.
8. **Limitations on Exercise of Proprietary Rights**. Licensee agrees to the following limitations on its exercise of proprietary rights in and to the Licensed Materials except with the express written authorization of Pearson:
 - 8.1. Licensee agrees not to assign, license, or otherwise transfer to another, in any way, any rights to use, reproduce, publish, distribute, create derivative works of, or otherwise exercise proprietary rights in and to the Licensed Materials without the express written consent of Pearson.

- 8.2. Licensee agrees not to copy the Licensed Materials or create any derivative works of the Licensed Materials, except as expressly permitted by this Master Agreement.
 - 8.3. If Standardization Data is included in the applicable SOW and therefore falls under the definition of Licensed Materials, Licensee agrees that the Licensed Use specifically excludes any commercial use and excludes the right to print, reprint, publish, copy, sell, give away or otherwise distribute, or to translate, arrange, adapt, or revise, or to reproduce any portion of the data, either separately or as part of any other larger publication.
 - 8.4. Licensee agrees to cease all use of the Licensed Materials (including, but not limited to, all rights of use, reproduction, publication and distribution) upon any termination or expiration of this Master Agreement or an applicable SOW, whichever occurs last.
 - 8.5. The limitations of this Section will not apply to any materials or intellectual property contained in Licensee's Project, or Test Scoring Program if included in the SOW, which are not based on, or derived from, the Licensed Materials.
- 9.** Proprietary Rights Notice. Licensee agrees to include proprietary, copyright, and trademark notices as specified in the SOW on the Licensed Materials and any other document derived from or incorporating any part of the Licensed Materials whether fixed in a written, electronic, or other storage format in Licensee's possession or control.

10. Standards.

- 10.1. Ethical Standards: Licensee shall use the Licensed Materials in accordance with the principles of Ethical Standards of Psychologists or of the Licensee's professional field established by the American Psychological Association, the International Testing Commission Guidelines on Test Use, or the corresponding ethical body. Licensee further agrees that in exercising the rights under this Master Agreement it shall maintain the standards of test security, confidentiality and quality required by Licensee's own profession for the content, condition, and accuracy of all individual score reports prepared by Licensee.
- 10.2. If the Project identified in the applicable SOW includes Licensee's creation of a Test Scoring Program, then, without limiting the generality of the foregoing, Licensee agrees to use its best efforts to ensure that the following quality control standards are utilized with respect to the Test Scoring Program:
 - 10.2.1. Licensee shall utilize an effective system of correcting administration, analysis, scoring, and reporting where errors are detected.
 - 10.2.2. Licensee shall apply accurately all data used for developing derived scores, and such application shall be according to Pearson's rules for the specific form being scored.
 - 10.2.3. All computer programs used by Licensee for use in any phase of administration, scoring, or reporting shall be fully checked out and tested by Licensee on data. Such check out must include, but is not limited to, verification of both maximum and minimum input values.

10.2.4. All reporting forms and types of derived scores used by Licensee shall carry proper identification and shall be consistent with generally accepted psychometric standards.

10.2.5. Licensee shall make manual inspections, on a sampling basis, for accuracy of output reports and the derived scores contained therein.

11. Warranties

11.1. Warranty of Pearson

11.1.1. PEARSON MAKES NO WARRANTIES WITH REGARDS TO (1) THE USE OF ANY NON-PUBLISHED TRANSLATED VERSION OF THE TEST AS MAY BE LICENSED TO LICENSEE BY PEARSON IN A SOW, OR (2) THE RESULTS OBTAINED THROUGH LICENSEE'S USE OF THE LICENSED MATERIALS. SUBJECT TO THE FOREGOING, PEARSON WARRANTS THAT IT HAS THE RIGHT TO GRANT THE LICENSE SPECIFIED IN THE SOW TO LICENSEE AND THAT THE LICENSED MATERIALS DO NOT INFRINGE ON ANY VALID UNITED STATES LETTERS PATENT, COPYRIGHTS, TRADE SECRETS OR OTHER PROPRIETARY RIGHTS OF ANY THIRD PARTY ENFORCEABLE IN THE UNITED STATES, PROVIDED, HOWEVER, THAT THIS WARRANTY AND REPRESENTATION WILL NOT APPLY TO INFRINGEMENT RESULTING FROM (A) ANY ADDITIONS, MODIFICATIONS OR REVISIONS MADE BY LICENSEE; OR (B) THE COMBINATION OF THE LICENSED MATERIALS WITH OTHER ITEMS, SYSTEMS OR MATERIALS NOT SUPPLIED BY PEARSON. PEARSON MAKES NO OTHER WARRANTIES.

11.1.2. EXCEPT AS EXPRESSLY PROVIDED HEREIN, ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARISING OUT OF THIS MASTER AGREEMENT ARE HEREBY DISCLAIMED.

11.2. Warranty of Licensee. Licensee provides the following warranties:

11.2.1. Licensee shall be responsible for the content and quality of any materials produced, or modifications made to Licensed Materials, pursuant to the License grant contained herein (including but not limited to the answer sheets, record forms, booklets and other Test administration materials). Licensee warrants that such materials will be prepared in accordance with generally-accepted applicable professional standards, including, specifically, the *Guidelines for Computer-based Testing* published by the Association of Test Publishers and the *Standards for Educational and Psychological Testing* published by the American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, or the International Testing Commission Guidelines on Test Use.

11.2.2. Licensee warrants that any modifications to the Licensed Materials as prepared by Licensee, and permitted under the terms of this Master Agreement, will not infringe on any valid United States patent, copyright, trade secrets, or any other proprietary rights of any third party enforceable in the United States.

11.2.3. Licensee warrants that it will comply with all applicable United States export control laws, restrictions, and regulations. Licensee warrants that it will not export, or grant licenses for the use of, the Licensed Materials (including derivatives thereof) directly or indirectly to any country or foreign national for which any applicable United States statute or regulation requires an export license without first obtaining the necessary governmental license or approval.

11.2.4. Licensee warrants it will, at all times, comply with all applicable data protection and privacy laws and regulations as well as all applicable Pearson policies and procedures. This includes ensuring that appropriate mechanisms are put in place for relevant privacy related disclosures, and to record consent around processing and export of data where required.

11.2.5. If the Project identified in the applicable SOW includes Licensee's creation of Test Scoring Program, then the scope of Licensee's warranties contained in this Master Agreement shall be deemed to include the Test Scoring Program as if all references to Test or Test Data contained in this Section included a reference to the Test Scoring Program.

12. Indemnification.

12.1. Indemnification Responsibility of Licensee. Licensee shall indemnify Pearson against losses, liabilities, costs, and expenses it incurs as a result of third party claims and lawsuits arising from the negligent acts or omissions of Licensee in connection with this Master Agreement ("Claims"). Licensee shall defend Pearson against such Claims, provided that Pearson promptly notifies Licensee upon becoming aware of the Claim and cooperates fully in the defense. may select counsel that it determines to be appropriate for the defense. Pearson may participate in the defense with counsel of its choice at its sole expense. IF THE PROJECT IDENTIFIED IN THE APPLICABLE SOW INCLUDES LICENSEE'S CREATION OF TEST SCORING PROGRAM, THEN THE SCOPE OF LICENSEE'S INDEMNIFICATION OBLIGATIONS CONTAINED IN THIS MASTER AGREEMENT SHALL BE DEEMED TO INCLUDE THE TEST SCORING PROGRAM AS IF ALL REFERENCES TO TEST OR TEST DATA CONTAINED IN THIS SECTION INCLUDED A REFERENCE TO THE TEST SCORING PROGRAM.

12.2. Indemnification Responsibility of Pearson. PEARSON AGREES TO INDEMNIFY AND HOLD LICENSEE HARMLESS FROM ANY AND ALL THIRD-PARTY CLAIMS (INCLUDING ATTORNEYS' FEES INCURRED IN DEFENSE OR AWARDED BY A COURT OF COMPETENT JURISDICTION) ARISING OUT OF ANY BREACH OF THE WARRANTY AGAINST INFRINGEMENT MADE BY PEARSON IN SECTION 11.1 OF THIS MASTER AGREEMENT.

13. Limitation of Liability.

13.1. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS MASTER AGREEMENT, PEARSON WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, OR FOR ANY LOST BUSINESS, LOST PROFITS OR LOST SAVINGS ARISING OUT OF THIS MASTER AGREEMENT, EVEN IF ADVISED OF SUCH DAMAGES AND, TO THE EXTENT PERMITTED BY LAW, ANY STATUTORY REMEDIES THAT ARE INCONSISTENT WITH THE PROVISIONS OF THIS SECTION ARE WAIVED.

13.2. EXCEPT FOR THE INDEMNIFICATION RESPONSIBILITIES SET FORTH IN SECTION 12, IN NO EVENT WILL PEARSON'S LIABILITY UNDER EACH SOW EXCEED THE TOTAL AMOUNT OF LICENSE FEES RECEIVED BY PEARSON PURSUANT TO THE APPLICABLE SOW.

14. Termination.

14.1. **Termination for Default.** Either party ("Non-Breaching Party") will have the right to terminate this Master Agreement or an applicable SOW in the event the other party ("Breaching Party") is in material breach of this Master Agreement and fails to cure such breach within thirty (30) days after receipt of written notice from the Non-Breaching Party specifying, in reasonable detail, the breach. Notwithstanding the foregoing, Pearson will have the right to terminate this Master Agreement or an applicable SOW immediately, upon prior written notice and a ten (10) day right to cure, in the event Licensee is the Breaching Party with respect to any of the License terms in this Master Agreement.

14.2. **Termination for Insolvency and Business Dissolution.** This Master Agreement may be terminated by either party upon written notice to the other in the event the other party (i) becomes insolvent or bankrupt, (ii) if any proceedings are instituted by or against it for relief under laws relating to bankruptcy or insolvency, (iii) upon a general assignment by the other party for the benefit of its creditors, (iv) upon the appointment of a receiver or trustee or any of such party's property or assets, (v) if such party's business is dissolved, or (vi) if such party ceases to do business.

14.3. **Termination for Assignment of Rights.** This Master Agreement may be terminated by Pearson in the event Licensee assigns or transfers to any third party, any rights granted hereunder. In the event Licensee, or the assets of Licensee, are acquired by a third party, an assignment of rights will be deemed to have occurred and Pearson may, at its sole discretion, terminate the Master Agreement.

14.4. **Other Termination.** Pearson will have the right to terminate this Master Agreement or an applicable SOW upon thirty (30) days advance written notice to Licensee if Pearson's right to sublicense the Licensed Materials to Licensee is or is about to be terminated for any reason. Termination of this Master Agreement or an applicable SOW pursuant to this Section will not be deemed a breach of contract and all rights and responsibility will revert to the copyright owner.

15. Survival of Rights and Obligations. In the event of any termination of this Master Agreement, all rights, obligations and duties under this Master Agreement will terminate, provided, however, that:

15.1. Subject to the limitations contained in this Master Agreement, termination of this Master Agreement will not constitute any waiver of a party's rights or remedies at law or in equity to redress any breach of this Master Agreement by the other party.

15.2. Those Sections that by their nature are intended to survive termination or expiration of this Master Agreement shall so survive.

16. Effect of Termination. Upon the earlier to occur of (i) the Expiration Date of the Master Agreement or SOW, or (ii) termination of this Master Agreement or SOW in accordance with Section 14 ('Termination'), Licensee acknowledges or agrees to the following:

- 16.1. To immediately cease all exercise of any rights granted under this Master Agreement and applicable SOWs, including use of the Licensed Materials, and destroy the Test Data and all unused copies of the Test, including but not limited to all test administration materials.
- 16.2. Licensee may save one (1) print copy and two (2) electronic backup copies of the Test for archival purposes only. Licensee may only access the archival copy of the Test if required by regulatory agencies or by Licensee solely for the purposes of an audit. If Licensee requires further use of the Test after expiration of an applicable SOW, Licensee shall deliver to Pearson a Change Order to extend the original SOW for the period needed for the additional use which Pearson may grant in its sole discretion. For such use of the Test or Translated Test past the expiration of the SOW without a Change Order, as outlined in this Section 16.2, Pearson hereby disclaims Section 11.1 ('Warranty of Pearson'), and Pearson is released of any and all liability in connection with any proprietary right or contractual rights granted under this Master Agreement.
- 16.3. The rights specified in this Section may be exercised only if Licensee is not in default or breach of this Master Agreement and only to the extent that this Master Agreement has not been terminated pursuant to Section 14 ('Termination') due to breach or other default by Licensee.
- 16.4. If the Project identified in the applicable SOW includes Licensee placing the Licensed Materials on an Electronic Device or Hosting Site for hosting and administering, then Licensee will permanently remove (or have permanently removed) the Licensed Materials from the Electronic Device and/or Hosting Site within five (5) days of completion of the last licensed administration of the network version of the Test.
- 16.5. If the Project identified in the applicable SOW includes Licensee's creation of Test Scoring Program, then, subject to Licensee's right to use the Test Scoring Program it has developed to generate cumulative reports with respect to its Project, Licensee is obligated to immediately destroy such portions of the Test Scoring Program which are based on, or derived from, the Licensed Materials.
- 16.6. Upon Pearson's request, Licensee will provide Pearson with written certification with respect to Licensee's compliance with the terms of this Section.

17. General

- 17.1. Relationship of the Parties. Pearson is the Lessor of this Master Agreement to the Licensee and is not a vendor or Contractor. Further, the relationship between the parties established by this Master Agreement is that of independent contractors, and does not involve any community of interest, joint venture, or partnership between the parties. Pearson and Licensee will each conduct its respective businesses at its own initiative, responsibility and expense, and will have no authority to incur any obligations on behalf of the other. Neither party intends there to be any third-party beneficiaries to this Master Agreement.
- 17.2. Governing Law. This Master Agreement will be governed by, construed, and interpreted exclusively in accordance with the laws of the State of Illinois, without reference to its choice of law rules, and the parties expressly consent to venue in Illinois. Copyright, Trademark and Patent issues will be construed exclusively under U.S. Federal law.

- 17.3. **Assignment.** Neither this Master Agreement nor any right, license or privilege with respect to the intellectual property licensed hereunder may be assigned, conveyed, sublicensed or otherwise transferred by Licensee to a third party, without the express written consent of Pearson. Any attempt to do so will be void. Subject to the limitations of this Section, this Master Agreement will be binding on and will inure to the benefit of, the parties and their respective successors and assigns.
- 17.4. **Obligation to Monitor.** Licensee has the obligation to monitor its facilities, including any client and/or contractor facilities, and Project Site to ensure that no Use of the Test other than that authorized by the Master Agreement occurs. Pearson will have the right to make the final determination, in its sole discretion, as to whether Licensee's facilities are engaged in commercial scoring and other unauthorized use.
- 17.5. **Paragraph Headings.** The paragraph and section headings throughout this Master Agreement are for reference purposes only and will not be held to explain or aid in the interpretation, construction or meaning of the provisions of this Master Agreement.
- 17.6. **Modifications and Amendments.** Licensee or its Contractor, if applicable, shall have no right to make modifications to the Test without the express written authorization of Pearson. Neither this Master Agreement, nor any of the provisions hereof can be changed, waived, discharged or terminated, except by an instrument in writing signed by the parties, unless another procedure for modification of a provision of this Master Agreement or the Exhibits hereto is specifically authorized by this Master Agreement.
- 17.7. **Publications.** Licensee is hereby granted permission to use the Test names in any publication containing the results of the Project. Norms, item-level data, and item content must not be published in any medium other than the corresponding Test components.
- 17.8. **Severability.** In the event any clause or provision of this Master Agreement is held to be illegal, invalid or unenforceable under any present or future law, by a court of competent jurisdiction, the remainder of this Master Agreement will not be affected thereby and shall be enforced to the maximum extent possible. It is the intention of the parties that if any such provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provisions as is possible, legal, valid and enforceable.
- 17.9. **Equitable Relief.** In the event either party is in breach of any of the provisions of Sections 7 ('Proprietary Rights'), 8 ('Limitations on the Exercise of Proprietary Rights'), 9 ('Proprietary Rights Notice'), 10.1 ('Ethical Standards') or 17.3 ('Assignment') of this Master Agreement, the other party will be entitled to equitable relief without proving actual damages.
- 17.10. **Waiver.** A term, provision, covenant, representation, warranty, or condition of this Master Agreement may be waived only by written instrument executed by the Party waiving compliance. No waiver of any provisions of this Master Agreement, nor any failure or delay of any party in the enforcement or exercise of the rights granted under this Master Agreement will be deemed to be an ongoing waiver of such provision or rights nor shall it be considered as a basis for estoppel.
- 17.11. **Notices.** All notices required or permitted under this Master Agreement will be made in writing and will be deemed to have been duly given, when delivered, to the addresses set forth below:

If to Pearson:	If to Licensee:
<p>Attn: Pearson Legal NCS Pearson, Inc. 2510 N. Dodge Street Iowa City, Iowa 52245 LegalTSC@Pearson.com</p>	<p>Attn: University of Illinois at Urbana-Champaign 901 S. Sixth Street Champaign, Illinois 61820 channell@illinois.edu</p>

- 17.12. **Entire Agreement.** This Master Agreement (including any exhibits, annexes, schedules or addendums hereto) contains the entire agreement between the parties related to the matters set forth herein and supersedes all previous agreements, proposals, negotiations and correspondence between the parties whether oral or written related to the subject matter of this Master Agreement.
- 17.13. **Counterparts.** This Master Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. The parties agree that execution of this Master Agreement by electronic signature shall have the same legal force and effect as the exchange of original signatures and will constitute a properly executed, delivered, and binding agreement, and that in any proceeding arising under or relating to this Master Agreement, each party hereby waives any right to raise any defense or waiver based upon execution of this Master Agreement by means of such electronic signatures or maintenance of the executed Master Agreement electronically.
- 17.14. **Joint Preparation.** This Master Agreement shall be deemed for all purposes as prepared through joint efforts of the parties and shall not be construed against any one party as a result of the preparation, submittal, or other event of negotiation, drafting, or execution hereto.
- 17.15. **Further Assurances.** Each Party will take any actions necessary and will sign any documents necessary to implement the terms of this Master Agreement. Unless otherwise provided in this Master Agreement, all Parties within thirty (30) days of their receipt of a written request for such documents from a Party shall prepare and execute such documents.
- 17.16. **Authority to Bind.** Each party and the individuals signing below on its behalf certify that this Master Agreement is intended to be a binding contract and that the signatories are authorized to act in the capacities indicated. In addition, Exhibit A: Statement of Work and Exhibit B: Certifications are incorporated into and become a permanent part of the Master Agreement.

IN WITNESS WHEREOF, the parties have agreed and executed this Master Agreement as of the date of last signature below.

**THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ILLINOIS**

NCS PEARSON, INC.

The Board of Trustees of the University of Illinois

By: _____
Paul N. Ellinger, Interim Comptroller

Signature: _____
Bradley Henson, Director of Purchasing

Name: Paul N. Ellinger

Title: Interim Comptroller

Date: 01/18/2022

Signature: _____
Randall T. Trask (Jan 14, 2022 13:39 MST)

Name: Randall T. Trask

Title: Senior Vice President

Date: 01/14/2022

Master License Agreement between University of Illinois at Urbana-Champaign and NCS Pearson, Inc.

Final Audit Report

2022-01-14

Created:	2022-01-13
By:	lisa.nguyen@pearson.com
Status:	Signed
Transaction ID:	CBJCHBCAABAAQWB8nKB_5GKjcpYjyYBJ3X2HaOO1gQVK

"Master License Agreement between University of Illinois at Urbana-Champaign and NCS Pearson, Inc." History

-  Document created by lisa.nguyen@pearson.com
2022-01-13 - 10:44:21 PM GMT- [REDACTED]
-  Document emailed to Randall T. Trask (randy.trask@pearson.com) for signature
2022-01-13 - 10:45:08 PM GMT
-  Email viewed by Randall T. Trask (randy.trask@pearson.com)
2022-01-14 - 8:38:46 PM GMT- [REDACTED]
-  Document e-signed by Randall T. Trask (randy.trask@pearson.com)
Signature Date: 2022-01-14 - 8:39:09 PM GMT - Time Source: server- [REDACTED]
-  Agreement completed.
2022-01-14 - 8:39:09 PM GMT

EXHIBIT A

Statement of Work (SOW) No. __ (LSR-____)

to Master License Agreement (LSR-318381)

This SOW is made pursuant to Master License Agreement (Contract No. LSR-318381) dated _____, 202_____, between the parties identified below (the “Agreement”). Capitalized terms used in this SOW and not defined herein are used with the meanings ascribed to them in the Agreement.

- 1. Term.** Provided the Agreement has been fully executed, this SOW will become effective as of the date of its signature by Pearson and will expire on the SOW Expiration Date specified in Section 2 below.
- 2. Study Tracking Information /Project Information.**

Research Project Name / Description:

INSERT

SOW Expiration Date	
Sponsor	

Research Site Location(s)	
Principal Investigator or Academic Supervisor	

Platform	
Hosting Site URL	
Electronic Tablet Device(s)	

<u>SOW Contact Person</u>	
Name	
Title/Position	
Organization	
Phone	
Email	

- 3. Grant of License.** Subject to all terms, conditions, and limitations of the Agreement and as set out in this SOW, Pearson hereby grants to Licensee the limited, non-exclusive, non-transferable, non-refundable, non-sublicensable license specified below (the “License”). The License extends

solely to Licensee's own activities at the Research Site Location(s) and solely for the purpose of the Research Project described in Section 2 of this SOW.

4. Licensed Material(s); Licensed Number of Uses and Reproductions; Fees.

4.1. The License permits Licensee to [DELETE N/A AND RE-NUMBER X's]

- (x) adapt/translate the Licensed Material(s) into [LANGUAGE] for [CLUTURE]; *[in the sample table below, it's 'Afrikaans']*;
 - (x) when licensed for paper modality, reproduce one hard copy of the relevant Licensed Material for the administration of each of the Licensed Number of Uses set out in the corresponding column of Table 4.A below;
 - (x) adapt the instructions and items for the Licensed Material(s) for use in a digital format;
 - (x) load the adapted instructions and items for the Licensed Material(s), in the exact order and form that they appear in the Test(s) as published [OR PROVIDED] by Pearson, onto the Platform to create an online administration version of the Licensed Material(s), as part of a battery of measures that can be accessed through the Hosting Site;
 - (x) load the adapted instructions and items for the Licensed Material(s), in the exact order and form that they appear in the Test(s) as published [OR PROVIDED] by Pearson, onto the Electronic Tablet Device(s), which must not have screens smaller than 9.4 x 6.6 inches;
 - (x) administer the Licensed Material(s) in the modality(ies)/language(s) up to the Licensed Number of Uses set out in the corresponding columns of Table 4.A below;
 - (i) test subjects must access the Licensed Material(s) using unique User IDs and passwords;
 - (ii) test subjects must not be able to download, reproduce, cut/copy/paste, or screen print the Licensed Material(s);
 - (x) manually score the pencil/paper administrations of the Licensed Material(s); and
 - (x) create and use a Test Scoring Program to score digital administrations of the Licensed Material(s).
- 4.2. If Licensee is authorized by this SOW to adapt, reproduce and/or administer the Licensed Material(s) in a digital format, then
- (a) Licensee's representations made in and responses to Appendix A to Licensee's license application form constitute part of this SOW and are incorporated herein by reference;
 - (b) Licensee is not permitted to record any Test(s) administration(s); and
 - (c) Licensee is solely responsible for managing and maintaining any and all data collected and for ensuring that any such data is collected, processed, and used in accordance with all applicable laws and regulations.

Table 4.A LICENSED MATERIAL(S) / USE OF THE TEST(S)

Test Acronym & Portion [or Component]	Language	Modality	Licensed Number of Uses	Fee Per Use	Subtotal Use Fees

Total Use Fees					

4.3. Page Reproductions. The License permits Licensee to [translate and] reproduce specific portions of the Licensed Materials(s) up to the number of times set out in the corresponding columns of Table 4.B below.

Table 4.B LICENSED MATERIAL(S) / REPRODUCTIONS				
Test & Portion/ Component/Language	Page Numbers to be Reproduced	Total Number of Pages	Number of Sets	Subtotal Reproduction Fees
Total Reproduction Fees				

5. Pricing and Fee Summary.

Payment terms are set forth in Section 5.2 of the Agreement and any applicable exhibits, addenda, and schedules.

Table 5.1 FEE SUMMARY	
Total Use Fees	
Total Reproduction Fees	
TOTAL License Fee	

6. Billing Address and E-mail Address.

Organization:	
Attention:	
Street:	
City, State, Postal Code:	
Country:	
Phone:	
Email:	
Is a Purchase Order required (Y/N)?	

Purchase Order Number (if available):	
--	--

The invoice will be sent by email unless Licensee requests to be invoiced via postal service.

7. Trademark and Copyright Notices.

[If Pearson Published Test(s):]

Language Version(s)	Copyright Notice
	<p>[EXAMPLE] Insert © date/notice from original Pearson Test piece. Digital adaptation © 2020 NCS Pearson Inc. All rights reserved. Adapted and used under license #LSR-_____.</p> <p>[EXAMPLE] Children's Assessment of Participation and Enjoyment and Preferences for Activities of Children (CAPE/PAC). Copyright © 2004 NCS Pearson, Inc. Spanish translation © 2020 NCS Pearson, Inc. All rights reserved. Translated and used under license # LSR-_____.</p>

[If Pearson is providing a copy of certified, Previously Translated Test(s):]

Language	Copyright Notice
	Insert © date/notice from original Pearson Test piece. Insert © date/notice from certified XL piece and model on [EXAMPLES] above.

[If Licensee is being licensed to Translate a Test(s):]

Language	Copyright Notice
	Insert © date/notice from original Pearson Test piece. [Language] translation © XXXX [date here = year the new translation is first published. © Owner will = owner of orig ©] and model on [EXAMPLES] above. All rights reserved. Translated and used under license # LSR-_____.

Trademark Notice(s)

- 8. Conflict of Terms.** For this SOW, the terms and conditions of the Agreement continue in full force and effect. In the event of a conflict or an inconsistency between the terms of the Agreement and the terms of this SOW, the terms and provisions contained in this SOW shall prevail.

IN WITNESS WHEREOF, the parties have agreed and executed this SOW as of the date signed below by Pearson.

NCS PEARSON, INC.

By: _____

Name: Randall T. Trask

Title: Senior Vice President

Date: _____

**THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ILLINOIS**

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A- Certifications

Vendor acknowledges and agrees that compliance with this subsection in its entirety for the term of the contract and any renewals is a material requirement and condition of this contract. By executing the contract Vendor certifies compliance with this subsection in its entirety, and is under a continuing obligation to remain in compliance and report any non-compliance.

This subsection, in its entirety, applies to subcontractors used on the contract. Vendor shall include these Standard Certifications in any subcontract used in the performance of the contract using the Standard Subcontractor Certification form provided by the University.

If this contract extends over multiple fiscal years, including the initial term and all renewals, Vendor and its subcontractors shall confirm compliance with this section in the manner and format determined by the University by the date specified by the University and in no event later than July 1 of each year that this contract remains in effect.

If the Parties determine that any certification in this section is not applicable to this contract it may be stricken without affecting the remaining subsections.

1. As part of each certification, Vendor acknowledges and agrees that should Vendor or its subcontractors provide false information, or fail to be or remain in compliance with the Standard Certification requirements, one or more of the following sanctions will apply:

- a. the contract may be void by operation of law,
- b. the Chief Procurement Officer may void the contract, and
- c. the Vendor and its subcontractors may be subject to one or more of the following: suspension, debarment, denial of payment, civil fine, or criminal penalty.

Identifying a sanction or failing to identify a sanction in relation to any of the specific certifications does not waive imposition of other sanctions or preclude application of sanctions not specifically identified.

2. Vendor certifies it and its employees will comply with applicable provisions of the United States Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and applicable rules in performance of this contract.

3. **This applies to individuals, sole proprietorships, partnerships and LLCs, but is not otherwise applicable.** Vendor, if an individual, sole proprietor, partner or an individual as member of a LLC, certifies he/she is not in default on an educational loan. 5 ILCS 385/3.

4. Vendor certifies that, for the duration of this contract it will:

- a) post its employment vacancies in Illinois and border states on the Department of Employment Security's IllinoisJobLink.com website or its successor system; or
- b) will provide an online link to these employment vacancies so that this link is accessible through the IllinoisJobLink.com website or its successor system; or
- c) is exempt from 20 ILCS 1005/1005-47 because the contract is for construction-related services as that term is defined in section 1-15.20 of the Procurement Code; or the contract is for construction and vendor is a party to a contract with a bona fide labor organization and performs construction. (20 ILCS 1005/1005-47)

5. **This applies only to certain service contracts and does NOT include contracts for professional or artistic services.** To the extent there was a current Vendor providing the services covered by this contract and the employees of that Vendor who provided those services were covered by a collective bargaining agreement, Vendor certifies (i) that it will Offer to assume the collective bargaining obligations of the prior employer, including any existing collective bargaining agreement with the bargaining representative of any existing collective bargaining unit or units performing substantially similar work to the services covered by the contract subject to its bid or Offer; and (ii) that it shall Offer employment to all employees currently employed in any existing bargaining unit who perform

substantially similar work to the work that will be performed pursuant to this contract. This does not apply to heating, air conditioning, plumbing and electrical service contracts. 30 ILCS 500/25-80.

6. Vendor certifies it has neither been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other State, nor made an admission of guilt of such conduct that is a matter of record. 30 ILCS 500/50-5.
7. If Vendor has been convicted of a felony, Vendor certifies at least five years have passed after the date of completion of the sentence for such felony, unless no person held responsible by a prosecutor's office for the facts upon which the conviction was based continues to have any involvement with the business. 30 ILCS 500/50-10.
8. If Vendor or any officer, director, partner, or other managerial agent of Vendor has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, Vendor certifies at least five years have passed since the date of the conviction. Vendor further certifies that it is not barred from being awarded a contract. 30 ILCS 500/50-10.5.
9. Vendor certifies it is not barred from having a contract with the State based upon violating prohibitions related to submitting/writing specifications or providing assistance to an employee of the State of Illinois by reviewing, drafting, directing or preparing any invitation for bid, request for proposal, or request for information or similar assistance (except as part of a public request for such information. 30 ILCS 500/50-10.5(e)).
10. Vendor certifies that it and its affiliates are not delinquent in the payment of any debt to the University or the State (or if delinquent, has entered into a deferred payment plan to pay the debt). 30 ILCS 500/50-11, 50-60.
11. Vendor certifies that it and all affiliates shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with provisions of the Illinois Use Tax Act. 30 ILCS 500/50-12.
12. Vendor certifies that it has not been found by a court or the Pollution Control Board to have committed a willful or knowing violation of the Environmental Protection Act within the last five years, and is therefore not barred from being awarded a contract. 30 ILCS 500/50-14.
13. Vendor certifies it has neither paid any money or valuable thing to induce any person to refrain from bidding on a State contract, nor accepted any money or other valuable thing, or acted upon the promise of same, for not bidding on a State contract. 30 ILCS 500/50-25.
14. Vendor certifies it is not in violation of the "Revolving Door" provision of the Illinois Procurement Code. 30 ILCS 500/50-30.
15. Vendor certifies that it has not retained a person or entity to attempt to influence the outcome of a procurement decision for compensation contingent in whole or in part upon the decision or procurement. 30 ILCS 500/50-38.
16. Vendor certifies it will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anti-competitive practice among any bidders, Offerors, contractors, proposers, or employees of the State. 30 ILCS 500/50-40, 50-45, 50-50.
17. Vendor certifies steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the executive head of the procuring University grants an exception in writing. 30 ILCS 565.
18. Drug Free Workplace
 - 18.1 If Vendor employs 25 or more employees and this contract is worth more than \$5,000, Vendor certifies it will provide a drug free workplace pursuant to the Drug Free Workplace Act. 30 ILCS 580

- 18.2 If Vendor is an individual and this contract is worth more than \$5,000, Vendor certifies it shall not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance during the performance of the contract.
19. Vendor certifies that neither Vendor nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the United States Department of Commerce. 30 ILCS 582.
20. Vendor certifies it has not been convicted of the offense of bid rigging or bid rotating or any similar offense of any state or of the United States. 720 ILCS 5/33 E-3, E-4.
21. Vendor certifies it complies with the Illinois Department of Human Rights Act and rules applicable to public contracts, which include providing equal employment opportunity, refraining from unlawful discrimination, and having written sexual harassment policies. 775 ILCS 5/2-105.
22. Vendor certifies it does not pay dues to or reimburse or subsidize payments by its employees for any dues or fees to any "discriminatory club." 775 ILCS 25/2.
23. Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the University under the contract have been or will be produced in whole or in part by forced labor or indentured labor under penal sanction. 30 ILCS 583.
24. Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the University under the contract have been produced in whole or in part by the labor or any child under the age of 12. 30 ILCS 584.
25. Vendor certifies, if it owns residential buildings, that any violation of the Lead Poisoning Prevention Act has been mitigated. 410 ILCS 45.
26. **This applies to information technology contracts and is otherwise not applicable.** Vendor certifies that information technology, including electronic information, software, systems and equipment, developed or provided under this contract comply with the applicable requirements of the Illinois Information Technology Accessibility Act Standards as published at (www.dhs.state.il.us/iitaa). 30 ILCS 587.
27. Vendor certifies that if it is awarded a contract through the use of the preference required by the Procurement of Domestic Products Act, then it shall provide products pursuant to the contract or a subcontract that are manufactured in the United States. 30 ILCS 517.
28. Conflict of Interest. Vendor is under no legal prohibition on contracting with the State of Illinois and has no known conflicts of interest. In addition, Vendor has disclosed, if required, on forms provided by the University, and agrees it is under a continuing obligation to disclose to the University, financial or other interests (public or private, direct or indirect) that may be a potential conflict of interest or that would prohibit Vendor from having or continuing the Contract.
29. Vendor certifies in relation to Medicare/Medicaid and other federal debarments that neither Vendor nor any of its employees or subcontractors who may provide services pursuant to this Contract is currently subject of an investigation or proceeding to exclude it as a provider under Medicare or Medicaid or under any other federal or state health care program or under any third party insurance program, nor is it currently excluded or debarred from submitting claims to Medicare or Medicaid or to any other federal or state health care program or to any third party insurer. Vendor represents and warrants it has checked the U.S. General Service Administration's (GSA) Excluded Party Listing System (EPLS), which lists parties excluded from federal procurement and non-procurement programs. The EPLS website includes GSA/EPLS, the U.S. Department of Health and Human Services (HHS) Office of Inspector General's (OIG) List of Excluded Individuals/Entities (LEIE), and the Department of Treasury's (Treasury) Specially Designated Nationals (SDN) list. Vendor further represents and warrants it has checked the Illinois Department of Public Aid (IDPA) OIG Provider Sanctions list of individuals and entities excluded from state procurement with respect to Vendor's employees and agents. See the following websites: <https://www.sam.gov/> and

<http://www.state.il.us/agency/oig/search.asp>. University will terminate Contract without penalty to University if Vendor becomes excluded during the life of this Contract.

30. Vendor certifies in relation to supply of medical goods and services that such goods and services will be provided in accordance with all applicable legal requirements, including the laws at issue under the Public Law No. 109-171 - Deficit Reduction Act of 2005 (DRA) with respect to the establishment and dissemination of written policies for detecting and preventing waste, fraud and abuse as addressed in the University policies and code of conduct.
31. Vendor certifies that it has read, understands and is in compliance with the registration requirements of the Illinois Elections Code (10 ILCS 5/9-35) and the restrictions on making political contributions and related requirements of the Illinois Procurement Code. 30 ILCS 500/20-160 and 50-37. Vendor will not make a political contribution that will violate these requirements.

In accordance with section 20-160 of the Illinois Procurement Code, Vendor certifies as applicable:

- Vendor is not required to register as a business entity with the State Board of Elections.**
- Vendor is a not-for-profit entity.**
- or
- Vendor does not have pending and/or current bids/proposals and contracts which in the aggregate exceed \$50,000 annually. (If this solicitation has an estimated annual value of \$50,000 or more, or when vendor's pending and/or current bids/proposals, contracts and orders in the aggregate exceed \$50,000 annually, vendor must register.)**
-  **Vendor has registered with the State Board of Elections. As a registered business entity, Vendor acknowledges a continuing duty to update the registration as required by the Act. (include a copy of Vendor's registration certificate)**

32. In accordance with 30 ILCS 500/50-36, each bid, Offer, or proposal submitted for a State contract, other than a small purchase defined in Section 20-20 of the Illinois Procurement Code, shall include a disclosure of whether or not the bidder, Offeror, or proposing entity, or any of its corporate parents or subsidiaries, within the 24 months before submission of the bid, Offer, or proposal had business operations that involved contracts with or provision of supplies or services to the Government of Iran, companies in which the Government of Iran has any direct or indirect equity share, consortiums or projects commissioned by the Government of Iran and:
 - more than 10% of the company's revenues produced in or assets located in Iran involve oil-related activities or mineral-extraction activities; less than 75% of the company's revenues produced in or assets located in Iran involve contracts with or provision of oil-related or mineral – extraction products or services to the Government of Iran or a project or consortium created exclusively by that Government; and the company has failed to take substantial action; or
 - the company has, on or after August 5, 1996, made an investment of \$20 million or more, or any combination of investments of at least \$10 million each that in the aggregate equals or exceeds \$20 million in any 12- month period that directly or significantly contributes to the enhancement of Iran's ability to develop petroleum resources of Iran.

 **There are no business operations that must be disclosed to comply with the above cited law.**

or

The following business operations are disclosed to comply with the above cited law: _____

33. A person (other than an individual acting as a sole proprietor) must be a duly constituted legal entity and authorized to do business in Illinois prior to submitting a bid or Offer. 30 ILCS 500/20-43. If you do not meet these criteria, then your bid or Offer will be disqualified.

Vendor must make one of the following four certifications by checking the appropriate box. If C or D is checked, then Vendor must attach to this form the requested documentation.

- A. Vendor certifies it is an individual acting as a sole proprietor and is therefore not subject to the requirements of section 20-43 of the Procurement Code.
- B. Vendor certifies that it is a legal entity, and was authorized to do business in Illinois as of the date for submitting this bid or Offer. The State may require Vendor to provide evidence of compliance before award.
- C. Vendor certifies it is a legal entity, and is a foreign corporation performing activities that do not constitute transacting business in Illinois as defined by Illinois Business Corporations Act (805 ILCS 5/13.75). A vendor claiming exemption under the Act must include a detailed explanation of the legal basis for the claim with its bid or Offer and must provide additional detail upon request. If Vendor fails to provide the mandatory documentation with the bid or Offer, or does not provide additional detail upon request within the timeframe specified in said request, then the State may deem the Vendor as being non-responsive or not responsible and may disqualify the Vendor.
- D. Vendor certifies it is a legal entity, and is an entity otherwise recognized under Illinois law as eligible for a specific form of exemption similar to those found in the Illinois Business Corporation Act (805 ILCS 5/13.75). A vendor claiming exemption under a specific law must provide a detailed explanation of the legal basis for the claim with its bid or Offer and must provide additional detail upon request. If Vendor fails to provide the mandatory documentation with the bid or Offer, or does not provide additional detail upon request within the timeframe specified in said request, then the State may deem the Vendor as being non-responsive or not responsible and may disqualify the Vendor.

34. The Vendor (and any Subcontractors) is required under 30 ILCS 500/20-65 to maintain, for a period of three (3) years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the University under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the University and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Vendor agrees to cooperate fully with any audit and to provide full access to all relevant materials. Failure to maintain the required books and records shall establish a presumption in favor of the University for the recovery of any funds paid by the University under this Contract for which adequate books and records are not available

Duration: Instructure may begin providing the services on the later of: (i) ninety (90) days prior to the earliest start date; or (ii) the date of the last signature on this Order Form ("Effective Date"). Notwithstanding the foregoing, any third-party content purchased under this order form will be made available on the applicable start date listed above.

Miscellaneous: Instructure's support terms are available as follows:

Canvas & Catalog: <https://www.canvaslms.com/policies/support-terms>

Bridge: <https://www.getbridge.com/support-terms>

Portfolio: <https://portfolio.com/support-terms>

MasteryConnect: <https://www.masteryconnect.com/support/>

As part of our commitment to provide the most innovative and trusted products in the industry, at times we must increase our renewal rates to cover additional costs associated with developing and maintaining our products. If you have concerns with any increases, please reach out to your account representative.

Notes

Procurement and pricing provided via IPHEC award number IPHEC2008.

Initial agreement to changes above  AG

Billing Frequency Term:

Non-Recurring items will be invoiced upon signing. Recurring items will be invoiced 30 days prior to the annual start date.

PURCHASE ORDER INFORMATION

Is a Purchase Order required for the purchase or payment of the products on this order form?

Please Enter (Yes or No): _____

If yes, please enter PO Number: _____

TAX INFORMATION

Check here if your company is tax exempt: _____

Please email any/all exemption certifications to ar@instructure.com.

By executing this Order Form, each party agrees to be legally bound by this Order Form and the applicable terms and conditions - as attached.

The Board of Trustees of the University of Illinois

Instructure, Inc.

Signature: 

Avijit Ghosh, Comptroller
Signature of Comptroller Delegato
Jill Monozos, Director of Purchases

Date: 6/23/20

Signature: 

Name: Elizabeth Powell

Title: Sp. Manager, Legal Dept

Date: June 22, 2020

President, Timothy L. Killeen 

Signature of President Delegate, Gerard Joseph,
Associate Provost for Budget & Administrative Planning

Chief Legal Counsel, Thomas Bearrow 

Signature of Chief Legal Counsel, Rhonda Perry,
University Legal Counsel