



SERVICE AGREEMENT WITH INSTRUCTIONAL CONNECTIONS, LLC

This Service Agreement ("Agreement") is entered into by and between Instructional Connections, LLC ("IC"), and the Emporia State University ("ESU") as of March 12, 2018 (the "Effective Date"). IC and ESU are sometimes referred to herein each as a "Party", and collectively as the "Parties."

Recitals

- A. ESU is a higher educational institution that offers undergraduate, graduate, and post-graduate courses; which include courses that are delivered both offline in classroom teaching ("Offline Education") and online through one or more Learning Management Systems, as herein defined ("Online Education").
- B. IC provides Academic Coaches ("coaches") to assist universities in course instructional support and delivery in Online Education courses and/or degree programs.
- I. **Definitions.** Capitalized terms used in this Agreement shall have the meaning set forth below or elsewhere in the Agreement.
 - C. **"Census Date"** means the first day after the official ESU add/drop period for online programs.
*is the date as determined by ESU, following date
due 3/1/18*
 - D. **"Learning Management System"** ("LMS") means the proprietary learning management software platform used by ESU. IC supports any LMS used by the university.
 - E. **"Faculty"** mean individuals appointed by ESU as ESU Faculty to teach the curriculum chosen by ESU for each Program.
 - F. **"Intellectual Property"** means any and all now known or hereafter existing rights associated with (i) works of authorship throughout the world, including exclusive exploitation rights, copyrights, moral rights and mask works; (ii) trade secret rights; (iii) trademark and trade name rights; (iv) patents, designs, algorithms and other industrial property rights; (v) other intellectual and proprietary rights of every kind and nature throughout the world whether arising by operation of law, by contract or license or otherwise; and (vi) all registrations, renewals, extensions, combinations, divisions, or reissues of any of the foregoing.
 - G. **"Program(s)"** means certain educational asynchronous Online Education courses offered by ESU resulting in the award of certain ESU course credit and/or credentials that may be designated by ESU from time to time hereunder and that will involve the assistance of one or more Academic Coaches provided by IC hereunder.
 - H. **Reserved.**
 - I. **"Start"** means the first day of a live online education course.
 - J. **"Student(s)"** means a student enrolled in the Programs.
 - K. **"Academic Coach"** means a faculty assistant provided by IC for purposes of course instructional support and delivery in ESU Online Education Degree Programs.

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II. IC Obligations

As part of assisting ESU in providing the Programs, IC agrees to fulfill the following services and obligations (collectively, the "IC Obligations"):

- A. **Academic Coaches.** Subject to the approval of ESU, IC will identify individuals to serve as Academic Coaches who will support Students enrolled in the Programs under the close supervision of the Faculty. If at any time ESU determines, at its sole discretion, that a person appointed as an Academic Coach under this provision is unsuited to continue in that role, it shall so advise IC and IC will cause the removal of such person from his or her instructional duties, and if requested by ESU provide a replacement pursuant to the procedures set forth in this Section. ESU may use any applicable or preferred terminology it chooses to call its "Academic Coaches."
- B. **Recruitment and Qualification System.** IC will provide a recruitment and qualification system for advertisement, screening, pre-qualification, conduct a standard criminal background check, qualification, and request of official transcripts for Academic Coach applicants in accordance with programmatic needs by ESU for Academic Coaches. Such system is subject to ESU approval, which shall not be unreasonably withheld.
- C. **Credentialing System.** IC will provide a system to send qualification documents and transcripts of applicants to ESU for purposes of approval for Programs.
- D. **Independent Contractor Agreements.** IC will contract with Academic Coaches on a part-time basis who meets qualification criteria and acceptance by ESU for its programs. Such Academic Coaches will be subcontractors or employees of IC, as appropriate, and will not be employees of ESU.
- E. **On-Boarding and Training.** IC will provide Academic Coaches with an "iconnect-na.com" email account on a secure server; provide ESU with Academic Coach contact information; train Academic Coaches on ESU's LMS as necessary to ensure coaches understand the basic functions they will support faculty in the LMS; and provide instruction on ESU's programs, policies, and academic procedures when requested.
- F. **Scheduling and Assignment.** IC will assist with NSCs representatives to schedule and assign Academic Coaches into live course sections prior to each ESU course start. IC will notify ESU of all assignments of Academic Coaches.
- G. **Course Delivery.** IC will assist Faculty members with support and delivery of instruction within ESU courses in accordance with ESU program and/or Faculty requirements. Such assistance may include, ESU is not limited to: grading of assignments, participating and monitoring of course discussions, posting announcements, and working under Faculty resolve issues relative to course delivery and the LMS.
- H. **Course Communication and Coordination.** IC will assist Faculty with pre-course, during course, and post-course communication, coordination and documentation with Academic Coaches.
- I. **Management and Pay of Academic Coaches.** IC will manage, pay, and support Academic Coaches that provide support to Students through ESU's LMS.
- J. **Transcripts:** Original graduate transcripts and a professional vita/resumes will be provided to ESU for each Academic Coach assigned a ESU Program. If the coach is currently pursuing a graduate degree, IC will collect and forward an original transcript annually to reflect hours earned. Updated

vitas should be submitted as appropriate. These documents will be available to the office of the Point of Contact or a person(s) designated by ESU.

- L. Protection of Student Information.** ESU has informed IC that Student specific information necessary for the performance of this Agreement may be protected from disclosure pursuant to the provisions of the Family Educational Rights and Privacy Act (FERPA), (20 U.S.C. § 1232g; 34 CFR Part 99). IC expressly agrees that to the extent it may have access to any such records it is solely for the purpose of assisting ESU in the offering of the Programs, it may not disclose any such information to any third parties, and it must take such measures as are reasonable and prudent to protect such information from inadvertent disclosure. Further, IC shall indemnify and otherwise hold harmless ESU for any IC unlawful disclosure or failure of notification as required by FERPA.

III. ESU Obligations

ESU and IC expressly acknowledge that nothing in this Agreement is intended to impair the authority of ESU respecting the academic attributes of the Programs, including the admission of Students to the Programs, the delivery of the Programs, the evaluation of Student performance and the decision to award course credit and academic credentials and to exercise customary oversight respecting Faculty engaged in its offering. ESU agrees to cooperatively engage in maximizing the utilization of its LMS through the participation in this Agreement. In furtherance thereof, ESU agrees to provide the following services and obligations (collectively, the "ESU Obligations"):

- A. Communication.** ESU shall provide IC with one primary point of contact ("POC") for IC to communicate with on an ongoing basis with respect to ESU Obligations and this Agreement. The POC will designate, in writing, particular Online Education courses as "Programs" hereunder and will provide written notice to IC at least fourteen (14) days prior to commencement of the Program indicating ESU's desire to use an Academic Coach provided by IC under this Agreement. No particular number of Programs is guaranteed over the course of this Agreement.
- B. Academic Supervision.** ESU will have and exercise overall academic supervision of all Academic Coaches engaged in the Programs. IC will immediately remove any Academic Coach upon receipt of written notice from the POC that ESU desires the removal of such Academic Coach at any time for any reason in the exercise of its sole discretion.
- C. Granting of Credentials.** Within ten (10) business days, ESU Faculty will evaluate Academic Coach candidates presented to them by IC, and communicate in writing to IC if such candidates meet standards for purposes of IC contracting with candidates as part time Academic Coaches. Under no circumstances will IC assign an Academic Coach in any live course without written pre-approval by ESU.
- D. Evaluation of Performance.** ESU Faculty will evaluate the performance of Academic Coaches enrolled in the Programs and ensure that the evaluations are shared with IC in such manner, as it shall deem appropriate, in the exercise of its sole discretion.
- E. Curriculum and Academic Oversight.** ESU will review the curriculum with the Academic Coach chosen for each Program in accordance with its customary academic procedures with Academic Coaches. ESU may require IC to make adjustments to its instructional support by Academic Coaches to meet its academic standards prior to such adoption.
- F. Student Information Systems.** ESU will be responsible for maintaining, supporting and administering the student information systems necessary to facilitate and process Student enrollment,

including but not limited to enabling Student registration for courses, providing transcripts, and enabling the entering of grades and the tracking of grades.

G. Accrediting: IC will support ESU with complete and timely data sharing for accreditation purposes.

IV. License Grants by ESU

- A. ESU grants IC limited use of its name, logo, and trademark ("ESU Brands") to IC. IC will only use ESU Brands for presentation purposes and for insertion into its web site for promotional purposes, provided that ESU will be provided with written or electronic copy of the media into which the ESU Brands will be inserted at least ten (10) days prior to use and, if ESU believes use of the ESU Brand is inappropriate or misleading, IC will make any adjustment required by ESU prior to use.

- B. All rights not expressly granted to IC in this section are reserved to ESU.

V. Term

- A. The Term of this Agreement commences on the Effective Date and ends on the third anniversary of the Effective Date, unless terminated under Section V.B or Section X. After the initial term, the agreement may be renewed *annually upon a mutually written agreement.*

date shall be

- B. Both Parties may mutually agree, at any time, in writing to terminate this Agreement.

VI. Payment and Taxes

- A. ESU will collect all tuition and any other payments made by students in connection with the Programs.

- B. The number of Student(s) for each Start shall be counted at the Census Date. ESU and IC shall communicate on each Census Date and agree in writing on the official count of Student(s). The communication from ESU shall be in writing and shall be provided by ESU's POC.

- C. IC shall invoice ESU for the official count of Student(s) on the Census Date, and upon written agreement for the official count with ESU's POC.

thirty (30) days 3/1/19 R/W

- D. ESU shall remit to IC no later than fifteen (15) Business days following the Census Date as follows:

- a. The amount per Program set forth in Addendum A (the "Compensation").

- b. If ESU changes course lengths, combines courses, or otherwise makes substantial changes to course curriculum within its full control included in a Program in connection with which an Academic Coach has commenced work, ESU and IC agree to negotiate an appropriate adjustment to Compensation for such Program.

- E. IC will be responsible for payment of taxes due on the Compensation paid under this contract. IC will be responsible for payment of, or will assure that each Academic Coach will be responsible for payment of, any employment taxes, unemployment taxes, worker's compensation, or other taxes, assessments, or insurance payable in connection with its engagement of Academic Coaches.

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VII. Intellectual Property

- A. **Ownership of IC Intellectual Property.** IC retains all ownership rights to any Intellectual Property owned by IC and used in furtherance of this Agreement.
- B. **Ownership of ESU Intellectual Property.** ESU retains all ownership rights to any Intellectual Property owned by ESU and used in furtherance of this Agreement.
- C. **Ownership of Developed Materials.** Each Party shall promptly disclose to the other any Intellectual Property arising from or attributed to any of the work or activities undertaken as part of this Agreement. Any right, title and interest in and to any Intellectual Property arising from or attributed to any of the work or activities undertaken as part of this Agreement shall belong to the Party that created such Intellectual Property, unless mutually agreed otherwise in writing.

VIII. LIABILITY

- A. **Liability and Insurance.** The University will be responsible for the negligent acts of its employees or officers when performing functions within the scope of their employment. ESU will maintain, at its own cost and expense, at all times while this Agreement is in effect, general liability insurance to the extent and in such amounts as determined by the State of Kansas. ESU will also maintain at its own expense or from the quoted fringe/payroll tax rates, workers' compensation insurance for its employees as required by law. ESU will furnish evidence of such insurance upon request. Copies of certificates of coverage are available on request.
- B. IC will indemnify and defend ESU for any claims arising out of IC's actions under this Agreement. IC will maintain and provide proof of insurance sufficient to cover all claims brought against ESU for liability or loss, which are the result of the negligent or wrongful acts or omissions of IC.
TO THE EXTENT ALLOWED BY APPLICABLE LAW, date 3/12/18 JMW
- C. **NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES.**
SPECIAL date 3/12/18 JMW

IX. Certifications

- A. Each Party certifies, to the best of its knowledge, that it has the authority to enter into the Agreement and to perform its obligations set forth herein.

X. Termination

- A. If either Party materially breaches the terms of this Agreement and fails to correct the breach within forty-five (45) days after the non-breaching Party provides written notification, the non-breaching Party may terminate this Agreement.
- B. This Agreement may be terminated by ESU for any reason upon provision of written notice at least sixty (60) days prior to the beginning of any academic year during the term of this Agreement. (The academic year, as used herein, commences on the first day of classes of the fall semester.)
- C. If IC uses any information provided to it by ESU hereunder in any manner that exceeds the permissions or licenses granted to IC herein, and fails to immediately cease within 30 days after provided written notification of such unpermitted use, ESU may immediately terminate this Agreement with written notice.

XI. General

- A. Relationship between the Parties.** Each Party is an independent contractor and will be solely responsible for payment of all compensation owed to its employees, as well as employment related taxes. Each Party will maintain appropriate worker's compensation for its employees as well as general liability insurance. The Parties are and shall act as, each an independent contractor and not as an agent or employee of the other Party. Neither this Agreement, nor any terms and conditions contained herein, shall be construed as creating a partnership, joint venture, agency or franchise relationship.
- B. Governing Law.** The laws of the State of Kansas, United States of America shall govern this Agreement, and all matters arising out of, or relating to, this Agreement.
- C. Compliance with Federal, State and Local Laws.** The Parties shall comply with all applicable federal, state and local laws in the conduct of the work supported by this Agreement. Neither Party nor any of its employees are or shall be deemed to be employees of the other Party for any purpose including, without limitation, application of the Fair Labor Standards Act minimum wage and overtime payment provisions, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, any state or local revenue or tax laws, state worker compensation laws and state unemployment insurance laws. Each Party accepts full responsibility for payment of all taxes including, without limitation, unemployment compensation insurance premiums, all income tax deductions, Social Security deduction, and any and all other taxes or payroll deductions required for all employees engaged by either Party in the performance of the work supported by this Agreement. Each Party represents and warrants that it is qualified to do business in the geographies in which it will perform its obligations under this Agreement, and will obtain all necessary licenses and permits, and satisfy any other legal, regulatory and administrative requirements, necessary to its performance hereunder.
- D. Workplace Environment.** The Parties agree to comply with all applicable federal, state, and local laws regarding smoke-free and drug-free workplaces.
- E. Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization.** If applicable, the Parties will provide certification attesting that they do not provide material assistance to any organization on the U.S. Department of State exclusion list.
- F. Equal Opportunity Workplace.** In performing this Agreement, the Parties shall not discriminate against any employee, applicant for employment or other person because of race, religion, color, sex, national origin, disability, age or ancestry. The Parties will take affirmative steps to ensure that applicants are employed and that employees are treated during their employment without regard to race, religion, sex, national origin, disability, age, or ancestry.
- G. Notice**
All notices, including notices of address change are required to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by first class mail to:

If to IC:

Instructional Connections, LLC
Attn: Dr. Robert F. Williams, President
Address: 1320 Spring Ridge Lane
City/State/Zip: Flower Mound, TX 75028-3780
Fax: 1-888-318-0570
Email: robert.williams@iconnect-na.com

If to ESU:

Emporia State University
Attn: *Jerry Sportswood*
Address: *1 Kellogg Circle, Campus Box 4003*
City/State/Zip: *Emporia, KS 66041*
Fax:
Email: *jspotswo@emporia.edu*

*deK
3/1/18*

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- I. The Parties agree that they each may treat documents faxed by the other Party as original documents; nevertheless, either Party may require the other to exchange original signed documents.
- H. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.
- I. **Waiver.** The waiver by either Party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.
- J. **Headings.** The headings appearing in this Agreement are inserted for convenience only, and will not be used to define, limit or enlarge the scope of this Agreement or any of the obligations herein.
- K. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be an original, and such counterparts together will constitute one and the same instrument. Execution may be effected by delivery of facsimiles of signature pages (and the Parties will follow such delivery by prompt delivery of originals of such pages).
- L. **Confidential Information.** Each Party agrees that subject to the terms of this Agreement not to use or disclose to any third party, except for the purpose of performing this Agreement, any business and technical information of the other Party which, in the exercise of reasonable judgment, should be recognized by such Party as confidential and which is not a public record. The obligation of confidentiality shall not apply to information which: (i) is or becomes part of the public domain through no fault of the receiving Party; (ii) is furnished by the disclosing Party to others without restrictions on use and disclosure; (iii) becomes known or available to the receiving Party without restriction from a source other than the disclosing Party without breach of any agreement with the disclosing Party; (iv) is disclosed with prior written approval of the disclosing Party; (v) is independently developed by the receiving Party without the use of any Confidential Information; (vi) is previously known to the receiving Party on a non-confidential basis; or (vii) is required by applicable law, court order or government agency to be disclosed, in which case, the receiving Party shall give the disclosing Party as much notice as is reasonably practical so that the disclosing Party may seek a protective order or other confidential protection as the disclosing Party, in its sole discretion, may elect and the receiving Party shall reasonably cooperate with the disclosing Party in disclosing Party's efforts to obtain such order or protection.
- M. **Force Majeure.** Neither Party will be liable for delays or failure in its performance hereunder to the extent such delay or failure is caused by any act of God, war, natural disaster, strike, lockout, labor dispute, work stoppage, fire, third-party criminal act, quarantine restriction or act of government, or any other event beyond the reasonable control of that Party (an "Excusable Delay"). This Agreement may be terminated, with written notice, by either Party under this Section should the Excusable Delay of the non-performing Party continue for more than 90 days.

- N. **Entire Agreement.** This Agreement and any Exhibits and Addenda hereto constitute the complete agreement between the Parties and supersede all previous and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter of this Agreement. Neither this Agreement nor an Exhibit or Addendum may be modified or amended except in a writing signed by a duly authorized representative of each Party; no other act, document, usage, or custom shall be deemed to amend or modify this Agreement or an Exhibit or Addendum.
- O. **Successors and Assigns.** This Agreement will be binding upon, and will inure to the benefit of, the permitted successors and assigns of each Party hereto. ESU may not assign, delegate, transfer, or otherwise convey this Agreement or any of its rights hereunder, to any entity without the prior written consent of IC, and any attempted assignment or delegation without such consent shall be void.
- P. **Survivability.** The following Sections shall survive the expiration and termination of this Agreement: VI, VIII, IX, X, and XI.

INSTRUCTIONAL CONNECTIONS, LLC

Signature: 
Name: Robert F. Williams, Ed.D.
Title: President
Date: 3/19/2015

EMPORIA STATE UNIVERSITY

Signature: 
Name: Diana E. Kuhlmann
Title: Vice President for Administration and Finance
Date: 3-12-2018



SERVICE AGREEMENT WITH INSTRUCTIONAL CONNECTIONS, LLC

Addendum A – Pricing Schedule – 3 Year Contract

Emporia State University

February 28, 2018

The term of the Agreement shall be three (3) years from the date of the agreement Effective Date.

- **Undergraduate Courses**

- 5 Week Undergraduate \$34 / Student
 - 6-7 Week Undergraduate \$36 / Student
 - 8-9 Week Undergraduate \$38 / Student
 - 10-14 Week Undergraduate \$40 / Student
 - 15-16 Week Undergraduate \$42 / Student

- **Graduate Courses**

- 5 Week Graduate \$42 / Student
 - 6-7 Week Graduate \$44 / Student
 - 8-9 Week Graduate \$46 / Student
 - 10-14 Week Graduate \$48 / Student
 - 15-16 Week Graduate \$50 / Student

- **Doctoral Courses**

- 6-7 Week Doctoral \$55 / Student
 - 8-9 Week Doctoral \$60 / Student
 - 10-14 Week Doctoral \$65 / Student
 - 15-16 Week Doctoral \$70 / Student

* Pricing listed is "per-student-per course"



February 28, 2018

Emporia State University
1 Kellogg Circle
Emporia, KS 66801

RE: Sole Source Letter

To Whom It May Concern:

The purpose of this letter is to provide you with information that can be used to authenticate a sole source relationship between your institution and Instructional Connections, LLC (IC).

Who We Are:

Instructional Connections, LLC is a North Texas-based company that independently contracts with online Academic Coaches that assist professors of record in online courses with the grading of assignments, interactions with students in online classroom discussions, management of in-course communications, assistance with identifying at risk students, and other support services individual faculty members may require in the context of instructional support. IC now serves more than 50,000 online students in 38 universities located throughout the United States.

Key Reasons to Work with Us

We know by examination of the literature, that state universities are under increased pressure to lower costs, while provided with less funding by traditional university revenue streams. Given the instructional costs associated with a traditional adjunct-led teaching model, the use of highly qualified online Academic Coaches could save the university 20% to 30% of instructional costs in programs and courses using IC's Model.

Moreover, faculty benefit by having the ability to scale classes without sacrificing academic quality, integrity, rigor, and regional and programmatic accreditation. We have discovered through practice that faculty load using this model is significantly lowered, giving faculty the ability to teach more effectively. In review of outside data, student retention and student satisfaction has increased where the model has been used.

The instructional support model employed by Instructional Connections, LLC on behalf of its clients has undergone scrutiny by SACS and other regional accreditation agencies, both major nursing program accreditation agencies in the U.S. The model has assisted multiple universities in the areas of educational programs, business programs, healthcare programs, and undergraduate courses across a wide range of subjects.

How We Work with You

IC independently contracts with Academic Coaches on behalf of the university, which alleviates most human resource, finance, and payroll staffing concerns from the university if it would desire to handle these services itself. IC has proven its capability to reach a wide range of highly qualified Academic Coaches/Teaching Assistants across the spectrum of university course and program offerings, often receiving in excess of 100 applicants a week.

The university has full control over the selection and retention of all Academic Coaches that would support its programs and courses. Because Instructional Connection's Academic Coaches support individual faculty

members, each faculty member can determine the level of support he/she determines necessary to fulfill the course rubric, syllabus, and desired outcomes. The tasks undertaken by Academic Coaches have proven to alleviate the work load within online courses necessary to meet all goals and outcomes. Moreover, because of this work, the university feels that it will be able to fulfill most course faculty needs with existing faculty; thereby, eliminating the need to hire additional full time or adjunct faculty, which in turn would save the university significant cost savings as programs grow and expand.

Finally, IC is constantly recruiting and getting qualified applicants approved by universities to the program and course level; thereby, maintaining a pool of approved Academic Coaches for online program growth patterns. IC furthermore, through its own financial resources, uses Vertical Lead Academic Coaches with all of its universities, which provide management assistance to each university session/start, and for courses that exceed university expectations for enrollment growth.

Why we are a Sole Source

As of this date, Instructional Connections, LLC, is the sole service provider in the United States of online (distance learning) Academic Coaches that are embedded in live online courses working under the direct of the faculty of record; performing a similar role to that of a traditional Graduate Teaching Assistant. IC is the only company in the United States with a equivalent service at this time.

Because IC owns all intellectual property for its Academic Coach Model, quotations from three or more vendors is not feasible. IC maintains all copyrights to its intellectual property and all materials used in the conjunction with supporting university faculty and students with embedded Academic Coaches in university online programs and courses. These materials became copyrighted upon first publication of the IC' Academic Coach Model in 2010. The Model and other intellectual property under copyright protection are intended for the sole use of students and faculty in university online programs and courses, where IC' services are used. As of this date, IC maintains a copyright of its name and website, and is currently working with Bell, Nunnally & Martin, LLP, a Dallas Texas-based law firm, on other protections it can obtain relative to the services it provides its clients.

The Academic Coaches Model is unique to IC. Based on your review of other companies that might provide related services as Instructional Connections, LLC, we believe your institution will determine that no U.S. based company currently exists that provides the comprehensive Academic Coaches Model for online programs and individual courses in the same method and manner with the high level of support and proven success. We are able to provide you and your university with numerous references from academic and administrative leaders in the universities we now support at your request.

Sincerely,



Alexandra Forrester
Chief Administrative Officer / EVP of Strategic Partnerships
Instructional Connections, LLC