

## E-LEARNING PROGRAM

### DEVELOPMENT AND DISTRIBUTION AGREEMENT

This e-Learning Program Development and Distribution Agreement (hereinafter the "Agreement") is entered into effective the \_\_\_\_\_ day of \_\_\_\_\_, 2005 by and between Compass Knowledge Group, Inc. (the "Company") and the University of Cincinnati on behalf of the College of Nursing ("UC").

WHEREAS, UC's faculty has developed the curriculum and content (the "Content") for a Master of Science in Nursing Degree Program in Nurse-Midwifery or Women's Health (the "Program") which has been historically taught by UC in a classroom setting utilizing traditional teaching methods; and

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

WHEREAS, the Parties are desirous of entering into this Agreement for the purposes described herein.

NOW THEREFORE, in consideration of \$10.00 and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged the Parties agree as follows:

#### ARTICLE 1

##### PURPOSE AND SCOPE

###### **1.1 Purpose.** The Parties hereto are hereby contracting for the purpose of:

- (a) designing, developing, administering, managing, marketing, selling and distributing an e-Learning program throughout the Territory utilizing the Content and Derivative Works from the Content (hereinafter the "e-Learning Program") and in connection therewith providing additional products and services;
- (b) sharing materials, methods, information, resources, expertise and services with respect to the foregoing;
- (c) educating, training and granting, upon satisfaction of criteria established by UC, educational credits and a Master of Science in Nursing Degree Program in Nurse-Midwifery or Women's Health to the e-Learning Program Students and to perform those attendant services in connection therewith;
- (d) working together in a manner that is consistent with the foregoing; and
- (e) establishing a Steering Committee to recommend guidelines and manage the foregoing.

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

**1.2 Scope.** The relationship between the Parties and the Project is limited solely to the activities, rights and obligations as set forth in this Agreement. Nothing in this Agreement shall be construed (i) to create or imply a general partnership, limited partnership or other legal entity between the Parties, (ii) to make either Party the agent of the other for any purpose, (iii) to alter, amend, supersede or vitiate any other arrangements between the Parties, (iv) to give either Party the right to bind the other, (v) to create any duties or obligations between the Parties except as expressly set forth herein, (vi) to grant any direct or implied licenses or any other right other than as expressly set forth herein or (vii) to prohibit or restrict the business activities of either party except as may be otherwise specifically stated herein.

**1.3 Compliance with Laws.** In carrying out its responsibilities under this Agreement, each Party agrees that, in all material respects, its activities will be conducted in compliance with all applicable laws, rules and regulations in jurisdictions in which the activities are conducted.

**1.4 Use of Third Parties.** Except as otherwise expressly prohibited herein, either Party may utilize the products and services of third parties in connection with the duties to be provided by such Party hereunder.

**1.5 Administration; Development Plan.** The e-Learning Program and the Project operations shall be administered by the Steering Committee in accordance with the provisions of Article 3 hereof. The Parties have adopted a development plan for the e-Learning Program which is set forth in the Prospectus attached hereto as Exhibit "A" (the "Development Plan") that includes a detailed description of the steps to be taken by the Parties to complete the development and deployment of the e-Learning Program including the responsibilities of each Party, a schedule for completing the development of the e-Learning Courses and operational and maintenance requirements with respect to the e-Learning Program. Each Party will use commercially reasonable efforts to implement and execute the Development Plan in accordance with the terms of this Agreement. Should a clear conflict exist or occur between this Agreement and the Development Plan, this Agreement shall control. In the event of an ambiguity between the Development Plan and this Agreement, the ambiguity shall be resolved in accordance with Sections 3.5 and 3.6 of this Agreement.

**1.6 Nature of Interests.** The interests of the Parties with respect to this Agreement shall be personal property for all purposes. Unless otherwise specifically agreed, all property owned by a Party, whether real or personal, tangible or intangible, shall continue to be the exclusive property of such Party.

## **ARTICLE 2**

### **DEFINITIONS**

For the purposes of this Agreement, the following definitions shall apply:

**2.1 Affiliate.** "Affiliate" means any corporation, firm, partnership or other entity which directly or indirectly controls or is controlled by or is under common control with a Party to this Agreement. "Control" means ownership, directly or through one or more Affiliates, of more than fifty percent (50%) of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or more than fifty percent (50%) of the equity interests in the case of any other type of legal entity, status as a general partner in any partnership, or any other arrangement whereby a Party controls or has the right to control the Board of Directors or equivalent governing body of a corporation or other entity.

**2.2 Agreement.** "Agreement" means this Agreement, as amended from time to time and all exhibits attached hereto. Words such as "herein," "hereinafter," "hereto," and "hereunder" refer to this Agreement as a whole, unless the context otherwise requires.

**2.3 Chief Academic Officer.** "Chief Academic Officer" means Dr. Gloria Pickar and her duly appointed successor.

**2.4 Code.** "Code" means the United States Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

**2.5 Company.** "Company" means Compass Knowledge Group, Inc.

**2.6. Company Consultative Decision.** "Company Consultative Decision" means a Consultative Decision which shall be made by the Company, subject to the terms hereof, if, after appropriate consultations and discussions between the Program Director and the Chief Academic Officer and the Steering Committee, if necessary, the Parties shall be unable to reach a decision concerning the subject matter thereof. All Consultative Decisions which are the Company Consultative Decisions are specifically identified as such hereunder.

**2.7. Company Decision.** "Company Decision" means a decision with respect to a matter which the Company shall make in its sole discretion, subject to the terms hereof, without the necessity of prior consultations or discussions by the Steering Committee or between the Parties. All Company Decisions are specifically identified as such hereunder.

**2.8. Confidential Information.** "Confidential Information" means any and all tangible embodiments of the Technology, the e-Learning Program Model and all information (including but not limited to information about any element of the Technology or the e-Learning Program Model) which is disclosed by one Party to the other hereunder and identified as Confidential Information at the time of disclosure including information protected by the Federal Education Rights Act and Privacy Act of 1974, as amended except to the extent that such information (i) as of the date of disclosure is demonstrably known to the Party receiving such disclosure, as shown by written documentation, other than by virtue of a prior confidential disclosure to such Party or its Affiliates; (ii) as of the date of disclosure is in, or subsequently enters, the public domain, through no fault or omission of the Party receiving such disclosure; (iii) as of the date of disclosure or thereafter is obtained from a third party free from any obligation of confidentiality to the disclosing Party; (iv) is created or developed by a receiving Party, without use of the Confidential Information of the disclosing Party by persons who did not have access to the disclosing Party's Confidential Information; or (v) is required by law or legal process to be disclosed to a third party.

**2.9. Consultative Decision.** "Consultative Decision" means a decision on a matter which shall be made by the Program Director of UC and the Chief Academic Officer of the Company after appropriate consultations and discussions with each other and the Steering Committee, if necessary or, if the Program Director and the Chief Academic Officer shall be unable to reach a decision concerning the subject matter, by the Company if the decision is identified as a Company Consultative Decision hereunder or by UC if the decision is identified as a UC Consultative Decision hereunder.

**2.10. Content.** "Content" shall have the meaning set forth in recital paragraphs of this Agreement.

**2.11. Course.** "Course" means a set of assignments and activities designed to fulfill a particular set of learning objectives within a specified period of time which make up the e-Learning Program.

**2.12. Course Instructor(s).** "Course Instructor(s)" means individuals who design, lead, and conduct the Courses.

**2.13. Derivative Work.** "Derivative Work" means a work that is based upon one or more preexisting works, such as a revision, modification, translation, abridgment, condensation, expansion, or any other form in which such preexisting works may be recast, transformed, or adapted, and that, if prepared without authorization of the owner of the copyright in such preexisting work, would constitute a copyright infringement. For purposes hereof, a Derivative Work shall also include any compilation that incorporates such a preexisting work.

**2.14. Documentation.** "Documentation" means user manuals and other written materials that relate to the e-Learning Program, Courses and Content, including materials useful for design (e.g., course manuals, flow charts, and principles of operation). Documentation shall include any Maintenance Modifications or Enhancements thereto created for the e-Learning Program by the Company from time to time

**2.15. e-Learning Program.** "e-Learning Program" means the collaborative commercial development of a distance learning Master of Science in Nursing Degree Program in Nurse-Midwifery or Women's Health to be conducted by the Company and UC pursuant to this Agreement.

**2.16. Effective Date.** "Effective Date" shall mean the date on which this agreement shall be effective as set forth in the introductory paragraph to this Agreement.

**2.17. Enhancements.** "Enhancements" shall mean changes or additions, other than Maintenance Modifications, to the e-Learning Program, Courses and related Documentation, including all new releases, which improve the e-Learning Program.

**2.18 Expert Presenter(s).** "Expert Presenter(s)" means individuals selected by UC who are deemed experts in the subject matter and who deliver video and audio multimedia presentations or demonstrations on his/her subject of expertise for incorporation into the Courses or who participate in the instructional process as requested by UC.

**2.19 Facilitators.** "Facilitators" means the faculty member(s) appointed by UC who shall be responsible for guiding Students toward achieving the learning objectives of each Course.

**2.21. Intellectual Property Rights.** "Intellectual Property Rights" shall mean and include: (i) all trademark rights, business identifiers, trade dress, service marks, trade names and brand names, all registrations thereof and applications therefore and all goodwill associated with the foregoing; (ii) all copyrights, copyright registrations and copyright applications, and all other rights associated with the foregoing and the underlying works of authorship; (iii) all patents and patent applications, and all international proprietary rights associated therewith; (iv) all contracts or agreements granting any right, title, license or privilege under the intellectual property rights of any third party; (v) all inventions, mask works and mask work registrations, know-how, discoveries, improvements, designs, trade secrets, shop and royalty rights, employee covenants and agreements respecting intellectual property and non-competition and all other types of intellectual property; and (vi) all claims for infringement or breach of any of the foregoing.

**2.22. Joint Decision.** "Joint Decision" means a decision with respect to any matter which shall be made by the Steering Committee after appropriate consultations and discussions concerning the same by the representatives of UC and the Company. Joint Decisions shall include any decisions expressly identified as such hereunder and any other decisions specifically reserved to the Steering Committee hereunder.

**2.23. Maintenance Modifications.** "Maintenance Modifications" shall mean any modifications or revisions, other than Enhancements, to the e-Learning Program, Courses, Content or Documentation that correct errors, support new releases of the e-Learning Program or provide other incidental updates and corrections.

**2.24 Patent Rights.** "Patent Rights" means the rights and interests in and to issued patents and pending patent applications (which for purposes of this Agreement shall be deemed to include certificates of invention and applications for certificates of invention and priority rights) in any country, including all provisional applications, substitutions, continuations, continuations-in-part, divisions, and renewals, all letters patent granted thereon, and all reissues, reexaminations and extensions thereof and all supplementary protection certificates, whether owned or licensed by or to a Party.

**2.25. Parties.** "Parties" shall mean the entities entering into this Agreement, and their successors and assigns.

**2.26. Program.** "Program" shall have the meaning set forth in recital paragraphs of this Agreement.

**2.27. Program Director.** "Program Director" means Dr. Nancy Moss and his/her duly appointed successor.

**2.28. Program Manager.** "Program Manager" means the individual selected and employed by the Company to support the students and faculty of the e-Learning Program, including assisting Students with re-enrollment in future terms.

**2.29 Program Model.** "Program Model" means the proprietary e-Learning model of the Company as described in the Development Plan.

**2.30. Project.** "Project" shall have the meaning set forth in Article 1.1, above.

**2.31 Project Director.** "Project Director" means the individual selected by the Company responsible for e-Learning development, liaison with UC, and overall service of the Project.

**2.32. Steering Committee.** "Steering Committee" means the committee of the Company and UC representatives established pursuant to Article 3 hereof to administer the affairs of Project.

**2.33. Students.** "Students" shall mean all prospective as well as actual Program and Course enrollees.

**2.34 Technology.** "Technology" means and includes all inventions, discoveries, trade secrets know-how, data, and proprietary methods and materials, whether or not patentable, including but not limited to, samples of, methods of production or use of, and structural and functional information pertaining to the e-Learning Program.

**2.35. Term.** "Term" means the term of this Agreement as set forth in Article 12.1 hereof.

**2.36. Territory.** "Territory" means the world.

**2.37. Title IV.** "Title IV" means any program, loan, grant or function applicable to Title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA.

**2.38. Title IV Student.** "Title IV Student" shall mean any student enrolled in any Course within the Program who is subject to a Title IV program, loan, grant or function.

**2.39. Trademarks.** "Trademarks" means the distinctive marks of authenticity of the Parties which are distinctive from others including names, symbols and forms of words.

**2.40 UC Consultative Decision.** "UC Consultative Decision" means a Consultative Decision which shall be made by UC, subject to the terms hereof, if, after appropriate consultations and discussions between the Program Director and the Chief Academic Officer and the Steering Committee, if necessary, the Parties shall be unable to reach a decision concerning the subject matter thereof. All Consultative Decisions which are UC Consultative Decisions are specifically identified as such hereunder.

**2.41. UC Decision.** "UC Decision" means a decision with respect to a matter which UC shall make in its sole discretion, subject to the terms hereof, without the necessity of prior consultations or discussions by the Steering Committee or between the Parties. All decisions which are UC Decisions are specifically identified as such hereunder.

## ARTICLE 3

### STEERING COMMITTEE

**3.1 Decision Making.** Subject to any express provisions of this Agreement designating decisions as Consultative Decisions, Company Decisions or UC Decisions, or otherwise specifically reserving to either the Company or UC, as the case may be, the right to make unilateral decisions as provided herein, the general affairs and activities of the Parties with respect to the Project and the development, supply, delivery and other activities related to the e-Learning Program as described herein shall be administered, managed and coordinated by a committee (the "Steering Committee") consisting of

an equal number (which number shall be two (2) unless the Parties otherwise agree) of representatives designated by each of the Company and UC.

**3.2 Steering Committee Designees.** Each Party shall designate one of its representatives on the Steering Committee as its "Co-Chair". Each Party shall have the right at any time to substitute individuals, reasonably acceptable to the other Party, on a permanent or temporary basis, for any of its previously designated representatives to the Steering Committee, including its Co-Chair, by giving written notice thereof to the other Party. Initial designees of the Parties to the Steering Committee shall be as follows: For the Company: Co-Chair, Daniel J. Devine and Dr. Gloria Pickar; For UC: Co-Chair Dr. Andrea Lindell and Dr. Nancy Moss.

### **3.3 Steering Committee Meetings.**

**3.3.1 Schedule of Meetings.** The Steering Committee shall establish a schedule of times for meetings, taking into account, without limitation, the planning needs of the Project herein described and the need of the Steering Committee to consult and/or render decisions required of it hereunder. The Steering Committee is expected to meet at least semi-annually and will do so at the request of either Party. Meetings may also be convened upon the determination of the Co-Chairs, or either of them, by written notice thereof to the members of the Steering Committee that a meeting of the Steering Committee is required to discuss and/or resolve any matter or matters with respect to the Project. Meetings shall alternate between the offices of Company and UC beginning with UC or another mutually agreed upon location; provided, however, that the Parties may mutually agree to meet by teleconference or videoconference or by e-mail. An e-mail meeting shall be deemed to have occurred provided that each member of the Steering Committee indicates via e-mail its vote on each matter to the Co-Chairs. Representatives of each Party or of its Affiliates, in addition to the members of the Steering Committee, may attend Steering Committee meetings as non-voting observers at the invitation of either Party with the approval of the other Party, which shall not be unreasonably withheld.

**3.3.2 Quorum; Voting; Decisions.** At each Steering Committee meeting, at least two members designated by each Party shall constitute a quorum. Each Steering Committee member shall have one vote on all matters before the Steering Committee, provided that, if a quorum is present, the member or members of each Party present at an Steering Committee meeting shall have the authority to cast the votes of any of such Party's members on the Steering Committee who are absent from the meeting. Provided a quorum is present, all decisions of the Steering Committee shall be made by majority vote of all of the members. Whenever any action by the Steering Committee is called for hereunder during a time period in which the Steering Committee is not scheduled to meet, the Co-Chairs shall cause the Steering Committee to take the action in the requested time period by calling a special meeting or by action without a formal meeting by written memorandum signed by the members of the Steering Committee. In the event that the Steering Committee is unable to resolve any matter before it, such matter shall be resolved as set forth in Article 3.6 hereof.

**3.3.3 Minutes.** The Steering Committee shall keep accurate minutes of its deliberations that record all proposed decisions and all actions recommended or taken. Drafts of the minutes shall be delivered to the Co-Chairs of the Steering Committee within a reasonable time not to exceed five (5) days after the meeting. The Party hosting the meeting shall be responsible for the preparation and circulation of the draft minutes. The Co-Chairs will designate the responsibility in the case of videoconference, teleconference, or e-mail meetings. Draft minutes shall be edited by the Co-Chairs and shall be issued in final form within a reasonable time not to exceed fifteen (15) days after the meeting only with their approval and agreement as evidenced by their signatures on the minutes.

**3.4 Planning Responsibilities.** The Steering Committee shall plan, administer and monitor the e-Learning Program and the Project. In particular, the Steering Committee shall review and approve the Development Plan, review and monitor the progress of the Development Plan and e-Learning Program and recommend necessary adjustments as the plans are carried out and the Project is conducted. In planning and monitoring the e-Learning Program, the Development Plan and the Project, the Steering Committee shall allocate tasks and responsibilities taking into account each Party's respective specific research, development, manufacturing and marketing capabilities and expertise in order to avoid duplication and to enhance synergies.

**3.5 Decision Making Responsibilities.** The Steering Committee shall be solely responsible for making all decisions specified as "Joint Decisions" hereunder and all decisions specifically reserved to it hereunder. All decisions by the Steering Committee are binding upon the Parties. It is understood and agreed, however, that decisions requiring the expenditure of funds by either Party not otherwise contemplated by this Agreement shall be subject to approval by that Party in accordance with its established procedures for approving expenditures of similar magnitude. Following approval of an expenditure decision by the Steering Committee, the Steering Committee shall notify the Party of such recommendation and seek a prompt decision regarding same from the Parties.

**3.6 Dispute Resolution.** In the event that the Steering Committee shall not be able to reach a decision or take an action on any matter which is reserved to the Steering Committee hereunder, then: (i) as to Joint Decisions or any other decisions specifically reserved to the Steering Committee hereunder, the matter in question shall first be referred for resolution to the Chief Executive Officer of the Company and the President of UC (or a designated senior officer of UC), and in the event that said officers shall be unable to resolve such matter after reasonable efforts to do so and after the passage of a reasonable period of time under the relevant circumstances, but in no event more than thirty (30) days, such matter shall be resolved in accordance with the procedures for resolving disputes under this Agreement as set forth in Article 16. Notwithstanding the foregoing or anything otherwise herein to the contrary (i) as to the Company Consultative Decisions, the matter shall be resolved as directed by the Company, and (ii) as to UC Consultative Decisions, the matter shall be resolved as directed by UC.

## ARTICLE 4

### OBJECTIVES, DUTIES AND RESPONSIBILITIES

**4.1 Objectives of the e-Learning Program and the Project.** The objective of the e-Learning Program shall be to provide technicians and professionals with more knowledge in their field and with an academic credential (i.e., Master of Science in Nursing Degree Program in Nurse-Midwifery or Women's Health) essential for moving into management positions as a result of the e-Learning Program. The objective of the Project is to operate the e-Learning Program in a prudent and profitable manner. In carrying out the objective of the e-Learning Program and the Project, the Parties shall each use commercially reasonable efforts to perform such tasks as are set forth to be performed by them under the terms of this Agreement in accordance with all applicable laws, ordinances, rules, regulations, orders, licenses and other requirements now or hereafter in effect.

**4.2 e-Learning Program Approval By Steering Committee.** Prior to launching the e-Learning Program each Course shall be presented to the Steering Committee for review and consideration. The Steering Committee shall determine whether to accept or reject a Course. Decisions

with respect to whether or not to accept or reject a Course under this Article shall be Joint Decisions and shall not be subject to the dispute resolution procedures in Article 16. If the e-Learning Program or any Course is rejected, the Parties shall in good faith make all commercially reasonable efforts to modify or revise the e-Learning Program or Course, as the case may be, so as to make it acceptable.

#### **4.3 Mutual Obligations.**

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

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

**4.4 Duties of UC.** The Program Director shall cause and insure that UC, Course Instructor(s), Expert Presenters, Facilitators and their staff, are responsible for and shall provide at UC's sole cost and expense, unless otherwise specifically indicated herein, the following duties and services all of which shall be UC Decisions unless specifically indicated otherwise:

**4.4.1. Development and Delivery of the Content and Other Materials.** Development and delivery to the Company for purposes of this Agreement of the e-Learning Program materials, e-Learning Program syllabus, Course outlines, Course manuals, Course schedules, content for multimedia presentations, readings, assignment guidelines, case studies, hard copy materials, audio tapes, video tapes and related computer software in accordance with the procedures, requirements and schedules set forth in the Development Plan. Notwithstanding that the materials to be delivered pursuant to this paragraph are UC Consultative Decisions, the schedules for delivery shall be Company Decisions. Parties, in consultation with the steering committee, will use their best efforts to develop materials in a timely fashion and to develop collaborative solutions in the event of an unforeseen delay in the production schedule. UC shall provide the Company, with sufficient e-Learning Program materials, in a manner and form/format satisfactory to the Company for the Company to perform its obligations under this Agreement all of which shall be provided according to the Development Plan.

**4.4.2 Control of Academic Curricula and Content.** Academic programming and curriculum shall be a UC Decision. UC shall exercise jurisdiction over, and be fully responsible, for the Content and quality of the curriculum of the e-Learning Program. Such curricula shall be established in accordance with all applicable laws and regulations and the policies, procedures and guidelines of UC. Notwithstanding the foregoing, UC will use its reasonable best efforts to maximize the use of the e-Learning Program Model which will be updated, modified and amended as reasonably necessary.

#### **4.4.3 Coordination of Instructors, Academic Materials and Programming.**

UC shall be responsible for:

**4.4.3.1.** Review of credentials, appointment and coordination of the Program Director, Course Instructor(s), Expert Presenters, Facilitators and their staff and their activities.

**4.4.3.2.** Course content development.

**4.4.3.3.** Hiring and discharging and payment of all expenses and compensation of UC personnel including, without limitation, the Program Director, Course Instructor(s), Expert Presenters, Facilitators and their staff.

**4.4.3.4.** Such other duties as set forth in the Development Plan.

**4.4.4. Events and Training.** UC shall insure that the Program Director, Course Instructor(s), Expert Presenters, Facilitators and their staff will participate, as reasonably requested and at such times as required, in Course development activities, Course presentations, promotional events, marketing and training and planning sessions.

**4.4.5. Technology.** UC will provide the e-Learning platform (i.e., Blackboard LMS) and the related technology, hosting and help desk required to deliver the e-Learning Program as contemplated by this Agreement.

**4.4.6. Student Administration Processes.** UC shall be responsible for all decisions regarding the admission and registration criteria of Students.

**4.4.7 Granting Credits and Degrees.** UC shall be responsible for granting Course credits and a Master of Science in Nursing Degree Program in Nurse-Midwifery or Women's Health in Women's Health to Students successfully completing the e-Learning Program and who otherwise satisfy the necessary academic criteria established by UC for such degree.

**4.4.8 Processing Of Student Loans and Grants.** UC shall be responsible for performing any function required by any statutory provision of or applicable to Title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA, such as, but not restricted to:

1. Processing student financial aid application;
2. Performing need analysis;
3. Determining student eligibility and related activities;
4. Certifying loan applications;
5. Processing output documents for payment to Students;
6. Receiving, disbursing, or delivering Title IV, HEA program funds, excluding lock-box processing of loan payments and normal bank electronic fund transfers;
7. Conducting activities required by the provisions governing student consumer information services;
8. Preparing and certifying requests for advance or reimbursement funding;

9. Loan servicing and collection;
10. Preparing and submitting notices and applications required under 34 CFR part 600 and subpart B of part 668; and
11. Preparing a Fiscal Operations Report and Application to Participate (FISAP).

**4.4.9. Admissibility of Students.** UC agrees to provide to Students referred to the e-Learning Program by the Company such services as are reasonably necessary for admission, registration, withdrawal, financial aid, recording of grades, and awarding of certificates, degrees, and licenses in accordance with UC's policies and procedures utilized by UC in administering student services, including without limitation, any future amendments thereunto.

**4.4.11 Evaluation of Courses and Program.** Conduct regular course and Program evaluations to assess the effectiveness of the e-Learning Program; including participating in joint course and program review for continuous improvement.

**4.5. Duties of The Company.** The Company shall be responsible for and shall provide at its sole cost and expense unless otherwise indicated the following duties and services all of which shall be Company Consultative Decisions unless otherwise specifically indicated otherwise:

**4.5.1. e-Learning Program Model and Development Plan.** The Company will provide UC and the Project with the e-Learning Program Model and the Development Plan which will include, among other things, the Prospectus and will through the Chief Academic Officer, Program Development Manager and Program Manager make available reasonable consultative services and assistance to the Program Director, Course Instructor(s), Expert Presenters, Facilitators and their staff at all reasonable times throughout the Term of this Agreement in carrying out their duties and responsibilities in connection with this Agreement, the e-Learning Program Model, the Development Plan and the operation of the Project.

**4.5.3 Administration of e-Learning Program.** The Company will manage the daily Project administration aspects of the e-Learning Program including the following:

**4.5.3.1. Student Development and Processing.** Activities related to initial contact, description of the e-Learning Program, marketing, mailing of brochures, and notification of schedule. Assistance will be given for verification of receipt of information necessary for registration, activities related to notification of deadlines, e-mail updates, mailing of registration packets, verifications of receipt of information, telephone support in the application process, processing of information, and receipt of necessary student documentation.

**4.5.3.2 Student Support.** Activities relating to receipt and response to student requests for information, schedules, and handouts.

**4.5.3.3. Assistance in Curriculum Development.** Activities related to scheduling, processing, assisting and coordinating deadlines with UC to achieve required outcomes.

**4.5.3.4 Administration of Multimedia.** Activities related to production and technical authoring of multimedia products, duplication of such materials, repurposing of such information for the e-Learning Program Model, creating the e-Learning environment, dissemination of such materials to Students, and providing surveys and assessments.

**4.5.3.5 Daily Management of Student Database.** Activities related to entry, coordination, tracing, and control of the company-generated student database.

**4.5.3.7 Daily Personnel Management.** Activities related to hiring, discharging and performance review of Chief Academic Officer, e-Learning Program Development Manager, e-Learning Program Manager and their assistants and other Company personnel associated with the Project.

**4.5.3.8 Conducting Market Studies.** Activities related to determination of the marketplace acceptance, size and probability.

**4.5.3.9 Developing of Market Strategies.** Activities related to the execution of market research via direct mail, telephone surveys and other methods with specific benchmarks established periodically by the Company necessary to develop and execute marketing strategy.

**4.5.3.10. Development of Promotional Literature.** Design, development, printing, and purchase of promotional literature, subject to the approval of the Steering Committee.

**4.5.3.11. Development of Collateral Materials.** Design, development, printing, formatting of marketing materials in both hardcopy and electronic formats, with approval by the Steering Committee before final printing or release in electronic format.

**4.5.3.12. Development of Mailing Lists.** Purchase, development and testing of both national and international mailing lists, both electronic and hardcopy.

**4.5.3.13. Execution of Market Strategy.** Dissemination of print and electronic marketing materials.

**4.5.3.14. Management of Mailing Lists.** Database management of electronic and hardcopy mailing lists for secondary mailings.

**4.5.3.15. Management of Telephone Database.** Activities related to creation of script and management of telephonic contact with potential Students.

**4.5.3.16 Marketing of the e-Learning Program.** Activities related to direct response marketing (which may include direct mail, trade publication advertising, Internet; telemarketing, inbound and outbound); public relations; and, trade shows of the Project and e-Learning Program.

**4.5.3.17 Program Management.** Daily activities related to logistical and technical support for students and faculty specializing in retention building activities and re-enrollment.

**4.5.4 FERPA Compliance.** It is understood and agreed that the activities set forth in Sections 4.5.3.1 through 4.5.3.5 are subject to FERPA and will be management and conducted within the requirements of FERPA

**4.5.5 e-Learning Course Design and Conversion.** Assist Course Instructor(s) in developing course manuals and documents, designing websites, and repurposing course content suitable for e-Learning and following adult learning principles and convert courses to course management system software suitable for delivery of content via the Internet.

**4.5.6 Evaluation of Courses and Program.** Conduct regular course and Program evaluations to assess the effectiveness of the e-Learning Program; including participating in joint course and program review for continuous improvement.

## **ARTICLE 5**



## **ARTICLE 6**

### **ADDITIONAL OBLIGATIONS**

#### **6.1 UC Obligations.**

**6.1.1** UC shall obtain and shall take all actions necessary to maintain, at its own expense, any licenses from third parties, reasonably necessary to develop, deliver, manufacture and commercialize the Content as contemplated by this Agreement. Subject to the confidentiality obligations set forth herein, UC shall provide to the Steering Committee, upon reasonable request, any material information regarding any of UC's agreements with such third parties that the Steering Committee deems useful.

**6.1.2** UC shall use reasonable efforts to make all decisions and perform all tasks required of UC in a timely manner.

**6.1.3** Subject to the confidentiality obligations set forth herein, UC shall promptly disclose to the Company and the Steering Committee any intellectual property rights of third parties of which it becomes aware which may materially affect the ability of either Party to perform its obligations hereunder or the attainment of the objectives.

## **6.2 The Company Obligations.**

**6.2.1** The Company shall use reasonable efforts to make all decisions and perform all tasks required of the Company in a timely manner.

**6.2.2** Subject to the confidentiality obligations set forth herein, the Company shall promptly disclose to UC and the Steering Committee any intellectual property rights of third parties of which it becomes aware which may materially affect the ability of either Party to perform its obligations hereunder or the attainment of the objectives.

**6.2.3.** The Company shall use commercially reasonable diligent efforts to develop, promote, market and sell the e-Learning Program and to meet or cause to be met the market demand for the e-Learning Program throughout the Territory.

**6.2.4.** Subject to obtaining the written consent of UC which will not be unreasonably withheld, the Company shall have the right to grant sublicenses to all or any portion of its rights under this Agreement; provided, however, that the Company shall remain obligated to ensure compliance with the terms of this Agreement and the payment of the Distribution as set forth in Article 8.1, and provided further that names and current addresses of all sublicensees and Affiliates of the Company to which rights hereunder have been extended by the Company and copies of all sublicense agreements shall be provided promptly to UC. If, for any reason, this Agreement is terminated, any sublicense granted at the time of such termination shall also terminate.

**6.2.5 Approval By Steering Committee.** Prior to the commencement of advertising and offering of any Course developed with respect to the e-Learning Program to the general public, the Company shall submit to the Steering Committee, for approval as to quality and form, all e-Learning Course materials prepared by the Parties and all promotional, packaging and advertising material associated therewith. Failure of the Steering Committee to expressly approve or disapprove such samples in writing within fifteen (15) working days after receipt thereof will be deemed approval. If the Steering Committee should disapprove any sample, it shall provide specific reasons for such disapproval. Once such samples have been approved by the Steering Committee, the Company shall not materially depart therefrom without the Steering Committee's prior express written consent, which shall not be unreasonably withheld.

**6.3 Joint Obligations.** Each Party will apply commercially reasonable diligent efforts to the performance of all aspects of its obligations under this Agreement and to bring the e-Learning Program into commercial use as quickly as reasonably possible but in no event later than the time periods set forth in the Development Plan.

## **ARTICLE 7**

## LICENSE

### 7.1 License.

**7.1.1.** UC hereby grants to the Company for the Term of this Agreement the exclusive right and license to produce, reproduce, manufacture, distribute, perform, display, promote, advertise, sell, and otherwise exploit the e-Learning Program produced in furtherance of this Agreement, including any foreign language versions, in all configurations for all digital/electronic technology systems, whether now known or hereinafter developed, including, but not limited to, other computer disk formats whether sold individually or through transmission to personal computer or other use for interactive television or other home use, throughout the Territory, for the purposes of enrolling Students all in accordance with this Agreement. This license includes a license under all copyrights and any applications therefore that have been filed or may be filed in the future with respect to the Content and Derivative Works therefrom, including, without limitation, the e-Learning Program.

**7.1.2.** UC shall have sole responsibility for obtaining any and all Intellectual Property Rights of third parties necessary to enable the Company to use the Content as intended, and to provide during the Term of this Agreement to the Company an exclusive, worldwide right and license to use, execute, display, perform and copy the e-Learning Program for the use intended by this Agreement, and to prepare Derivative Works for the e-Learning Program; provided that UC shall be the sole owner of the Content, the e-Learning Program, all Derivative Works and all copyrights therein.

**7.1.3.** Saving the License granted herein to the Company, it is understood and agreed that UC shall retain all right, title, and interest in the original Content, and all copyrights therein, and that the parties shall equally own all modifications or improvements made to the original Content or other Derivative Works. The Parties agree to execute any documents necessary to effect this provision.

**7.2 Trademarks.** UC also hereby grants the Company, the right and license to use the name, trade names and Trademarks of UC, if any, with respect to the promotion, advertisement, selling, and exploitation of the e-Learning Program; provided, however, that each such use of the foregoing shall be approved in advance by UC's Director of Licensing.

**7.3 Marking Provisions.** The licenses granted hereunder are conditioned on the Company's full and complete compliance with the marking provisions of the trademark, patent, and copyright laws of the United States and other countries in the Territory. The Company shall include on all tangible or visible materials utilized in connection with the e-Learning Program appropriate notice of UC's copyrights, regardless of whether such notice is mandatory under applicable law.

## ARTICLE 8

### DISTRIBUTIONS

## **ARTICLE 9**

### **AUDIT**

**9.1.** Each Party will have the right to have an independent certified accountant (the "Auditor") perform an audit (the "Audit") of the other Party's determination of the Distribution due the receiving Party hereunder, exercisable by written notice delivered to the other Party at least 20 days prior to such Audit and no more than twice per year. The Parties agree to cooperate with each other and the Auditor, including providing reasonable access to the financial books, records and materials regarding the e-Learning Program. If there is a Significant Discrepancy between a Party's determination of the Distribution due a Party and that of the Auditor, then it shall be resolved as provided below. A [REDACTED]

**9.2.** If any Audit indicates a Significant Discrepancy, any difference shall be immediately due and payable to the proper Party.

**9.3.** In the event that any Audit indicates a Significant Discrepancy, as defined above, the distributing Party shall be required to pay all costs associated with said Audit. Otherwise, the Party requesting the Audit shall be responsible for such costs.

**9.4.** All books and records relative to the obligations hereunder shall be maintained and kept accessible and available to the Parties for inspection for at least two (2) years after termination of this Agreement.

## ARTICLE 10

### CONFIDENTIAL INFORMATION AND COMPETITION

#### **11.1. Confidentiality.**

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

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

**11.2. Publicity.** Neither Party may disclose the terms of this Agreement without the prior written consent of the Steering Committee; provided, however, that either Party may make such a disclosure to the extent required by law. Such disclosure shall be on reasonable notice to the other Party and after taking all reasonable steps to maintain confidentiality. The Parties, upon the execution of this Agreement, will agree upon the text and the exact timing of an initial public announcement relating to the transactions contemplated by this Agreement as soon as possible after the Effective Date (such agreement not to be unreasonably withheld or delayed). Thereafter, the Parties will agree on the text and the timing of any subsequent public announcements regarding this Agreement or the transactions contemplated

herein; provided that, once any written statement is approved for disclosure by the Steering Committee, either Party may make subsequent public disclosure of the contents of such statement without the further approval of the other Party or the Steering Committee. Any costs incurred for public relations in respect of this Agreement shall be paid by the Party incurring the expense.

**11.3. Limitation On Disclosures.** Notwithstanding any provision in this Agreement, neither Party shall be obligated hereunder to disclose to the other Party any information which it is prohibited from disclosing by law or under any agreement with a third Party.

**11.4. Prohibition On Hiring.** Neither Party shall, during the term of this Agreement and for a period of one (1) year thereafter, hire or solicit any person who was employed by the other Party or its Affiliates during such period, whether such person is hired as an employee or consultant, unless authorized in writing by the other Party, or unless such person has not been employed by the other Party for at least 12 months prior to his or her hiring or solicitation. Notwithstanding the foregoing, neither Party shall be restricted from hiring an applicant for a position who has responded to an advertisement directed to the public without any direct contact from the hiring Party.

**11.5. Injunctive Relief.** The Parties agree that the provisions and restrictions contained in this Article 10 are necessary to protect their respective legitimate continuing interests and that any violation or breach of these provisions will result in irreparable injury to the non-breaching Party, its parent company and subsidiaries for which a remedy at law would be inadequate. Therefore, in addition to any relief at law which may be available to the non-breaching Party for such violation or breach and regardless of any other provision contained in this Agreement, the non-breaching Party, its parent company or subsidiaries shall be entitled to injunctive and other equitable relief as a court may grant after considering the intent of this Article 11.

**11.6 Saving Provisions.** If any covenant or provision contained in this Article 11 is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity of any other covenant or provision. If, in any arbitration or judicial proceeding, a tribunal shall refuse to enforce all of the separate covenants deemed included in this Article 10, then such unenforceable covenants shall be deemed eliminated from the provisions hereof for the purpose of such proceedings to the extent necessary to permit the remaining separate covenants to be enforced in such proceedings.

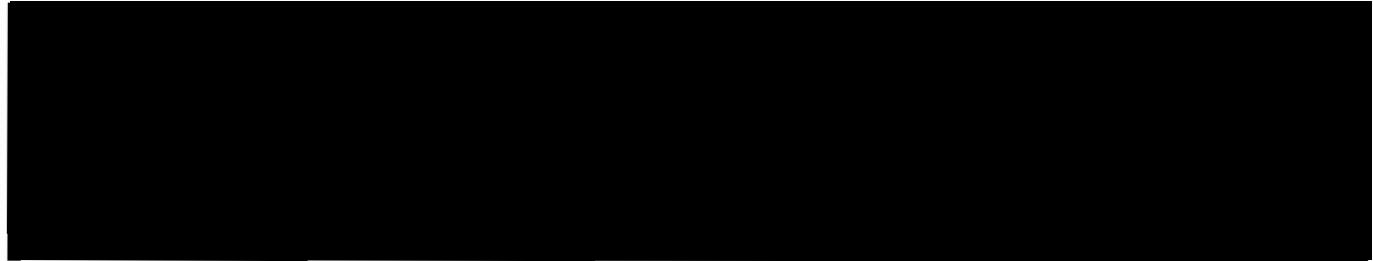
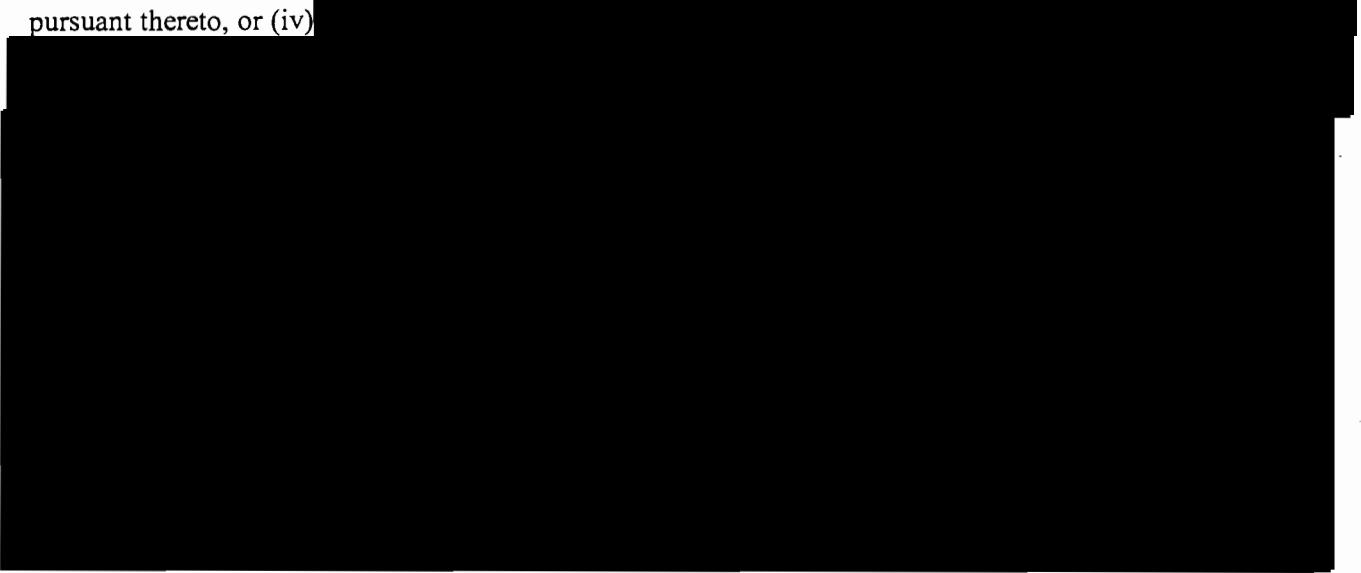
## ARTICLE 12

### TERMINATION AND DISENGAGEMENT

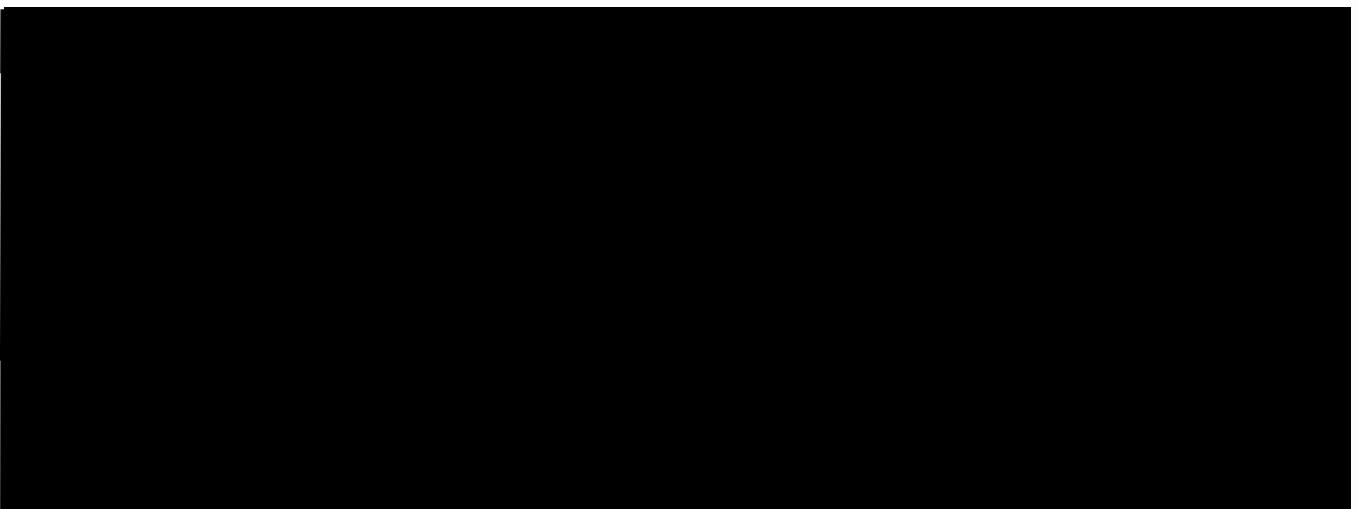
#### 12.2. Termination.

**12.2.1 Initial Termination Conditions.** This Agreement may be terminated in the following ways: (i) by mutual consent of UC and the Company; (ii) by one Party upon written notice in the event that (a) the other Party shall have dissolved, ceased active business operations or liquidated, unless such dissolution, cessation or liquidation results from reorganization, acquisition, merger or similar event, or (b) bankruptcy or insolvency proceedings, including any proceeding under Title 11 of the United States Code, have been brought by or against the other Party and, in the event such a proceeding has been brought against such Party, remains undismissed for a period of sixty (60) days, or an assignment has

been made for the benefit of such Party's creditors or a receiver of such Party's assets has been appointed (a "Bankruptcy Event"); (iii) by one Party upon default of the other Party in the full and timely observance or performance of its material covenants or obligations under this Agreement, 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 shall specify the nature of the default and the steps to be taken to cure such default; provided, however, that if such default is cured by the defaulting Party within such thirty (30) or sixty (60) day period, such notice of termination shall be deemed null and void as if the same had never been given and this Agreement shall not be terminated pursuant thereto, or (iv)



**12.5.** If either Party shall fail to perform or observe or otherwise breaches any of its material obligations under this Agreement, in addition to any right to terminate this Agreement, the non-defaulting Party may elect to obtain other relief and remedies available under law.



**12.7** Notwithstanding any provision herein to the contrary, the rights and obligations set forth in Articles 8, 9, 11, 12, 13, 14, 15, 16, 17 and any sections incorporated by reference therein shall survive the expiration or termination of this Agreement.

## ARTICLE 13

### **REPRESENTATIONS, WARRANTIES AND COVENANTS**

**13.1. Mutual Representations.** UC and the Company each represents to the other as follows:

**13.1.1. Authorization.** The execution, delivery and performance by it of this Agreement have been duly authorized by all necessary corporate action and do not and will not (a) require any consent or approval of its stockholders or owners or (b) violate any provision of any agreement, law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to it or any provision of its charter documents.

**13.1.2. Binding Agreement.** This Agreement is a legal, valid and binding obligation of it enforceable against it in accordance with its terms and conditions.

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

**13.2 Company Warranty.** The Company represents and warrants that it is a corporation duly organized, validly existing and is in good standing under the laws of the jurisdiction of its incorporation, is qualified to do business and is in good standing as a foreign corporation in each jurisdiction in which the performance of its obligations hereunder requires such qualification and has all requisite power and authority, corporate or otherwise, to conduct its business as now being conducted, to own, lease and operate its properties and to execute, deliver and perform this Agreement.

#### **13.3 UC Warranties.**

**13.3.1.** UC represents and warrants that it presently has, or will have during the term of this Agreement, permission to use the Content, both published and unpublished, and that it is presently the owner, or will own during the term of this Agreement, all rights, title and interest in and to any Trademarks licensed hereunder and that there are no other agreements with any other Party in conflict herewith and the copyright, patents and trademarks, if any, are valid under the applicable copyright, patent and trademark laws.

**13.3.2.** UC further represents that it has no actual knowledge that the Content and/or any of UC's Trademarks related thereto, infringe upon the valid rights of any third party.

**13.4. WARRANTY DISCLAIMER.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY WITH RESPECT TO ANY TECHNOLOGY, GOODS, SERVICES, RIGHTS OR OTHER SUBJECT MATTER OF THIS AGREEMENT AND HEREBY DISCLAIMS WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY AND ALL OF THE FOREGOING.

**13.5 Limitation of Liability.** Neither party shall be liable to the other Party or any Affiliate of the other Party, whether in contract or tort (including negligence and strict liability) or otherwise, for any special, indirect, incidental or consequential damages whatsoever.

## **ARTICLE 14**

### **INFRINGEMENTS**

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

**14.2.** During the term of this Agreement, UC shall not be obligated to litigate any infringement. If UC litigates any such infringement, the Company may, at its option, be included as a co-plaintiff in any such suit, without expense to the Company. The total cost of any such infringement action shall be borne by UC. UC shall keep any recovery or damages for infringement.

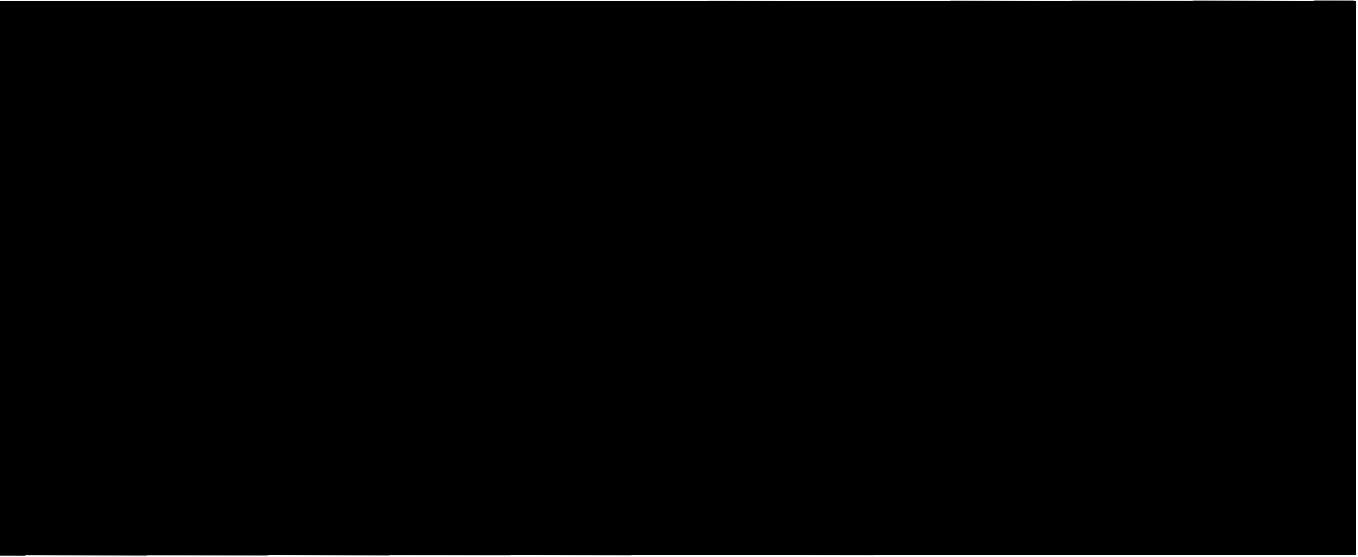
**14.3.** If within sixty (60) days after having been notified of any alleged infringement or such shorter time prescribed by law, UC shall have been unsuccessful in persuading the alleged infringer to desist and shall not have brought and shall not be diligently litigating an infringement action, then, and in those events only, the Company shall have the right, but shall not be obligated, to litigate at its own expense any infringement claim, and the Company may, for such purposes but only with the consent of the Attorney General of Ohio, include UC as a party plaintiff.

**14.4.** In the event that UC elects not to undertake the enforcement and/or defense of the claim by litigation within 60 days of receipt of notice as provided in Section 14.1 or 14.3 above, then the Company may do so and shall be entitled to a reimbursement of its expenses, including reasonable attorneys' fees, in connection therewith. Any recovery of damages by the Company for any such suit shall be applied first in satisfaction of any unreimbursed expenses and legal fees of the Company relating to the suit, and next toward reimbursement of UC for any expenses it pays in connection with same. The balance remaining from any such recovery shall be the property of the Company.

**14.5.** In any infringement suit as either Party may institute to enforce the claim pursuant to this Agreement, the other Party hereto shall, at the request and expense of the Party initiating such suit, cooperate in all respects and, to the extent possible, have its employees, if applicable, testify when requested and make available relevant records, papers, information, samples, specimens, and the like.

## **ARTICLE 15**

### **CLAIMS**



**15.2. Other Claims.**



**15.2. Definition of Claims.** As used in this section, the term "Claim" shall include (i) all liabilities; (ii) all losses, damages, judgments, awards, settlements, costs and expenses (including, without limitation, interest including prejudgment interest in any litigated matter), penalties, court costs and attorneys fees and expenses; and (iii) all demands, claims, actions, costs of investigation, causes of action, proceedings and assessments incurred by a Party as provided herein.

**15.4. Procedure for Asserting Claim.** The Party asserting a Claim for recovery as provided herein (the "Claimant") shall notify in writing the other Party (the "Other Party") within thirty (30) days after a Claim is presented to the Claimant, and the Other Party shall defend such Claim at its expense provided that in the case of UC, the selection of counsel to conduct its defense and any agreement to settle or compromise the Claim shall be subject to approval by the Attorney General of Ohio. If the Other Party does not defend or settle such claim, the Claimant may do so without the Other Party's participation, in which case the Other Party shall pay the reasonable expenses of such defense, and the Claimant may settle or compromise such claim without the Other Party's consent. If the Claimant fails to notify the Other Party, and if the Other Party is thereby materially prejudiced by such failure of notice in its defense of the Claim, the Other Party's obligation of indemnity hereunder shall be extinguished with respect to such Claim to the extent that the Other Party has been prejudiced by the failure to give such notice.

## **ARTICLE 16**

### **DISPUTE RESOLUTION**

#### **16.1 Dispute Resolution.**

**16.1.1 General.** In the event of any dispute, difference or question arising between the Parties in connection with this Agreement, the construction thereof, or the rights, duties or liabilities of either Party, and which dispute cannot be amicably resolved by the good faith efforts of the persons designated under Article 3.6, then such dispute shall (i) be resolved by non-binding mediation conducted in the manner set forth in Article 16.1.2, and (ii) in the event that such dispute is not amicably resolved by such non-binding mediation, then the Parties may seek to enforce their rights in the courts of competent jurisdiction.

**16.1.2 Mediation.** In the event of the occurrence of a dispute which cannot be amicably resolved by the good faith efforts of the persons designated under Article 3.6, either Party may, by notice to the other Party, commence a non-binding mediation to resolve such dispute by providing written notice to the other Party, which notice (a "Mediation Notice") shall inform the other Party of such dispute and the issues to be resolved and shall contain a list of three (3) recommended individuals to serve as the mediator. Within ten (10) business days after the receipt of such Mediation Notice, the other Party shall respond by written notice to the Party initiating mediation, which notice shall contain a list of three (3) recommended individuals to serve as the mediator and which may add additional issues to be resolved. The recommended mediators shall be individuals with experience in the e-Learning industry and shall not be an employee, director, shareholder or agent of either Party or of an Affiliate or subsidiary of either Party, or otherwise involved (whether by contract or otherwise) in the affairs of either Party. If, within twenty (20) business days after receipt of such Mediation Notice, the Parties shall have been unable to mutually agree upon an individual to serve as a mediator, then the Parties may seek to enforce their rights in the Courts of competent jurisdiction. If, within twenty (20) business days after receipt of such Mediation Notice, the Parties shall have mutually agreed upon an individual to serve as a mediator, then the mediator shall conduct a mediation in an effort to resolve such dispute as follows: (i) Within thirty

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

## ARTICLE 17

### GENERAL PROVISIONS

**17.1 Notices.** Any notice to be given to UC and the Company under the terms of this Agreement may be delivered personally, by telecopy, telex or other form of written electronic transmission, or by registered or certified mail, postage prepaid, and shall be addressed as follows:

If to the Company:                    5401 S. Kirkman Road, Ste 200  
Orlando, FL 32819-7949  
Attn: Daniel J. Devine  
Fax: 407-656-7585

If to UC:  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Fax: \_\_\_\_\_

With respect to Trademark  
Issues also copy:                    Director of Licensing  
    University of Cincinnati  
    Cincinnati, OH 45221-0623  
    513-556-3483

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

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

**17.3 Interpretation; Severability.** The captions used in this Agreement are for convenience only and shall not be construed in interpreting this Agreement. If any portion of this Agreement shall be held invalid or inoperative then so far as is reasonable and possible:

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

**17.4 Successors and Assigns.** This Agreement shall bind the Parties, their successors, heirs, personal representatives and assigns. Neither Party may assign, convey or otherwise transfer any this Agreement or any interest in this Agreement without the prior written consent of the other Party with the exception that: (i) either Party may pledge, lien, encumber, assign, transfer, convey, and/or sale to a third party such Party's right to its share of the Distributions as set forth in Article 8 above; and (ii) the Company may assign its interest in this Agreement to a wholly owned subsidiary.

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

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

**17.9. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, USA.

**17.10 Illegal Provisions.** If any covenant or provision contained in this Agreement is determined to be illegal, void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity of any other covenant or provision and such illegal, void or unenforceable covenant or provision shall be modified, amended and/or changed in such a manner as to maintain the integrity of the Agreement and the Parties intent as evidenced hereby.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the day first set forth above.

Compass Knowledge Group, Inc.

University of Cincinnati

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title \_\_\_\_\_

By: Jane Menger  
Print Name: JANE MAYER Menger  
Title Assistant Contracting Officer

## **E-LEARNING PROGRAM DEVELOPMENT AND DISTRIBUTION MASTER AGREEMENT**

This e-Learning Program Development and Distribution Master Agreement (hereinafter the "Agreement") is entered into by and between Compass Knowledge Group, LLC (the "Company") and University of Cincinnati (the "University"), each referred to herein as a "Party," and, together, as the "Parties."

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

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

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

WHEREAS, the Parties desire to consolidate those existing agreements between the parties which are listed in Exhibit B into this Agreement;

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

### **ARTICLE 1**

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

#### **PURPOSE AND SCOPE**

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

- (a) designing, developing, administering, managing, marketing, selling and distributing certain e-Learning program(s) as identified in the e-Learning Program Term Sheet attached hereto as Exhibit A and by this reference incorporated herein and made a material part hereof (with the understanding that the e-Learning Program Term Sheet may be amended from time to time as new e-Learning program(s) are added hereto) throughout the Territory utilizing the Content, Courses, Documentation and Derivative Works therefrom , and in connection therewith providing additional products and services;
- (b) sharing materials, methods, information, resources, expertise and services with respect to the foregoing;
- (c) educating and granting, upon satisfaction of criteria established by the University, educational credits and degrees or certificates to the Students enrolled in the e-Learning Programs and to perform those attendant services in connection therewith;

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

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

**1.2 Scope.** The relationship between the Parties and the Project is limited solely to the activities, rights and obligations as set forth in this Agreement. Nothing in this Agreement shall be construed (i) to create or imply a general partnership, limited partnership or other legal entity between the Parties, (ii) to make either Party the agent of the other for any purpose, (iii) to alter, amend, supersede or vitiate any other arrangements between the Parties, (iv) to give either Party the right to bind the other, (v) to create any duties or obligations between the Parties except as expressly set forth herein, (vi) to grant any direct or implied licenses or any other right other than as expressly set forth herein or (vii) to prohibit or restrict the business activities of either party except as may be otherwise specifically stated herein.

**1.3 Compliance with Laws.** In carrying out its responsibilities under this Agreement, each Party agrees that, in all material respects, its activities will be conducted in compliance with all applicable state and Federal laws, rules and regulations in jurisdictions in which the activities are conducted.

**1.4 Use of Third Parties.** Except as otherwise expressly prohibited herein, either Party may utilize the products and services of third parties in connection with the duties to be provided by such Party hereunder.

**1.5 Administration; Prospectus.** Each e-Learning Program and the Project operations shall be administered by the Steering Committee in accordance with the provisions of Article 3 hereof. The Parties have or will develop and adopt a development and delivery plan for each e-Learning Program (the "Prospectus") named in the Program Term Sheet that includes a detailed description of the steps to be taken by the Parties to complete the development and offering of the subject e-Learning Program including the responsibilities of each Party, a schedule for completing the development of the e-Learning Courses and operational and maintenance requirements with respect to each e-Learning Program. Each Party will use commercially reasonable efforts to implement and execute the Prospectus in accordance with the terms of this Agreement. Should a clear conflict exist or occur between this Agreement and the Prospectus, this Agreement shall control. In the event of an ambiguity between the Prospectus and this Agreement, the ambiguity shall be resolved in accordance with Section 3.4 of this Agreement.

**1.6 Nature of Interests.** The interests of the Parties with respect to this Agreement shall be personal property for all purposes. Unless otherwise specifically agreed, all property owned by a Party, whether real or personal, tangible or intangible, shall continue to be the exclusive property of such Party.

## **ARTICLE 2**

### **DEFINITIONS**

For the purposes of this Agreement, the following definitions shall apply:

**2.1 Affiliate.** "Affiliate" means any corporation, firm, partnership, or other entity which directly or indirectly controls or is controlled by or is under common control with a Party to this Agreement. "Control" means ownership, directly or through one or more Affiliates, of more than fifty percent (50%) of the shares of stock entitled to vote for the election of directors, in the case of a

corporation, or more than fifty percent (50%) of the equity interests in the case of any other type of legal entity, status as a general partner in any partnership, or any other arrangement whereby a Party controls or has the right to control the Board of Directors or equivalent governing body of a corporation or other entity.

**2.2 Agreement.** "Agreement" means this Agreement, as amended from time to time and all exhibits attached hereto. Words such as "herein," "hereinafter," "hereto," and "hereunder" refer to this Agreement as a whole, unless the context otherwise requires.

**2.3 Chief Academic Officer.** "Chief Academic Officer" means the Chief Academic Officer of the Company, or his/her duly appointed successor.

**2.4 Code.** "Code" means the United States Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

**2.5 Company.** "Company" means Compass Knowledge Group, Inc.

**2.6. Company Decision.** "Company Decision" means a decision with respect to a matter which the Company shall make in its sole discretion, subject to the terms hereof, without the necessity of prior consultations or discussions by the Steering Committee or between the Parties. All Company Decisions are specifically identified as such hereunder.

**2.7. Confidential Information.** "Confidential Information" means any and all tangible embodiments of the e-Learning Program Model and all information which is disclosed by one Party to the other hereunder and identified as Confidential Information at the time of disclosure including contractual terms and information protected by the Family Education Rights and Privacy Act of 1974 (FERPA), as amended, information regulated by the Securities Exchange Act of 1934, as amended, except to the extent that such information (i) as of the date of disclosure is demonstrably known to the Party receiving such disclosure, as shown by written documentation, other than by virtue of a prior confidential disclosure to such Party or its Affiliates; (ii) as of the date of disclosure is in, or subsequently enters, the public domain, through no fault or omission of the Party receiving such disclosure; (iii) as of the date of disclosure or thereafter is obtained from a third party free from any obligation of confidentiality to the disclosing Party; (iv) is created or developed by a receiving Party, without use of the Confidential Information of the disclosing Party by persons who did not have access to the disclosing Party's Confidential Information; or (v) is required by law or legal process to be disclosed to a third party.

**2.8. Content.** "Content" shall have the meaning set forth in recital paragraphs of this Agreement. Content may include without limitation informational material in any hardcopy, electronic other form, syllabi, outlines, manuals, schedules, presentations, readings, guidelines, case studies, audio, video and related computer software.

**2.9. Course.** "Course" means a set of assignments and activities designed to fulfill a particular set of learning objectives within a specified period of time which make up an e-Learning Program.

**2.10. Course Instructor(s).** "Course Instructor(s)" means individuals who design, lead, and conduct the Courses.

**2.11. Course Management System.** "Course Management System" shall mean the e-Learning platform and application (e.g., Blackboard, WebCT or the like) and the related technology, hosting and help desk required to deliver the e-Learning Programs as contemplated by this Agreement.

**2.12. Derivative Work.** "Derivative Work" means a work that is based upon one or more preexisting works, such as a revision, modification, translation, abridgment, condensation, expansion, or any other form in which such preexisting works may be recast, transformed, or adapted, and that, if prepared without authorization of the owner of the copyright in such preexisting work, would constitute a copyright infringement. For purposes hereof, a Derivative Work shall also include any compilation that incorporates such a preexisting work.

**2.13. Director of Distance Learning.** "Director of Distance Learning" means the individual selected and hired by the Company responsible for e-Learning Program development, liaison with the University, and overall service of the Project.

**2.14 Documentation.** "Documentation" means user manuals and other written materials that relate to the e-Learning Programs, Courses and Content, including materials useful for design (e.g., course manuals, flow charts, and principles of operation). Documentation shall include any modifications or revisions to such manuals and other written materials that correct errors, support new releases of or improve the e-Learning Programs or provide other incidental updates and corrections.

**2.15. e-Learning Program(s).** "e-Learning Program(s)" means the collaborative commercial development of the distance learning degree and certificate programs referenced in the Program Term Sheet attached hereto which are to be conducted by the Company and the University pursuant to this Agreement. The e-Learning Programs shall include without limitation the Content, Courses, Documentation and Derivative Work therefrom created for or contributed to such e-Learning Programs.

**2.16. Effective Date.** The "Effective Date" shall mean the date on which this agreement for each e-Learning Program shall be effective as set forth in each Program Term Sheet attached to this Agreement.

**2.17. Enrollment Advisor.** "Enrollment Advisor" means individual(s) selected and employed by the Company to perform student recruitment functions.

**2.18 Enrollment Dates.** "Enrollment Dates" means the times during the academic year when students may enter and enroll in an e-Learning Program.

**2.19 Expert Presenter(s).** "Expert Presenter(s)" means individuals selected by the University who are deemed experts in a subject matter and who deliver video and audio multimedia presentations or demonstrations on his/her subject of expertise for incorporation into the Courses or who participate in the instructional process as requested by the University.

**2.20 Facilitators.** "Facilitators" means the faculty member(s) appointed by the University who shall be responsible for guiding and evaluating Students toward achieving the learning objectives of each Course.

**2.21 Faculty.** "Faculty" means Course Instructors, Expert Presenters, Facilitators and other like individuals who are appointed by the University and who may be full time or adjunct personnel.

**2.23. Intellectual Property Rights.** "Intellectual Property Rights" shall mean and include: (i) all Trademark rights, business identifiers, trade dress, service marks, trade names and brand names, all registrations thereof and applications therefore and all goodwill and rights associated with the foregoing; (ii) all copyrights, copyright registrations and copyright applications, and all other rights associated with the foregoing and the underlying works of authorship; (iii) all patents and patent applications, and all domestic and international proprietary rights associated therewith; (iv) all contracts or agreements granting any right, title, license or privilege under the intellectual property rights of any third party; (v) all inventions, know-how, discoveries, improvements, designs, trade secrets, shop and royalty rights, employee covenants and agreements respecting intellectual property and non-competition and all other types of intellectual property; (vi) all moral rights; and (vii) all claims for infringement or breach of any of the foregoing.

**2.24. Parties.** "Parties" shall mean the entities entering into this Agreement, and their successors and assigns.

**2.25. Program(s).** "Program(s)" shall have the meaning set forth in recital paragraphs of this Agreement.

**2.26. Program Director.** "Program Director" means the lead faculty member or administrator appointed by the University to direct an e-Learning Program.

**2.27. Program Manager.** "Program Manager" means the individual selected and employed by the Company to support the students and Faculty of an e-Learning Program, including assisting Students with re-enrollment in future terms.

**2.28. Program Model.** "Program Model" means the proprietary e-Learning model of the Company as described in the Prospectus.

**2.29 Program Term Sheet.** The Parties will develop and agree upon the key terms for each e-Learning Program which they wish to undertake and such terms shall be set forth in the Program Term Sheet which will be amended and attached hereto as each new e-Learning Program is added to this Agreement. The Program Term Sheet shall be signed by the parties.

**2.30. Project.** "Project" shall have the meaning set forth in Article 1.1, above.

**2.31. Prospectus.** The "Prospectus" is the development and delivery plan for each e-Learning Program that includes at a minimum the roles and responsibilities of the e-Learning Program faculty and staff, development schedules and timelines, and curriculum delivery structure.

**2.32. Steering Committee.** "Steering Committee" means the committee of the Company and the University representatives established pursuant to Article 3 hereof to administer the affairs of the Project.

**2.33. Students.** "Students" shall mean all prospective as well as actual enrollees in the e-Learning Programs and Courses.

**2.34. Term.** "Term" means the term of this Agreement as it pertains to each e-Learning Program whose Term is set forth in the Program Term Sheet.

**2.35. Territory.** "Territory" means the world.

**2.36. Title IV.** "Title IV" means any program, loan, grant or function applicable to Title IV of the Higher Education Act, as amended ("HEA"), any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA.

**2.37. Title IV Student.** "Title IV Student" shall mean any student enrolled in any Course within any e-Learning Program who is subject to a Title IV program, loan, grant or function.

**2.38. Trademarks.** "Trademarks" means the distinctive marks of authenticity (including without limitation trademarks and service marks) of the Parties which are distinctive from others including names, symbols and forms of words.

**2.39. University.** "University" shall mean University of Cincinnati.

**2.40. University Decision.** A "University Decision" means a decision with respect to a matter which the University shall make in its sole discretion, subject to the terms hereof, without the necessity of prior consultations or discussions by the Steering Committee or between the Parties. All decisions which are the University Decisions are specifically identified as such hereunder.

## ARTICLE 3

### STEERING COMMITTEE

**3.1 Decision Making.** Subject to any express provisions of this Agreement designating certain decisions as "Company Decisions" or "University Decisions," decisions which need to be made with respect to this Agreement, and the general affairs and activities of the Parties with respect to the Project and the development, supply, delivery and other activities related to the e-Learning Programs as described herein shall be made, administered, managed and coordinated by a committee (the "Steering Committee") consisting of an equal number (which number shall be two (2) unless the Parties otherwise agree) of representatives designated by each of the Company and the University. The Steering Committee shall plan, administer and monitor the e-Learning Programs and the Project, including approving the enrollment goals. In planning and monitoring the e-Learning Programs and the Project, the Steering Committee shall allocate tasks and responsibilities taking into account each Party's respective specific research, development, teaching, marketing and student enrollment and retention capabilities and expertise in order to avoid duplication and to enhance synergies.

**3.2 Steering Committee Designees.** Each Party shall designate one of its representatives on the Steering Committee as its "Co-Chair." Each Party shall have the right at any time to substitute individuals, reasonably acceptable to the other Party, on a permanent or temporary basis, for any of its previously designated representatives to the Steering Committee, including its Co-Chair, by giving written notice thereof to the other Party.

**3.3 Steering Committee Meetings.**

**3.3.1 Schedule of Meetings.** The Steering Committee shall meet (by teleconference or videoconference and/or in person) at such times as the Committee deems appropriate, but at least semi-annually. Representatives of each Party or of its Affiliates, in addition to the members of the Steering Committee, may attend Steering Committee meetings as non-voting observers at the invitation of either Party with the approval of the other Party, which shall not be unreasonably withheld.

**3.3.2 Quorum; Voting; Decisions and Expenses.** At each Steering Committee meeting, a majority of the members of the Steering Committee designated by the Parties present at such meeting shall constitute a quorum. Each Steering Committee member shall have one vote on all matters before the Steering Committee. Provided a quorum is present, all decisions of the Steering Committee shall be made by majority vote of all of the members of the Steering Committee. In the event that the Steering Committee is unable to resolve any matter before it, such matter shall be resolved as set forth in Article 3.4 hereof. The Steering Committee shall keep accurate minutes of its deliberations that record all proposed decisions and all actions recommended or taken. Each Party shall each bear their own expenses and that of their respective Steering Committee members related to their participation on the Steering Committee and attendance at Steering Committee meetings.

**3.4 Dispute Resolution.** In the event that the Steering Committee shall not be able to reach a decision or take an action on any matter which is reserved to the Steering Committee hereunder, then: (i) the matter in question shall first be referred for resolution to the Chief Executive Officer of the Company and the President of the University (or a designated senior officer of the University), and in the event that said officers shall be unable to resolve such matter after reasonable efforts to do so and after the passage of a reasonable period of time under the relevant circumstances, but in no event more than thirty (30) days, such matter shall be resolved in accordance with the procedures for resolving disputes under this Agreement as set forth in Article 15.

## **ARTICLE 4**

### **OBJECTIVES, DUTIES AND RESPONSIBILITIES**

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

**4.2 Mutual Obligations.**

**4.2.1 Collaborative Efforts and Reports.** The Parties agree that the successful execution of the e-Learning Programs will require the collaborative use of both Parties' areas of expertise.

The Parties shall keep the Program Directors, Chief Academic Officer and the Steering Committee fully informed about the status of the portions of the e-Learning Programs they respectively perform separately and/or jointly.

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

**4.2.3. Program Evaluation.** The Parties will conduct regular Course, services, and e-Learning Program evaluations to assess the effectiveness of each e-Learning Program; including participating in joint review for continuous improvement of the e-Learning Programs.

**4.2.4. Timeliness.** The University and the Company shall use their best efforts to make all decisions and perform all tasks required of the Parties in a timely manner.

**4.2.5. Joint Obligations.** Each Party shall apply commercially reasonable efforts to the performance of all aspects of its obligations under this Agreement and to bring the e-Learning Programs into commercial use as quickly as reasonably possible but in no event later than the time periods set forth in the Prospectus.

**4.3 Duties of the University.** The Program Directors shall cause and ensure that the University, the Faculty, and their staff, are responsible for and shall provide at the University's sole cost and expense, unless otherwise specifically indicated herein or in the Program Term Sheet attached hereto, the following duties and services, and all decisions related to performing and providing of such duties and services shall be the University Decisions unless specifically indicated otherwise in the Program Term Sheet attached hereto.

**4.3.1. Curriculum and Content.** The University shall be responsible for the following Content matters:

**4.3.1.1. Development and Delivery of the Content and Other Materials.** Development and delivery of the Content and materials, syllabus, Course outlines, Course manuals, Course schedules, Documentation, multimedia presentations, readings, assignment guidelines, case studies, hard copy materials, audio, video and related computer software for each of the e-Learning Programs in accordance with the procedures, requirements and schedules set forth in the Prospectus. The Parties, in consultation with the Steering Committee, will use their best efforts to develop materials in a timely fashion and to develop collaborative solutions in the event of an unforeseen delay in the production schedule. The University shall provide the Company with sufficient materials for each e-Learning Program, in a manner and form/format satisfactory to the Company, for the Company to perform its obligations under this Agreement, all of which shall be provided according to the Prospectus for each e-Learning Program.

**4.3.1.2. Control of Academic Curricula and Content.** Academic programming and curriculum shall be a University Decision. The University shall make decisions with respect to, and shall be fully responsible for, the Content and quality of the curriculum of each e-Learning Program. Such curricula shall be established in accordance with all applicable laws and regulations and with the

policies, procedures and guidelines of the University. Notwithstanding the foregoing, the University shall use its best efforts to maximize the use of the e-Learning Program Model, which will be updated, modified and amended as reasonably necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

**4.3.4.5.** The University shall produce multimedia presentations as defined by the Course Instructors and the Program Directors. This service, together with the services described in 4.3.4.3. and 4.3.4.4., shall be referred to herein as "Instructional Services."

**4.3.4.6.** The University shall (a) provide the Company access to an A Record for a 3<sup>rd</sup> level sub-domain off of the University main domain that points to an IP address on the Company server strictly for the purposes of marketing of the Project and maintenance of each e-Learning Program web site, and provide an MX record that points to the Company Exchange service IP address for purposes of this Project; and (b) provide a "Course Designer Level" access to the course materials for the Company appointed Program Manager for maintenance of the Course and support for Students and Faculty; provided, however, that course material access for any program in the University's College of Education, Criminal Justice, and Human Services, shall only be available to the extent specifically provided in any Program Term Sheet. Course Management System "Administrative System Access" shall be granted only to a University information technology services employee.

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

**4.4. Duties of the Company.** The Company shall be responsible for and shall provide at its sole cost and expense unless otherwise indicated in the Program Term Sheet the following duties and services and all decisions related to performing and providing of such duties and services shall be Company Decisions unless otherwise specifically indicated otherwise in the Program Term Sheet:

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

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

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

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

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

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

**4.4.1.6. Dissemination of Program Collateral and Application Materials.** The Company shall disseminate via hardcopy and electronic means, application materials, and other literature to interested persons and groups.

**4.4.1.7. Development and Maintenance of the Program Promotional Website.** The Company shall design, create, improve, promote, maintain, and update a promotional website for each e-Learning Program to market the e-Learning Programs via the Internet.

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

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

**4.4.2.1 Student Advisement and Processing.** The Company and its Enrollment Advisors shall be responsible for all activities related to initial contact with prospective Students, description of the e-Learning Programs, explanation of distance e-learning, advisement about the admissions requirements, guidance regarding the financial aid application process, notification of schedules and deadlines, answering prospective Students' questions regarding the foregoing, and making referrals to appropriate University resources. Assistance will be given for verification of receipt of information necessary for admissions and registration, providing updates, mailing of application and registration packets, telephone support in the application process, processing of information, and receipt of necessary student documentation as requested by the University.

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

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

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

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

**4.4.3.1 Student Retention.** The Company shall be responsible for all activities related to logistical and technical support for Students directly related to retention-building activities.

**4.4.3.2 Student Re-enrollment.** The Company shall be responsible for advising and directing Students about re-enrollment procedures.

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

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

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

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

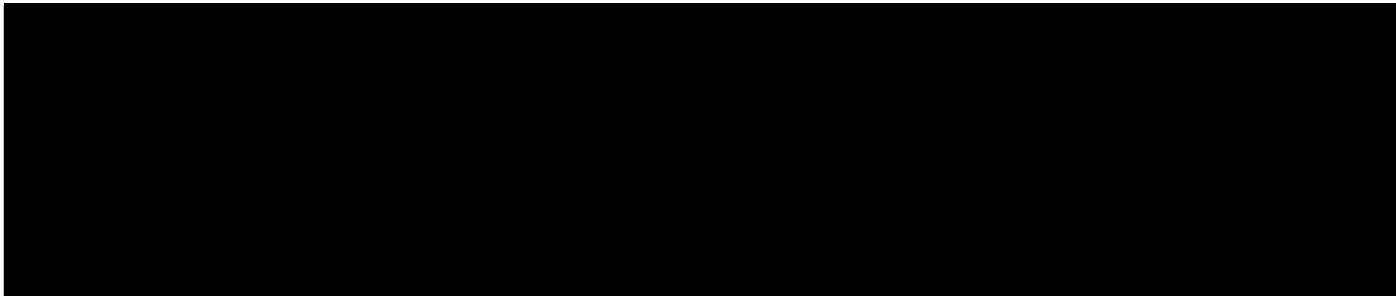
**4.4.4 Instructional Services.** The Company shall be responsible for the following Instructional Services:

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

**4.4.4.2 Assistance in Curriculum Development.** The Company shall coordinate activities related to scheduling, processing, assisting and coordinating deadlines with the University to achieve required outcomes, including templates, Course manuals and websites.

## **ARTICLE 5**

### **FUNDING**



## ARTICLE 6

### LICENSE

#### **6.1 License.**

**6.1.1.** The University hereby grants to the Company for the Term of this Agreement the royalty-free exclusive right and license to use, produce, reproduce, manufacture, distribute, perform, display, promote, advertise, sell, and otherwise market the e-Learning Programs, or any parts thereof, produced in furtherance of this Agreement, including any foreign language versions, in all configurations and formats, for all digital/electronic technology systems, whether now known or hereinafter developed, throughout the Territory for the purposes of performing its obligations under this Agreement. This license includes without limitation a license under all copyrights and patents and any applications therefore that have been filed or may be filed in the future with respect to the Content, Courses, Documentation and Derivative Work therefrom, including, without limitation, the e-Learning Programs.

**6.1.2.** The University shall have sole responsibility for obtaining any licenses and rights in all Intellectual Property Rights of third parties with respect to the Content Documentation and Derivative Work therefrom necessary to enable the Company to perform its duties pursuant to this Agreement as intended, and, to the extent the University now or in the future possesses such Intellectual Property Rights, hereby provides to the Company during the Term of this Agreement for all purposes associated with the performance of the Company's duties hereunder a royalty-free exclusive, right and license to such Intellectual Property Rights throughout the Territory.

**6.1.3.** Except for the licenses granted herein to the Company, it is understood and agreed that as between the Parties the University shall retain all right, title, and interest in the original Content, and all copyrights therein, and that the University will own all modifications or improvements made to the original Content or other Derivative Works. Notwithstanding any other provision to the contrary, the Company shall retain all rights, title, and interest in and to its distance learning methodologies (including without limitation the Program Model) before, during and after the Term of this Agreement, including without limitation all copyright, trademark, and other Intellectual Property Rights in and to such methodologies and any representation or documentation of such methodologies in any form or configuration, whether now known or hereinafter developed. Nothing in this Agreement shall give the University any interest in the Intellectual Property Rights of the Company. At its own cost and expense, each Party agrees to execute any documents and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Section 6.1.3.

**6.2 Trademarks.** The University also hereby grants the Company, the royalty-free right and license to use and display throughout the Territory the name, trade names and Trademarks of the University, if any, for the promotion, advertisement, selling, and exploitation of the e-Learning Programs;

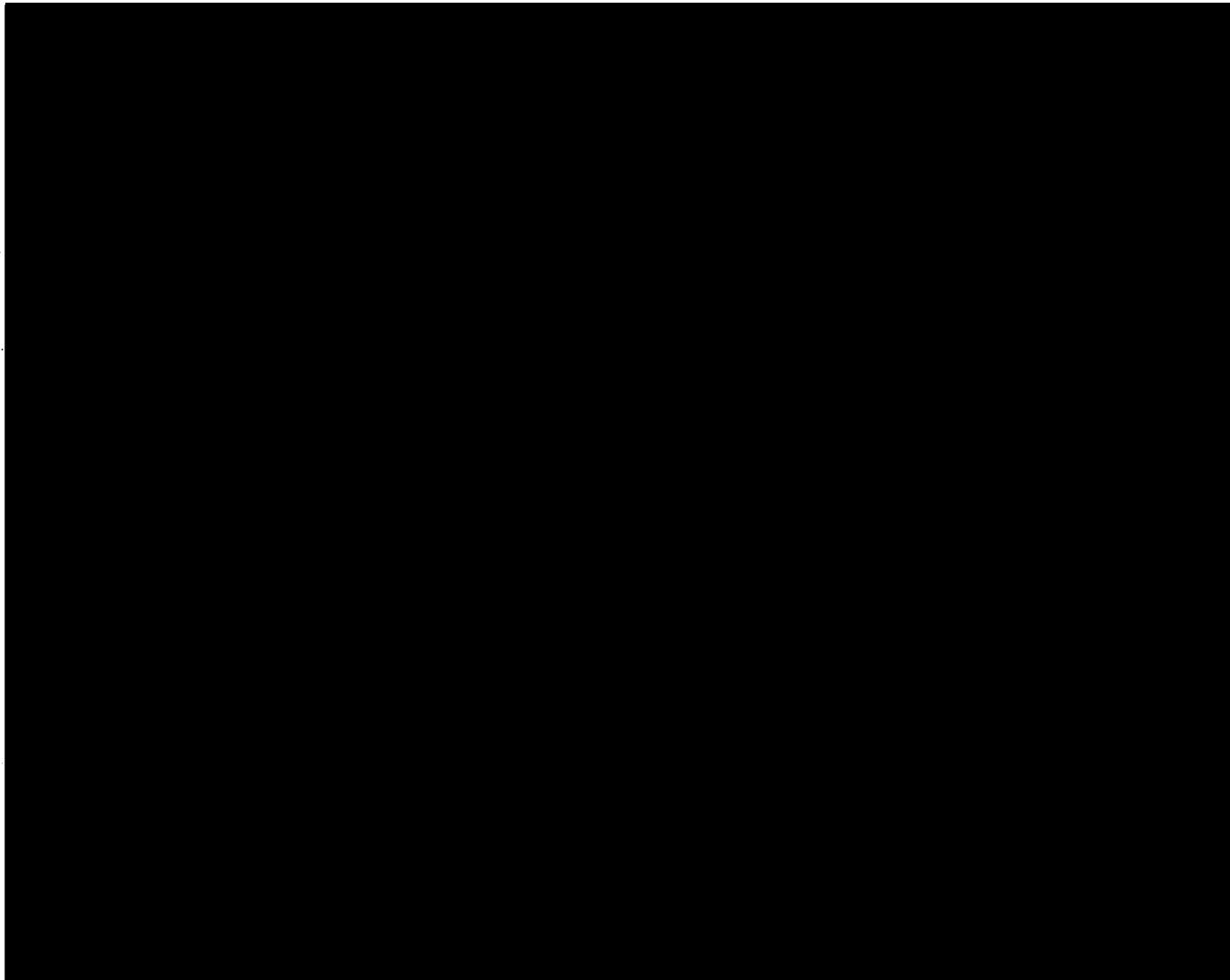
provided, however, that each new such use of the foregoing shall be approved in advance by the University's Director of Publications or similar position.

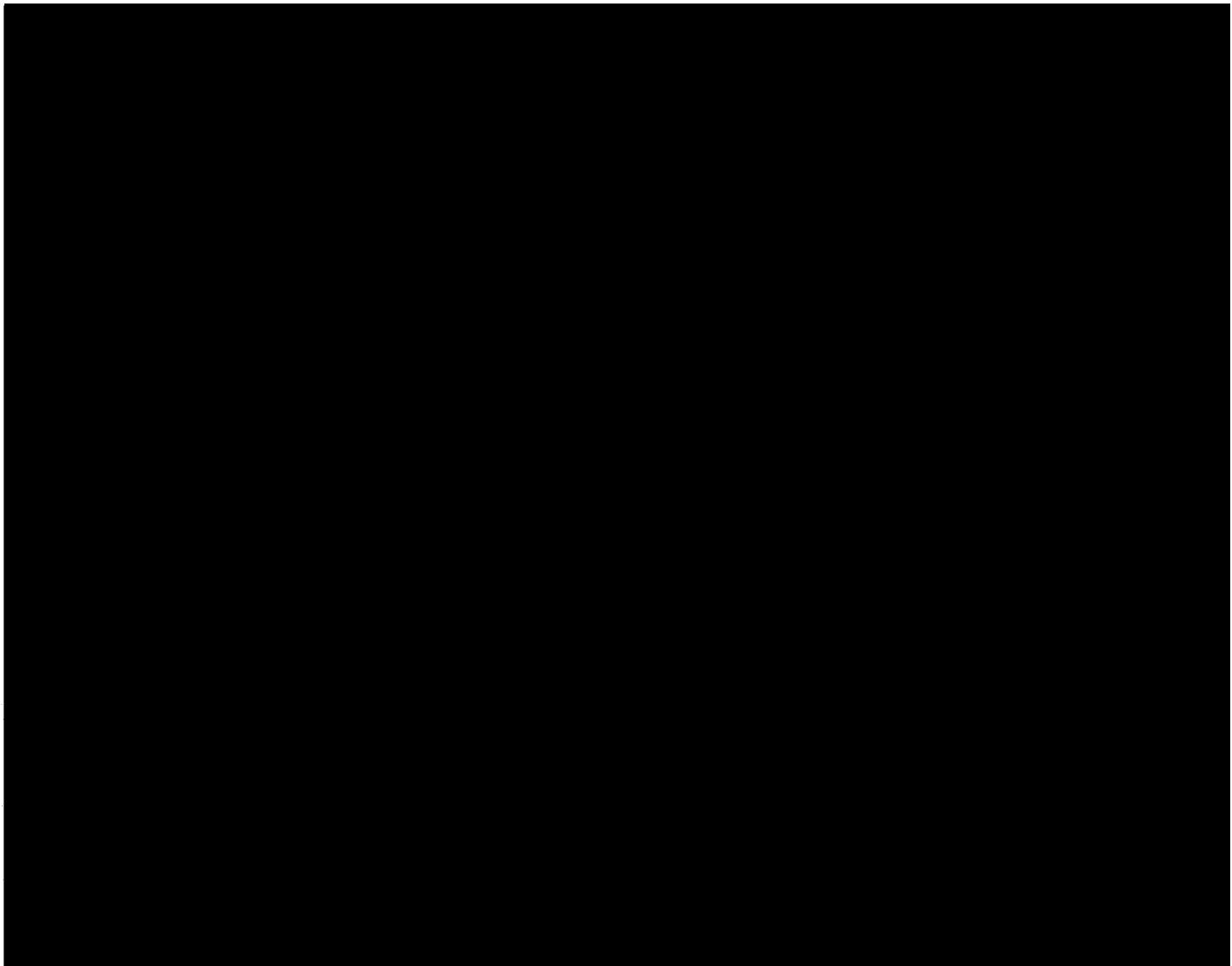
**6.3      Necessary Acts, Further Assurances.** The University shall at its own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of Sections 6.1.1., 6.1.2. and 6.2 hereof.

**6.4      Marking Provisions.** The licenses granted hereunder are conditioned on the Company's full and complete compliance with the marking provisions of the trademark, patent, and copyright laws of the United States and other countries in the Territory, as applicable. The Company shall include on all tangible or visible materials utilized in connection with the e-Learning Programs appropriate notice of the University's copyrights, regardless of whether such notice is mandatory under applicable law.

## **ARTICLE 7**

### **DISTRIBUTIONS**





## **ARTICLE 8**

### **AUDIT**

**8.1.** The Company shall have the right to have an independent certified accountant (the "Company's Auditor") perform an audit (the "Company's Audit") of the University's determination of the amount of the Distributions due the Company hereunder, exercisable by written notice delivered to the University at least 20 days prior to such Company's Audit and no more than twice per year per e-Learning Program. The University agrees to cooperate with the Company and the Company's Auditor, including providing reasonable access to the financial books, records and materials regarding the e-Learning Programs. If there is a Significant Discrepancy between the University's determination of the amount of the Distribution(s) due Company and that of the Company's Auditor, then it shall be resolved as provided below. A "Significant Discrepancy" exists with respect to any Distribution if the amount of the Distribution the Company's Auditor determines is due the Company in any Company's Audit is 5% greater than or less than the University's calculation of such Distribution.

**8.2.** If any Company's Audit indicates a Significant Discrepancy, any difference shall be immediately due and payable to the proper Party.

**8.3.** In the event that any Company's Audit indicates a Significant Discrepancy, as defined above, the University shall be required to pay all costs associated with said Company's Audit. Otherwise, the Company shall be responsible for such costs.

**8.4** All books and records relative to the obligations hereunder shall be maintained and kept accessible and available to the Parties for inspection for the longer of: (a) at least three (3) years after termination or expiration of this Agreement, or (b) as required by Title IV or other applicable law.

**8.5** The University shall have the right to have its Associate Vice President for Enrollment Management, its Internal Auditors, or similar officials (the "University's Auditor") perform an audit (the "University's Audit") of the Company's compliance with Title IV, exercisable by written notice delivered to the Company at least 20 days prior to such University's Audit. The Company agrees to cooperate with the University and the University's Auditor, including providing reasonable access to the financial books, records and materials regarding the e-Learning Programs. If there is a noncompliance with Title IV, then University shall have the right to terminate in accord with Article 11.

**8.6** The Company shall also provide the U.S. Department of Education or a duly authorized representative timely and unrestricted access to its books, records, and employees in order to make audits.

## **ARTICLE 9**

### **COMPENSATION AND FEES**



## **ARTICLE 10**

## **CONFIDENTIAL INFORMATION AND RESTRICTIVE COVENANTS**

### **10.1. Confidentiality.**

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

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

**10.2. Publicity.** Neither Party may disclose the terms of this Agreement without the prior written consent of the Steering Committee; provided, however, that either Party may make such a disclosure to the extent required by law. Such disclosure shall be on reasonable notice to the other Party and after taking all reasonable steps to maintain confidentiality. The Parties, upon the execution of this Agreement, will agree upon the text and the exact timing of an initial public announcement relating to the transactions contemplated by this Agreement as soon as possible after the Effective Date (such agreement not to be unreasonably withheld or delayed). Thereafter, the Parties will agree on the text and the timing of any subsequent public announcements regarding this Agreement or the transactions contemplated herein; provided, however, that once any written statement is approved for disclosure by the Steering Committee, either Party may make subsequent public disclosure of the contents of such statement without the further approval of the other Party or the Steering Committee. Any costs incurred for public relations in respect of this Agreement shall be paid by the Party incurring the expense.

**10.3. Limitation on Disclosures.** Notwithstanding any provision in this Agreement, neither Party shall be obligated hereunder to disclose to the other Party any information which it is prohibited from disclosing by law or under any agreement with a third Party.

**10.4. Prohibition on Hiring.** Neither Party shall, during the term of this Agreement and for a period of one (1) year thereafter, hire or solicit any person who was employed by the other Party or its Affiliates during such period, whether such person is hired as an employee or consultant, unless authorized in writing by the other Party, or unless such person has not been employed by the other Party for at least 12 months prior to his or her hiring or solicitation. Notwithstanding the foregoing, neither Party shall be restricted from hiring an applicant for a position who has responded to an advertisement directed to the public without any direct contact from the hiring Party.

**10.5. Injunctive Relief.** The Parties agree that the provisions and restrictions contained in this Article 10 are necessary to protect their respective legitimate continuing interests and that any violation or breach of these provisions will result in irreparable injury to the non-breaching Party, its parent company and subsidiaries for which a remedy at law would be inadequate. Therefore, in addition to any relief at law which may be available to the non-breaching Party for such violation or breach and regardless of any other provision contained in this Agreement, the non-breaching Party, its parent company or subsidiaries shall be entitled to injunctive and other equitable relief as a court may grant after considering the intent of this Article 10.

**10.6 Saving Provisions.** If any covenant or provision contained in this Article 10 is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity of any other covenant or provision. If, in any arbitration or judicial proceeding, a tribunal shall refuse to enforce all of the separate covenants deemed included in this Article 10, then such unenforceable covenants shall be deemed eliminated from the provisions hereof for the purpose of such proceedings to the extent necessary to permit the remaining separate covenants to be enforced in such proceedings.

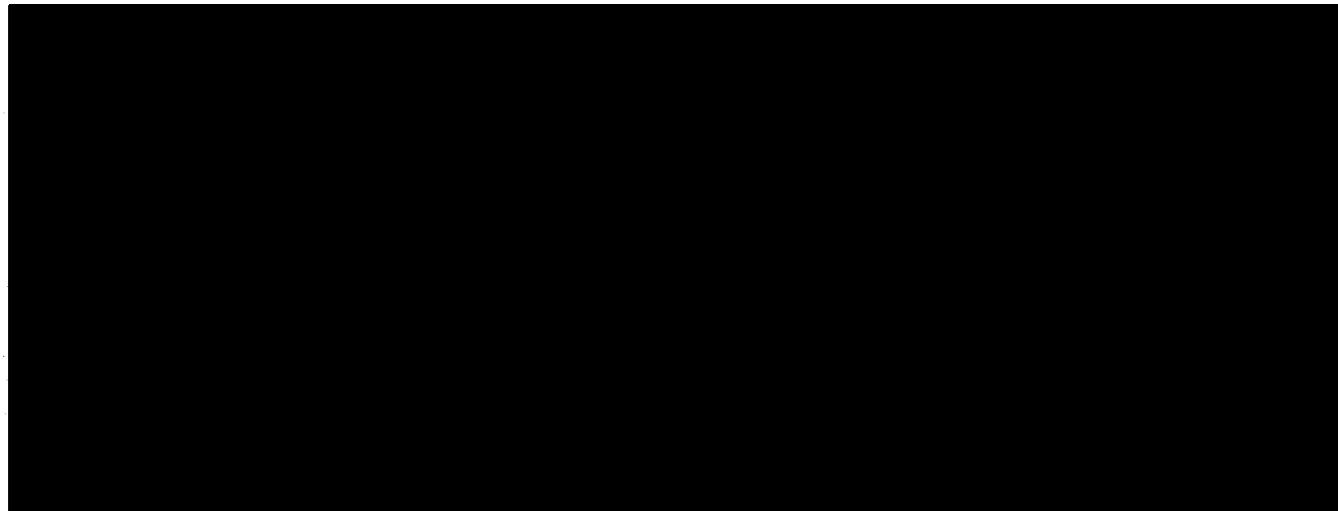
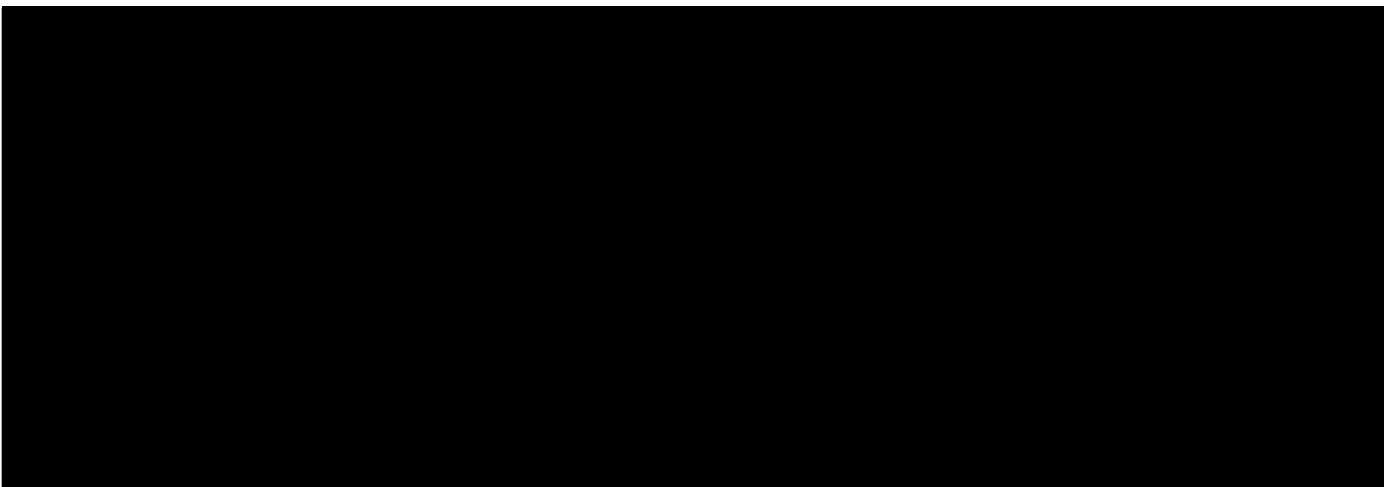
## ARTICLE 11

### TERMINATION AND DISENGAGEMENT

#### 11.2. Termination.

##### 11.2.1 Initial Termination Conditions.

(a) This Agreement and all e-Learning Programs may be terminated in any one or more of the following ways: (i) by mutual consent of the University and the Company; or (ii) by one Party upon written notice in the event that (a) the other Party shall have dissolved, ceased active business operations or liquidated, unless such dissolution, cessation or liquidation results from reorganization, acquisition, merger or similar event, or (b) bankruptcy or insolvency proceedings, including any proceeding under Title 11 of the United States Code, have been brought by or against the other Party and, in the event such a proceeding has been brought against such Party, remains undismissed for a period of sixty (60) days, or an assignment has been made for the benefit of such Party's creditors or a receiver of such Party's assets has been appointed (a "Bankruptcy Event");



**11.4.** The Parties shall remain liable for all obligations and shall 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 and the terminated e-Learning Program(s), including without limitation Distributions earned prior to such expiration or termination as well as Distributions subsequent to such termination or expiration with respect to those Students enrolled in the terminated e-Learning Program(s) or Courses as of the date of such expiration or termination for so long as such Students remain enrolled in the terminated e-Learning Program(s) or Courses or re-enroll in the terminated e-Learning Program(s) or Courses within one year of dropping or failing to re-enroll.

**11.5.** If either Party shall fail to perform or observe or otherwise breaches any of its material obligations under this Agreement, in addition to any right to terminate this Agreement or an e-Learning Program(s), as the case may be, the non-defaulting Party may elect to obtain other relief and remedies available under law provided, however, that where practicable the non-defaulting Party must provide the notice and opportunity to cure described in Section 11.2.1(b) prior to pursuing such relief. Such non-defaulting Party must seek relief and remedies in accordance with Article 15 hereof.

## **ARTICLE 12**

### **REPRESENTATIONS, WARRANTIES AND COVENANTS**

**12.1. Mutual Representations.** The University and the Company each represents to the other as follows:

**12.1.1. Authorization.** The execution, delivery and performance by it of this Agreement have been duly authorized by all necessary corporate or other organizational action and do not and will not (a) require any consent or approval of its stockholders, owners or directors or (b) violate any provision of any agreement, law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to it or any provision of its charter documents.

**12.1.2. Binding Agreement.** This Agreement is a legal, valid and binding obligation of it enforceable against it in accordance with the terms and conditions hereof.

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

#### **12.2 Company Warranties.**

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

**12.2.2.** The Company represents and warrants that it compensates its employees consistently with Title IV. In particular, Company further represents and warrants that its Enrollment Advisors are not compensated in any manner which would contravene 20 U.S.C. §1094(a)(20) or 34 C.F.R. 668.14(b)(22).

#### **12.3 The University Warranties.**

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

**12.3.2.** The University further represents that it has no actual knowledge that the Content, Courses, Documentation or any Derivative Work therefrom and/or any of the University's Trademarks, whether owned or licensed, infringe upon the valid rights of any third party.

**12.3.3.** The University is in material compliance with applicable laws, regulations, and accrediting body standards, possesses all required educational approvals and accreditations, and has no actual knowledge of any basis for the revocation or material limitation of any of its educational approvals or accreditations.

**12.4. WARRANTY DISCLAIMER.** EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY WITH RESPECT TO ANY TECHNOLOGY, GOODS, SERVICES, RIGHTS OR OTHER SUBJECT MATTER OF THIS AGREEMENT AND HEREBY DISCLAIMS WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY AND ALL OF THE FOREGOING.

**12.5 Limitation of Liability.** Neither party shall be liable to the other Party or any Affiliate of the other Party, whether in contract or tort (including negligence and strict liability) or otherwise, for any special, indirect, incidental or consequential damages whatsoever.

## **ARTICLE 13**

### **INFRINGEMENTS**

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

**13.2.** During the term of this Agreement, the University shall not be obligated to litigate any infringement. If the University litigates any such infringement, the Company may, at its option, be included as a co-plaintiff in any such suit, without expense to the Company. The total cost of any such infringement action shall be borne by the University. Any recovery of damages by the University for any such suit shall be applied first in satisfaction of any unreimbursed expenses and legal fees of the University relating to the suit, and next toward reimbursement of the Company for any expenses it pays or damages it incurs in connection with same. The balance remaining from any such recovery shall be the property of the University.

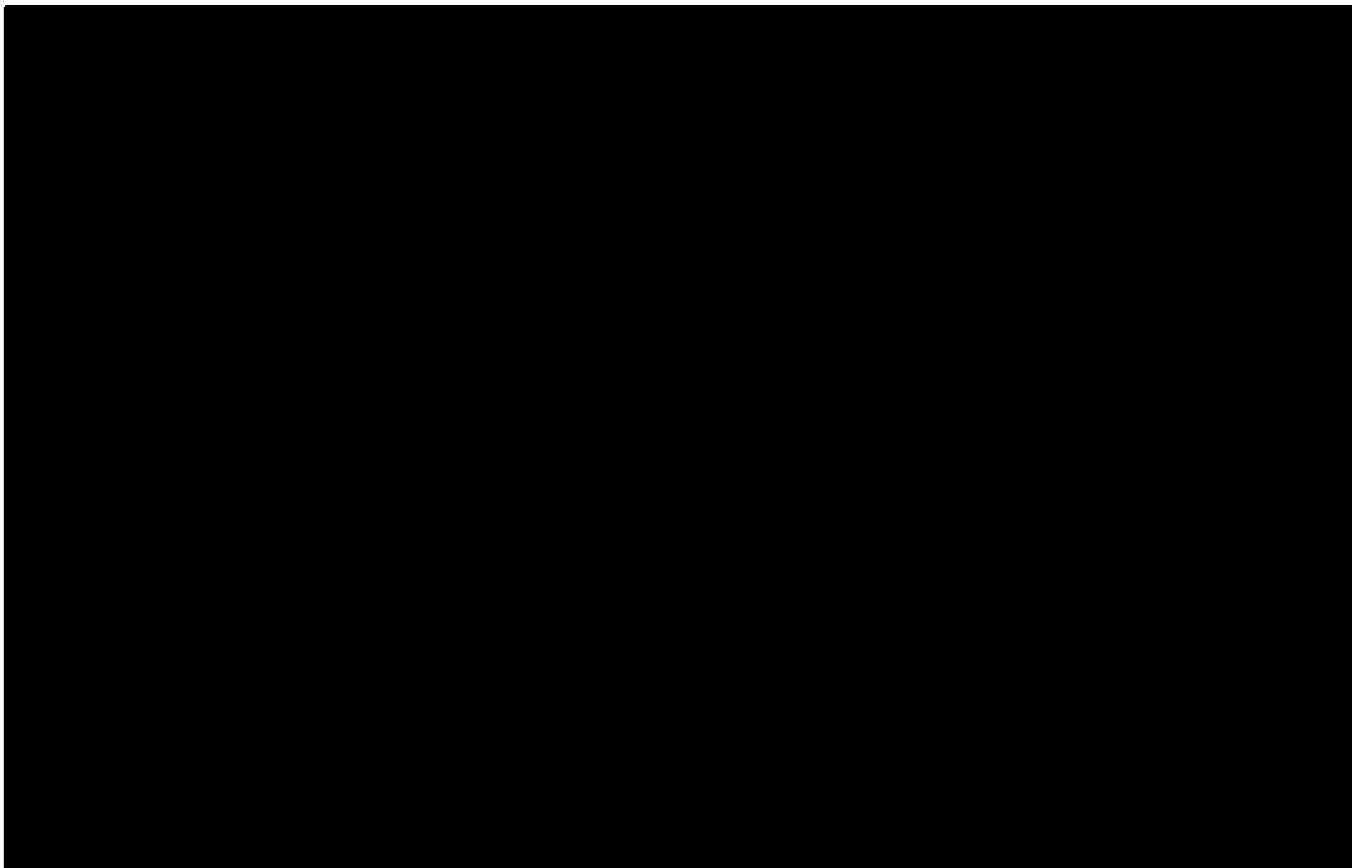
**13.3.** If within sixty (60) days after having been notified of any alleged infringement or such shorter time proscribed by law, the University shall have been unsuccessful in persuading the alleged infringer to desist and shall not have brought and shall not be diligently litigating an infringement action, then, and in those events only, the Company shall have the right, but shall not be obligated, to litigate at its own expense any infringement of the claim, and the Company may, for such purposes but only with the consent of the Attorney General of Ohio, include the University as a party plaintiff.

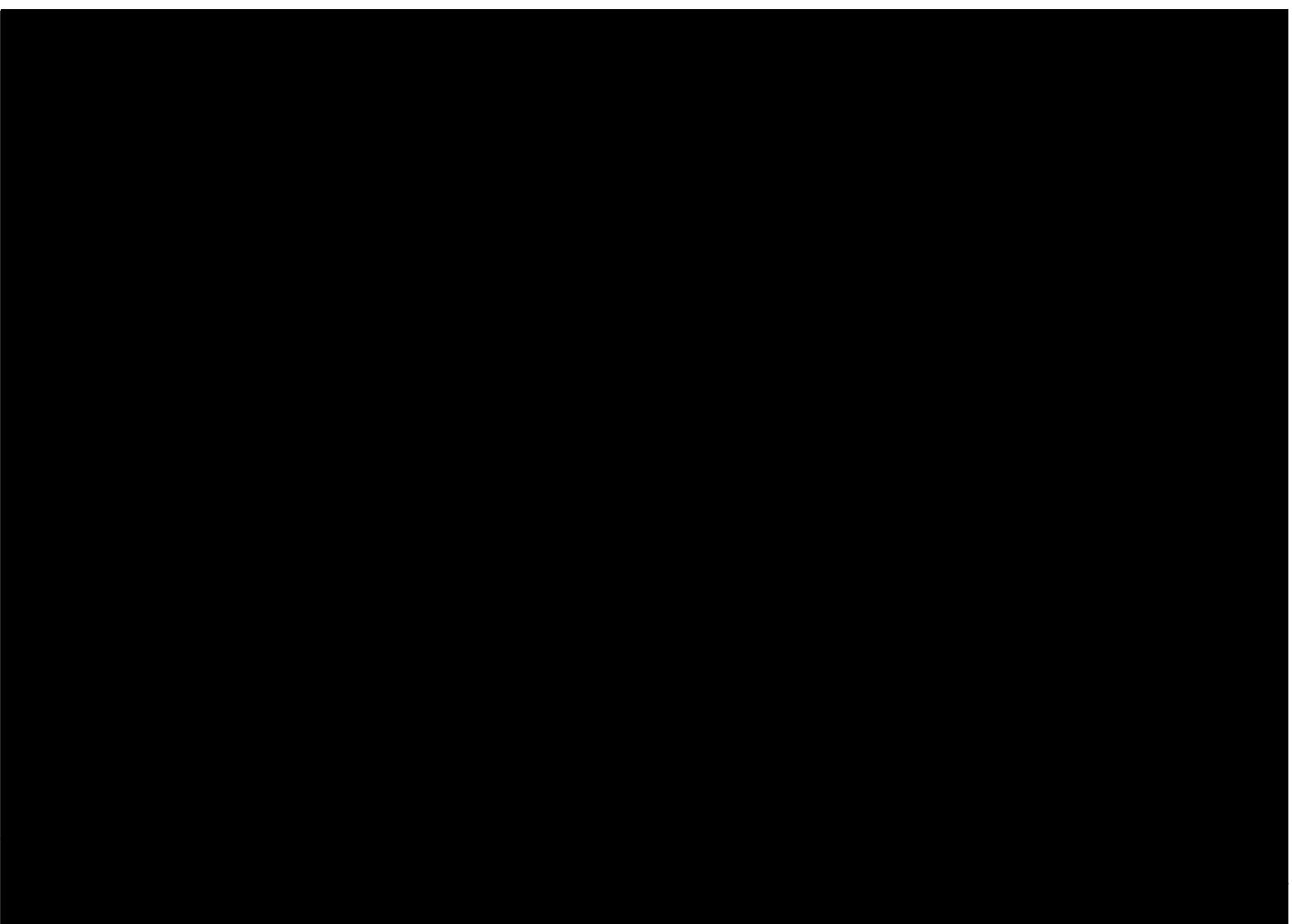
**13.4.** In the event that the University elects not to undertake the enforcement and/or defense of the claim by litigation within 60 days of receipt of notice as provided in Section 13.1 or 13.3 above, then the Company may do so and shall be entitled to a reimbursement of its expenses, including reasonable attorneys' fees, in connection therewith from the University. Any recovery of damages by the Company for any such suit shall be applied first in satisfaction of any unreimbursed expenses and legal fees of the Company relating to the suit, and next toward reimbursement of the University for any expenses it pays in connection with same. The balance remaining from any such recovery shall be the property of the Company.

**13.5.** In any infringement suit as either Party may institute to enforce a claim pursuant to this Article 13, the other Party hereto shall, at the request and expense of the Party initiating such suit, cooperate in all respects and, to the extent possible, have its employees, if applicable, testify when requested and make available relevant records, papers, information, samples, specimens, and the like.

## **ARTICLE 14**

### **CLAIMS**





**14.3. Definition of Claims.** As used in this section, the term "Claim" shall include (i) all liabilities; (ii) all losses, damages, judgments, awards, settlements, costs and expenses (including, without limitation, interest including prejudgment interest in any litigated matter), penalties, court costs and attorneys fees and expenses; and (iii) all demands, claims, suits, actions, costs of investigation, causes of action, proceedings and assessments incurred by a Party as provided herein.

**14.4. Materiality and Limitation.** The Parties recognize that many of the representations, warranties and covenants set forth in this Agreement are qualified by the term "material." For purposes of this Agreement and this section, the Parties hereby agree that a "material" event(s) has occurred if the impact of such event(s) has resulted or is reasonably likely to result in costs, expenses and/or damages (i.e., Claims) for any event(s) singularly or in the aggregate in excess of Five Thousand Dollars (\$5,000.00).

**14.5. Procedure for Asserting Claim.** The Party subject to Claim as described in Sections 14.1 and 14.2 hereof ("Claim Subject") shall notify in writing the other Party (the "Other Party") within thirty (30) days after a Claim is presented, and the Other Party shall defend such Claim at its expense provided that in the case of the University, the selection of counsel to conduct its defense and any agreement to settle or compromise the Claim shall be subject to approval by the Attorney General of Ohio. If the Other Party does not defend or settle such claim, the Claim Subject may do so without the Other Party's participation, in which case the Other Party shall pay the reasonable expenses of such defense, and the Claim Subject may settle or compromise such claim without the Other Party's consent. If

the Claim Subject fails to notify the Other Party, and the Other Party is thereby materially prejudiced by such failure of notice in its defense of the Claim, the Other Party's obligation of indemnity as set forth in Sections 14.1 and 14.2 hereof shall be extinguished with respect to such Claim to the extent that the Other Party has been prejudiced by the failure to give such notice.

## ARTICLE 15

### DISPUTE RESOLUTION

#### **15.1 Dispute Resolution.**

**15.1.1 General.** In the event of any dispute, difference or question arising between the Parties in connection with this Agreement, the construction thereof, or the rights, duties or liabilities of either Party, and which dispute cannot be amicably resolved by the good faith efforts of the persons designated under Article 3.1, then such dispute shall (i) be resolved by non-binding arbitration conducted in the manner set forth in Article 15.1.2, and (ii) in the event that such dispute is not amicably resolved by such non-binding arbitration, then the Parties may seek to enforce their rights in the courts of competent jurisdiction.

**15.1.2 Arbitration.** In the event of the occurrence of a dispute which cannot be amicably resolved by the good faith efforts of the persons designated under Article 3.1, either Party may, by written notice to the other Party, commence a non-binding arbitration to resolve such dispute notice, which notice (a "Arbitration Notice") shall inform the other Party of such dispute and the issues to be resolved and shall contain a list of three (3) recommended individuals to serve as the arbitrator. Within ten (10) business days after the receipt of such Mediation Notice, the other Party shall respond by written notice to the Party initiating arbitration, which notice shall contain a list of three (3) recommended individuals to serve as the arbitrator and which may add additional issues to be resolved. The recommended arbitrators shall be individuals with experience in the e-Learning industry and shall not be an employee, director, shareholder or agent of either Party or of an Affiliate or subsidiary of either Party, or otherwise involved (whether by contract or otherwise) in the affairs of either Party. If, within twenty (20) business days after receipt of such Arbitration Notice, the Parties shall have been unable to mutually agree upon an individual to serve as an arbitrator, then the Parties may seek to enforce their rights in the Courts of competent jurisdiction. If, within twenty (20) business days after receipt of such Arbitration Notice, the Parties shall have mutually agreed upon an individual to serve as a arbitrator, then the arbitrator shall conduct a arbitration in an effort to resolve such dispute as follows: (i) Within thirty (30) business days after selection, the arbitrator shall hold a hearing to resolve each of the issues identified by the Parties. Each Party shall be represented at the hearing by up to two (2) employees of such Party, one of whom is an officer of such Party, and may be represented by counsel. The hearing shall be held in a mutually agreeable location. No discovery will be conducted, unless the Parties otherwise mutually agree. (ii) At least ten (10) business days prior to the date set for the hearing, each Party shall submit to the other Party and the arbitrator in writing a proposed ruling on each issue to be resolved, which writing (A) may, in addition to containing the proposed rulings, contain arguments or analyses of the facts or issues and (B) shall be limited to not more than twenty (20) pages. (iii) Each Party shall be entitled to no more than three (3) hours of hearing time to present oral testimony. The oral testimony of both Parties shall be presented during the same calendar day. Such time limitation shall include any direct, cross or rebuttal testimony, but such time limitation shall only be charged against the Party conducting such direct or rebuttal testimony. It shall be the responsibility of the arbitrator to determine whether the Parties have had the presentation time to which they are entitled. (iv) At the hearing, the arbitrator shall provide the Parties with the arbitrator's non-binding ruling on each such issue. The arbitrator shall, in rendering his decision, apply the substantive law of the State of Ohio, without giving effect to its principles of conflicts of law,

and without giving effect to any rules or laws relating to arbitration. The arbitration proceeding shall be confidential. Except as required by law, no Party shall make (or instruct the arbitrator to make) any public announcement with respect to the proceedings or rulings of the arbitrator without the prior written consent of each other Party. The existence of any dispute submitted to arbitration, and the rulings of the arbitrator, shall be kept in confidence by the Parties and the arbitrator, except as required by applicable law. (vi) Each Party shall pay its own costs (including, without limitation, attorney's fees) and expenses in connection with such arbitration. The fees and expenses of the arbitrator shall be shared equally by the Parties.

## ARTICLE 16

### GENERAL PROVISIONS

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

If to the Company: 5401 S. Kirkman Road, Suite 200  
Orlando, FL 32819-7949  
Att: Daniel J. Devine, CEO  
Fax: 407-573-2009

If to the University: Director of Central Purchasing  
University Of Cincinnati  
PO BOX 210089  
Cincinnati OH 45221-0089

With respect to Trademark  
Issues also copy: Director of Licensing  
University of Cincinnati  
Cincinnati, OH 45221-0623  
513-556-3483

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

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

**16.3 Interpretation; Severability.** The captions used in this Agreement are for convenience only and shall not be construed in interpreting this Agreement. In the event of any ambiguity or inconsistency between this Agreement and the Program Term Sheet, the Program Term Sheet shall

control. If any portion of this Agreement shall be held illegal, invalid or inoperative then so far as is reasonable and possible:

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

**16.4 Successors and Assigns.** This Agreement shall bind the Parties, their successors, heirs, personal representatives and assigns. Neither Party may assign, convey or otherwise transfer any this Agreement or any interest in this Agreement without the prior written consent of the other Party with the exception that: (i) either Party may pledge, lien, encumber, assign, transfer, convey, and/or sale to a third party such Party's right to its share of the Distributions as set forth in Article 7 above; and (ii) the Company may assign its interest in this Agreement to a wholly owned subsidiary.

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

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

**16.7 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, USA.

**16.8 Entire Contract.** This Agreement constitutes the full and complete understanding of the Parties with respect to the subject matter hereof and supersedes any prior contracts, arrangements, communications, whether oral or written, with respect to the subject matter. Each Party acknowledges that it is entering into this Agreement solely on the basis of the representations contained herein, and for its own purposes, and not for the benefit of any third party.

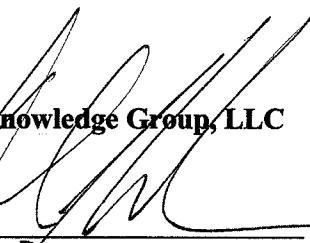
**16.9 Force Majeure.** Neither Party shall be responsible for delay or failure to perform its obligations under this Agreement to the extent such delay or failure is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods or other similar cause wholly beyond the Party's control, or for any of the foregoing that affect third party suppliers of goods or services if no alternate source of such supply is available to the Party. Each Party shall notify the other in the event a force majeure will cause a delay or failure of performance as early as practicable.

**16.10 Waiver.** The delay or failure by a Party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of the Party's right thereafter to enforce those rights, nor shall any single waiver or partial exercise of such right preclude any other or further exercise thereof or of any other right.

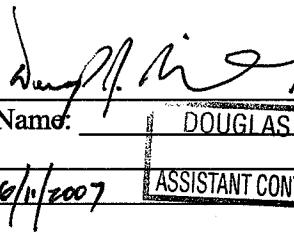
**[SIGNATURES ON THE FOLLOWING PAGE]**

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

**Compass Knowledge Group, LLC**

By:   
Print Name: DANIEL J. DEVINE  
Title CEO  
Date: 06/27/07

**University of Cincinnati**

By:   
Print Name: DOUGLAS J. NIENABER  
Title AS  
Date: 06/11/2007 ASSISTANT CONTRACTING OFFICER

**Exhibit "A"**  
**Program Term Sheet**

- 1. Program:** \_\_\_\_\_ [Insert e-Learning Program Name]
- 2. Effective Date:** The effective date is \_\_\_\_\_ [Insert the date when this Program Term Sheet will become effective]
- 3. Enrollment Dates:** New students may enter this e-Learning Program in \_\_\_\_\_ [Insert enrollment terms when students can begin this e-Learning Program]
- 4. Steering Committee Designees;**  
**For the University:** \_\_\_\_\_ [name two persons] or their duly appointed representatives  
**For the Company:** \_\_\_\_\_ [name two persons] or their duly appointed representatives
- 5. Exceptions to Duties of the University and Company:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**Compass Knowledge Group, LLC**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title \_\_\_\_\_  
Date: \_\_\_\_\_

**University of Cincinnati**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title \_\_\_\_\_  
Date: \_\_\_\_\_

**Exhibit "B"**  
**Existing Agreements**

<b>Effective Date</b>	<b>College</b>	<b>Program</b>	<b>Status</b>
2004 DEC 01	Allied Health Science	B.S. Health Information Management	Active. The parties will negotiate in good faith if, upon expiration, a renewal is sought.
approx 2004 JAN 01	Allied Health Sciences	B.S. Clinical Laboratory Science	Active. The parties will negotiate in good faith if, upon expiration, a renewal is sought.
2003 JUL 02	Education, Criminal Justice, and Human Services	M.E. Education Administration	Active. The parties will negotiate in good faith if, upon expiration, a renewal is sought.
2001 JUL 20	Education, Criminal Justice, and Human Services	M.S. Criminal Justice	Active. The parties will negotiate in good faith if, upon expiration, a renewal is sought.
2005 MAY 02	Nursing	M.S. Nursing Midwifery or Women's Health	Consolidated. Consistent with Section 12.6 of the 2005 MAY 02 agreement, the University exercises its option to roll that agreement into this instant Master Agreement, effective as of the Effective Date, except that for purposes of Article 11 of this instant Master Agreement, the rollover is effective as of 2005 MAY 02.

**Program Term Sheet**

This Program Term Sheet is an Exhibit to the E-Learning Program Development and Distribution Master Agreement with a date of last signature of June 27, 2007 (the "Master Agreement") between Compass Knowledge Group, LLC (the "Company") and the University of Cincinnati (the "University").

1. **Program:** Master of Science in Nursing with specialties in:
  - a. The "Existing Specialties:"
    - i. Nurse Midwifery
    - ii. Women's Health Nurse Practitioner
  - b. The "New Specialties:"
    - i. Clinical Nurse Specialist / Nurse Educator
    - ii. Family Nurse Practitioner
    - iii. Adult Nurse Practitioner
    - iv. Psychiatric Nurse Practitioner
    - v. Psychiatric Clinical Nurse Specialist
    - vi. Nursing Services Administration

2. **Effective Date:** July 1, 2009

**5. Steering Committee Designees:**

**For the University:** Dr. Andrea Lindell, Dean, Associate Senior Vice President for Academic Affairs; and Dr. Lou Ann Emerson, Senior Associate Dean and Associate Professor; or their duly appointed representatives.

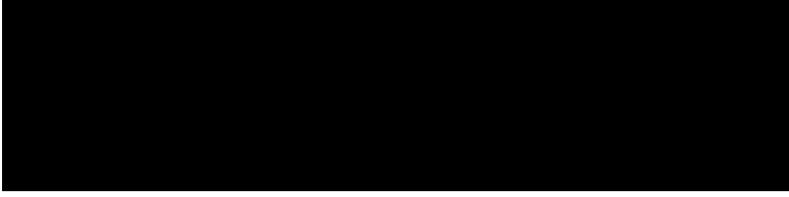
**For the Company:** Dr. Gloria Pickar, President and Chief Academic Officer; and Keith Thompson, Chief Operating Officer; or their duly appointed representatives.

**6. Exceptions to the Duties of the University and the Company: N/A**

From:

07/08/2009 15:21

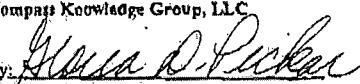
#404 P.003/003

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8. Except as specifically set forth in this Program Term Sheet, all other terms and conditions of the Master Agreement shall remain in full force and effect. Capitalized terms not defined in this Program Term Sheet shall be as defined in the Master Agreement.

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

Compass Knowledge Group, LLC

By:

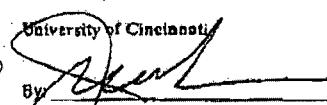
 Print Name: Gloria D. Pickar, Ed.D.

Title: President & Chief Academic Officer

Date: June 30, 2009

University of Cincinnati

By:

 Print Name: James D. Plummer

Title: Vice President for Finance

Date: July 6, 2009

## **Office of General Counsel (genercsl)**

---

**From:** Adams, Janice (adamjc)  
**Sent:** Wednesday, February 17, 2010 9:17 AM  
**To:** Office of General Counsel (genercsl)  
**Subject:** FW: Compass  
**Attachments:** Adendum to CK Master Agreement.pdf

Akiko,

Can you please put an A-910 on this give it a number and add it to the spreadsheet. That is the best we can do. The A-910's are back by the fax machine, hanging on the wall.

Thanks.

---

**From:** Nienaber, Douglas (nienabdj)  
**Sent:** Friday, February 12, 2010 11:44 AM  
**To:** Adams, Janice (adamjc)  
**Subject:** FW: Compass

Add this to your contracts files.

Doug Nienaber  
Assistant General Counsel  
University of Cincinnati  
650 University Pavilion  
PO Box 210623  
Cincinnati OH 45221-0623  
(513) 556-3483  
(513) 556-3232 (fax)  
[http://www.uc.edu/af/general\\_counsel/](http://www.uc.edu/af/general_counsel/)

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**From:** Green, Susan (greensf)  
**Sent:** Friday, February 12, 2010 11:21 AM  
**To:** Holstrom, Lisa (holstrla); Nienaber, Douglas (nienabdj)  
**Cc:** Green, Susan (greensf); Kelly, Thomas (kellta)  
**Subject:** RE: Compass

Lisa and Doug,

We operate under the new master agreement. For the first 350 students, CK gets 50% and UC gets 50%. From the 351<sup>st</sup> student forward, CK gets 40% and UC gets 60%. After all college expenses are met and if there is an excess in revenue, we are subject to the same split as other colleges – of the 50% or 60%, we get 45%. We have to meet all college expenses first.

I have attached the CON addendum for the 1<sup>st</sup> year of the increased programmatic offerings that addresses the issues mentioned. It was mostly for protection of the college budget for students that lived within the 513 area code and decided to take the distance program versus on-site program. The addendum was negotiated by Jim Plummer and Kathy Quals.

So far, our student numbers have met or exceeded our goals so we have been subject to the split outlined in the master agreement.

Susan F. Green  
Assistant Dean for Finance & Resource Management  
College of Nursing  
Mail Location #0038  
Room 415 Procter Hall  
University of Cincinnati  
(513) 558-5238 - telephone  
(513) 558-2295 - fax  
[Susan.Green@UC.Edu](mailto:Susan.Green@UC.Edu)

---

**From:** Holstrom, Lisa (holstrla)  
**Sent:** Monday, February 08, 2010 4:28 PM  
**To:** Nienaber, Douglas (nienabdj); Green, Susan (greensf)  
**Subject:** RE: Compass

Susan, Greg Harp from CKG thought you had language about thresholds, and if Nursing didn't make their threshold, then CKG didn't get their 10% of current students. We're renegotiating and would like to borrow your language if it makes sense for us! Thanks so much!!

Lisa

Lisa Holstrom  
Assistant Dean  
College of Education, Criminal Justice and Human Services  
Univ. of Cincinnati  
513-556-3627

---

**From:** Nienaber, Douglas (nienabdj)  
**Sent:** Monday, February 08, 2010 4:08 PM  
**To:** Green, Susan (greensf)  
**Cc:** Holstrom, Lisa (holstrla)  
**Subject:** Compass

Susan: Have you come up with a way to protect your current students from the Compass Knowledge 50% rate? If so, can you share your language with Lisa Holstrom in CECH?

Doug Nienaber  
Assistant General Counsel  
University of Cincinnati  
650 University Pavilion  
PO Box 210623  
Cincinnati OH 45221-0623  
(513) 556-3483  
(513) 556-3232 (fax)  
[http://www.uc.edu/af/general\\_counsel/](http://www.uc.edu/af/general_counsel/)

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without the permission of the sender. If you are not the intended recipient, you should delete this message without retaining a copy and inform the sender of your action. Your cooperation will be appreciated.

## Program Term Sheet

This Program Term Sheet is an Exhibit to the E-Learning Program Development and Distribution Master Agreement with a date of last signature of June 27, 2007 (the “**Master Agreement**”) between Compass Knowledge Group, LLC (the “**Company**”) and the University of Cincinnati (the “**University**”).

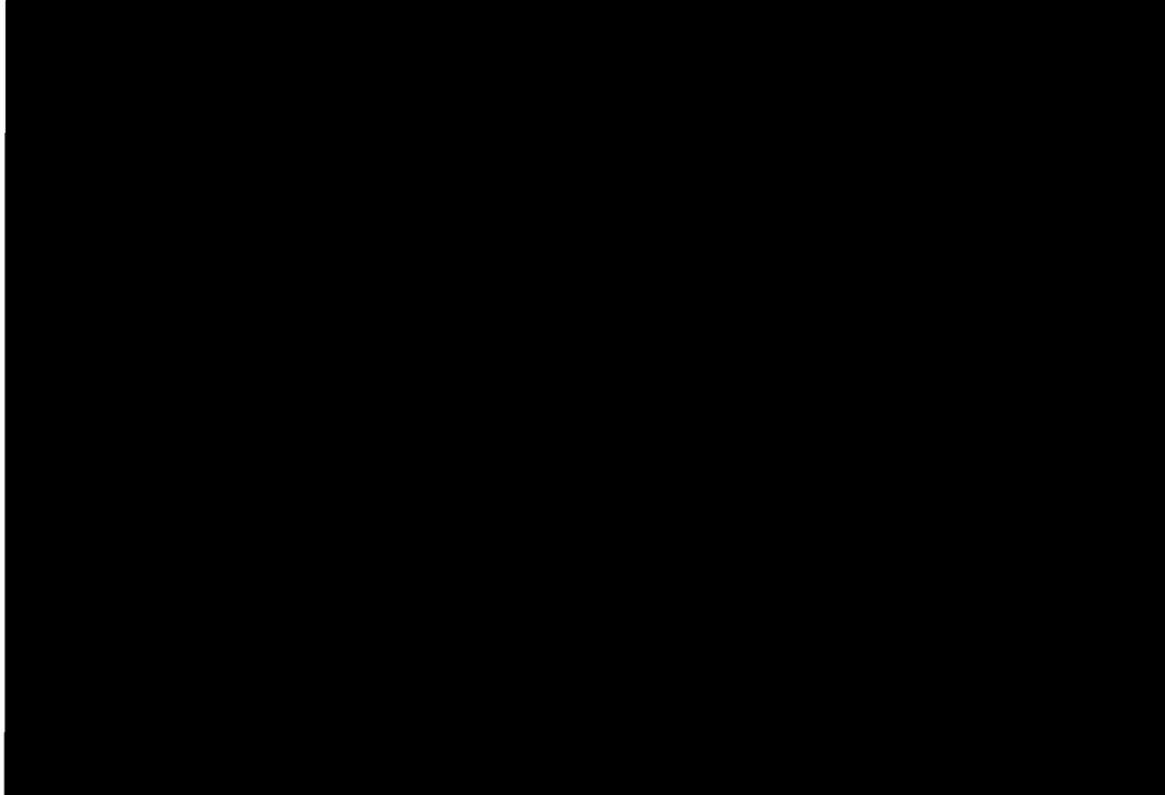
1. **Program:** College of Education, Criminal Justice, and Human Services with E-Learning Programs in:
  - a. The “**Existing Program:**”
    - i. Master of Education Degree in Educational Leadership (formerly Administration), and related Certificate as may be added to this E-Learning Program
  - b. The Degree and Certificate “**New Programs:**”
    - i. Master of Education in Curriculum and Instruction, Teaching and Learning Masters Degree and the following Sub Specialties, including related Certificates
      1. Science Education
      2. National Board
      3. Gifted
      4. TESOL
      5. Math Specialist
      6. Reading Specialist
      7. AEL Cert. (Math, Science, Foreign Language)
      8. Teacher Leader
    - ii. Master of Education in Special Education and related Certificate
      1. Teachers with Special Ed Licensure
      2. Teachers with other Teacher License

2. **Effective Date:** March 10, 2010
- 

4. **Steering Committee Designees:**  
**For the University:** Dr Lawrence J. Johnson and Dr Holly Johnson; or their duly appointed representatives.  
**For the Company:** Dr. Gloria Pickar, President and Chief Academic Officer; and Keith Thompson, Chief Operating Officer; or their duly appointed representatives.

5. **Exceptions to the Duties of the University and the Company:** N/A
-

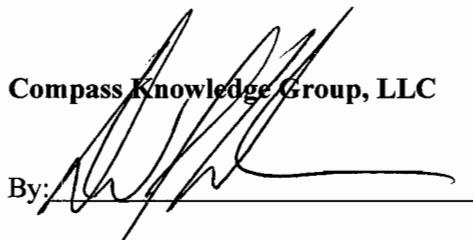




8. Except as specifically set forth in this Program Term Sheet, all other terms and conditions of the Master Agreement shall remain in full force and effect. Capitalized terms not defined in this Program Term Sheet shall be as defined in the Master Agreement.

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

**Compass Knowledge Group, LLC**

By: 

Daniel J. Devine

Chief Executive Officer

Date: 3-23-2010

**University of Cincinnati**

By: 

Name: Charles E. Jake IV, Esq.

Assistant General Counsel

Title: Assistant Contracting Officer

Date: 3-10-2010

**AMENDMENT #1 TO THE PROGRAM TERM SHEET**  
**FOR**  
**THE COLLEGE OF EDUCATION, CRIMINAL JUSTICE, AND HUMAN SERVICES**  
**AT**  
**THE UNIVERSITY OF CINCINNATI**

This Amendment #1 ("Amendment #1") to the Program Term Sheet for the College of Education, Criminal Justice, and Human Services at the University of Cincinnati with an effective date of March 10, 2010 (the "Program Term Sheet") is effective as of May 5, 2010 (the "Amendment #1 Effective Date") by and between Compass Knowledge Group, LLC ("Company") and the University of Cincinnati ("University"). The Program Term Sheet is part of the E-Learning Program Development and Distribution Master Agreement with a date of last signature of June 27, 2007 (the "Agreement"). Any capitalized terms not defined in this Amendment #1 shall be as defined in the Agreement and the Program Term Sheet. Except as specifically set forth in this Amendment #1, all the terms and conditions of the Agreement and the Program Term Sheet shall remain in full force and effect.

**AMENDMENT**

For purposes of the Program Term Sheet, the E-Learning Program for "AEL Cert. (Math, Science, Foreign Language)" in Section 1(b)(i)(7) is hereby deleted in its entirety and replaced with the E-Learning Program for "General Studies."

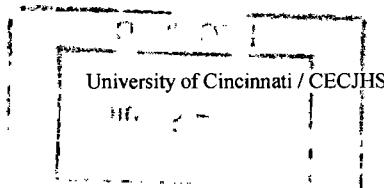
The parties have executed this Amendment #1 as of the Amendment #1 Effective Date.

**Compass Knowledge Group, LLC**

By: \_\_\_\_\_  
Print Name: Daniel J. Devine  
Title: CEO  
Date: 6/2/2010

**University of Cincinnati**

By: Charles E. Jake IV, Esq.  
Print Name: Charles E. Jake IV, Esq.  
Title: Assistant General Counsel  
Date: Assistant Contracting Officer  
5/26/2010



**AMENDMENT #2 TO THE PROGRAM TERM SHEET**  
**FOR**  
**THE COLLEGE OF EDUCATION, CRIMINAL JUSTICE, AND HUMAN SERVICES**  
**AT**  
**THE UNIVERSITY OF CINCINNATI**

This Amendment #2 ("Amendment #2") to the Program Term Sheet for the College of Education, Criminal Justice, and Human Services at the University of Cincinnati with an effective date of March 10, 2010 (the "Program Term Sheet") is effective as of July 5, 2010 (the "Amendment #2 Effective Date") by and between Compass Knowledge Group, LLC ("Company") and the University of Cincinnati ("University"). The Program Term Sheet is part of the E-Learning Program Development and Distribution Master Agreement with a date of last signature of June 27, 2007 (the "Agreement"). Any capitalized terms not defined in this Amendment #2 shall be as defined in the Agreement and the Program Term Sheet. Except as specifically set forth in this Amendment #2, all the terms and conditions of the Agreement and the Program Term Sheet shall remain in full force and effect.

**AMENDMENT**

For purposes of the Program Term Sheet, the "Existing Program" shall have a renewal enrollment term and [REDACTED] and the group of all "New Programs" shall have an initial enrollment term and Effective Date [REDACTED]

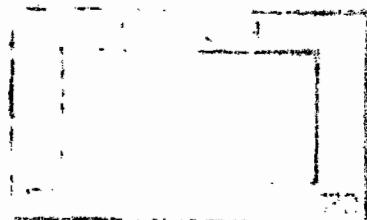
The parties have executed this Amendment #2 as of the Amendment #2 Effective Date.

**Compass Knowledge Group, LLC**

By: \_\_\_\_\_  
Print Name: Daniel J. Devine  
Title: CEO  
Date: 9/7/10

**University of Cincinnati**

By: C.H. Pangburn III  
Print Name: C.H. Pangburn III  
Title: Associate General Counsel  
Date: 9/1/10



## Program Term Sheet

This Program Term Sheet (the "Program Term Sheet") is executed as of Dec. 1, 2010 and is an Exhibit to the E-Learning Program Development and Distribution Master Agreement with a date of last signature of June 27, 2007 (the "Agreement") by and between Compass Knowledge Group, LLC ("Company") and University of Cincinnati ("University"). Except as specifically set forth in this Program Term Sheet, all the terms and conditions of the Agreement shall remain in full force and effect. Capitalized terms not defined in this Program Term Sheet shall be as defined in the Agreement.

1. **Program:** Master of Health Administration (MHA)

2. **Enrollment Dates:** [REDACTED]

3. **Steering Committee Designees:**

**For the University:** Dean of College of Allied Health Sciences and Director Health Care Administration & Informatics or their duly appointed representatives

**For the Company:** Group President & Chief Academic Officer and Vice President of Academic Partnerships for Orlando or their duly appointed representatives

4. **Exceptions to the Duties of the University and the Company:** N/A

5. **Instructional Services:** As described in Section 4.3.4.5 of the Agreement, the Company shall provide to the University Instructional Services with compensation at the rates defined in Section 7.6 (Development Fees) of the Agreement for such Instructional Services.

IN WITNESS WHEREOF, the Parties agree to the terms of this Program Term Sheet for each e-Learning Program as of the date first written above.

Compass Knowledge Group, LLC

By: Gloria D. Pickar

Gloria D. Pickar

Group President & Chief Academic Officer

Date: 10-31-2010

University of Cincinnati

By: CH Pangburn III

Name: Charles H. Pangburn III, Esq.  
Title: Associate General Counsel  
Assistant Contracting Officer

Date: 12/1/2010

**PROGRAM TERM SHEET**  
**BACHELOR OF SCIENCE IN CLINICAL LABORATORY SCIENCES**

This Program Term Sheet is an Exhibit to the E-Learning Program Development and Distribution Master Agreement with a date of last signature of June 27, 2007 (the “**Agreement**”) between Compass Knowledge Group, LLC and the University of Cincinnati (the “**University**”). Embanet-Compass Knowledge Group Inc. (the “**Company**”) is the successor corporation to Compass Knowledge Group, LLC. Each of the Company and the University will be referred to herein as a “**Party**” and, collectively, the “**Parties**”.

WHEREAS the Parties acknowledge and agree that the e-Learning Program Development and Distribution Agreement with an effective date of February 5, 2004 concerning a Bachelor of Science Degree Program in Clinical Laboratory Sciences (the “**2004 College of Allied Health Sciences Agreement**”) terminates effective as of June 20, 2011;

WHEREAS, the Parties desire to replace the 2004 College of Allied Sciences Agreement with the Agreement, and renew this Program Term Sheet as is contemplated under the Agreement;

NOW THEREFORE, the Parties hereby agree as follows:

- A. Effective as of June 21, 2011, the Parties agree to replace the 2004 College of Allied Health Sciences Agreement with the Agreement.
- B. Effective as of June 21, 2011, the Parties agree to enter into this Program Term Sheet to renew the Bachelor of Science in Clinical Laboratory Sciences e-Learning Program under the Agreement as follows:

1. **Program:** Bachelor of Science in Clinical Laboratory Sciences (“BS CLS”)

2. **Effective Date:** June 21, 2011

3.

4. **Steering Committee Designees:**

**For the University:** Dean, College of Allied Health Sciences; and Department Head, Analytical and Diagnostics Sciences; or their duly appointed representatives

**For the Company:** Vice President for Academic Partnerships; and Managing Director for the University of Cincinnati; or their duly appointed representatives

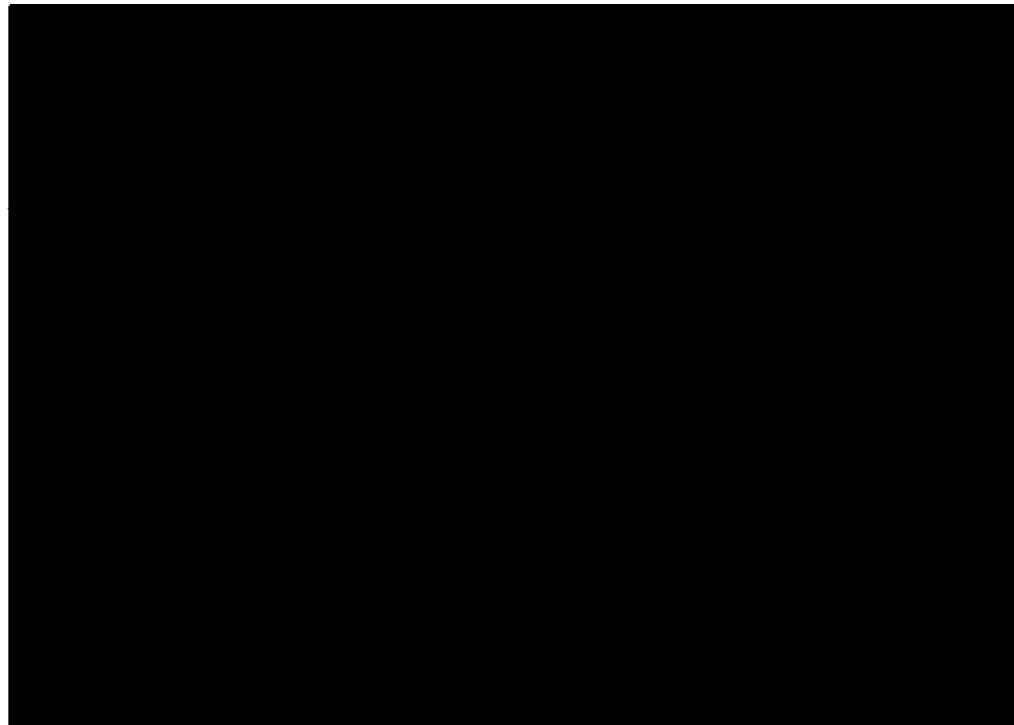
5. **Exceptions to the Duties of the University and the Company:** In accord with Article 16.3 of the Agreement, the Parties intend for the following terms, as regards the BS CLS Program, to control over any inconsistent terms in the Agreement:

**5.1** For purposes of this Program Term Sheet, the following Article 11.7 is added to the Agreement:

**11.7.** If the Company and the University agree to enter into a new Master e-Learning Development and Distribution Agreement (“Master Agreement”) at any

time during the term of this Program Term Sheet then, in such event, the University may elect to have the BS CLS e-Learning Program and the relationship of the Parties under this Program Term Sheet governed by such new Master Agreement by providing written notice to the Company within 15 days prior to the date such new Master Agreement is entered into by the University and the Company. If the University makes such election then, effective as of the beginning of the first quarter/semester (academic term) immediately following the date which the Company receives the written notice from the University, the e-Learning Program and the rights, duties and obligations of the Parties with respect to the development and distribution of the same will be governed by such new Master Agreement.

**5.2.** For the purpose of this Term Sheet, new section 7.5.3.3 is added to the Master Agreement as follows:

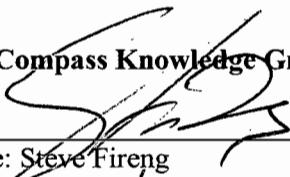


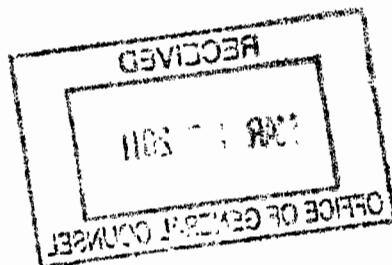
**5.3** In all other respects, the terms of the Agreement shall remain in full force and effect.

The parties have executed this Term Sheet as of the Effective Date.

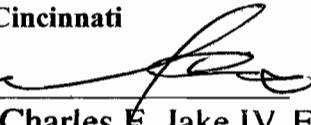
**SIGNATURES ON THE FOLLOWING PAGE**

**Embanet-Compass Knowledge Group Inc.**

By:   
Print Name: Steve Fireng  
Title: CEO  
Date: 3/9/11



**University of Cincinnati**

By:   
Print Name: **Charles E. Jake IV, Esq.**  
Title: **Assistant General Counsel**  
Date: **Assistant Contracting Officer**

3/1/2011

**AMENDMENT #2**  
**TO**  
**PROGRAM TERM SHEET – MASTER OF SCIENCE IN CRIMINAL JUSTICE**

This is Amendment #2 (“**Amendment #2**”) to the Program Term Sheet – Master of Science in Criminal Justice with an effective date of July 21, 2008 (the “**CJ Program Term Sheet**”) between Compass Knowledge Group, LLC and the University of Cincinnati (“**University**”). Embanet-Compass Knowledge Group Inc. (the “**Company**”) is the successor corporation to Compass Knowledge Group, LLC. Amendment #2 is effective as of February \_\_\_\_\_, 2011 (the “**Amendment #2 Effective Date**”). The CJ Program Term Sheet is part of the e-Learning Program Development and Distribution Master Agreement with a date of last signature of June 27, 2007 (the “**Master Agreement**”). Any capitalized terms not defined in this Amendment #2 shall be as defined in the Master Agreement and the CJ Program Term Sheet. Except as specifically set forth in this Amendment #2, all the terms and conditions of the Master Agreement and the CJ Program Term Sheet shall remain in full force and effect. For the purposes of this Amendment #2, the “**CJ Program**” means the Master of Science in Criminal Justice.

**AMENDMENT**

For purposes of the CJ Program Term Sheet, Section 5 (Exceptions to Duties of the University and Company) of the CJ Program Term Sheet is hereby deleted in its entirety and replaced with the following:

**5. Exception to Duties of the University and Company:** In accord with Article 16.3 of the Master Agreement, the Parties intend for the following terms, as regards the CJ Program, to control over any inconsistent terms in the Master Agreement.

**5.1 Competitor Programs.** The Parties recognize the competitive nature of the CJ Program and, as consideration for the University entering into this Term Sheet, the Company shall not, during the Term of the Master Agreement, offer, begin to develop, or otherwise enter into any other agreement (either written or oral) to develop or collaborate on the specific masters degree programs at the following institutions listed below.

- i. University of Maryland—College Park (Criminal Justice and Criminology program)
- ii. University of Albany—SUNY (Criminal Justice program)
- iii. University of Missouri—St. Louis (Criminology and Criminal Justice program)
- iv. Pennsylvania State University—University Park (Crime, Law and Justice program)
- v. University of California—Irvine (Criminology, Law, and Society program)
- vi. Florida State University (Criminology and Criminal Justice program)
- vii. Michigan State University (Criminal Justice program)
- viii. Rutgers University (Criminal Justice program)
- ix. CUNY—John Jay College (Criminal Justice program)
- x. Indiana University—Bloomington (Criminal Justice program)
- xi. Sam Houston State University (Criminal Justice and Criminal Justice Leadership and Management programs)

**5.2 New Concentrations.** University and Company will mutually agree on two (2) new concentrations to the E-Learning Program with Student enrollment in the first E-Learning Program Course in each new concentration to commence Fall semester 2012 or when the University converts to the semester academic calendar, whichever is earlier.

Company may commence marketing of the new E-Learning Program concentrations by Fall quarter 2011.

**5.3 Minimum Enrollments.**

[REDACTED]  
concentrations).  
[REDACTED]

- b) During any Below Target Period, subsections 7.5.3.1 and 7.5.3.2. will be amended as follows.  
[REDACTED]

**5.4 Rights on Breach.** As regards the CJ Program, the following terms shall be considered appended to the end of Article 11.3 of the Master Agreement: "Company's right to utilize the Content, Courses, Documentation, Derivative Works, and e-Learning Program shall be limited in time [REDACTED]"

**5.5 Master Agreement.** In all other respects, the terms of the Master Agreement shall remain in full force and effect.

The parties have executed this Amendment #2 as of the Amendment #2 Effective Date.

Embanet-Compass Knowledge Group Inc.

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: CEO  
Date: 3/9/14

University of Cincinnati

By: Loren T. Israel, Esq.  
Print Name: Assistant General Counsel  
Title: Assistant Contracting Officer  
Date: 3/2/11

## Program Term Sheet

1. This Program Term Sheet (the “**MESP Program Term Sheet**”) is executed as of March 29, 2011 and is an Exhibit to the Master Agreement entered into as of June 27, 2007 (the “**Agreement**”) by and between Embanet-Compass Knowledge Group Inc. and University of Cincinnati (“**University**”). Embanet-Compass Knowledge Group Inc. (the “**Company**”) is the successor corporation to Compass Knowledge Group, LLC. Except as specifically set forth in this MESP Program Term Sheet, all other terms and conditions of the Agreement shall remain in full force and effect. Capitalized terms not defined in this MESP Program Term Sheet shall be as defined in the Agreement.

2. **E-Learning Programs** (the “**MESP E-Learning Programs**”): (1) Master of Education in School Psychology, (2) Post Bachelors Certificate in Behavioral Analysis, and (3) Post Masters Certificates in Behavioral Analysis.

4. **Steering Committee Designees:**

- a. For the University: Dean, College of Education, Criminal Justice, and Human Services and Division Head of the School of Human Services or their duly appointed representatives
- b. For the Company: Group President/Chief Academic Officer and Vice President of Academic Partnerships for Orlando or their duly appointed representatives

5. **Launch Fee:** N/A

6. **Company Distribution:** Solely for purposes of calculating the Company Distribution for the

**7. Contacts and addresses for purposes of notification under the Agreement:**

If to the Company:

Steve Fireng, CEO  
Embanet-Compass Knowledge Group Inc.  
50 NW Point Boulevard, 5<sup>th</sup> Floor  
Elk Grove Village, IL 60007  
Office: 877-362-2638 x 2241  
Fax: 847-969-0345  
[sfireng@embanetcompass.com](mailto:sfireng@embanetcompass.com)

With a copy to:

Patrick Donoghue, CFO  
Embanet-Compass Knowledge Group Inc.  
50 NW Point Boulevard, 5<sup>th</sup> Floor  
Elk Grove Village, IL 60007  
Office: 877-362-2638 x 2259  
[pdonoghue@embanetcompass.com](mailto:pdonoghue@embanetcompass.com)

If to the University:

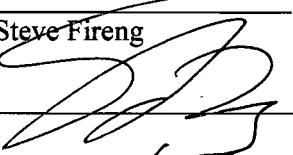
University of Cincinnati  
Dean Lawrence J. Johnson  
PO Box 21002  
Cincinnati OH 45221-0002  
513-556-3627

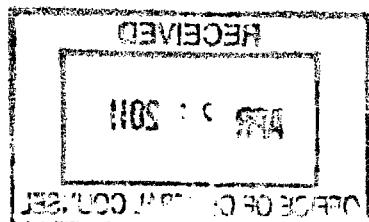
With a copy to:

Office of General Counsel  
PO Box 210661  
Cincinnati, OH 45221-0661

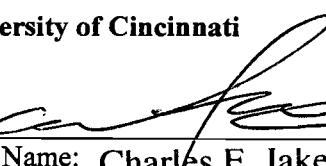
The Parties agree to the terms of this MESP Program Term Sheet for the MESP E-Learning Program as of the Effective Date.

**Embanet-Compass Knowledge Group Inc.**

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: CEO  
Date: \_\_\_\_\_  
  
4/1/11



**University of Cincinnati**

By:   
Print Name: Charles E. Jake IV, Esq.  
Title: Assistant General Counsel  
Date: Assistant Contracting Office

3/29/11

**PROGRAM TERM SHEET  
BACHELOR OF SCIENCE IN HEALTH INFORMATION MANAGEMENT**

This Program Term Sheet is an Exhibit to the E-Learning Program Development and Distribution Master Agreement with a date of last signature of June 27, 2007 (the "Agreement") between Compass Knowledge Group, LLC and the University of Cincinnati (the "University"). Embanet-Compass Knowledge Group Inc. (the "Company") is the successor corporation to Compass Knowledge Group, LLC. Each of the Company and the University will be referred to herein as a "Party" and, collectively, the "Parties".

WHEREAS the Parties acknowledge and agree that the e-Learning Program Development and Distribution Agreement with an effective date of December 1, 2004 concerning a Bachelor of Science Degree Program in Health Information Management (the "2004 Health Information Management Agreement") terminates effective as of January 2, 2012;

WHEREAS, the Parties desire to replace the 2004 Health Information Management Agreement with the Agreement, and renew this Program Term Sheet as is contemplated under the Agreement;

NOW THEREFORE, the Parties hereby agree as follows:

- A. Effective as of January 3, 2012, the Parties agree to replace the 2004 Health Information Management Agreement with the Agreement.
- B. Effective as of January 3, 2012, the Parties agree to enter into this Program Term Sheet to renew the Bachelor of Science in Health Information Management e-Learning Program under the Agreement as follows:
  1. Program: Bachelor of Science in Health Information Management ("BS HIM")
  2. Effective Date: January 3, 2012

**4. Steering Committee Designees:**

**For the University:** Dean, College of Allied Health Sciences; and another designee as appointed by the Dean; or their duly appointed representatives

**For the Company:** Vice President for Academic Partnerships; and Managing Director for the University of Cincinnati; or their duly appointed representatives

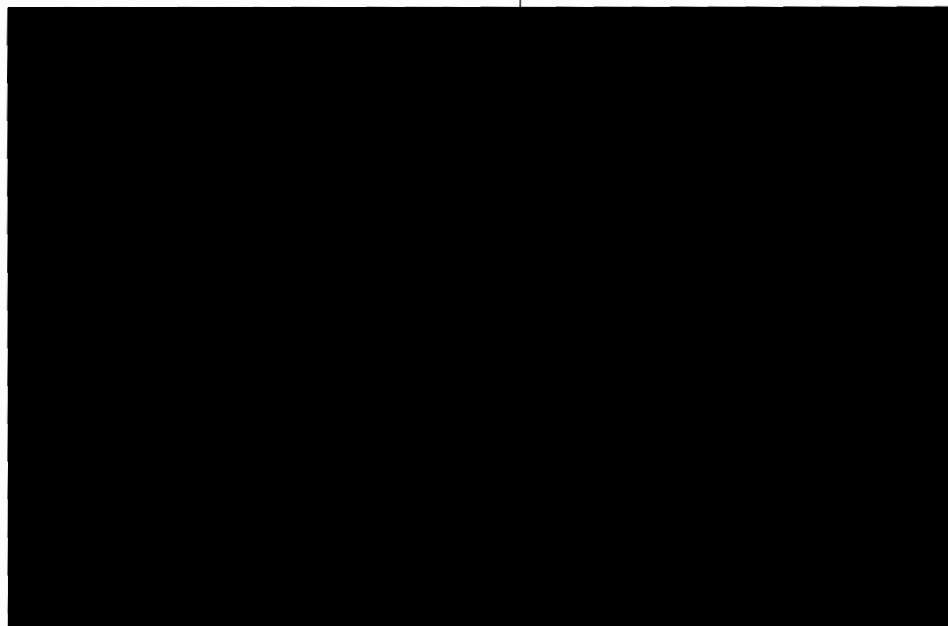
5. **Exceptions to the Duties of the University and the Company:** In accord with Article 16.3 of the Agreement, the Parties intend for the following terms, as regards the BS HIM Program, to control over any inconsistent terms in the Agreement:

- 5.1 For purposes of this Program Term Sheet, the following Article 11.7 is added to the Agreement:

11.7. If the Company and the University agree to enter into a new Master e-Learning Development and Distribution Agreement ("Master Agreement") at any

time during the term of this Program Term Sheet then, in such event, the University may elect to have the BS HIM e-Learning Program and the relationship of the Parties under this Program Term Sheet governed by such new Master Agreement by providing written notice to the Company within 15 days prior to the date such new Master Agreement is entered into by the University and the Company. If the University makes such election then, effective as of the beginning of the first quarter/semester (academic term) immediately following the date which the Company receives the written notice from the University, the e-Learning Program and the rights, duties and obligations of the Parties with respect to the development and distribution of the same will be governed by such new Master Agreement.

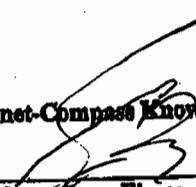
**5.2.** For the purpose of this Term Sheet, new section 7.5.3.3 is added to the Master Agreement as follows:



**5.3** In all other respects, the terms of the Agreement shall remain in full force and effect.

The parties have executed this Term Sheet as of the Effective Date.

**SIGNATURES ON THE FOLLOWING PAGE**

  
Embanet-Compass Knowledge Group Inc.

By:   
Print Name: Steve Fireng  
Title: CEO  
Date: 8/23/11

  
University of Cincinnati

By:   
Print Name: Charles E. Jakey, Esq.  
Title: Assistant General Counsel  
Date: Assistant Contracting Officer

8-11-11

10411

**Program Term Sheet  
MS HI Program**

1. **Program:** Master of Science in Health Informatics and related specializations ("MS HI Program" or "Program").
2. **Effective Date:** The Effective Date of this Program Term Sheet will be the date of the first e-Learning Program student enrollment.



**4. Steering Committee Designees:**

**For the University:** Victoria Wangia, Program Director, and Elizabeth King, Dean of the College of Allied Health Sciences, or their duly appointed representatives.

**For the Company:** The Chief Operating Office and Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives.

5. **B2U:** Students in the e-Learning Program will not be eligible to participate in the B2U program.
6. **Instructional Services:** The Company will not provide Instructional Services pursuant to Section 4.4.4 of the Agreement.

**IN WITNESS WHEREFORE,** the Parties have executed this Program Term Sheet on the date of the last signature below.

**Embanet-Compass Knowledge Group Inc.**

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: President and CEO  
Date: 4/24/13

**University of Cincinnati**

By: \_\_\_\_\_  
Print Name: Charles E. Jake IV, Esq.  
Title: Assistant General Counsel  
Date: Assistant Contracting Officer  
*4/17/2013*

**PROGRAM TERM SHEET  
MASTER OF SCIENCE IN NURSING**

This Program Term Sheet is an Exhibit to the e-Learning Program Development and Distribution Master Agreement with a date of last signature of June 27, 2007 (the “**Agreement**”) between Compass Knowledge Group, LLC and the University of Cincinnati (the “**University**”). Embanet-Compass Knowledge Group Inc. (the “**Company**”) is the successor corporation to Compass Knowledge Group, LLC. Each of the Company and the University will be referred to herein as a “**Party**” and, collectively, the “**Parties**.**”**

WHEREAS, the Parties acknowledge and agree that, pursuant to the Program Term Sheet executed by the Parties and effective July 1, 2009 (“July 1, 2009 Program Term Sheet”), the Master of Science in Nursing Degree Program (“**MSN**”) specializations in Nurse Midwifery and Women’s Health Nurse Practitioner will expire Summer 2012, which begins June 18, 2012; and

WHEREAS, the Parties acknowledge and agree that, pursuant to the July 1, 2009 Program Term Sheet, the MSN specializations in Clinical Nurse Specialist/Nurse Educator, Family Nurse Practitioner, Adult Nurse Practitioner, Psychiatric Nurse Practitioner, Psychiatric Clinical Nurse Specialist, and Nursing Services Administration are scheduled to expire Summer 2015; and

WHEREAS, the Parties desire to renew the MSN e-Learning Program with all specializations to be co-terminus as set forth herein;

NOW THEREFORE, the Parties hereby agree as follows:

1. **Effective Date and Program:** Effective as of June 18, 2012 (“**Effective Date**”), the Parties agree to enter into this Program Term Sheet under the Agreement to renew the MSN e-Learning Program with specializations in:
  - a. Nurse Midwifery
  - b. Women’s Health Nurse Practitioner
  - c. Clinical Nurse Specialist / Nurse Educator
  - d. Family Nurse Practitioner
  - e. Adult Nurse Practitioner
  - f. Psychiatric Nurse Practitioner
  - g. Psychiatric Clinical Nurse Specialist
  - h. Nursing Services Administration
2. [REDACTED]

3. **Steering Committee Designees:**

**For the University:** Dean, College of Nursing; and another designee as appointed by the Dean; or their duly appointed representatives

**For the Company:** Senior Vice President for Academic Partnerships; and Managing Director for the University of Cincinnati; or their duly appointed representatives

- 4 **Exceptions to the Duties of the University and the Company:** In accord with Article 16.3 of the Agreement, the Parties intend for the following terms, as regards the MSN Program, to control over any inconsistent terms in the Agreement. For purposes of this Program Term Sheet, the following Article 11.7 is added to the Agreement:

**"11.7.** If the Company and the University agree to enter into a new Master e-Learning Development and Distribution Agreement ('Master Agreement') at any time during the term of this Program Term Sheet then, in such event, the University may elect to have the MSN e-Learning Program and the relationship of the Parties under this Program Term Sheet governed by such new Master Agreement by providing written notice to the Company within 15 days prior to the date such new Master Agreement is entered into by the University and the Company. If the University makes such election then, effective as of the beginning of the first quarter/semester (academic term) immediately following the date which the Company receives the written notice from the University, the e-Learning Program and the rights, duties and obligations of the Parties with respect to the development and distribution of the same will be governed by such new Master Agreement."

5. **Effect of July 1, 2009 Program Term Sheet.** This Program Term Sheet hereby amends, restates, and replaces the July 1, 2009 Program Term Sheet in its entirety.
6. **Expiration Date.** The parties agree that the expiration date of this Program Term Sheet shall be August 31, 2015.

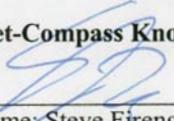
7. [REDACTED]

[REDACTED]

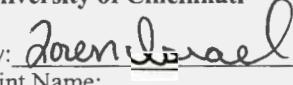
8. Except as specifically set forth in this Program Term Sheet, all other terms and conditions of the Master Agreement shall remain in full force and effect. Capitalized terms not defined in this Program Term Sheet shall be defined in the Master Agreement.

The parties have executed this Program Term Sheet as of the date of last signature.

**Embanet-Compass Knowledge Group Inc.**

By:   
Print Name: Steve Fireng  
Title: CEO  
Date: 3/6/12

**University of Cincinnati**

By:   
Print Name: Loren T. Israel, Esq.  
Title: Assistant General Counsel  
Date: 03/06/12  
Assistant Contracting Office

**Program Term Sheet**  
**BS Health Sciences – Respiratory Care Program**

This Program Term Sheet is an Exhibit to the e-Learning Program Development and Distribution Master Agreement dated June 27, 2007 (“Master Agreement”), between Embanet-Compass Knowledge Group Inc. (“Company”), successor in interest to Compass Knowledge Group, LLC, and the University of Cincinnati (“University”).

1. **E-Learning Program:** Bachelor of Science in Health Sciences, with a specialization in Respiratory Care
2. **Effective Date:** The Effective Date of this Program Term Sheet will be the date of the first e-Learning Program student enrollment.



4. **Steering Committee Designees:**

**For the University:** College of Allied Health Sciences Dean Elizabeth King, College of Allied Health Sciences Director of Distance Learning Dawn Clineman, and Health Sciences Program Director Shane Keene, or their successors or duly appointed representatives.

**For the Company:** The Chief Operating Officer and the Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives.

5. **B2U.** Students in the e-Learning Program [will not] be eligible to participate in the B2U program.
6. **Instructional Services.** The Company will not provide Instructional Services pursuant to Section 4.3.4.5 of the Agreement.
7. **Amendment of Master Agreement.** The Parties are presently negotiating an amendment to the Master Agreement, with an anticipated amendment execution date of August 2012. In the event the Master Agreement is amended as currently contemplated by the Parties, this Program Term Sheet shall be governed by the Master Agreement as amended.

**IN WITNESS WHEREFORE,** the Parties have executed this Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

**Embanet-Compass Knowledge Group Inc.**

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: President and CEO  
Date: 9/1/12

**University of Cincinnati**

By: \_\_\_\_\_ Charles E. Jake IV, Esq.  
Print Name: \_\_\_\_\_ Assistant General Counsel  
Title: \_\_\_\_\_ Assistant Contracting Officer  
Date: 9-20-2012

18015

**Exhibit A-2  
Program Term Sheet**

1. Program: Bachelor of Science in Advanced Medical Imaging Technology (BS AMIT)
2. Effective Date: The Effective Date of this Program Term Sheet will be the date of the first e-Learning Program student enrollment.

3.

4. Steering Committee Designees:

For the University: College of Allied Health Sciences Dean Elizabeth King, College of Allied Health Sciences Director of Distance Learning Dawn Clineman and Health Sciences Program Director Shane Keene, or their successors or duly appointed representatives.

For the Company: The Chief Operating Officer and the Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives

5. B2U. Students in the e-Learning Program will not be eligible to participate in the B2U program.
6. Instructional Services. The Company will not provide Instructional Services pursuant to Section 4.4.4 of the Agreement.
7. Other Terms: None

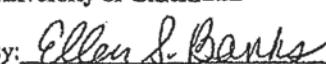
IN WITNESS WHEREFORE, the Parties have executed this Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

By:   
Print Name: Todd Hitchcock  
Title: President and COO  
Date: December 9, 2013

3/11/14

University of Cincinnati

By:   
Print Name: Ellen S. Banks, Esq.  
Title: Assistant General Counsel  
Date: 3/10/14 Assistant Contracting Officer

## **BlackBoard Integration Agreement**

This Blackboard Integration Agreement (herein referred to as the "Agreement") is made as of this 19th day of August, 2013, by and between Pearson Education Inc., a state corporation ("Publisher"), and the University of Cincinnati, a state institution of higher education operated under chapter 3361 of the Ohio revised code ("UC"), (each a "Party" and, collectively, the "Parties").

Whereas, UC operates BlackBoard software as part of its educational mission;

Whereas, the Publisher provides BlackBoard Integration Products (the "Products") as described in the attached Exhibit A;

Whereas, the Publisher desires to provide to UC and UC desires to use the Products in accordance with the terms set forth in this Agreement;

Now, therefore, the Parties agree as follows:

### **1. Products**

- 1.1. Publisher agrees to authorize UC to use, upon request, any Product that relates to any textbook or ebook published by the Publisher, if available, as to each UC course where the UC faculty member has designated and assigned that textbook or ebook for that course.

- 1.2. [REDACTED]

### **2. Confidential Information**

- 2.1. "Confidential Information" means the all network infrastructure information about any UC computer network and all personally identifiable information of any UC 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 with UC'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 UC; and
- 2.2.4. Not take any act or omission with respect to the Confidential Information that is inconsistent with the confidential and proprietary nature of such information.

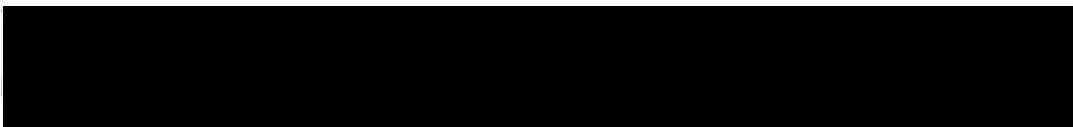
- 2.3. Return of Confidential Information. Upon the termination or earlier expiration of this Agreement, or at any time UC so desires, Publisher will, within a reasonable period of time and at UC's option, deliver to UC or destroy all Confidential Information and copies thereof, including, but not limited to memoranda, notes, records, reports, media and other documents and materials which Publisher may then possess or have under its control.

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

- 2.4.1. Publisher may disclose Confidential Information to employees, subcontractors, consultants and agents of Publisher ("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 UC in writing, in advance of such disclosure, and provide UC with copies of any related information so that it may take appropriate action to protect the Confidential Information.
- 2.5. Relief. Publisher shall immediately notify UC in the event that it suspects or has reason to suspect that any of its Personnel who has or had access to Confidential Information has violated or intends to violate the terms of this Agreement, and Publisher shall reasonably cooperate with UC in regaining possession of the Confidential Information. This provision shall not in any way limit such other remedies as may be available to UC at law or in equity.

### 3. General Provisions

3.1.



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

Signed: Stephen Sartor  
Printed Name: STEPHEN SARTOR  
Title: REGIONAL MANAGER

UC

Signed: Douglas J. Nienaber 8/20/2013  
Printed Name: DOUGLAS J. NIENABER  
Title: AS ASSISTANT CONTRACTING OFFICER

#### **Exhibit A – Products**

- Pearson MyLab/Mastering Building Block for Blackboard Learn

### **Exhibit B – Notices**

If to UC:

University of Cincinnati  
51 Goodman Drive, Suite 400  
Cincinnati, OH 45221

If to Publisher:

Pearson Education  
1 Lake St  
Upper Saddle Rvr, NJ 07458  
(201) 236-7000

# 17718

## Pearson Learning Solutions Agreement

**Parties:** This Agreement is made between:

Effective Date: November 30, 2013

Customer
University of Cincinnati
2600 Clifton Ave.
Cincinnati, OH 45221

Pearson
Pearson Education, Inc.
Operating as Pearson Learning Solutions
501 Boylston Street, Suite 900
Boston, MA 02116

**Pearson Products:** Customer will prepare for publication, and Pearson will print, publish and sell, a work tentatively entitled *ProPEL - Introduction to Professional Practice and Experiential Learning* (the "Work"). Pearson will create an electronic version of the Work ("Customer eBook") and will provide Customer with such Customer eBook in addition to Pearson's educational products listed below.

\*Courseware – includes standard and/or customized versions of *CourseConnect* courses or other custom course material, in each case delivered electronically

\*eBooks – electronic versions of Pearson Education titles (or chapters therein)

\*MyLabs – standard or customized versions of Pearson's MyLab products

\*Custom Media – educational solutions in any medium, including digital assets, customized learning portals and companion websites

The Customer eBook, Courseware, eBooks, MyLabs and Custom Media shall be collectively referred to herein as the "Pearson Products." Customer agrees to utilize the Pearson Products in connection with its ProPel Program (Internships) ("Courses") pursuant to the terms of this Agreement.

**Use:** Customer will have the right to purchase access to and distribute the Pearson Products for the Initial Usage Period set forth in Attachment 1. Unless otherwise stated in Attachment 1, the Initial Usage Period will commence on the Effective Date set forth above. Any use of the Pearson Products shall be governed by the terms of this Pearson Learning Solutions Agreement, including Attachments 1 and 2, which are hereby incorporated herein in their entirety (collectively, the "Agreement").

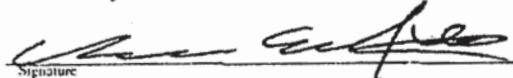


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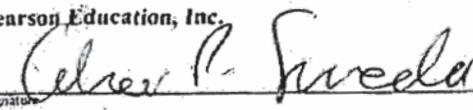
Legal Approval   
Finance Approval 

**Acceptance & Authority:** By signing below, each party accepts this Agreement, agrees to all the obligations and limitations set forth in this Agreement, and represents that the individual executing this Agreement on behalf of the party has been authorized by all necessary actions (corporate or otherwise) to bind that party.

University of Cincinnati

  
Signature  
Printed Name: Charles E. Jake IV, Esq.  
Title: Associate General Counsel  
Assistant Contracting Officer  
Date of Signature: 2/14/2014  
Tax ID/Status:

Pearson Education, Inc.

  
Signature  
Printed Name: Andrew P. Smedra  
Title: Sr. Vice President and CFO  
Pearson Learning Solutions  
Date of Signature:

1132362.2

Legal Approval   
Finance Approval 

Attachment 1:

List of Pearson Products

Course Name/ID	Pearson Product	ISBN	Initial Net Price per Access Code
ProPel Program (Internships)	MySocLab (MyLab) with Keys to Success Service Learning, [REDACTED] (eBook), Customer eBook, Courseware and Custom Media [REDACTED]	[REDACTED]	[REDACTED]
ProPel Program (Internships)	MySocLab (MyLab) with Keys to Success Service Learning, [REDACTED] (eBook), Customer eBook, Courseware and Custom Media, [REDACTED]	[REDACTED]	[REDACTED]

**Delivery and Acceptance.** Customer will prepare and supply to Pearson a complete copy of the Work together with all other materials necessary for the completion and publication of the Customer eBook. Customer will deliver the Work in complete and final form ready for production on or before November 1, 2013. Customer shall not incorporate materials copyrighted by third parties into the Work unless and until it obtains prior written permission from the copyright owner to use such third party materials to the full extent contemplated herein. Customer shall deliver written permissions to Pearson when it delivers any Work containing third party materials to Pearson. Pearson shall have the right to review such written permissions to ensure their acceptability. [REDACTED]

**Grant of Rights.** Customer grants to Pearson the right and license to reproduce and convert the Work into the Customer eBook, and thereafter publish and sell the Customer eBook for the term of this Agreement. Except for the foregoing rights granted to Pearson, Customer will retain all rights to the Work, including the exclusive right to sell such Work separate from the Pearson Products offered hereunder. Customer represents to Pearson that (i) it is the sole author and owner of the Work and of the rights herein granted to Pearson; (ii) it has full authority to make this Agreement (including the grants herein) and to perform the obligations set forth herein; and (iii) none of the Work will infringe any copyright or trademark, violate any property rights or contain anything scandalous, libelous, unlawful, inaccurate, or injurious to the user. Customer will indemnify and hold Pearson harmless from all claims, suits, costs, damages, and expenses (including reasonable attorney's fees) resulting from any alleged breach of the Customer's representations set forth herein with regards to the Work. The parties acknowledge that it is the opinion of the Ohio Attorney General that promises of indemnification by Ohio State agencies, including the University of Cincinnati, are normally unenforceable against the State. Pearson will have the right to assume and control the defense of any such claim. Until such claim or suit has been settled or withdrawn, Pearson may withhold any sums payable to Customer under this or any other agreement. Customer agrees to cooperate with Pearson and provide reasonable assistance defending against any such claim. The representations and indemnities will survive termination of this Agreement.

**Publication of the Work.** After Pearson accepts the Work for publication, Pearson will have the right to publish, sell and distribute the Customer eBook at its own expense and at such time and in such style and manner as it deems suitable.

**Access and Use:**

- Subject to Customer's compliance with its obligations under this Agreement, the Pearson Products will be made available to (i) students who are enrolled in the Course requiring such Pearson Products, solely for personal use; and (ii) professors teaching the Course requiring such Pearson Products, solely for educational and instructional use (collectively, "*Authorized Users*").
- In some cases, [REDACTED] Customer's Learning Management System, currently Blackboard ("LMS"). Customer will be responsible for ensuring that (i) only Authorized Users access the Pearson Products and (ii) such LMS applies adequate digital rights management and other protections necessary to prevent copyright infringement, misappropriations and misuse of the Pearson Products.
- [REDACTED]
- Customer will promptly notify Pearson of any actual or suspected violation that Customer may discover in regards to an Authorized User's use of the Pearson Products. Upon the request of Pearson in connection with any such violation, Customer will cooperate with Pearson regarding the violation, up to and including termination of the violator's access to the Pearson Products. Pearson reserves all rights against the violator including the right to bring any legal or equitable action deemed appropriate by Pearson.
- Customer acknowledges that the Pearson Products are intended solely for distribution to Authorized Users only, and may not be distributed or made accessible in any manner to other students, individuals, institutions or third parties.
- If Pearson becomes aware of any unauthorized use of the Pearson Products, Pearson may terminate this Agreement without further liability or obligation to Customer.
- Pearson shall not be liable to Customer in the event that any Pearson Product becomes unavailable or inaccessible to an Authorized User for any reason beyond Pearson's control, including without limitation, any operational, technical or financial issue of the LMS, the platform upon which a Pearson Product is launched or operating, or its respective provider. In such event, Pearson and Customer will work together, in good faith, to procure for such Authorized User the right to continue accessing such Pearson Product through an alternate electronic platform on mutually agreed terms.
- [REDACTED]
- The terms set forth in Attachment 2 are incorporated by reference.

**Courseware:**

- The Courseware to be provided hereunder by Pearson for the Course listed above will be comprised of "Pearson Material" and "Customer Material" (each as defined in Attachment 2).
- The Customer Material will include the following:
  - Cooperative Education Student Handbook: Pearson will provide a link to this Customer Material
  - Professional Practice Activity Worksheets
  - Professional Practice Case studies
- The Pearson Material will be made available to professor Authorized Users and will include the following:
  - Instructor Grades and Assignments
  - Course Roster
- Pearson and Customer shall establish a schedule for the creation and delivery of the Courseware offered hereunder. The maintenance of this schedule shall be both parties' responsibilities, and Customer will be required to approve the Courseware at various stages of the process. Both the

schedule and the process shall be mutually agreeable. Failure to maintain the schedule by Pearson shall not constitute a breach if the delays are caused by Customer's failure to provide timely feedback. Once accepted, Pearson shall not be obligated to revise or update the Courseware, unless agreed to in a separate writing.

- Delivery of the Courseware is scheduled for December 23, 2013, subject to Customer's timely approval.

**Custom Media:**

- The Custom Media to be provided hereunder by Pearson will be comprised of 11 professionalism videos from Pearson's [REDACTED] as follows:
  - Video Case Study: Health Personal Financial Management
  - Video Case Study: Time Management and Organization Tips
  - Video Case Study: Dress for Success
  - Video Case Study: Making Ethical Choices
  - Video Case Study: Customer Service Dialog
  - Video Case Study: Performance Evaluations
  - Video Case Study: Meetings
  - Video Case Study: Sexual Harassment
  - Video Case Study: Job Fair
  - Video Case Study: Preparing for a Phone Interview
  - Video Case Study: Pre-Interview Activities

**MediaShare:**

- [REDACTED]
- Student Authorized Users may access Pearson's MediaShare for the Access Period set forth in the Access and Use Section above. Professor Authorized Users may access Pearson's MediaShare during the Initial Usage Period only.

**eBooks and MyLabs:**

- The eBooks (including the Customer eBook) [REDACTED]
- Customer acknowledges that Pearson eBooks offered hereunder may not include third-party material that appears in the print version of the Pearson eBook, for which Pearson has not obtained all required electronic permissions.

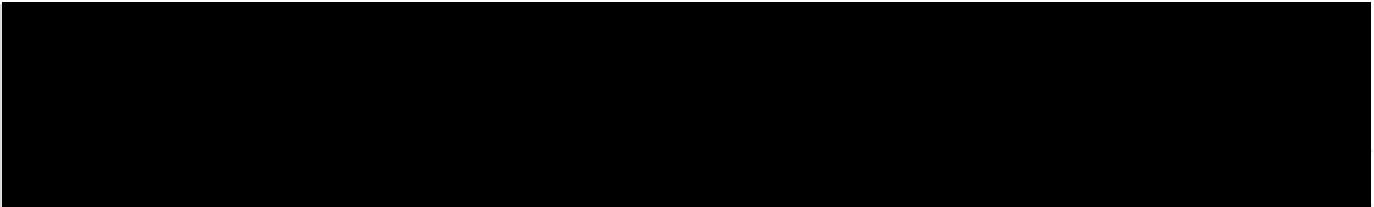
**Billing and Invoicing:**

[REDACTED]  
[REDACTED]  
[REDACTED]

Attachment 2:

### General Terms & Conditions

**Termination for Convenience.** Each party shall have the right to terminate this Agreement at any time, for its convenience, by delivering no less than sixty (60) days' written notice to the other party. Notwithstanding the delivery of any termination notice, each party shall continue to be obligated to perform its respective obligations set forth in Attachment 1 hereto, or in any Addendum to this Agreement, until the expiration of the Initial Usage Period and the satisfaction of the Minimum Usage Rates, if any, set forth therein.



**Ownership; Restrictions on Use.** All right, title and interest in and to the Pearson Products and the content, materials, technology and data contained therein, and any derivative works thereof is expressly reserved by Pearson (collectively, the "Pearson Materials"), except for Customer Material contained in the Pearson Products, if any. "Customer Material" will mean the Work and any curricular content, trademarks or logos owned or licensed by Customer and delivered to Pearson for incorporation into the Pearson Products; such Customer Material must be clearly identified in writing by Customer prior to delivery to Pearson. Customer represents to Pearson that it is the lawful owner or licensee of all Customer Material delivered to Pearson hereunder for use in the Pearson Products, and hereby grants to Pearson a non-exclusive, non-royalty bearing license to reproduce the Customer Material in conjunction with the publication and sale of the Pearson Products. Nothing in this Agreement will be construed to prevent Pearson from selling, licensing, using, repurposing or permitting any third party to use the Pearson Materials. Except as expressly set forth in this Agreement, all rights with regards to the Pearson Products offered herein are reserved by Pearson and under no circumstances shall Customer or any students, faculty or agents of Customer resell, publish, transfer, distribute, sublicense, provide access to, copy, adapt, translate, reproduce, modify, enhance, or use the Pearson Products or the content contained therein without the express written permission of Pearson. Customer acknowledges that it is Customer's responsibility to communicate the foregoing use and distribution restrictions to its Authorized Users, and to take all steps reasonably necessary to enforce such restrictions.

**Reservation of Rights.** Except as specifically set forth in this Agreement, Customer agrees that it acquires no rights to use, display, market, license or promote (including but not limited to marketing tools, promotional or preview use allowances, printing allowances, cut/paste allowances or lending or sharing rights) Pearson Products in connection with its rights under this Agreement or any Authorized Users' use of the Pearson Products. Unless otherwise agreed to in writing by the parties, in no event will Customer or its Authorized Users have the right to further distribute, display or transmit the Pearson Products to anyone else including (i) in any physical form (CDs, DVDs, portable media, etc.), or (ii) in portions or in parts less than the complete Pearson Product and (iii) in or as any derivative work. Customer acknowledges that it is Customer's responsibility to communicate the foregoing use and distribution restrictions to its Authorized Users, and to take all steps reasonably necessary to enforce such restrictions.

**Security Audit.** Pearson will have the right to audit and inspect the systems and processes of Customer and its third party partners for compliance with any and all requirements and limitations imposed under this Agreement. Pearson will have the right to stop distributing Pearson Products to Customer if at any time, Pearson notifies Customer of any violation of this Agreement that is not remedied to the satisfaction of Pearson, within 10 days after such request, or if Pearson otherwise determines that Customer's or its third party partners' direct or indirect practices for protecting the Pearson Products from unauthorized use are unsatisfactory or inadequate.

**Personal Use Only.** Customer agrees that the online Pearson Products are intended to be used solely by Authorized Users solely for individual, personal, non-commercial and non-transferable use in accordance with this Agreement and are not otherwise to be shared, copied, distributed, used concurrently or hosted online. Customer agrees that it will notify Authorized Users of these restrictions.

**DISCLAIMER.** EXCEPT AS SET FORTH IN THIS AGREEMENT, PEARSON EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. PEARSON DOES NOT WARRANT THAT THE PEARSON PRODUCTS WILL MEET CUSTOMER'S REQUIREMENTS. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESSED WARRANTIES PROVIDED IN THIS AGREEMENT.

**Use of Marks.** Each party owns certain trade names and trademarks (collectively, "Marks"), and such Marks are and will remain the exclusive property of such party. This Agreement gives the other party no rights therein, and the other party will never assert any rights therein; provided, however, that Customer grants to Pearson a non-exclusive, non-royalty bearing license to reproduce Customer's Marks in conjunction with the publication and sale of the Pearson Products. Customer further agrees not to remove or alter any trademark or other proprietary notice in or on any Pearson Product.

**LIMITATION OF LIABILITY.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOST DATA, LOST PROFITS AND COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF OR RELATED TO THIS AGREEMENT, OR THE USE OF OR INABILITY TO USE THE PEARSON PRODUCTS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. PEARSON'S TOTAL AGGREGATE LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR CUSTOMER'S USE OF THE PEARSON PRODUCTS WILL NOT EXCEED THE AMOUNT PAID BY CUSTOMER FOR THE SPECIFIC PEARSON PRODUCT GIVING RISE TO THE CLAIM. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSIONS OF LIMITATIONS OF INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO THE PARTIES.

**Assignment.** This Agreement will be binding on the parties and their respective successors and permitted assigns. Customer may not assign its rights or delegate its obligations under this Agreement to any third party without the prior written consent of Pearson.

**Third Party Beneficiaries.** Pearson's licensors and other third party providers are intended third party beneficiaries of this Agreement. The disclaimers and exclusions and limitations of liability set forth in this Agreement shall also extend to the benefit of such third parties.

**Confidentiality.** Customer shall keep confidential and shall not disclose the terms and conditions of this Agreement except (i) to its authorized legal and financial representatives with a need to know and then only for purposes of representing Customer's interests hereunder; and (ii) in the event Customer is otherwise required by applicable laws, regulations or court order to disclose such information. In addition, Customer will not issue any press release or make a public announcement relating in any way whatsoever to this Agreement or the relationship established by this Agreement without the advance written consent of Pearson.

**Force Majeure:** If the performance of this Agreement is interfered with, delayed or prevented as a result of an act of God or any other reason beyond the reasonable control of Pearson, including without limitation on account of strikes, labor conditions, shortages in materials or equipment, riots, insurrection, war, terrorism, acts of civil or military authority, governmental action, unavailability of energy or communication resources, unavailability of internet service, network outages, insolvency or inability of a Pearson Product platform vendor, then the party affected shall be excused from such performance to the extent of such interference (and the other party shall likewise be excused from performance to the extent such party's obligations are related to the performance so interfered with), provided that the party so affected shall use commercially reasonable efforts to remove such causes of non-performance.

Governing Law. This Agreement will be construed and interpreted according to the laws of a state of competent jurisdiction in that state's courts.

Entire Agreement. This Agreement, together with any attachments and schedules hereto, constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement will not be modified except by a subsequently dated written amendment signed on behalf of Pearson and Customer by their duly authorized representatives.

Counterparts. This Agreement may be executed in one or more counterparts by the execution of duplicate signature pages hereof, each of which shall be deemed the execution of the original Agreement and read together and construed as one and the same agreement.

Electronic Signatures. This Agreement and related documents may be accepted in electronic form (e.g., by scanned copy of the signed document, an electronic or digital signature or other means of demonstrating assent) and each party's acceptance will be deemed binding on such party. Each party acknowledges and agrees it will not contest the validity or enforceability of this Agreement and related documents, including under any applicable statute of frauds, because they were accepted or signed in electronic form or via facsimile copy. Facsimile, PDF and electronic signatures shall be considered valid signatures as of the date hereof.

16#21189

## Pearson Education, Inc. Addendum

**Parties:** This Addendum is made between:

Effective Date: July 1, 2015

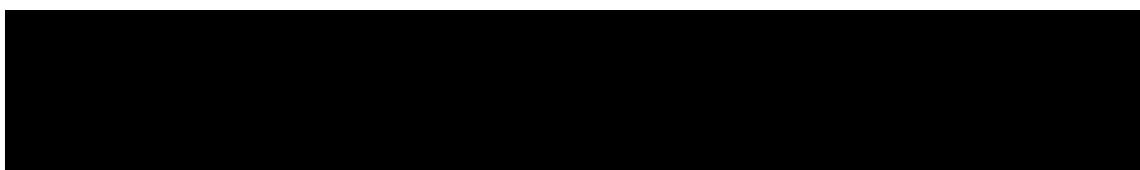
Customer
University of Cincinnati
2600 Clifton Ave.
Cincinnati, OH 45221

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

**Background:** Customer and Pearson entered into a Pearson Learning Solutions Agreement dated November 30, 2013 (the "Agreement") for the adoption and use by Customer of certain Pearson Products (as defined in the Agreement). Customer and Pearson now desire to enter into this Addendum to amend and/or supplement one or more of the provisions contained in the Agreement.

1. The parties hereby acknowledge and agree as follows:

(a)



- (b) During the Renewal Term, Customer shall utilize the Pearson Products offered under Attachment 1 of the Agreement for the duration of such Renewal Term. Customer will not be required to purchase a specific quantity of the Pearson Products offered under Attachment 1 of the Agreement.

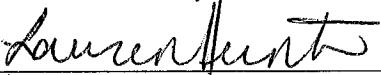
(c)



2. Except as specifically provided for in this Addendum, all other terms and conditions of the Agreement shall remain in full force and effect, and each party hereto agrees to be bound by the terms thereof.

**Acceptance & Authority:** By signing below, each party accepts this Addendum and represents that the individual executing this Addendum on behalf of a party has been authorized by all necessary actions (corporate or otherwise) to bind such party.

**Customer: University of Cincinnati**

  
Signature

Printed Name **Lauren Hunter**

Title **Assistant General Counsel  
Assistant Contracting Officer**

Date of Signature **8/25/15**

**Pearson Education, Inc.**

  
Signature

Printed Name **Andrew P. Smedira**

Title **Sr. Vice President and CFO**

Date of Signature

## AGREEMENT FOR ACCESS AND USE OF PEARSON PRODUCTS

**Parties:** This Agreement is made as of November 25, 2015 (the “*Effective Date*”) between:

Customer	Pearson
University of Cincinnati	Pearson Education, Inc.
2600 Clifton Ave	330 Hudson Street
Cincinnati, OH 45220	New York, NY 10013

A. **Definitions:** For ease of reference:

“*Access Period*” means the period in which an Authorized User may access an online Pearson Product, commencing on such Authorized User’s initial access of the Pearson Product.

“*Agreement*” means this Agreement for Access and Use of Pearson Products, together with any Attachments and Exhibits hereto, all of which are incorporated herein by reference.

“*Approved Distributor*” means a third party contracted by Customer and approved by Pearson, who is authorized to purchase, on behalf of Authorized Users, Pearson Products and perform reporting, payment and/or distribution functions on behalf of Customer, as described in an Ordering Document.

“*Authorized User*” means (i) a Customer student that is enrolled in a Course in which a Pearson Product is offered; and (ii) a Customer Agent who requires access to a Pearson Product for classroom or administrative purposes.

“*Course*” means a course offered by Customer, through any of its operating campuses, that is either listed in an Ordering Document or intended to utilize a Pearson Product offered in an Ordering Document.

“*Customer Agent*” means a full-time or adjunct faculty member, employee, administrator or agent of Customer and its affiliates.

“*Customer LMS*” means a learning management system or online learning platform provided by Customer or its third party partners from which one or more online Pearson Products may be accessed by Authorized Users.

“*Enrollment*” means one student registered in one Course using a Pearson Product at the time of the census for that Course. An Enrollment will not be counted if the student has withdrawn from the Course prior to the end of Customer’s published add-drop period for such Course, if applicable, or Pearson’s census date for such Course, whichever is sooner.

“*EULA*” means the terms of the Pearson End User License Agreement and Privacy Policy provided by Pearson to Authorized Users upon registration for a Pearson Product.



“*Parties*” means Customer and Pearson, and “*Party*” means one of them as the context provides.

“*Pearson Fulfillment Partner*” means a third party authorized by Pearson to perform certain reporting, collecting and/or fulfillment functions, on behalf of Pearson, to Authorized Users.

“*Pearson Platform*” means a learning management system or online learning platform provided by Pearson or its third party partners from which one or more online Pearson Products may be accessed by Authorized Users.

“*Pearson Products*” means the products and services offered by Pearson to Customer, as described in an Ordering Document, for use by Authorized Users.

***Pearson Title*** means a text or educational material published for the U.S. Higher Education market by Pearson or its U.S. imprints, which can be found at <http://www.pearsonhighered.com/pearsonhigheredus/educator/search/advanceSearch.page>.

B. **Use:** Customer or Approved Distributor (on behalf of Customer) will have the right to purchase Pearson Products, solely for use by Authorized Users, pursuant to the terms, prices and conditions of this Agreement and each applicable Ordering Document.

D. **Payment.** Customer or Approved Distributor, as applicable, will pay all amounts invoiced within thirty (30) days of invoice date and will be responsible for any taxes in connection with its resale and/or distribution of the Pearson Products to Authorized Users. All payments must be made in USD.

F. **Acceptance & Authority:** By signing below, each Party accepts this Agreement, agrees to all the obligations and limitations set forth in this Agreement, and represents that the individual executing this Agreement on behalf of the Party has been authorized by all necessary actions (corporate or otherwise) to bind that Party.

**Customer:** University of Cincinnati

Pearson Education, Inc.

  
Signature Katherine Miefert, Esq.

**Printed Name:** Assistant General Counsel  
Assistant Contracting Officer

Title  
 Date of signature 12/1/15

Signature

Printed Name

**Title**

Date of Signature

## Ordering Document

**Reference:** This Ordering Document is issued pursuant to the Agreement for Access and Use of Pearson Products dated as of November 25, 2015 between:

Customer
University of Cincinnati
2600 Clifton Ave
Cincinnati, OH 45220

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

Customer desires to purchase and utilize the Pearson Product(s) listed below pursuant to the terms of this Ordering Document:

**Course Resources & Content**

MyLabs & Mastering   
eBooks

**Minimum Usage Rate:**

Pearson is offering the Pearson Products at the prices and terms detailed herein in connection with the Pearson and Customer direct access program (the “*Program*”). Customer agrees that the Program will be made available across all under graduate Courses for the duration of the Purchase Period.

**Program Billing and Reporting:**

Approved Distributor, Follett (“*Follett*”), will send electronic statements to Pearson between the 10th and 15th days of the month and will remit payment in U.S. Dollars within 45 days following the end of the month in which such sale occurred. Statements and payments may be combined with existing digital content payment and reporting processes. Follett’s sales report will include Institution served, a description of the Pearson Product distributed, including ISBN, number of units fulfilled and unit cost.

[REDACTED]

Follett will maintain complete and accurate records covering all sales transactions.

To the extent Customer changes the Approved Distributor during the Purchase Period, Pearson and Customer will execute an Addendum to this Ordering Document to reflect the revised billing and reporting terms.

**Description of Pearson Products:**

**eBooks:**

An eBook shall mean an electronic version of a Pearson Title that is required for use in a Course. The eBooks will be delivered via [REDACTED]. An Authorized User will have an Access Period equal to the duration of their enrollment at Customer. eBooks offered hereunder may not include third-party material that appears in the corresponding print version of the Pearson Title, for which Pearson has not obtained all required electronic permissions. If rights are not obtained, Pearson will have the right to make gaps or exclusions in the eBooks to reflect such material.

To the extent Customer decides to transition from the Follett [REDACTED] to an alternate Customer LMS or eBook platform provider, Customer shall provide notice to Pearson within a reasonable timeframe (not to exceed 30 days from the date of such decision) via email to Pearson's dedicated executive director of strategic partnerships (currently at [mastin.jones@pearson.com](mailto:mastin.jones@pearson.com)).

[REDACTED]

**Print Upgrade:** Pearson agrees to provide Customer or Approved Distributor on behalf of Authorized Users, (either through Pearson or a Pearson Fulfillment Partner) the option to purchase, [REDACTED] a four-color, a la carte print upgrade version of any eBook that is provided as a stand-alone product [REDACTED] and purchased by or for such Authorized User, watermarked to such Authorized User. Customer or Approved Distributor will submit to Pearson a written request or purchase order for such print upgrade books. Pearson will then invoice Customer or Approved Distributor, as applicable, for each print upgrade book delivered. Each student Authorized User is limited to the purchase of one print upgrade book per Course in which they are enrolled per semester.

**Additional Terms and Conditions.** Additional terms and conditions applicable to the use of the Pearson Products offered in this Ordering Document can be found in Exhibit A and are hereby expressly incorporated herein.

**Acceptance & Authority:** By signing below, each Party accepts this Ordering Document and represents that the individual executing this Ordering Document on behalf of the Party has been authorized by all necessary actions (corporate or otherwise) to bind that Party.

**Customer: University of Cincinnati**

  
Signature

Katherine Miefert, Esq.

Printed Name Assistant General Counsel  
Assistant Contracting Officer

Title 12/7/15  
Date of Signature

**Pearson Education, Inc.**

Signature

Printed Name

Title

Date of Signature

**Additional Terms & Conditions  
relating to  
Agreement for Access and Use of Pearson Products**

**Products.** Subject to the terms and conditions set forth in the Ordering Document that references this Exhibit, and these Additional Terms and Conditions (hereinafter collectively referred to as the “*Agreement*”), Pearson agrees to provide the products and services purchased by Customer and Approved Distributor (on behalf of Customer), as described in the Ordering Document (“*Pearson Products*”). Capitalized terms not defined herein shall have the meanings ascribed thereto in the Agreement.

**Access and Use.** The Pearson Products will be made available solely to Authorized Users, who may access the Pearson Products during their respective Access Periods (as prescribed in the Ordering Document) and only in accordance with the terms of the EULA (defined in the Agreement). Upon completion of the Access Period, an Authorized User shall no longer have the right to access or use the Pearson Products. To the extent a Pearson Product is accessed via a Learning Tools Interoperability (LTI) link from the Customer LMS, Customer will ensure that only Authorized Users access the Pearson Products and such Customer LMS applies adequate digital rights management and other protections necessary to prevent copyright infringement, misappropriations and misuse of the Pearson Products. If a Customer LMS incorporates a single sign-on feature that enables Authorized Users to directly access a Pearson Product without further registration or log-on (for instance, via an LTI link), then Customer shall ensure that such Customer LMS contains terms of use that require Authorized Users to use the Pearson Products in a manner consistent with the EULA, and Customer further requires Authorized Users to acknowledge and agree to such terms of use. Customer will promptly notify Pearson of any actual or suspected violation that Customer may discover in regards to an Authorized User’s use of the Pearson Products. Upon the request of Pearson in connection with any such violation, Customer will cooperate with Pearson regarding the violation, up to and including termination of the violating Authorized User’s access to the Pearson Products. Pearson reserves all rights against the violating Authorized User, including the right to bring any legal or equitable action deemed appropriate by Pearson. Pearson may suspend access to the Pearson Products, in whole or in part, if in Pearson’s sole, reasonable discretion there is an emergency situation, including but not limited to a breach of security or unauthorized use of the Pearson Products.

**Restrictions on Use.** Customer acknowledges that the Pearson Products are intended solely for distribution to Authorized Users for personal, non-commercial use in their respective Courses. Customer will not sell, resell, license, sublicense, distribute, make accessible, rent or lease the Pearson Products to any students, individuals, institutions or third parties who are not Authorized Users.

**Ownership.** All right, title and interest in and to the Pearson Products and the content, materials, technology and data contained therein, and any derivative works thereof, is expressly reserved by Pearson (collectively, the “*Pearson Materials*”), except for Customer Material contained in the Pearson Products, if any. “*Customer Material*” means any curricular content, trademarks or logos owned or licensed by Customer or Customer Agents and delivered to Pearson for incorporation into the Pearson Products; such Customer Material must be clearly identified in writing by Customer prior to delivery to Pearson. Customer represents to Pearson that it is the lawful owner or licensee of all Customer Material; that it has obtained all necessary rights and permissions to use all third party materials contained within the Customer Material for the purposes required by Pearson to fulfill its obligations under any Ordering Document; and hereby grants to Pearson a non-exclusive, non-royalty bearing license to access, use and reproduce the Customer Material in conjunction with the creation, publication, distribution and sale of any Pearson Products offered in an Ordering Document. Nothing in the Agreement will be construed to prevent Pearson from selling, licensing, using, repurposing or permitting any third party to use Pearson Materials.

Customer Materials may be provided to Pearson for the purpose of incorporating such Customer Materials into the Pearson Products. For avoidance of doubt, Customer Materials do not include any curricular content or other materials that are not delivered to Pearson for processing and incorporation into the Pearson Products, including without limitation, content, materials, faculty notes, edits or data (i) directly uploaded onto a Customer LMS or into a Pearson Product by Customer or Customer Agents or (ii) used by Customer or Customer Agents in any manner or in any product not offered as part of the Pearson Products (collectively, “*Excluded Materials*”). Customer agrees that it shall be solely responsible for any Excluded Materials, including without limitation, the delivery, access and use thereof.

**Reservation of Rights.** Except as expressly set forth in an Ordering Document, all rights with regards to all Pearson Products are reserved by Pearson and under no circumstances shall Customer or Customer Agents resell, publish, transfer, distribute, sublicense, provide access to, copy, adapt, translate, reproduce, modify, enhance, or use the Pearson Products or the Pearson Materials contained therein without the express written permission of Pearson. Customer acknowledges that it is Customer’s responsibility to communicate the foregoing use and distribution restrictions to Customer Agents and Authorized Users and to take all steps necessary to enforce such restrictions.

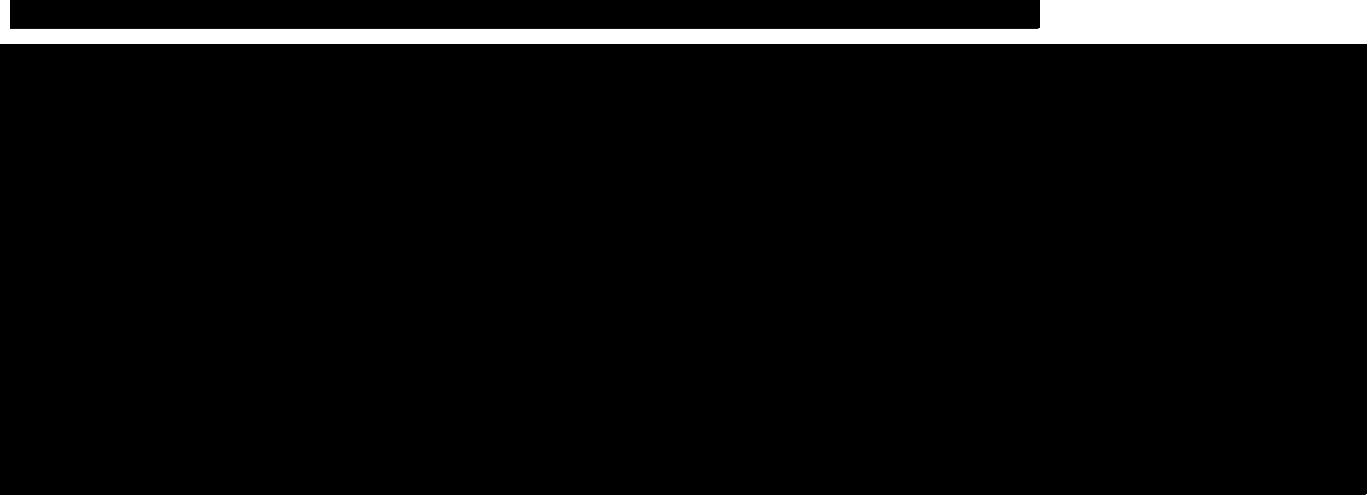
Except as specifically set forth in an Ordering Document, Customer acquires no rights to use, display, market, license or promote (including but not limited to marketing tools, promotional or preview use allowances, printing allowances, or lending or sharing rights) the Pearson Products in connection with its rights under the Agreement or any Authorized Users' use of the Pearson Products. Unless specifically permitted in an Ordering Document, in no event will Customer or Customer Agents have the right to further distribute, display or transmit the Pearson Products to anyone else including (i) in any physical form (CDs, DVDs, portable media, etc.), (ii) in portions or in parts less than the complete Pearson Product and (iii) in or as a derivative work.

**Security Audit.** Pearson will have the right to audit and inspect the systems and processes of the Customer LMS to ensure compliance with any and all requirements and limitations imposed under the Agreement. Pearson will have the right to stop making Pearson Products available to Customer if at any time Pearson notifies Customer of any violation of the Agreement that is not remedied to the reasonable satisfaction of Pearson within 10 days after such request or if Pearson otherwise determines that Customer's or its third party partners' direct or indirect practices for protecting the Pearson Products from unauthorized use are unsatisfactory or inadequate.



**Accessibility.** Pearson incorporates technically feasible accessibility features into certain Pearson Products. The provision of additional accessibility features shall be provided at Pearson's discretion and may be subject to additional costs.

**Cessation of Use.** Notwithstanding Customer's rights to use the Pearson Products, Pearson may require Customer to promptly cease (within five business days) using any Pearson Products, if (i) Pearson notifies Customer that Pearson no longer has the necessary rights to the Pearson Materials contained therein or the Pearson Product has been discontinued, (ii) Pearson reasonably believes cessation is necessary to limit or avoid liability or (iii) Pearson is otherwise required by law or court order to cease and desist.



**Failure to Pay Invoices.** If Customer has failed to make any payment due to Pearson pursuant to an Ordering Document and such failure has continued for fifteen (15) days following the provision of written notice detailing such failure to Customer, unless Customer has provided Pearson with notice that Customer in good faith disputes the amount of such payment, Pearson may, at its discretion, (i) suspend all further use and distribution of Pearson Products or (ii) terminate the Agreement and/or the applicable Ordering Document and require all amounts to be paid thereunder.

**Approved Distributors.** Customer represents and warrants to Pearson that any Approved Distributor (defined in the Agreement) (i) has all right and authority to act, on behalf of Customer, in accordance with the terms of the Agreement and (ii) is and will remain in compliance with all applicable laws and regulations relating to its activities under the Agreement.

**DISCLAIMER.** EXCEPT AS SET FORTH IN THE AGREEMENT, PEARSON EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. PEARSON DOES NOT WARRANT THAT THE PEARSON PRODUCTS WILL MEET CUSTOMER'S REQUIREMENTS. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESSED WARRANTIES PROVIDED IN THE AGREEMENT.

**Use of Marks.** Each Party owns certain trade names, logos and trademarks (collectively, "*Marks*"), and such Marks are and will remain the exclusive property of such Party. The Agreement gives the other Party no rights therein, and the other Party will never assert any rights therein; provided, however, that Customer grants to Pearson a non-exclusive, non-royalty bearing license to reproduce Customer's Marks in conjunction with the publication, distribution and sale of the Pearson Products under any Ordering Document. Customer further agrees not to remove or alter any Pearson Mark or other proprietary notice in or on any Pearson Product.

**Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, SUFFERED BY THE OTHER PARTY, INCLUDING WITHOUT LIMITATION LOST PROFITS OR GOODWILL, BUSINESS INTERRUPTIONS OR OTHER ECONOMIC LOSS ARISING OUT OF OR RELATED TO THE AGREEMENT OR ANY USE OF OR FAILURE TO BE ABLE TO USE THE PEARSON PRODUCTS. DURING THE FIRST TWELVE MONTHS FOLLOWING THE DATE OF ANY ORDERING DOCUMENT, PEARSON'S MAXIMUM AGGREGATE LIABILITY UNDER THE AGREEMENT WILL IN NO EVENT EXCEED THE TOTAL FEES PAID TO PEARSON BY CUSTOMER DURING THAT FIRST TWELVE MONTHS. THEREAFTER, PEARSON'S MAXIMUM AGGREGATE LIABILITY UNDER THE AGREEMENT DURING EACH SUBSEQUENT TWELVE MONTH PERIOD WILL IN NO EVENT EXCEED THE TOTAL FEES PAID BY CUSTOMER TO PEARSON UNDER THE ORDERING DOCUMENT DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT, OR OTHERWISE, EVEN IF THE PARTY HAS BEEN WARNED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE, AND EVEN IF ANY OF THE LIMITED REMEDIES IN THE AGREEMENT FAILS OF THEIR ESSENTIAL PURPOSE.

**Assignment.** The Agreement will be binding on the Parties and their respective successors and permitted assigns. Customer may not assign its rights or delegate its obligations under the Agreement to any third party without the prior written consent of Pearson.

**Confidentiality.** Customer shall keep confidential and shall not disclose the terms and conditions of the Agreement or any Ordering Document, except (i) to its authorized legal and financial representatives with a need to know and then only for purposes of representing Customer's interests hereunder or thereunder and (ii) to the extent Customer is required to comply with the Ohio Records Act, Ohio Revised Code 149.43 or any other applicable federal or state law governing the University Cincinnati. In addition, Customer will not issue any press release or make a public announcement relating in any way whatsoever to the Agreement or the relationship established by the Agreement, without the advance written consent of Pearson.

**Customer Information.** Customer may provide Pearson, either directly or indirectly via Customer Agents and Authorized Users, with information, materials and data that are subject to the Family Educational Rights and Privacy Act (FERPA) (collectively "*Customer Information*"). Customer grants to Pearson a limited, nonexclusive license during the term of the Agreement to copy, transmit, use and prepare derivative works of the Customer Information to the extent necessary for Pearson and its third party partners to perform its obligations under the Agreement. This license shall not be construed to permit Pearson to use Customer Information for any other purpose, except as expressly permitted by the Agreement. Notwithstanding the foregoing, Pearson may use anonymous data related to student performance and the activity of Authorized Users for product improvement, efficacy reports and general research and analytical purposes (which Pearson may share with other third parties).

**FERPA and Data Privacy.** Pearson will not distribute Customer Information in violation of FERPA. However, Customer acknowledges and agrees that, by granting user identifications and/or passwords, Customer controls, defines and manages access to Customer Information and related records and data that will be used within the Pearson Products, as well as in any

Customer LMS or Pearson Platform. Customer is responsible for (a) compliance with all foreign and domestic privacy and student record laws and regulations that may be applicable to Customer's use of the Pearson Products; (b) securing all necessary prior consents (if any are required) for the collection, storage and use of education records, data and personal information within the Customer LMS, Pearson Platform or any Pearson Products; and (c) the creation of, and compliance with, applicable policies regarding the access and use by Authorized Users of personally identifiable information stored in the Customer LMS, Pearson Platform or in any Pearson Products.

**Force Majeure.** If the performance of the Agreement is interfered with, delayed or prevented as a result of an act of God or any other reason beyond the reasonable control of a Party, including, without limitation, on account of strikes, labor conditions, shortages in materials or equipment, riots, insurrection, war, terrorism, acts of civil or military authority, governmental action, unavailability of energy or communication resources, unavailability of internet service, network outages, insolvency or inability of a Pearson Product platform vendor, then the affected Party shall be excused from such performance to the extent of such interference, provided that the affected Party shall use commercially reasonable efforts to remove such causes of non-performance. This provision shall not apply to a Party's payment obligations.

**Governing Law.** The Agreement will be governed by the laws of the State of Ohio, excluding principles of conflicts of law.

**Notices.** Any notice or other communication required or permitted to be given under the Agreement will be provided by registered mail to the Parties at the addresses set forth on the first page of the Agreement. Any notice to Pearson shall include a copy to the following address: Pearson Education, Inc., 200 Old Tappan Road, Old Tappan, NJ 07675, Attn: Associate General Counsel, North America.

**Entire Agreement.** The Agreement, together with any attachments and schedules hereto, constitutes the entire agreement between the Parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. The Agreement will not be modified except by a subsequently dated written amendment signed on behalf of Pearson and Customer by their duly authorized representatives. These Additional Terms and Conditions will govern in the event of any conflict with any other terms, attachment, exhibit or schedule to the Agreement.

**Counterparts.** The Agreement may be executed in one or more counterparts by the execution of duplicate signature pages hereof, each of which shall be deemed the execution of the original Agreement and read together and construed as one and the same agreement.

**Electronic Signatures.** The Agreement and related documents may be accepted in electronic form (e.g., by scanned copy of the signed document, an electronic or digital signature or other means of demonstrating assent) and each Party's acceptance will be deemed binding on such Party. Each Party acknowledges and agrees it will not contest the validity or enforceability of the Agreement and related documents, including under any applicable statute of frauds, because they were accepted or signed in electronic form or via facsimile copy. Facsimile, PDF and electronic signatures shall be considered valid signatures as of the date hereof.

**AMENDMENT TO E-LEARNING PROGRAM DEVELOPMENT AND  
DISTRIBUTION MASTER AGREEMENT**

THIS AMENDMENT TO E-LEARNING PROGRAM DEVELOPMENT AND DISTRIBUTION MASTER AGREEMENT ("Amendment") is entered into by and between Embanet-Compass Knowledge Group Inc. ("Company") and the University of Cincinnati ("University"), effective as of January 1, 2013 ("Effective Date"). Company and the University will be singularly referred to herein as a "Party" and collectively as the "Parties."

WHEREAS, the Parties entered into the e-Learning Program Development and Distribution Master Agreement effective June 27, 2007 ("Agreement");

WHEREAS, pursuant to the Agreement, the Parties have entered into Program Term Sheets for certain e-Learning Programs, and the Company is currently supporting these e-Learning Programs under the terms of the Agreement;

WHEREAS, the University solicited bids pursuant to Quotation No. 600-810-A ("RFP") from third party providers for distance education services, including course design, application, registration, student advising, bill payment, and retention services;

WHEREAS, the University selected Company as a third party provider of distance education services as a result of the RFP, and the Parties desire to amend the Agreement to reflect the terms and conditions mutually agreed upon by the Parties in the RFP process;

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

1. **Administration; Prospectus.** Section 1.5 of the Agreement is hereby deleted.
2. **New Definitions.** The following new Sections 2.2.1, 2.18.1, 2.18.2, 2.23.1, and 2.23.2 are hereby inserted into Article 2 of the Agreement:

**"2.2.1. B2U.** 'B2U' means the Company Business 2 University Program whereby employees of corporations that join the program are granted a discount on university tuition.

**2.18.1 Existing e-Learning Programs.** 'Existing e-Learning Programs' means those e-Learning Programs described in the Existing Program Term Sheets.

**2.18.2 Existing Program Term Sheets.** 'Existing Program Term Sheets' means the following Program Term Sheets in effect as of June 1, 2012:

- (a) Program Term Sheet for Master of Science in Nursing with specialties in Nurse Midwifery; Women's Health Nurse Practitioner, Clinical Nurse Specialist/Nurse Educator, Family Nurse Practitioner, Adult Nurse Practitioner, Psychiatric Nurse Practitioner, Psychiatric Clinical Nurse Specialist, and Nursing Services Administrator, with an effective date of June 18, 2012 ('MSN Program Term Sheet').
- (b) Program Term Sheet for Master of Science in Criminal Justice with an effective date of July 21, 2008.

- (c) Program Term Sheet for Master of Education with specialties in Educational Leadership, Curriculum and Instruction with concentrations, Teaching and Learning, Special Education, and related certificates, with an effective date of March 10, 2010.
- (d) Program Term Sheet for Master of Education in School Psychology, Post-Bachelors Certificate in Behavioral Analysis, and Post-Masters Certificate in Behavioral Analysis, dated April 11, 2011.
- (e) Program Term Sheet for Bachelor of Science in Health Information Management with an effective date of January 3, 2012.
- (f) Program Term Sheet for Bachelor of Science in Clinical Laboratory Sciences with an effective date of June 21, 2011.
- (g) Program Term Sheet for Master of Health Administration dated December 1, 2010.

**2.23.1 New e-Learning Programs.** ‘New e-Learning Programs’ means those e-Learning Programs described in the New Program Term Sheets.

**2.23.2 New Program Term Sheets.** ‘New Program Term Sheets’ means those Program Term Sheets entered into by the Parties on or after June 1, 2012.”

**3. Definition of Effective Date.** Section 2.16 of the Agreement is hereby replaced in its entirety with the following:

**“2.16 Effective Date.** As to Program Term Sheets, ‘Effective Date’ shall mean the date on which the Term of the e-Learning Program begins; provided, however, that the Parties shall be contractually bound by the terms and conditions of a Program Term Sheet as of the date both Parties have executed said Program Term Sheet.”

**4. Definition of Instructional Fees.** Section 2.22 of the Agreement is hereby replaced in its entirety with the following:



**5. Instructional Services.** The first sentence of Section 4.4.4 of the Agreement is hereby amended to provide as follows:

“If provided in the applicable Program Term Sheet, the Company shall be responsible for the following Instructional Services.”

6. **Description of Instructional Services.** The following new Sections 4.4.4.3, 4.4.4.4, and 4.4.4.5 are hereby inserted into the Agreement immediately after Section 4.4.4:

“4.4.4.3. The Company shall provide instructional design support to Faculty to develop their Courses.

4.4.4.4. The Company shall convert the Course Content to the Course website using the Course Management System.

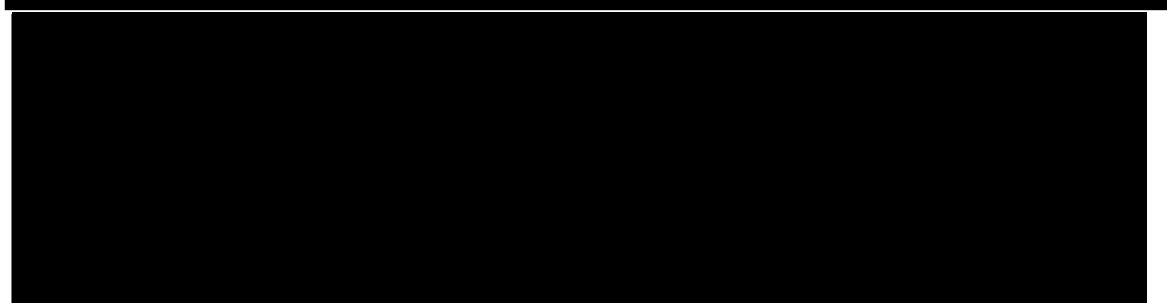
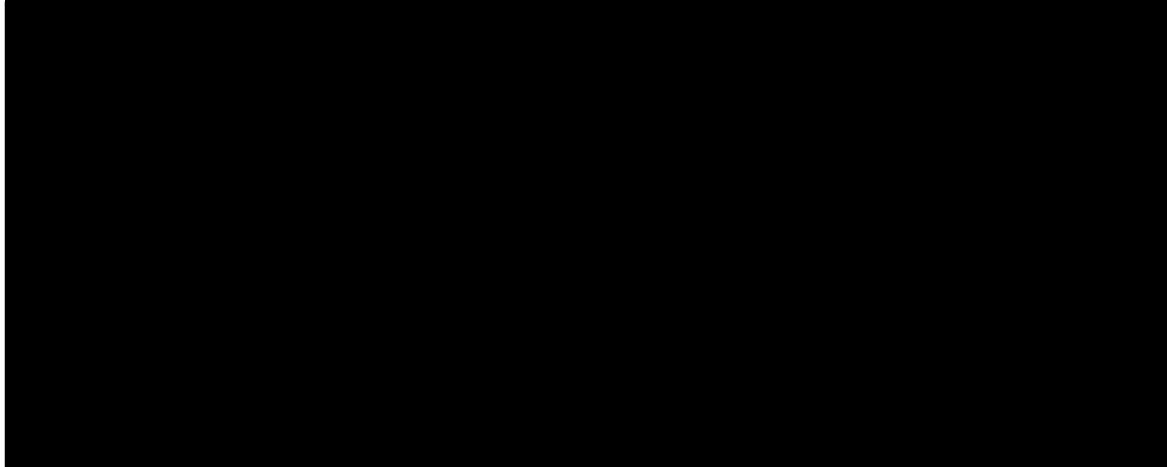
4.4.4.5. The Company shall produce multimedia presentations as defined by the Course Instructors and the Program Directors.”

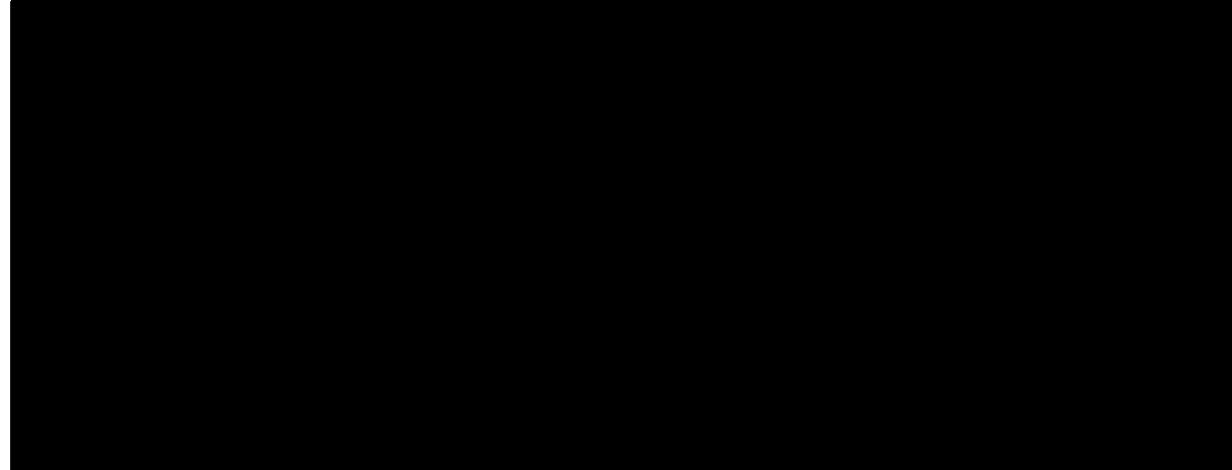
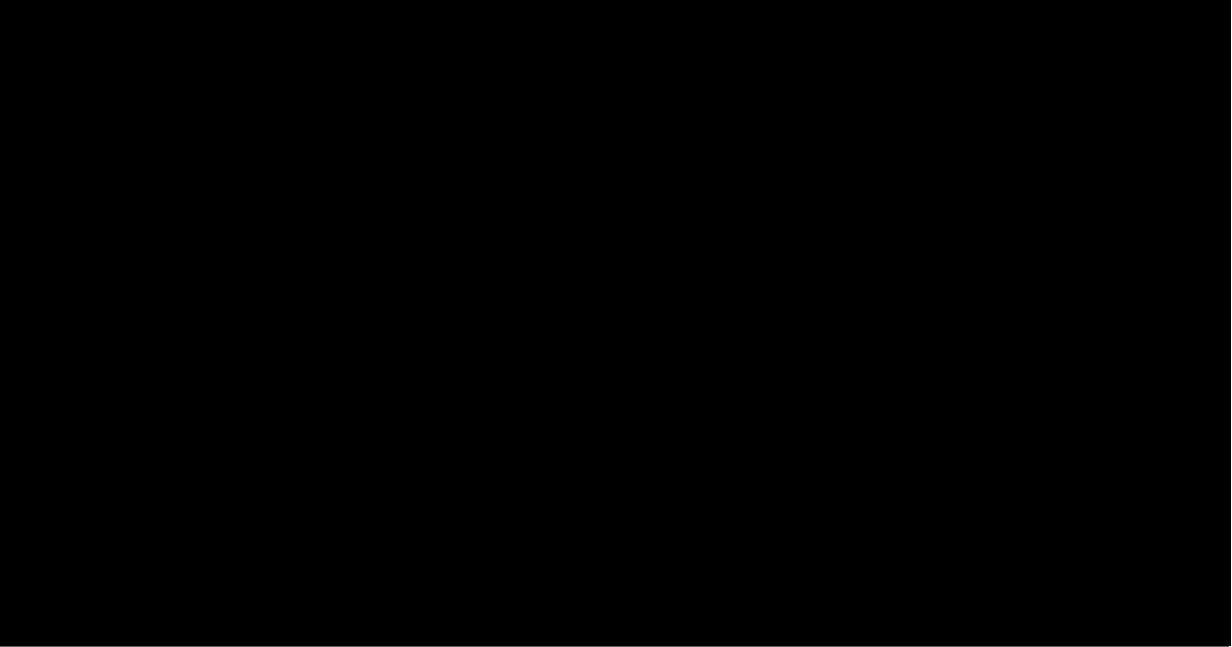
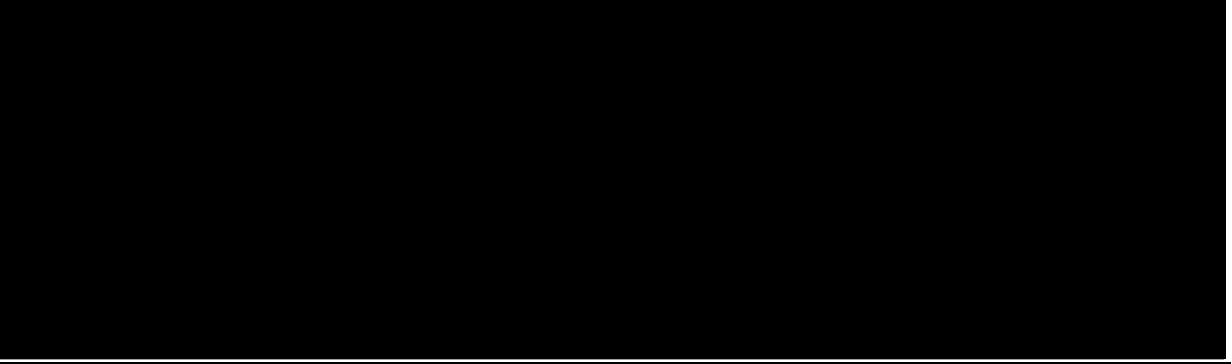
7. **Help Desk Services.** The following new Section 4.4.5 is hereby inserted into the Agreement immediately after Section 4.4.4.2:

“4.4.5. **Help Desk Services.** The Company shall provide 24/7 technical helpdesk services for students and faculty with telephone, email, and live-chat access.”

8. **Distributions.** Article 7 of the Agreement is hereby replaced in its entirety with the following:

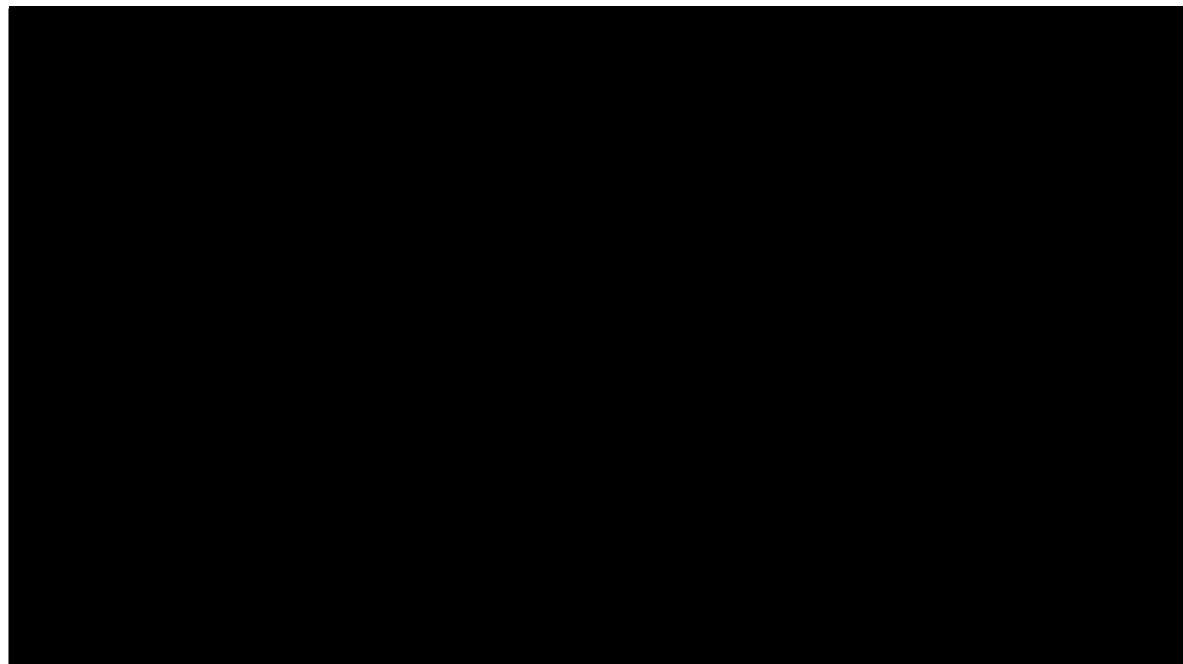
“ARTICLE 7  
DISTRIBUTIONS





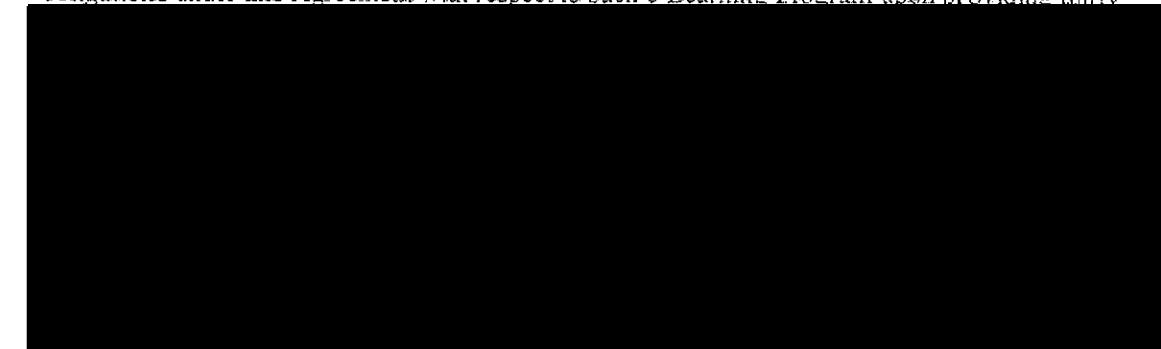
9. **Term.** Section 11.1 of the Agreement is hereby replaced in its entirety with the following:

**"11.1 Term.**



10. **Initial Termination Conditions.** Section 11.2.1(b) of the Agreement is hereby replaced in its entirety with the following:

"(b) Any e-Learning Program may be terminated in any one or more of the following ways: (i) by mutual consent of the University and the Company; (ii) by one Party upon default of the other Party in the full and timely observance or performance of its material covenants or obligations under this Agreement with respect to such e-Learning Program upon providing thirty



11. **Company Licensing of University Courses and Content on Termination for Cause.** Section 11.3 of the Agreement is hereby replaced in its entirety with the following:

"11.3 With respect to all terminations of an e-Learning Program, all licenses granted to the Company with respect to such terminated e-Learning Program(s) shall terminate, and the Company shall cease (i) all use of the name, tradenames, and trademarks of the University and (ii) all development, production, reproduction, manufacture, distribution, performance, display, promotion, advertisement, sale and other exploitation of the Content and all Derivative Work with respect to such terminated e-Learning Program(s), including, without limitation, the terminated e-Learning Program.

12. **Notices.** The contact information for the person designated to receive any notice on the Company's behalf pursuant to Section 16.1 of the Agreement is hereby replaced with the following:

"If to Company: 50 Northwest Point Blvd., 5<sup>th</sup> Floor  
Elk Grove Village, IL 60007-1032  
Phone: (877) 362-2638 ext. 2259  
Fax: (416) 494-1891  
Attention: Chief Financial Officer"

13. Exhibit A. Exhibit A to the Agreement is hereby replaced in its entirety by Exhibits A-1 and A-2 attached hereto. Concurrent with the execution of this Amendment, the Parties shall enter into Restated Program Term Sheets in substantially the form set forth in Exhibit A-1. Said Restated Program Term Sheets shall supersede and replace the Existing Program Term Sheets in their entirety. The Parties shall enter into any New Program Term Sheets in substantially the form set forth in Exhibit A-2.

14. Exhibit B. Exhibit B to the Agreement is hereby deleted in its entirety.

15. No Other Amendment. All other provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREFORE, the Parties have executed this Amendment on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

University of Cincinnati

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: President and CEO  
Date: \_\_\_\_\_

By: Robert F. Ambach  
Print Name: ROBERT F. AMBACH  
Title: Sr VP for Admin & Finance  
Date: \_\_\_\_\_

Exhibit A-1  
Restated Program Term Sheet

1. Program: \_\_\_\_\_ [Insert e-Learning Program name]
2. Effective Date: January 1, 2013
3. Steering Committee Designees:  
  
For the University: \_\_\_\_\_ [name two persons] or their duly appointed representatives  
  
For the Company: \_\_\_\_\_ [name two persons] or their duly appointed representatives
4. Effect: This Restated Program Term Sheet supersedes and replaces the Program Term Sheet for the \_\_\_\_\_ Program entered into by the Parties effective \_\_\_\_\_ [insert date of Existing Program Term Sheet].
5. B2U. Students in the e-Learning Program [will/will not] be eligible to participate in the B2U program.
6. Instructional Services. The Company [will/will not] provide Instructional Services pursuant to Section 4.4.4 of the Agreement.

IN WITNESS WHEREFORE, the Parties have executed this Restated Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

University of Cincinnati

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: President and CEO  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Exhibit A-2**  
**Program Term Sheet**

1. Program: \_\_\_\_\_ [insert e-Learning Program name]
2. Effective Date: The Effective Date of this Program Term Sheet will be the date of the first e-Learning Program student enrollment.
3. Enrollment Dates: New students may enter into this e-Learning Program in \_\_\_\_\_ [insert expected start term]
4. Steering Committee Designees:  
For the University: \_\_\_\_\_ [name two persons] or their duly appointed representatives  
For the Company: \_\_\_\_\_ [name two persons] or their duly appointed representatives
5. B2U: Students in the e-Learning Program [will/will not] be eligible to participate in the B2U program.
6. Instructional Services: The Company [will/will not] provide Instructional Services pursuant to Section 4.4.4 of the Agreement.
7. Other Terms: \_\_\_\_\_ [if applicable]

IN WITNESS WHEREFORE, the Parties have executed this Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

University of Cincinnati

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: President and CEO  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Restated Program Term Sheet  
MSN Program

1. Program: Master of Science in Nursing with specialties in Nurse Midwifery, Women's Health Nurse Practitioner, Clinical Nurse Specialist/Nurse Educator, Family Nurse Practitioner, Adult Nurse Practitioner, Psychiatric Nurse Practitioner, Psychiatric Clinical Nurse Specialist, and Nursing Services Administrator ("MSN Program" or "Program")
2. Effective Date: January 1, 2013
3. Steering Committee Designees:

For the University: \_\_\_\_\_ [name two persons] or their duly appointed representatives Dean, College of Nursing; and another designee appointed by the Dean; or their duly appointed representatives  
For the Company: The Chief Operating Officer and the Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives

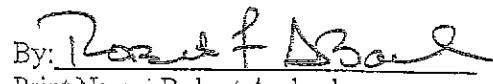
4. Effect: This Restated Program Term Sheet supersedes and replaces the Program Term Sheet for the MSN Program entered into by the Parties effective June 18, 2012 ("Superseded Program Term Sheet").
5. B2U. Students in the e-Learning Program ~~will not~~ be eligible to participate in the B2U program.
6. Instructional Services. The Company will not provide Instructional Services pursuant to Section 4.4.4 of the Agreement. The Parties acknowledge and agree that Instructional Services rendered under the Superseded Program Term Sheet were terminated by mutual agreement effective on August 3, 2012, and that the last term for which EmbanetCompass shall perform, and bill for, Instructional Services shall be the Fall 2012 term. The Parties further acknowledge and agree that the University shall be responsible for all Instructional Services for all terms subsequent to Fall 2012.

IN WITNESS WHEREFORE, the Parties have executed this Restated Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

By:   
Print Name: Steve Pireng  
Title: President and CEO  
Date: 10-15-12

University of Cincinnati

By:   
Print Name: Robert Ambach  
Title: Senior Vice President for Administration & Finance  
Date: 10-4-12

Restated Program Term Sheet  
MHA Program

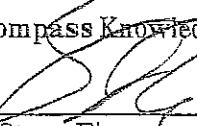
1. Program: Master of Health Administration ("MHA Program" or "Program")
2. Effective Date: January 1, 2013
3. Steering Committee Designees:

For the University: \_\_\_\_\_ [name two persons] or their duly appointed representatives ~~Dean College of Allied Health Sciences and the Director of Health Care Administration & Informatics or their duly appointed representative~~  
For the Company: The Chief Operating Officer and the Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives

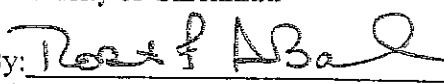
4. Effect: This Restated Program Term Sheet supersedes and replaces the Program Term Sheet for the MHA Program entered into by the Parties effective December 1, 2010.
5. B2U. Students in the e-Learning Program ~~will not~~ be eligible to participate in the B2U program.
6. Instructional Services. The Company ~~will not~~ provide Instructional Services pursuant to Section 4.4.4 of the Agreement.

IN WITNESS WHEREFORE, the Parties have executed this Restated Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

By:   
Print Name: Steve Fireng  
Title: President and CEO  
Date: 10-14-12

University of Cincinnati

By:   
Print Name: Robert Ambach  
Title: Senior Vice President for Administration & Finance  
Date: 10-4-12

Restated Program Term Sheet  
BS CLS Program

1. Program: Bachelor of Science in Clinical Laboratory Sciences ("BS CLS Program" or "Program")

2. Effective Date: January 1, 2013

3. Steering Committee Designees:

For the University: [name two persons] or their duly appointed representatives ~~Dean College of Allied Health Sciences; and Department Head, Analytical Diagnostic Sciences; or their duly appointed representatives~~  
For the Company: The Chief Operating Officer and the Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives

4. Effect: This Restated Program Term Sheet supersedes and replaces the Program Term Sheet for the BS CLS Program entered into by the Parties effective June 21, 2011.

5. B2U. Students in the e-Learning Program ~~will not~~ be eligible to participate in the B2U program.

6. Instructional Services. The Company ~~will not~~ provide Instructional Services pursuant to Section 4.4.4 of the Agreement.

IN WITNESS WHEREFORE, the Parties have executed this Restated Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: President and CEO  
Date: 10-14-12

University of Cincinnati

By: Robert Ambach  
Print Name: Robert Ambach  
Title: Senior Vice President for Administration & Finance  
Date: 10-4-12

Restated Program Term Sheet  
BS HIM Program

1. Program: Bachelor of Science in Health Information Management ("BS HIM Program" or "Program")

2. Effective Date: January 1, 2013

3. Steering Committee Designees:

For the University: \_\_\_\_\_ [name two persons] or their duly appointed representatives ~~Dean College of Allied Health Sciences; and another designee appointed by the Dean; on their duly appointed representatives~~  
For the Company: The Chief Operating Officer and the Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives

4. Effect: This Restated Program Term Sheet supersedes and replaces the Program Term Sheet for the BS HIM Program entered into by the Parties effective January 3, 2012.

5. B2U. Students in the e-Learning Program ~~(will not)~~ be eligible to participate in the B2U program.

6. Instructional Services. The Company ~~(will not)~~ provide Instructional Services pursuant to Section 4.4.4 of the Agreement.

IN WITNESS WHEREFORE, the Parties have executed this Restated Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: President and CEO  
Date: 10-12-12

University of Cincinnati

By: Robert Ambach  
Print Name: Robert Ambach  
Title: Senior Vice President for Administration & Finance  
Date: 10-14-12

Restated Program Term Sheet  
MSCJ Program

1. Program: Master of Science in Criminal Justice ("MSCJ Program" or "Program")

2. Effective Date: January 1, 2013

3. Steering Committee Designees:

For the University: \_\_\_\_\_ [name two persons] or their duly appointed representatives *Dean of the College of Education, Criminal Justice and Human Services and the Director of the School of Criminal Justice or their duly appointed representatives*

For the Company: The Chief Operating Officer and the Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives

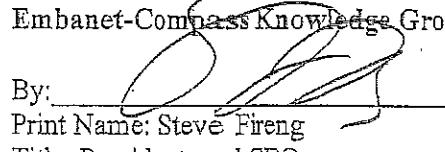
4. Effect: This Restated Program Term Sheet supersedes and replaces the Program Term Sheet for the MSCJ Program entered into by the Parties effective July 21, 2008.

5. B2U. Students in the e-Learning Program ~~will not~~ be eligible to participate in the B2U program.

6. Instructional Services. The Company ~~will not~~ provide Instructional Services pursuant to Section 4.4.4 of the Agreement.

IN WITNESS WHEREFORE, the Parties have executed this Restated Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

By:   
Print Name: Steve Fireng  
Title: President and CEO  
Date: 10-14-12

University of Cincinnati

By:   
Print Name: Robert Ambach  
Title: Senior Vice President for Administration & Finance  
Date: 10-4-12

Restated Program Term Sheet  
MESP Program

1. Program: Master of Education in School Psychology, Post-Bachelors Certificate in Behavioral Analysis, and Post-Masters Certificate in Behavioral Analysis (collectively, "MESP Program" or "Program")
2. Effective Date: January 1, 2013
3. Steering Committee Designees:

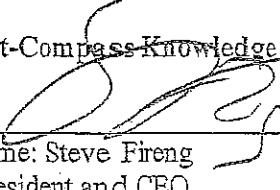
For the University: [name two persons] or their duly appointed representatives ~~Dean of the College of Education, Criminal Justice & Human Services, and the Director of the School of Human Services or their duly appointed representatives~~

For the Company: The Chief Operating Officer and the Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives

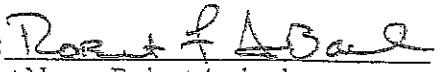
4. Effect: This Restated Program Term Sheet supersedes and replaces the Program Term Sheet for the MESP Program entered into by the Parties effective April 11, 2011.
5. B2U. Students in the e-Learning Program ~~will not~~ be eligible to participate in the B2U program.
6. Instructional Services. The Company ~~will not~~ provide Instructional Services pursuant to Section 4.4.4 of the Agreement.

IN WITNESS WHEREFORE, the Parties have executed this Restated Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

By:   
Print Name: Steve Fireng  
Title: President and CEO  
Date: 10-4-12

University of Cincinnati

By:   
Print Name: Robert Ambach  
Title: Senior Vice President for Administration & Finance  
Date: 10-4-12

Restated Program Term Sheet  
MEd Program

1. Program: Master of Education in (a) Educational Leadership, (b) Curriculum and Instruction, and related graduate certificates (a-f below), (c) Special Education and (d) related distance learning graduate certificates (collectively, "MEd Program" or "Program")
  - a. Gifted
  - b. National Boards
  - c. Reading Specialist
  - d. STEM Education
  - e. Teacher Leader
  - f. TESOL
2. Effective Date: January 1, 2013
3. Steering Committee Designees:

For the University: \_\_\_\_\_ [name two persons] or their duly appointed representatives ~~Dean of the College of Education, Criminology, Justice and Human Services and the Director of the School of Education or their duly appointed representatives~~

For the Company: The Chief Operating Officer and the Senior Vice President of Academic Partnerships (Orlando), or their duly appointed representatives

4. Effect: This Restated Program Term Sheet supersedes and replaces the Program Term Sheet for the MEd Program entered into by the Parties effective March 10, 2010.
5. B2U. Students in the e-Learning Program ~~will not~~ be eligible to participate in the B2U program.
6. Instructional Services. The Company ~~will not~~ provide Instructional Services pursuant to Section 4.4.4 of the Agreement.
7. Ohio resident distance learning students enrolled in Graduate Certificate programs (listed in 1. above). In the event the enrollments of Ohio resident students in the distance learning Graduate Certificate programs declines for three (3) straight terms, then notwithstanding the exclusive license granted by the University to the Company in 6.1.1 of the Agreement, the University shall take over, perform, and be solely responsible for the Company's duties as to these Graduate Certificate Ohio resident students under this Program Term Sheet. Nothing herein shall be interpreted as granting the University the right to engage a third party as a recruitment provider for the aforementioned for Ohio resident distance learning students. This provision does not include M.Ed. students earning a Graduate Certificate while matriculated in the M.Ed. program.

IN WITNESS WHEREFORE, the Parties have executed this Restated Program Term Sheet on the date of the last signature below, effective as of the Effective Date.

Embanet-Compass Knowledge Group Inc.

By: \_\_\_\_\_  
Print Name: Steve Fireng  
Title: President and CEO  
Date: 10-14-12

University of Cincinnati

By: Robert F. Ambach  
Print Name: Robert Ambach  
Title: Senior Vice President  
Date: 10-4-12