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SERVICES AGREEMENT

THIS AGREEMENT dated November 1, 2010, by and between The University of North Carolina at Chapel Hill, a nonprofit educational institution ("UNC"), on behalf of the UNC Kenan-Flagler Business School, whose address is McColl Building, Chapel Hill, NC 27599-3490, and 2tor, Inc., a Delaware corporation, having an office at 59 Chelsea Piers, Suite 200, New York, NY 10011 ("2tor"). UNC and 2tor are referred to collectively in this Agreement as the "parties" and individually as a "party."

WITNESSETH:

WHEREAS, The University of North Carolina at Chapel Hill is a world class educational institution and includes the Kenan-Flagler Business School ("UNC Kenan-Flagler") as one of its professional schools;

WHEREAS, UNC has determined a demand for the Program, as defined below, for UNC's Executive MBA programs and possibly other programs;

WHEREAS, UNC and 2tor have agreed to make a multi-million dollar investment into the development and administration of the Program and to perform the work and furnish services as described in this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth, the sufficiency of which is acknowledged, the parties agree hereby as follows:

Definitions. Capitalized terms shall have the respective meanings ascribed to such terms herein or as set forth below:

"2tor's Intellectual Property" means all copyrights, trademark rights and other intellectual property rights, in the Platform and all other technology, computer programs and software source code, developed for the Platform, including, but not limited to, 2tor-developed or 2tor-acquired user interface designs necessary to facilitate access to UNC's Intellectual Property via the Platform, logic and data modules, algorithms, feature sets and source code and documentation relating thereto.

"2tor Surplus" shall mean the amount of Net Program Proceeds received from UNC less the direct costs incurred by 2tor during the Term in connection with the Services and the Agreement. "2tor Surplus" shall include the appropriate pro rata portions of any disbursements that benefit multiple 2tor clients, but shall exclude costs related to 2tor's employment of any c-level executives (e.g., CEO, COO, CFO, CMO CTO) (including any rent or other expenses associated with 2tor's employment of those individuals), and any income taxes payable by 2tor.

"Change in Control" means (i) any merger, consolidation, acquisition or similar transaction(s) resulting in the stockholders of 2tor immediately before such transaction or transactions not retaining a majority of the voting power of the surviving entity, or (ii) a sale of all or substantially all of 2tor's assets.

"Classroom Course" means any course taken towards a UNC degree that (i) requires regular face-to-face interaction between UNC students and faculty or instructors in a physical space in a manner consistent with traditional classroom courses and (ii) is marketed by UNC, or generally known to UNC students, as a classroom course.

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"Classroom Program" means any UNC MBA program that (i) UNC markets as occurring primarily face-to-face and (ii) in which more than seventy percent (70%) of the course credits counting towards the MBA degree are Classroom Courses.

"Competitive Programs" means any online program or hybrid program offering MBA degrees other than those offered by the parties pursuant to this Agreement.

"Confidential Information" means all the business, products, services, costs, and marketing information pertaining to both on-site and online students' admissions, performance, and post-graduation outcomes as well as all information (including, but not limited to, academic as well as personal contact and financial information) pertaining to all faculty, staff, on-site students, on-line students, and future plans of a Disclosing Party, except such information that is or becomes publicly known other than through the action of the Receiving Party. For the avoidance of doubt, non-public information regarding UNC students, faculty and staff shall be UNC Confidential Information.

"Curriculum" means the Program curriculum, including all asynchronous lessons.

"Disclosing Party" means a party that discloses its Confidential Information to Receiving Party as specified in Section 11(B).

"Effective Date" means November 1, 2010.

"Fiscal Year" means a period starting July 1 and ending on June 30 of the following calendar year.

"Hybrid Program" means any UNC MBA program in which thirty percent (30%) to seventy percent (70%) of course credits counting towards the MBA degree are Classroom Courses.

"Indemnified Party" means a party that is indemnified by an Indemnifying Party as specified in Section 9(D).

"Indemnifying Party" means a party that indemnifies an Indemnified Party as specified in Section 9(D).

"Net Program Proceeds" means all Program Proceeds net of refunds actually granted by UNC.

"Non-Performing Party" means a party that breaches any of its material obligations under this Agreement.

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

"Pilot" shall have the meaning set forth in Section 7(A) of this Agreement.

"Pilot Launch" shall have the meaning set forth in Section 7(A) of this Agreement.

"Platform" means a technology platform for the Program, to serve as an online communication portal for students, faculty, course coordinators, course assistants, and Program staff and to enable

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online applications, course delivery, Program communications, development and maintenance of student portfolios, career services and such other functions as are mutually agreed to by the parties.

"Program" means the online distance learning program for UNC developed, delivered and used pursuant to this Agreement.

"Program Proceeds" means all tuition and fees charged to Program students.

"Promotion Strategies" means all marketing and promotional strategies related to the Program.

"Produced Segments" means the asynchronous products of the Program produced by 2tor from the Curriculum, and comprised of lectures, simulations, videos, PowerPoints and other typical online course content.

"Receiving Party" means the party that receives the Confidential Information of a Disclosing Party as specified in Section 11(B).

"Residencies" means face-to-face components of the Program led in a physical environment by UNC faculty, staff or instructors within each other's physical presence. For avoidance of doubt, participation in any Residencies shall not affect the percentage calculations contemplated by the definitions of Classroom Program or Hybrid Program.

"Reviews" means 2tor's due diligence on, audit, inspection and examination of its operations, computer systems, Platform and access controls directly related to the Program.

"Territory" means the world.

"UNC Hybrid Program" shall mean any Hybrid Program for which UNC unilaterally sets a revenue share between the parties pursuant to Section 12(D) of this Agreement.

"UNC's Intellectual Property" means all copyrights, trademark rights and other intellectual property rights, in all of the non-technical content of the Program, including without limitation the content of the Curriculum.

"UNC Surplus" shall mean the Net Program Proceeds received by UNC less the portion of Net Program Proceeds paid to 2tor during the Term and all direct costs incurred by UNC during the Term in connection with its delivery of the Program. "UNC Surplus" shall exclude all costs incurred for research including research faculty in excess of the reasonable cost of their teaching, all fellowships contributed by UNC in excess of those set forth in Section 5(B)(iii) of the Agreement, and all other costs incurred by UNC that are not directly related to the successful delivery of the Program.

"Work Product" consists of all results and proceeds of 2tor's services hereunder in producing the Produced Segments, whether stored on tape, computer disks or otherwise, and all derivative works that are conceived, created or developed as a result of or in connection with such 2tor services. For the avoidance of doubt, Work Product specifically excludes all of 2tor's Intellectual Property.

- 1) 2tor's Services. 2tor shall provide technological, marketing, promotional, development and support services with respect to the Program as follows:

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- A) Recruitment. 2tor shall create and carry out Promotion Strategies targeted toward building awareness of the Program and generating a flow of quality applications from prospective students from Territory. To do this, 2tor shall develop a written plan and appropriate marketing materials for the Program and shall execute this plan. 2tor shall fund and develop appropriate materials and shall be responsible for recruiting students into the Program. 2tor's Promotion Strategies may include, but shall not be limited to, engaging personnel or utilizing other resources to recruit prospective students, any and all lead development efforts (including but not limited to purchasing leads), and any and all other efforts 2tor utilizes and resources 2tor engages as part of marketing the Program and generating quality applications from prospective students throughout the Territory. 2tor shall promptly deliver to UNC any collected contact information of any prospective student who, in 2tor's reasonable judgment, is interested in follow-up from UNC concerning a UNC MBA program other than the Program. 2tor shall draft and deliver a written plan to UNC no less than annually, and UNC shall have the right to review and approve the written plan and the ongoing right to review and approve all marketing materials related to the marketing of the Program. As described in paragraph 2(D), the parties shall jointly agree to the creation of any marketing materials newly created or reformatted for the purpose of including the Program as part of UNC's offerings, and 2tor shall be responsible for all direct costs incurred with respect thereto.
 - B) Admissions Processing. 2tor shall collect completed online applications for the Program and forward those applications to the UNC Kenan-Flagler admissions office, all through the Platform in a manner that shall be agreed upon by the parties and set forth in Schedule 1(B), as amended from time to time.
 - C) Customer Service and Counseling. In an effort to maintain a high level of customer service, 2tor shall provide phone support, in a manner consistent with reasonable guidelines provided by UNC, to prospective students and to students upon matriculation and throughout the Program. Such counseling shall include technical and logistic issues, but 2tor shall defer academic guidance to UNC counselors, and share career counseling with them. 2tor shall provide all such counseling in a manner consistent with reasonable written guidelines provided by UNC, such guidelines and responsibilities to be set forth in Schedule 1(C), as amended from time to time.
- D) Residencies.
- i) As described in paragraph 2(D), UNC may require or encourage Program students to participate in Residencies. 2tor shall use commercially reasonable efforts to help UNC establish locations and other logistics necessary to conduct and implement the Residencies, including delivery of any online content through the Platform.
 - ii) 2tor and UNC shall share the costs associated with the Residencies as follows: (a) UNC shall be responsible for the time and expenses (including travel) of UNC faculty, staff or other instructors; (b) 2tor shall be responsible for the costs of providing the Curriculum related to the Residencies through the Platform; and (c) UNC and 2tor shall share equally the costs for room and board and other facility costs associated with such Residencies. 2tor and UNC shall mutually agree upon a method for video-recording certain Residencies to enable Program students not attending a Residency in-person to access that content through the Platform, except that the parties do not intend to create an online experience equal in quality to attending Residencies in-person.

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- E) Curriculum Design. In UNC's design of the Curriculum as described in paragraph 2(E), 2tor shall provide technical assistance and recommendations with respect to content and techniques that best use the available technologies and methods embodied in the Platform in order to meet the needs of Program students. 2tor may also provide other related support as necessary and as agreed by the parties.
- F) Curriculum Production and Deployment. From the Curriculum designed and created by UNC faculty, 2tor shall produce, and shall coordinate the logistics to produce, the Produced Segments and shall prepare the Curriculum for online deployment through the Platform. Without limiting the generality of the foregoing, 2tor shall be responsible for (i) all production costs with respect to each Produced Segment, including the cost of all production personnel and equipment (but not including salaries or other compensation of UNC instructional personnel), (ii) all legal clearances for music and graphics used in and students and others who appear in the Produced Segments, provided that UNC shall cooperate with 2tor in securing such clearances from UNC instructional personnel, and (iii) digitizing and otherwise converting all content for each Produced Segment to a medium suitable for delivery to students via the Platform. Promptly after completion of each Produced Segment, 2tor shall deliver a copy of such Produced Segment to UNC. All such Produced Segments shall conform to UNC's design as set forth in Section 2(E) and be subject to UNC's written approval prior to any distribution or other release thereof; 2tor will make reasonable efforts to ensure that UNC online curricular materials are up to the quality standards of its classroom program and are competitive with the best of competing online programs.
- G) Program Delivery and Support. 2tor shall provide consulting assistance for UNC's development of the instructional content of the Program, and for its efforts to hire, train and support its faculty who deliver such instruction, all as more fully described in Schedule 1(G). Service levels defined in Schedule 1(G) shall govern 2tor's support for Program students and faculty, such service levels to be revised periodically in writing upon mutual agreement by UNC and 2tor. Service level agreements shall include, but not be limited to, timeliness of response and user satisfaction. 2tor shall provide such services as UNC may reasonably require to maintain records and communications regarding academic performance. 2tor shall provide training and technical support to the UNC Kenan-Flagler faculty and other instructional personnel with respect to the use of the technologies within the Platform. 2tor shall develop and implement such systems as are reasonable and necessary to make course materials readily available for purchase by UNC and delivery to Program Students.
- H) Technology. 2tor has built, and shall maintain, periodically revise, and host the Platform. 2tor shall use commercially reasonable efforts to integrate tested new technologies and insights into the Program.
 - I) Specifications and Service Levels. The specifications and performance standards for the Platform and the related service level agreements are as set forth in Schedule 1(H)(i). Such service level agreements shall address availability of the Platform (subject to reasonable amounts of downtime for maintenance and similar matters), correction of any errors, bugs and defects in the Platform and 2tor's responsiveness to students and other users experiencing problems with the Platform. At least once every twelve months following the Program Launch, 2tor shall propose changes and updates to the specifications and

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performance standards for the Platform, all of which shall be subject to the written approval of UNC, in order to maintain the effective performance of the Platform.

- ii) **Ongoing Quality.** After Program Launch, UNC shall notify 2tor if the Platform has failed to satisfy the specifications and standards contemplated hereby or if 2tor is in default of its service level agreements, specifying any failure or default in reasonable detail and suggesting how UNC would like such failure to be remedied, and 2tor shall, at its expense promptly after receipt of UNC's notice, modify or improve the Platform or take other corrective action in order to bring the Platform into compliance with such specifications and standards or improve its service to comply with such service level agreements. Failure of the Platform to meet such specifications and standards or of 2tor to comply with such service level agreements within a reasonable period, but not more than thirty (30) days, after 2tor's receipt of UNC's notice shall, pursuant to Section 7(c) below, constitute a material breach of a 2tor material obligation, subject to the right to cure as set forth therein.
- i) **Program and Student Evaluation.** 2tor shall gather ongoing data of Program students to further overall Program evaluation, including, but not limited to, student satisfaction with the Program, evaluation of instructors and such other matters in such form and at such frequency as UNC may reasonably require. 2tor shall share evaluative data frequently (as agreed upon by the parties) to help drive ongoing improvement.
- j) **Career Services.** 2tor shall use good-faith efforts to support through the Platform and through other services provided by 2tor under this Agreement the career services provided by UNC pursuant to Section 2(K) to Program participants and graduates.
- K) **Compliance.**
 - i) **Personal Information.** 2tor acknowledges that UNC is subject to laws and regulations which govern and restrict the collection, storage, processing, dissemination and use of Personal Information. 2tor shall, and shall cause its employees, agents, servants, principals and any subcontractors to, at all times comply with all applicable laws, rules and regulations, including privacy and information security laws and regulations relating to the performance of 2tor's obligations under this Agreement. Without limiting the generality of the foregoing, 2tor agrees (a) not to collect, store, process, disseminate or use any such Personal Information obtained from UNC except to the extent expressly permitted or required in the performance of its obligations under this Agreement, (b) to store all such Personal Information only in secured form on 2tor's computer system and (c) not to sell, distribute, release or disclose lists or compilations of any items of Personal Information without the prior written consent of UNC or of the subject(s) of the Personal Information to be released or disclosed. Any disclosure of Personal Information by 2tor in the performance of its obligations hereunder shall be made only on a "need-to-know" basis and subject to an applicable confidentiality agreement or other obligation substantially similar to the confidentiality, privacy and information security requirements imposed on 2tor under this Agreement and applicable law. The term of this clause 1(K)(i) shall survive the termination of this Agreement.
 - ii) **Student Privacy Rights.** Without limitation of its obligations under paragraph 1(K)(i) above, (a) 2tor shall take all measures to protect the Personal Information of Program students

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consistent with Family Education Rights and Privacy Act ("FERPA"), (b) 2tor shall furnish UNC a copy of 2tor's information security procedures for the storage and handling of Personal Information prior to the commencement of 2tor's handling and processing of such matter, (c) 2tor shall furnish UNC a copy of any update or other modification of such security procedures and (d) such security procedures and all updates and modifications thereof shall be subject to UNC's written approval.

- iii) Agency Regarding Student Information. For the term of this Agreement, 2tor is hereby appointed as an agent of the UNC Office of the Registrar for the use of Personal Information solely for the purpose of providing the student and graduate services required hereunder throughout the Program, including without limitation counseling of prospective students and continuing contact with graduates of the Program, and ongoing employment of Program students and graduates.
- iv) Incentive Compensation Rule. 2tor shall compensate its employees engaged in the recruitment of Program students, or in the supervision of such employees, only in accordance with the provisions of 34 CFR § 668(b)(22), commonly referred to as the Incentive Compensation Rule.
- v) HEOA Section 495 Compliance. 2tor shall remain in compliance with HEOA Section 495. Without limiting the foregoing, 2tor shall, at its sole expense, have and maintain security mechanisms in place to ensure that each student registering for a course is the same student who participates in the course or receives course credit. Such security mechanisms shall, as agreed between the parties, include one or more of the following methods: (a) a secure login and pass code; (b) proctored examinations (with the parties to share equally the marginal costs of any live proctoring); and (c) new or other technologies and practices that are effective in verifying student identification. Nothing herein shall prohibit 2tor from requiring Program students to purchase specific hardware intended to enable the security mechanisms referenced herein.

L) Monitoring and Audits Generally

- i) 2tor shall (a) measure, monitor and track the performance of its services, obligations, and Platform; conduct internal audits and self-testing; and compare such performance to the service level agreements and other specifications and standards provided for in this Agreement, with 2tor to report to UNC on the results of such monitoring no less than annually, (b) detect and promptly cure deficiencies and (c) report such performance, deficiencies and cures to UNC on a quarterly or other basis as agreed between the parties in a form mutually agreed by the parties from time to time. Such assessment of the performance of 2tor's services and obligations shall include providing UNC an opportunity to assess or comment to 2tor on 2tor's performance of its services and obligations, irrespective of any other measurements.
- ii) At least annually as requested by UNC, and at such other times as UNC may reasonably request, 2tor shall provide reasonable, mutually acceptable, written certifications as to 2tor's compliance with applicable laws, the service level agreements and other specifications and standards provided for in this Agreement, and such other matters as may be reasonably requested by UNC. For the avoidance of doubt, such written certifications

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shall include any sub-certifications reasonably required by UNC to enable UNC to provide its own written certifications to any students, graduates or regulators as required by applicable law or contract. UNC shall consult with 2tor prior to agreeing to provide certifications with regard to the Program that will require a 2tor sub-certification.

- iii) Upon UNC's request and subject to 2tor's then-current confidentiality, security and data protection procedures, 2tor will permit UNC's authorized representatives and auditors to visit with the appropriate personnel at 2tor, and will provide UNC with access to or copies of (a) applicable 2tor records, including testing results (whether conducted by 2tor or a third-party), (b) 2tor's compliance policies and procedures applicable to 2tor's operations related to its services and obligations, and (c) any other records required to be delivered by 2tor pursuant to this Agreement, in each case in order to conduct Reviews. At UNC's reasonable request and expense, Reviews also may include "ethical hacks," penetration testing or other testing of the 2tor system and 2tor's information security, data protection, disaster recovery, business continuity and confidentiality policies, procedures and safeguards. UNC agrees that Reviews will be completed at 2tor's facilities upon reasonable advance notice during regular business hours. The parties will cooperate in good faith to minimize the disruption associated with Reviews, including the timing of such Reviews.
 - iv) If 2tor receives a request or demand from a student or graduate of the Program, or a regulator in regard to UNC or a student or graduate of the Program, requesting a Review, 2tor shall notify UNC promptly, and 2tor shall work with UNC or any such student, graduate or regulator in conducting and responding to any such request for a Review, provided that 2tor shall not be required to provide a Review to a third party, except as required by law.
 - v) Subject to 2tor's then-current confidentiality, security and data protection procedures, (a) 2tor will discuss with UNC personnel, or provide summaries to UNC of, any material violations of 2tor's code of ethics or other compliance-related policies and procedures by 2tor personnel related to 2tor's performance hereunder, and (b) 2tor will promptly notify UNC of (and, if requested by UNC, provide UNC summaries of) material changes to 2tor's code of ethics and other compliance-related policies and procedures applicable to 2tor's performance hereunder.
 - vi) If 2tor becomes aware, for any reason, including as a result of any self-testing, "ethical hack," penetration testing or other monitoring or other Review contemplated in this Section 1(L), of a deficiency in meeting any service level or other specification or standard in the performance of any service or obligation under this Agreement, then 2tor shall promptly, at its expense (a) perform an analysis to identify the cause of any such failure or deficiency, (b) provide UNC with a report identifying the cause of such failure or deficiency and describing the intended procedure/steps for correcting or resolving such failure or deficiency and the timeline for completing such procedure/steps, (c) if requested by UNC, meet with UNC (in person or by teleconference) to discuss such failure or deficiency and such intended procedure/steps and timeline, (d) promptly cure such failure or deficiency and (e) after such failure or deficiency is cured, promptly notify UNC that such failure or deficiency has been cured.
- M) Data Sharing. 2tor shall provide the following information to UNC via electronic access, updated daily: (a) the number of prospective students contacting 2tor as of that date during the month;

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(b) the number of non-completed applications in the process of completion as of that date during the month; (c) the number of completed applications sent, delivered or otherwise transmitted to UNC as of that date during the month; and (d) such other information as may be mutually agreed upon by the parties from time to time.

- N) 2tor Employees & Contractors. At UNC's reasonable request, 2tor agrees to promptly remove from involvement with the Program or from providing services hereunder any 2tor employee or contractor, provided that such employee or contractor is one who (i) uses an email address with a domain of "unc.edu", or (ii) holds himself or herself out as acting on behalf of UNC in the course of performing services under this Agreement, except as prohibited by law.
- 2) UNC's Services. UNC shall be exclusively responsible for ensuring the academic quality and academic integrity of the Program, including the following:
- A) Recruitment. The Program shall be branded as "UNC Kenan-Flagler". UNC shall promote the Program on UNC Kenan-Flagler's website (including, but not limited to, the homepage thereof), within UNC Kenan-Flagler's career center, and at all student recruitment events and professional school fairs attended by UNC Kenan-Flagler representatives in a manner comparable to the promotion of UNC Kenan-Flagler's in-classroom business programs, and, to the extent UNC promotes UNC Kenan-Flagler's in-classroom business programs, it will promote the Program in a comparable manner, including by characterizing the Program as equal in quality to the in-class program. The parties shall jointly agree to the creation of any marketing materials newly created or reformatted for the purpose of including the Program as part of UNC's offerings as contemplated in this paragraph 2(A), and 2tor shall be responsible for all direct costs incurred with respect thereto. Further, UNC shall consult with 2tor in the development of additional Promotion Strategies, and UNC shall have the right to review and approve all marketing and other materials related to the Program prior to their use. UNC shall promptly deliver to 2tor any collected contact information of any prospective student who, in UNC's reasonable judgment, is interested in follow-up concerning the Program.
- B) Admissions Processing and Financial Aid.
- i) After UNC's receipt of a complete application from 2tor (as set forth in Section 1(B) above), UNC shall, in its sole discretion, determine which qualified students shall be admitted to the Program based on admissions standards that will yield a class equally qualified to that of the current in-classroom programs. UNC shall use commercially reasonable efforts to accept or reject each applicant within ten business days after receipt of such applicant's completed application.
- ii) UNC shall, in its sole discretion, establish admissions standards for the Program, which shall require that students admitted to the Program have similar academic qualifications to those in the UNC Kenan-Flagler's in-classroom business programs, as applicable. UNC and 2tor shall cooperate to make the admissions process and the application of admissions standards streamlined, transparent and clear to enable 2tor to target its promotional efforts to students likely to be accepted.
- iii) UNC shall be solely responsible for the administration of all financial aid programs and will promptly process all requests for aid (generally within a number of business days of

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receiving a completed application as agreed by the parties in writing). UNC shall provide student financial assistance services similar to those offered students enrolled in the UNC Kenan-Flagler's in-classroom business programs. 2tor shall not be involved in any manner in the award or disbursement of financial assistance provided pursuant to Title IV of the Higher Education Act of 1965, as amended.

- C) Student Service and Counseling. Once admitted to the Program, students shall, to the extent practicable given the inherent differences between in-classroom and online students, have similar rights and privileges and receive services similar to those received by UNC Kenan-Flagler in-classroom students. UNC shall ensure the availability and participation of UNC Kenan-Flagler faculty and staff, and provide academic counseling in Program requirements, add/drop policies, probations, leave of absence and similar matters. Fees for specific activities (e.g., an on campus gymnasium charge) will not be imposed on Program students who cannot reasonably benefit from, and agree to waive, the related services that appropriately apply only to in-classroom business students. UNC shall provide academic counseling to Program students (in-person to students visiting the campus and by telephone or internet to others) to answer questions concerning incoming/outgoing transfer credits, specific prerequisite academic or certification requirements, academic petitions or disputes and leaves of absence. UNC shall provide academic support to any student in danger of dropping or being dropped from the Program, and shall provide academic support to Program students equivalent to the academic support provided to in-classroom students.
- D) Field Operations. UNC may require or encourage MBA students to participate in Residencies. Subject to Section 1(D) above, UNC shall establish locations and other logistics necessary to conduct and implement the Residencies.
- E) Curriculum Design. UNC shall be solely responsible for the design, timely creation and ongoing revision of the Curriculum, making its commercially reasonable efforts to have the framework of the Curriculum set by February 1, 2011, so that the Pilot can be launched as early as July 2011, but no later than October 2011. UNC Kenan-Flagler faculty or other personnel provided by UNC shall provide reasonable assistance to 2tor's web team in the adaptation of the Curriculum for the Program to web-based presentation via the Platform. UNC shall be solely responsible for the ongoing review and revision of the Curriculum as UNC determines, at its sole discretion, to be necessary and appropriate to maintain the academic quality and academic integrity of the Program, provided that 2tor shall use commercially reasonable efforts to promptly include such revisions into the Produced Segments. Further, while 2tor and UNC are initially readying the Curriculum for the Program, UNC shall provide 2tor with meeting space in Chapel Hill for 2tor employees in order to facilitate such employees' interactions with participating faculty. UNC shall ensure the availability and participation of faculty and other personnel to achieve the Curriculum design as set forth in this Section 2(E). UNC shall be responsible to obtain any necessary rights, permissions, consents or other clearances required, whether relating to copyright or otherwise, with respect to the use of any content or materials (educational or otherwise) incorporated into the Curriculum.
- F) Curriculum Production and Deployment. UNC shall use commercially reasonable efforts to prepare drafts of the syllabi (and to obtain timely any required internal approval(s)) (i) on or before February 1, 2011, for the two (2) Pilot courses and (ii) on or before May 1, 2011, for the two (2) Program courses. UNC shall also use commercially reasonable efforts to develop such syllabi into appropriate materials in time for production to meet such schedule. UNC shall

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secure the commitment of those UNC Kenan-Flagler faculty members and other instructional personnel selected by UNC for the Produced Segments and for any modifications to the Curriculum required by the online delivery mechanism. Unless otherwise agreed in writing by the parties, UNC shall be solely responsible for the expense of such faculty, other instructional personnel and other UNC and UNC Kenan-Flagler staff. Each Produced Segment shall conform to UNC's design and be subject to UNC's review and written approval prior to any distribution or other release thereof. Each course approved by UNC shall be released for distribution on the Platform as such course is approved, subject to the provisions of Section 1(G) and 1(H) hereof.

- G) Course Development & Support. Each course that comprises Produced Segments shall be taught exclusively by UNC Kenan-Flagler faculty and other instructional personnel selected by UNC. UNC shall be responsible for the creation of a training curriculum and shall be responsible for the hiring, training, support, management and oversight of the work of the UNC Kenan-Flagler faculty and other instructional personnel, provided that 2tor shall provide such faculty and personnel with technical training and support for using the Platform as may be reasonably needed from time to time. UNC shall use commercially reasonable efforts to maintain faculty availability, experience, quality and student to faculty ratio similar to those of competitive programs. UNC shall provide 2tor with access to information pertaining to both classroom-based and online students' admissions, performance, and post-graduation outcomes as well as information pertaining to relevant faculty, staff information, to the extent permitted by and subject to the requirements of the FERPA and such other laws and regulations as may pertain. UNC shall identify the course materials to be used within the Program reasonably in advance of each course start.
- H) Technology. UNC shall, upon 2tor's reasonable request, advise and consult with 2tor as to the design of the Platform and its sufficiency for use for the Program. UNC shall make available to 2tor, upon 2tor's reasonable request, the appropriate UNC personnel to participate with 2tor in the testing and, as necessary, re-testing of the Platform as contemplated by Section 1(H) above.
- I) Academic or Other Certifications. UNC shall be responsible to secure any accreditations, registrations or approvals with respect to the Program as may be necessary to operate in any jurisdiction. 2tor shall provide to UNC reasonable assistance in securing such accreditations, registrations or approvals as UNC may reasonably request and as mutually agreed by the parties.
- J) Evaluation. UNC shall oversee the Program evaluation, utilizing UNC data and the data gathered by 2tor pursuant to Section 1(I) above and other available data. UNC shall at its sole discretion determine satisfaction of degree requirements, award all grades, and confer all degrees. UNC shall share evaluative data frequently (as agreed upon by the parties) to help drive ongoing improvement of the Program.
- K) Career Services. With 2tor's reasonable assistance, UNC shall develop a written plan for providing career services to Program students, such plan to be incorporated herein as Schedule 2(K), as amended from time to time. The intent of the plan will be, to the extent practicable given the inherent differences between in-classroom and online students, to make career services available to Program students on a basis similar to that provided to students enrolled in UNC's executive programs, including in-person meetings to the extent Program students visit the UNC campus. 2tor shall work to supplement UNC's work by developing relationships with

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employers in other states and countries, provided that any such strategies to develop these relationships and any agreements with such employers shall be subject to UNC's approval.

- L) Alumni. UNC shall be solely responsible for the management of alumni relationships, provided that UNC may request 2tor to provide reasonable assistance in maintaining contact with alumni and tracking their career progress.
- M) Data Sharing. UNC will provide on a daily basis the following information to 2tor via electronic access: (a) information about Program students, which shall include UNC identification number, name, address, UNC email address and any activity restrictions (e.g., financial, health or other holds on newly admitted and registered students); (b) Program professor and administrator information, which shall include basic information regarding each Platform user and his or her role; (c) Program course information, which shall include information regarding student registrations for courses and sections, section numbers, professors and related information; and (d) such other information as may be mutually agreed upon by the parties from time to time.

3) Hybrid Program.

- A) In the event UNC establishes a Hybrid Program, the parties shall negotiate in good faith to agree to an equitable sharing of revenue from such program based on each party's responsibilities and costs, and accounting for the upfront investment made by both parties in the development of the Program.
- B) For avoidance of doubt, at UNC's option, (i) UNC students enrolled in a Classroom Program and UNC faculty/instructors teaching in such Classroom Program shall have the right to use the Platform and the related Program material as part of any Classroom Course subject only to the fees set forth in Section 4(C)(ii) below, and (ii) UNC may offer any course provided in the Program to UNC students enrolled in a Classroom Program subject only to the fees set forth in Section 4(C)(ii) below. Notwithstanding the foregoing, UNC shall not use the Platform to materially increase the number of students enrolled in any Classroom Program.

4) Accounting.

- A) Fiscal Year. The first Fiscal Year of the Program shall end on June 30, 2011.
- B) Program Proceeds.
 - i) UNC shall collect all Program Proceeds. Tuition for Program students shall be set annually in a manner consistent with the process for setting such tuition for in-classroom students at UNC Kenan-Flagler.
 - ii) In the event that UNC and 2tor agree to target certain students (e.g., those in a geographic region) with grants or scholarships, such grants will be considered an offset to Program Proceeds.
 - iii) In the event that UNC creates a fellowship fund for Program students, 2tor shall match UNC's contribution to such fund in an amount of up to % of Program Proceeds for the prior fiscal year; provided that UNC shall make such monies contributed by 2tor available based

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on reasonable restrictions as determined by 2tor from time to time (e.g., "only to Program applicants as need-based grants and within ten days of such qualifying Program applicant's admission into the Program"). The parties shall mutually agree with respect to the timing of 2tor's contributions to such fund, and all fellowship fund monies used by students shall constitute Program Proceeds.

C) Finances. All Net Program Proceeds shall be shared between UNC and 2tor as follows:

- i) 2tor shall be entitled to a part of the Net Program Proceeds, aggregated through each payment/adjustment date under Section 4(D) below, for its technology, production, marketing, technical support and other services, percent (%) of Net Program Proceeds for the Program.
- ii) If UNC wishes to use the Platform as part of any Classroom Course, as specified in Section 3(B) above, UNC shall pay to 2tor a per-student fee to cover the direct costs of licenses and support as set forth in Schedule 4(C)(ii) and as may be reasonably adjusted from time to time to reflect increases in such direct costs. However, UNC may use any Produced Segment in any Classroom Course without additional compensation to 2tor.
- iii) UNC will be entitled to retain all remaining Net Program Proceeds after 2tor receives its share under paragraph 4(C)(i) above for UNC's admissions, marketing, Curriculum development, Program instruction, student evaluation, Program evaluation, faculty support, and other support of the Program.
- iv) UNC may offset from the payments it owes to 2tor under this Agreement any amounts 2tor owes to UNC hereunder.

D) Reports and Payment.

- i) For each month, no later than the first business day following the 9th day of the subsequent month, UNC shall provide to 2tor reports listing the following: (i) the students offered admission by UNC to the Program, (ii) the students who enrolled in or dropped from each course in the Program, including a course listing for the enrolled students, (iii) the Program Proceeds charged by type of charge for each student, (iv) the Program Proceeds collected by type of charge for each student, and (v) a calculation of the payments between the parties pursuant to paragraph 4(D)(ii) and 4(D)(v) hereof for such month.
- ii) Concurrently with the delivery of each report required by paragraph 4(D)(i), UNC shall also pay or adjust, as applicable, 2tor's portion of Net Program Proceeds for the month by wire transfer of funds to such bank account as 2tor may direct by notice to UNC no later than ten (10) business days prior to the scheduled date for such wire transfer. The payment for the month shall equal 2tor's portion (determined pursuant to paragraph 4(C)(i) of the amount of Net Program Proceeds collected by UNC from all Program students.
- iii) Following the termination of this Agreement for any reason other than expiration, UNC's obligations pursuant to this Section 4 shall survive such termination or expiration and continue with respect to any Program Proceeds collected thereafter.

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- iv) Each month from January 2011 through December 2011, 2tor shall advance to UNC \$83,000.
- v) Each month from July 2012 through June 2013, UNC will pay to 2tor \$83,000 per month as repayment of the advance received under paragraph 4(D)(iv).
- vi) On June 30, 2012, 2tor will pay to UNC the following amounts: (a) \$500,000 if the Program or (b) an amount equal to the difference between \$500,000 and the

For

avoidance of doubt, 2tor shall not pay UNC any amount under this Section 4(D)(vi) if

On or after February 1, 2013, UNC will pay to 2tor an amount equal to the amount 2tor paid to UNC pursuant to this Section 4(D)(vi) provided that

- E) 2tor Minimum Investment. During Fiscal Years 2012 and 2013, 2tor shall invest no less than a total of million in providing the recruitment services set forth in Section 1(A) (which shall include but not be limited to all internal and external resources expended as part of the Promotion Strategies). Thereafter, 2tor shall invest no less than % of its gross revenue from the Program in marketing and recruiting for the Program.
- F) Maintenance of Books and Records; Rights on Audit. UNC shall maintain such books and records as are necessary to substantiate Program Proceeds received in connection with the Program and this Agreement. During the term of this Agreement and for a period of 180 days after the expiration or termination of this Agreement for any reason (or, if applicable, after the 2-year period described in Section 7(F)), 2tor shall have the right to examine such books and records that are specifically related to the Program and this Agreement. Such examinations shall be held upon reasonable advance notice to UNC at UNC's offices during normal business hours and shall take place no more frequently than once each Fiscal Year. Once a particular Fiscal Year has been so examined, such Fiscal Year shall not be subject to any subsequent re-examination pursuant to this Section 4(F) or otherwise, unless 2tor can show reasonable grounds for believing that an uncorrected error that would materially affect the Net Program Proceeds payable to 2tor for such Fiscal Year occurred in such previously examined Fiscal Year, either because a new error is subsequently found in a different Fiscal Year or 2tor can demonstrate that new information evidencing such error has come to its attention. Any such examination shall be made at 2tor's sole cost and expense. If such examination discloses that any amounts have not been paid or have been made in incorrect amounts, and such amounts are not in dispute, the parties shall promptly take appropriate steps to correct such errors in payment, including interest accruing at the rate of 6% per annum if an underpayment is less than five percent (5%) of the amount that should have been paid and at the rate of 12% per annum if an underpayment is equal to or greater than five percent (5%) of the amount that should have been paid, such interest to be calculated from the date such payment should have been made to the date on which such payment is made, and any reasonable costs of the audit.

- 5) **Masters of Accounting.** The parties hereby express their mutual desire to offer jointly an online Masters of Accounting (MAC) program. Should either party wish to implement an online MAC program, that party shall first offer the other party the right to commence offering such online MAC program jointly on terms substantially similar to those set forth in this Agreement, provided that 2tor shall have no right to make the first offer as described above earlier than eighteen (18) months after the date of this Agreement first set forth above. The party receiving such offer shall then have three (3) months to accept or decline such offer, after which the offer shall automatically be declined. Should the party receiving such offer accept, the parties shall mutually agree upon a launch date for the MAC program pilot that shall occur within nine (9) months of acceptance. Should the party receiving such offer decline, the declining party shall be precluded from offering any online MAC program (either individually or in conjunction with another person or entity) for eighteen (18) months, and the offering party shall be unrestricted in its right and ability to offer an online MAC program with any other party.
- 6) **Intellectual Property.**
- A) **UNC Property.** UNC shall own and retain all right, title and interest, including, but not limited to, UNC's Intellectual Property. 2tor acknowledges and agrees that all right, title and interest in and to the Work Product shall be the sole property of UNC, whether such 2tor services are completed or not. 2tor acknowledges and agrees that (i) all Work Product shall constitute a "work made for hire" for UNC, as that phrase is defined in Section 101 and 201 of the Copyright Act of 1976. (Title 17, United States Code), including without limitation a work specially commissioned by UNC, and (ii) notwithstanding the foregoing subparagraph (i), if and to the extent 2tor retains any interest in the Work Product (in whole or in part), 2tor hereby grants, assigns and transfers to UNC all right, title and interest in and to the Work Product, and all intellectual property rights therein, including without limitation all patent, copyright, trade secret and other proprietary rights, and the right to make any modifications, adjustments or additions thereto (2tor hereby expressly waiving any *droit moral* or similar rights to object to any such changes), the right to make and distribute derivative works thereof and the right to all claims for past infringement thereof. Upon UNC's request, 2tor shall execute and deliver to UNC all documents and instruments, including without limitation copyright assignments, and shall otherwise assist UNC, at UNC's expense, to perfect in UNC the sole and exclusive right, title and other interests in the Work Product. In the event UNC is unable, because 2tor is no longer in business, to obtain the signature of 2tor to any document or instrument necessary or desirable to apply for protection of, or to enforce any action with respect to, any intellectual property right in or to the Work Product, 2tor hereby irrevocably designates and appoints UNC and its duly authorized officers and agents as 2tor's agent and attorney-in-fact, whose power is expressly coupled with an interest, to act for and on behalf of 2tor, to execute such documents and instruments and to take all lawfully permitted actions to protect UNC's interests in any intellectual property right with the same legal force and effect as if executed by 2tor. UNC shall not use such Work Product except:
- (i) in connection with the Program hereunder,
 - (ii) in connection with any Hybrid Programs other than UNC Hybrid Programs hereunder,
 - (iii) for the exclusive use by students in Classroom Programs as permitted hereunder,
 - (iv) to users licensed to use 2tor's Intellectual Property under Section G(D) below,
 - (v) upon expiration or termination of this Agreement as permitted in Section 7(I),

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- (vi) in the event that 2tor becomes insolvent or admits its inability, or becomes unable, to pay its debts generally as they become due; files a petition for relief or for reorganization or for the adoption of an arrangement under the federal bankruptcy laws or any other similar law or statute for the relief or aid of debtors of the United States of America or any State thereof, as now or hereafter in effect (the "Bankruptcy Laws"), or makes an admission seeking the relief therein provided; or has an order for relief entered against it under the Bankruptcy Laws;
 - (vii) in the event that this Agreement is terminated by 2tor pursuant to Section 7(C) below or terminated by UNC pursuant to subparagraph 7(C)(i)(a) below, and/or
 - (viii) under terms the parties shall negotiate from time to time in good faith for other uses that are not competitive with the Program.
- B) 2tor Property. 2tor shall own and retain all right, title and interest to all 2tor's Intellectual Property, provided that, for further clarity, 2tor's rights therein shall not give it any right whatsoever in or to any portion of UNC's Intellectual Property, none of which may be used by 2tor except in accordance with the express terms of this Agreement. Anything in this Agreement to the contrary notwithstanding, this Section 6(B) shall not apply to software licensed from persons or entities other than the parties and included in 2tor's Intellectual Property by mutual agreement of the parties. 2tor's Intellectual Property shall also include all micro sites created, developed, and/or hosted by 2tor as part of 2tor's Promotion Strategies, but specifically excluding any UNC Intellectual Property which may be used or incorporated therein during the Term.
- C) License of UNC Intellectual Property. UNC grants to 2tor the non-exclusive right to use, during the term of this Agreement, the names "UNC," "UNC Chapel Hill," "Kenan-Flagler Business School" and other trade names, trademarks, service marks, designs and logos specified by UNC solely for use by 2tor in connection with the Program, including, but not limited to, 2tor's marketing and promotion of the Program, subject to UNC's prior approval of the form and manner of each such use. Subject to the remaining provisions of this Agreement, UNC grants to 2tor the non-exclusive right and license during the term of this Agreement to use all of UNC's Intellectual Property within the Territory *only* to the extent necessary for UNC's Intellectual Property to be incorporated into or used with the Program pursuant to the terms of this Agreement. Such right and license shall include without limitation a license of all rights under copyright and the rights to reproduce and copy UNC's Intellectual Property in all editions, versions and formats for print and in any other form or medium, whether now known or hereafter known, throughout the Territory, including, without limitation, electronic, magnetic, digital, laser, or optical-based media (but excluding the right to make any changes in UNC's Intellectual Property or to create derivative or related products). 2tor shall acquire no rights in any of UNC's Intellectual Property or in any of UNC's trade names, trademarks, service marks, designs or logos from 2tor's use hereunder.
- D) License of 2tor Intellectual Property. 2tor grants to UNC and its affiliates (specifically including the Kenan-Flagler Business School Executive Education, LLC) the right and license during the term of this Agreement, and during the two-year period under Section 7(F) below, to use all of 2tor's Intellectual Property, including, without limitation, a license of all rights under copyright and the rights to reproduce and copy 2tor's Intellectual Property in all editions, versions and formats for print and in any other form or medium, whether now known or hereafter known,

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throughout the world, including, without limitation, electronic, magnetic, digital, laser, or optical-based media, for use *only* in conjunction with;

- (i) UNC's delivery of the Program anticipated by this Agreement,
- (ii) UNC's delivery of any Classroom Course within any Classroom Program,
- (iii) UNC's delivery of any course from the Program to students in any Classroom Program,
- (iv) UNC's delivery of any Hybrid Program other than UNC Hybrid Programs,
- (v) as otherwise agreed by the parties in writing in ways that are not competitive with the Program, provided that all such uses comply with the terms of this Agreement, and
- (vi) UNC's use of the Work Product as permitted in Section 6(A).

2tor shall also grant to each student enrolled in the Program, in any Hybrid Program and/or in any Classroom Program a royalty-free license to use the 2tor Intellectual Property as part of UNC's permitted delivery of the Program to such student.

- E) Other Uses of Marks. Other than the licenses granted in Sections 6(C) and 6(D), no party may use the other's name, trademark, sign, logo or similar designation without each other's prior written approval, which may be granted in such other's sole discretion. The rights under Section 6(C) above may not be (i) transferred, except to an entity acquiring all or substantially all of the business of 2tor, or (ii) sublicensed.
- F) Infringements by Others. Each party shall promptly report in writing to the other during the term any known or suspected infringement of any of UNC's Intellectual Property or 2tor's Intellectual Property of which such party becomes aware, and shall provide the other with all available evidence supporting such known or suspected infringement or unauthorized use.
- G) Infringements by Parties. In the event that a party becomes aware of any claim that the practice by either party in the development, production, promotion, marketing or distribution of the Program Infringes the intellectual property rights of any third party, such party shall promptly notify the other party. In any such instance, the parties shall cooperate and shall mutually agree upon an appropriate course of action. Each party shall provide to the other party copies of any notices it receives from any person or entity other than a party regarding any alleged infringement or misappropriation of third party intellectual property relating to the development, production, promotion or marketing of the Program. Such notices shall be provided promptly, but in no event after more than fifteen (15) days following receipt thereof.

7) Term and Termination.

- A) Pilot and Program Launch. The parties contemplate a three-phase rollout of the Program as follows:

B) Initial Term. This Agreement and its initial term shall be deemed to have commenced on the Effective Date and continue for ten (10) years ending on October 31, 2020, subject to earlier termination or non-renewal as set forth in Sections 7(C), 7(D) and 7(E) below.

C) Termination For Cause.

- i) If 2tor breaches any of its obligations hereunder that is reasonably likely to have a material adverse effect on UNC's reputation or the academic integrity of the Program, then UNC may deliver, in writing, a notice to 2tor describing in detail such breach and adequately listing reasonable suggestions as to the steps that may be taken to cure such breach. If 2tor has not cured such breach within a period of time, no longer than thirty (30) days, then UNC may terminate this Agreement effective upon delivery of written notice to 2tor.
- ii) If UNC fails to pay in full the amounts owed to 2tor at such time said amounts are due under this Agreement, then 2tor may deliver, in writing, a notice to UNC describing in detail such failure to pay. If UNC has not paid such owed amounts within a period of time specified in such notice, such period of time to be at least thirty (30) days from the date of such notice, then 2tor may terminate this Agreement effective upon delivery of written notice to UNC.
- iii) Upon the occurrence of a breach other than as described in paragraph 7(C)i or 7(C)ii above, a party may deliver, in writing, a notice to the Non-Performing Party describing in detail such breach and adequately listing reasonable suggestions as to the steps that may be taken to cure such breach. If after thirty (30) days following the date of such notice, the Non-Performing Party has not undertaken and diligently pursued a cure of such breach, with the goal of curing such breach within sixty (60) days after the Non-Performing Party's receipt of the original notice from the other party, the other party may terminate this Agreement effective upon delivery of written notice to the Non-Performing Party.
- iv) A Non-Performing Party that receives a notice of breach and that has reasonable grounds for the position that the alleged breach is not, in fact, a breach hereof, may apply to a court for a temporary restraining order or preliminary injunctive relief to in effect toll the period hereunder to cure such breach or other similar relief, until the court has determined whether such alleged breach is, in fact, a breach hereof.
- v) Either party may terminate this Agreement if: (a) at any time the other party files or has filed against it a petition for bankruptcy, insolvency, reorganization or for the appointment of a receiver, and such petition is not dismissed, vacated or set aside within sixty (60) days from the commencement thereof; (b) either party becomes insolvent or unable to pay its debts as they mature in the ordinary course of business; or (c) either party takes any action to make an assignment for the benefit of creditors or to liquidate or to dissolve.
- vi) Should 2tor (or its successor organization) become unable to continue to do business in the ordinary course through bankruptcy or otherwise, and following a reasonable opportunity to restructure or otherwise cure, 2tor (or its successor organization) shall immediately make the Platform (including any Platform materials reasonably required for UNC to use the Platform) available to UNC to enable UNC to continue to deliver the Program and receive

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the benefits afforded to UNC under or pursuant to this Agreement, except that such rights shall be fully subject to, and only as permitted by, all applicable licensing and other agreements relating to the Platform and Platform materials. UNC shall be obligated at all times to maintain the confidentiality of all confidential aspects of the Platform (including any Platform materials). Should the event(s) causing UNC to exercise its rights under this Section 7(C)(v) be remedied, UNC's right to use the Platform shall cease.

- D) **UNC Termination following 2tor Change in Control.** Should 2tor experience a Change of Control, UNC may terminate this Agreement prior to the end of the Initial Term if either:

- i) such change results in 2tor being controlled by a person or entity in whom or with whom UNC would not be permitted to invest or contract based on UNC's investment policies then in effect, or because of moral, social justice or similar reasons; or
- ii) the surviving entity following a Change in Control unilaterally makes a material reduction in the financial or other resources devoted by 2tor (or its successor) to 2tor's services as set forth in this Agreement and to the Program, or unilaterally reduces its obligations in operating plans previously agreed upon between 2tor and UNC and in effect at the time of the Change in Control, subject to the notice and right to cure provisions of Section 7(C)(ii), above.

- E) **UNC Termination Based on Financial Unsustainability of Program.** Either party shall have the right to terminate this Agreement on or after July 1, 2014 upon thirty (30) days prior written notice to the other party

- F) **Renewal Terms.** Subject to earlier termination as set forth in Section 7(C) and 7(D), up to one year before the expiration of the original term or any Renewal Term of this Agreement, UNC shall have the exclusive right to extend the Agreement for three (3) years (the "Renewal Terms"). If UNC renews, the parties shall negotiate in good faith with respect to a modified division of Net Program Proceeds during the Renewal Terms

If UNC does not renew, then it shall pay to 2tor for two Fiscal Years after the effective date of the expiration of this Agreement

- G) **Effect of Termination.** Any provision herein notwithstanding, after any termination or expiration of this Agreement:

- i) Subject to paragraph 7(F)(ii), each party shall cease all use of the other party's intellectual property, and 2tor shall surrender to UNC all Work Product and any reproductions thereof, except for one copy that may be maintained solely for archival purposes and not distributed.

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- ii) 2tor and UNC shall allow each student using the Platform, to complete all individual courses in the Program that such student has actually commenced prior to the termination of this Agreement (except to the extent that such student is expelled by UNC or does not finish such course within six months following such termination or expiration). Notwithstanding any other provision of this agreement, 2tor and UNC shall be entitled to receive their respective shares of any Net Program Proceeds paid by such students for such courses.
 - iii) Upon any termination or expiration, UNC shall enable each then-enrolled Program student to complete his or her degree in an online format, subject to UNC's right in its sole discretion to determine student evaluation, the awarding of degrees and expulsion of students for cause, and provided that such student does so diligently and within three years of termination or expiration of this Agreement.
 - iv) Sections 6(A), 8(D), 8(E), 10, 11, and 14 through 21 of this Agreement, and any other provisions of this Agreement that are expressly stated to survive for a period after termination, shall survive termination or expiration of this Agreement; and Sections 4 and 6(C) shall survive in respect of the two-year period described in Section 7(F).
 - v) Termination of this Agreement shall not prejudice the terminating party's rights to any sums due or accrued under this Agreement prior to termination or expiration and shall not prejudice any cause of action or claim of the terminating party accrued or to accrue on account of any breach or default by the non-terminating party.
- H) Non-Solicitation. For one year following termination or expiration of this Agreement, and unless otherwise agreed in writing by the parties, each of the parties shall not, and shall not allow their affiliates, or any of their affiliates' employees or agents, to employ or otherwise obtain services from, or solicit or otherwise attempt to employ or otherwise obtain services from, or assist any person or business entity in employing or otherwise obtaining services from, or attempting to employ or otherwise obtain services from, any person who is then, or at any time during the preceding twelve months shall have been, in the employ of or retained by the other party. Notwithstanding the foregoing, the restrictions contained in this Section 7(G) shall not apply to UNC should 2tor (or its successor organization) cease to do business in the ordinary course.
- I) Transition Plan. UNC may, at any time, require 2tor to provide, at UNC's expense, a plan setting forth the method and manner for UNC to continue operating the Program with UNC personnel and assets or through a person (or persons) or entity (or entities) other than 2tor ("Transition Plan"). 2tor shall cooperate with UNC in implementing any such Transition Plan should UNC terminate the Agreement as per Section 7(C) or 7(D).
- 8) Representations and Warranties; Indemnifications.
- A) Laws and Regulations. Each party shall comply with all applicable federal, state and local laws and regulations applicable to it.
 - B) Representations of 2tor. 2tor represents and warrants that (i) it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; (ii) this Agreement has been duly executed and delivered by 2tor and constitutes the legal, valid and binding obligation of 2tor, enforceable in accordance with its terms; (iii) the delivery and performance of this Agreement does not and will not conflict with, result in the breach of, constitute a default,

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with or without notice and/or lapse of time, under, result in being declared void or voidable any provision of, or result in any right to terminate or cancel any contract, lease or agreement to which 2tor or any of its affiliates is bound, constitute a violation of any statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator applicable or relating to 2tor or any 2tor affiliate, or result in the acceleration of any debt or other obligation of 2tor; (iv) 2tor, in its actions in connection with this Agreement, shall comply with all applicable federal, state and local laws, regulations and rules applicable to it; (v) 2tor owns, or will own, the rights and interests in, or to, the 2tor Intellectual Property necessary to enter into this Agreement and to be developed pursuant to this Agreement, and to grant the licenses and assignments of such property described in this Agreement; (vi) 2tor Intellectual Property do not, and will not, infringe any statutory or common law copyright, privacy, trade secret or other intellectual property right of any third party; (vii) 2tor has not previously assigned, pledged, licensed or otherwise encumbered any rights or interest in, or to, any component of 2tor Intellectual Property in any way that would interfere with or prevent the grant of the licenses and assignments of such property described in this Agreement; and (viii) on the Effective Date of this Agreement, 2tor has access to sufficient financial resources to fulfill its obligations under this Agreement.

- C) Representations of UNC. UNC represents and warrants that (i) it is an institution of higher education chartered by the laws of the State of North Carolina; (ii) this Agreement has been duly executed and delivered by UNC and constitutes the legal, valid and binding obligation of UNC enforceable in accordance with its terms; (iii) the delivery and performance of this Agreement does not and will not conflict with, result in the breach of, constitute a default, with or without notice and/or lapse of time, under, result in being declared void or voidable any provision of, or result in any right to terminate or cancel any material contract, lease or agreement to which UNC or any of its properties is bound, constitute a violation of any material statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator applicable or relating to UNC, or result in the acceleration of any debt or other obligation of UNC; (iv) UNC, in its actions in connection with this Agreement, shall comply with all applicable federal, state and local laws, regulations and rules applicable to it; (v) UNC owns, or will own, the rights and interests in, or to, the UNC Intellectual Property necessary to enter into this Agreement and to grant the licenses of such property described in this Agreement; (vi) UNC Intellectual Property and the trademarks licensed under Section 4 above do not, and will not, infringe any statutory or common law copyright, privacy, trade secret, trademark or other intellectual property right of any third party; and (vii) UNC has not previously assigned, pledged, licensed or otherwise encumbered any rights or interest in, or to, any component of UNC Intellectual Property or the trademarks licensed under Section 4 above in any way which would interfere with or prevent the grant of the licenses of such property described in this Agreement.
- D) Indemnity. The Indemnifying Party shall indemnify and defend the Indemnified Party against any costs, expenses (including reasonable attorneys' fees whether arising out of a third-party claim or in enforcing this indemnification), claims, judgments, settlements and damages (including all damages awarded to any person or entity other than the parties payable by Indemnified Party) arising out of, or related to: (i) the inaccuracy or breach of any of the representations, warranties or covenants of Indemnifying Party in this Agreement, and (ii) any breach by Indemnifying Party of any applicable laws, regulations and rules (and such breach is unknown to the Indemnified Party); provided in each case that the indemnification arises out of the administration of the Program and that the Indemnified Party gives prompt notice to Indemnifying Party of any possible claim for indemnification under this Agreement promptly

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after the Indemnified Party becomes aware of such possible claim, and permits Indemnifying Party to control the defense and settlement, if any, of any action brought by any person or entity other than a party relating to any such claim with counsel of its choosing at Indemnifying Party's expense; and provided further that any delay by Indemnified Party in notifying Indemnifying Party shall not relieve Indemnifying Party from any liability or obligation under this Agreement unless (and then solely to the extent) Indemnifying Party is damaged thereby. If Indemnifying Party shall fail to promptly and diligently defend any such action after notice, Indemnified Party may re-assume the defense and settlement of such action. Indemnified Party shall cooperate in the defense of any claim for which Indemnifying Party is indemnifying hereunder, at the expense of Indemnifying Party, except the Indemnified Party shall bear the expense of the time of its own employees. UNC's obligations under this Section 8(E) are subject to the terms of the N.C. Tort Claims Act.

- E) Indemnification Procedure. Following notice of a claim or a threatened or actual suit that might result in an indemnification liability under Section 8(D) above, Indemnifying Party may, at its own expense, without obligation to do so, procure for Indemnified Party the right to continue to use the relevant intellectual property or to replace or modify such intellectual property with products of substantially similar functionality to avoid the infringement or alleged infringement claimed, but such procurement shall not release such Indemnifying Party of its indemnification obligation under this Agreement.
- 9) Insurance. Each party shall be solely responsible for obtaining workers compensation insurance for its employees and agents and such other insurance as may be required by applicable laws. In addition, each party agrees to carry (or, in UNC's case, to self-insure for) general liability insurance in an amount **not less than \$1,000,000 per occurrence.** Any insurance policy required above shall name the other party as additional insured on broad form endorsements with respect to all bodily injury, personal injury, advertising injury, and property damage liability arising out of the party's operations, services or products. Any such insurance policy shall be endorsed to provide that such coverage shall be primary over any coverage available to the other party under its own insurance program in the event of any suit, claim damages or loss. Each party shall provide to the other party a copy or copies of a Certificate or Certificates of Insurance, or in UNC's case evidence of a self-insurance program, demonstrating that the insurance coverage set forth above is in full force and effect no later than sixty (60) business days after the date of the parties' execution of each Addendum. The certificate(s) shall also evidence the insurers' agreement to endeavor to provide the other party at least 30 days' advance notice of any cancellation or material change in any policy of insurance for coverage required under this Agreement. Further, each party shall maintain any insurance coverage referenced herein for a period of five (5) years after termination of this Agreement.
- 10) Confidentiality.
 - A) Announcements. Neither 2tor or any of its subsidiaries, officers, directors, employees, other affiliates or agents on the one hand, nor UNC or any of its subsidiaries, officers, directors, employees, other affiliates or agents on the other hand shall, without the prior consent of the other, make any public statement or announcement or any release to trade publications or through the press or otherwise, or make any statement to any customer or other third party with respect to this Agreement (including, without limitation, the intent and the terms of this Agreement), except as may be necessary to comply with the requirements of any applicable law, governmental order or regulation or legal proceeding. 2tor may also disclose this Agreement to

potential financing parties who agree in a customary form of confidentiality agreement to keep its terms confidential.

- B) Confidential Information. Each Receiving Party acknowledges that it has been informed that it is the policy of each Disclosing Party to maintain as secret and confidential all Confidential Information, and further acknowledges that such Confidential Information is of great value to a Disclosing Party. The terms of this Agreement shall be included in the definition of Confidential Information. The parties recognize that in negotiating and carrying out the terms of this Agreement, each Receiving Party has and will acquire Confidential Information as aforesaid. Each Receiving Party confirms that it is reasonably necessary to protect each Disclosing Party's Confidential Information and associated goodwill, and accordingly:

Each Receiving Party shall not directly or indirectly (except where authorized by the Disclosing Party in writing for the benefit of the Disclosing Party), for or on behalf of the Receiving Party or any Person for any reason, divulge any of the Disclosing Party's Confidential Information to any Person other than the Disclosing Party (hereinafter referred to collectively as a "Third Party"), except as required by law, in which case, when possible, only after providing prior notice to the Disclosing Party, or use or cause to authorize any third parties to use, any such Confidential Information, or any other information regarded as confidential and valuable by the Disclosing Party that the Receiving Party knows or should know is regarded as confidential and valuable by the Disclosing Party (whether or not any of the foregoing information is actually novel or unique or is actually known to others and whether or not the Confidential Information is labeled as confidential). Each Receiving Party shall, upon the expiration or termination of this Agreement for any reason, forthwith deliver up to the Disclosing Party, or destroy or delete, any and all documents and materials, or copies thereof, in electronic format or otherwise, in Receiving Party's possession or under its control that relate to any Confidential Information or that are otherwise the property of the Disclosing Party, provided that the Receiving Party may maintain one copy of records containing Confidential Information for archival purposes only.

- C) Return of Confidential Information. Upon the request of the Disclosing Party at any time after the termination of this Agreement, the Receiving Party will return (and purge its systems and files of) all Confidential Information supplied to, or otherwise obtained by, the Receiving Party in connection with this Agreement or provide, in form and substance acceptable to the Disclosing Party, a certificate of destruction with respect to all such Confidential Information, except the Receiving party may retain one copy solely for archival purposes, which shall remain subject to the confidentiality provisions hereof.
- D) Remedies. Any breach or threatened breach by either party of any provision of this Section 10 will, because of the unique nature of the Confidential Information entrusted to it as aforesaid, cause irreparable harm to the other party and shall entitle such other party, in addition to any other legal remedies available to it, to apply to any court of competent jurisdiction to enjoin such breach or threatened breach. The parties understand and intend that each restriction agreed to in this Section 10 shall be construed as separable and divisible from every other restriction, and the unenforceability, in whole or in part, of any such restriction, shall not affect the enforceability of the remaining restrictions and that one or more or all of such restrictions may be enforced in whole or in part as the circumstances warrant. Each party further acknowledges that the other party is relying upon such covenants as an inducement to enter into this Agreement. 2tor shall cause its employees, agents and independent contractors to

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enter into appropriate confidentiality agreements to enforce the provisions of this Section 10. UNC shall cause its employees, agents and independent contractors to comply with the provisions of this Section 10. For the purposes of this Section 10, the term "person" shall mean any person, corporation, limited liability company, partnership or other entity, along with the heirs, successors and assigns of the same. The provisions of this Section 10 shall apply to a party and any affiliate of such party at any time during the term hereof, including at any time that such affiliate is no longer an affiliate of such party, and each party shall cause each of such affiliates to enter into an agreement agreeing to comply with the terms of this Section 10.

- E) Survival. The parties obligations under this Section 10 shall survive the termination of this Agreement.
- 11) Limitation of Liability. To the maximum extent permitted by law, neither party shall be liable to the other or to any other person for any indirect, incidental, consequential, exemplary or special damages, of any character, including, but not limited to, damages for loss of goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of warranty or term of the Agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance. In no event will a party's aggregate liability for all claims, damages or losses under this Agreement, apart from claims, damages or losses asserted by a third party and subject to such party's indemnification obligations hereunder, exceed the Net Program Proceeds received by such party under Section 4(C) of this Agreement during the twelve (12) month period preceding the occurrence of the initial event that gives rise to a claim.
- 12) Exclusivity. This Agreement shall be exclusive among the parties, and, during the term of this Agreement, no party shall offer, or begin to develop or otherwise enter into any other agreement (either written or oral) to develop or collaborate on or offer, any Competitive Programs within any part of the world, except as follows:
 - A) UNC may develop and/or otherwise offer Competitive Programs if 2tor is in default of any of its material obligations hereunder and has failed to cure such default within the applicable cure period provided herein.
 - B)
 - C) Assuming 2tor is able to recruit a sufficient number of qualified applicants, UNC agrees that it shall permit up to 1000 new student starts in Fiscal year 2012, 1925 in Fiscal Year 2013 and 2500 in any subsequent Fiscal Year; at any time, it may raise this number to reflect increased capabilities ("Maximum Class Size").

- D) In the event the parties are unable to agree to an equitable sharing of revenue as described in Section 3(A) for a Hybrid Program, UNC may, in accordance with Section 3(A), unilaterally set a reasonable revenue share between the parties for that Hybrid Program, provided that 2tor may offer a Competitive Program upon no less than 90-days written notice to UNC of its intent to do so.
 - E) Any party offering Competitive Programs hereunder shall not utilize any Confidential Information obtained from the other party for the benefit of any Competitive Program. Any party offering Competitive Programs shall create, implement and maintain an "ethical wall" to ensure complete separation of personnel identifying themselves as working for UNC from personnel identifying themselves as working for any Competitive Program.
- 13) **Force Majeure.** The nonperformance of either party to this Agreement, except nonperformance of payment obligations, will be excused to the extent that performance is rendered impossible by any act of God or circumstances beyond the control of a party and without its fault or negligence, including without limitation, fire, war, riots, flood, earthquake, failure of third party hardware or software, governmental acts or orders or restrictions, or power or communications failure (each a "Force Majeure Event"), provided that the non-performing party gives prompt notice of such Force Majeure Event to the other party and makes all commercially reasonable efforts to remove such causes of nonperformance promptly and perform whenever such Force Majeure Event has ceased. In the event that the Force Majeure Event continues and prevents substantial use of the Program for more than forty-five (45) days, either party may terminate this Agreement upon written notice to the other party, and upon such termination, neither party shall have any further obligation or liability to the other except as set forth in Section 7(F) hereof.
- 14) **Sharing of Information.** UNC and 2tor shall share information, but only to the degree permitted by applicable law and guidelines. Upon 2tor's reasonable request, UNC shall share information about in-classroom students' admissions, performance, and post-graduate outcomes, such information to be used by 2tor solely to assess the Program. Both parties shall share information about online students admissions, performance, and post-graduate outcomes. All information shared under this Section 14 shall be deemed Confidential Information, whether it constitutes Personal Information or not. Such shared information shall include timely updates for admission and financial aid status, grades and academic status. UNC and 2tor shall collaborate to connect application data with grades and other outcome metrics to help them continually refine admissions standards.
- 15) **Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior agreement between the parties. No change, amendment, termination or attempted waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom the same is sought to be enforced.

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- 16) **Successors and Assigns.** This Agreement, including, without limitation, all service levels, quality maintenance controls and investment obligations, shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties, provided that neither party may assign, subcontract or sublicense this Agreement in whole or in part or any of its rights or obligations hereunder without the prior written consent of the other, provided, however, that 2tor may subcontract out aspects of the work for the Program other than overall Program management, provided further that 2tor shall be responsible for any subcontractor work engaged by 2tor for the Program as if 2tor were performing it.
- 17) **Governing Law.** This Agreement and any claim or dispute arising out of, relating to or in connection with this Agreement or the transactions contemplated hereby, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of North Carolina without giving effect to its conflicts of law principles.
- 18) **Review and Notices.**
 - A) **Approvals Generally.** If either party hereto wishes to object to any proposal or other matter submitted by the other party for consent or approval, the objecting party shall promptly after submission of such proposal provide to the submitting party a description of its objection(s) in reasonable detail together with suggestions as to how it would like to see such objection(s) cured. Unless otherwise specified herein, approval for or consent to any proposal hereunder shall not be unreasonably delayed, conditioned or withheld and shall be deemed to have been given following 10 days after the written submission of such proposal, unless the reviewing party has provided a notice of objection(s) as described in this Section.
 - B) **Content and Brand Approvals.** In the case of any consent or approval required from UNC with respect to the content or appearance (to users) of the Program, any substantive modification of any UNC Intellectual Property, or the content or appearance of any use of the UNC-Kenan Flagler brand in the context of any marketing message in which it will appear, such approval or consent may be withheld in the sole and absolute discretion of UNC. Once the content or appearance of any use of the UNC-Kenan Flagler brand in context is approved by UNC in its sole and absolute discretion, no further approval shall be required hereunder for re-purposing such content or appearance in any different media that would be consistent with any marketing plan that UNC otherwise approves.
 - C) **Notices.** Any notices or other communications under this Agreement, except as may otherwise be provided in this Agreement, will be deemed given and delivered (a) when delivered personally or (b) on the date received by or rejected by addressee, if mailed postage prepaid by certified mail, return receipt requested or if sent shipping prepaid by nationally recognized courier service requesting signature on delivery or (c) on the date received, if sent by confirmed facsimile (provided, however, in each case, if such confirmation is not by 3 p.m. on a business day, then on the next business day), in each case addressed to the address on the first page hereof, or, in the case of fax, to 2tor at: Chelsea Piers, Pier 59, Suite 200, New York, NY 10011; fax no: (212) 656-1109, and to UNC at Kenan-Flagler Business School, ATTN: David Stevens, McCoil Building, Campus Box 3490, Chapel Hill, NC, 27599-3490; fax no.: (919) 962-1300, or to such other address as either party shall designate by notice to the other, effective ten (10) days after such notice. In the case of notice to 2tor, a copy shall also be sent to Obermayer Rebmann Maxwell & Hippel LLP, attention: Todd J. Glassman, Esquire, One Penn Center, Suite 1900, 1617 John F. Kennedy Boulevard, Philadelphia, PA 19103-1895, fax no.: (215) 665-3165. In the case of

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UNC, a copy shall also be sent to General Counsel, The University of North Carolina at Chapel Hill, 11 Bynum Hall, Campus Box 9105, Chapel Hill, NC 27599-9105, fax no: 919-843-1617.

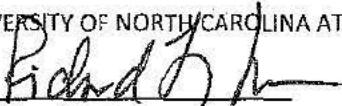
- 19) **Severability.** The invalidity or unenforceability of any particular provision of this Agreement in any jurisdiction shall not affect the other provisions hereof or such provision in other jurisdictions, and this Agreement shall be construed in such jurisdiction in all respects as if such invalid or unenforceable provisions were omitted.
- 20) **Independent Contractors.** Each party shall be an independent contractor of the other party hereto. This Agreement shall not create a partnership and shall not authorize either party hereto to bind the other party in any manner.
- 21) **Specific Performance.** Each party acknowledges that money damages will not be a sufficient remedy for a breach of certain material obligations of the other party under this Agreement, and each party hereto shall be entitled to equitable relief pursuant to Section 19 compelling specific performance of such material obligations as a remedy for any such Breach. Such remedies shall not be deemed to be the exclusive remedies for a Breach of a material obligation of this Agreement but shall be in addition to all other remedies available at law or equity to the parties.
- 22) **2tor Employee Benefit.** UNC agrees that 2tor employees and their immediate family members (as appropriate) who are academically qualified to attend the Program shall be eligible for the same discounts available to UNC employees and their immediate family members attending the Program.

(Signature page to follow)

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IN WITNESS WHEREOF, UNC and 2tor have each caused this Agreement to be executed by its duly authorized officer as of the date first above written.

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

By: 

Name: Richard L. Mann

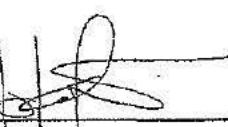
Title: Vice Chancellor for Finance and Administration

By: 

Name: James W. Dean, Jr.

Title: Dean, Kenan-Flagler School of Business

2TOR INC.

By: 

John Katzman

Chief Executive Officer

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SCHEDULE 1(B)

Admissions Processing

See discussion of Admissions Processing in the Program Operational Plan.

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SCHEDULE 1(C)

Customer Service & Counseling

See discussion of Customer Service & Counseling in the Program Operational Plan.

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SCHEDULE 1(G)

2tor Support of Program Students & Faculty

- 1) **Scope of SLA.** This SLA covers a broad range of services and support provided by 2tor throughout the Program student lifecycle. *(Disclaimer - This SLA is designed to serve as a framework for constructive review and dialogue around the key service components for the Program. The Service Level Agreement will be revised periodically and modified through mutual agreement. 2tor and UNC agree to review annually but may do so more frequently.)*
- 2) **Student Support.** 2tor's Post-Enrollment Services team will provide full lifecycle support for Program students as follows:
 - a) **New Enrollment Services.** This is defined as assisting Program students once they have signed their Intent to Enroll form and continuing through the on boarding and orientation to the start of courses.
 - b) **Student Support.** 2tor's Student Support team will offer customer and technical support to all Program students.

c) Administrative Support

3. Faculty Support

4. Metrics and Measurement. UNC and 2tor will agree on Platform, program, and service metrics to track Program success.

5. Changes and Renewal. The parties will mutually agree on adjustments to this SLA on an annual basis or more frequently as mutually agreed.

The following describes the high-level division of roles and responsibilities between 2tor's Student Services team and the UNC Program Office. These lists can be altered upon mutual agreement of the parties.

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2tor Student Services

UNC Program Office

SCHEDULE 1(H)(I)
Specifications and Performance Standards for the Platform and
Related Service Level Agreements

This Service Level Agreement ("SLA") sets forth 2tor's responsibilities as they apply to the Platform it provides to students and faculty, pursuant to the terms of the Services Agreement between UNC and 2tor. The purpose of this SLA is to ensure that the proper elements and commitment are in place to provide excellent and consistent data processing services.

1) Definitions

- a) **Platform** is a technology platform for the Program that serves as an online communication portal for students, faculty, course coordinators, course assistants, and Program staff and that enables online applications, course delivery, Program communications, development and maintenance of student portfolios, career services and such other functions as are mutually agreed to by the parties. The Platform is the custom developed Learning Management System (LMS), Admissions and Student Information System. The Platform includes the technology for delivering the Produced Segments.
- b) **Functions** include but are not limited to, the ability to authenticate/authorize; submit an application; respond to applicants and track communications; accept the offer of admittance; transfer accepted applicant data to University systems; receive or submit all course material (video, documents, audio); receive and submit course assignments; view the "news feed"; leverage checklist for assignments; upload comments in written or video form; collaborate via synchronous sessions with video, audio, whiteboard, slide sharing; and delivery of dashboard style reports for student information throughout the student lifecycle with the Program.
- c) **Initial Response** is contacting a User via email or phone to determine the details of such User's particular issue. Initial response is not an automated email but rather an individualized discussion.
- d) **Mass Initial Response** is contacting a group of Users for communication of a known issue rather than communicating on a one-by-one basis.
- e) **User or Users** is defined as Program students, staff and faculty related to the UNC Kenan-Flagler Business School online programs regardless of whether they work for 2tor or UNC or a 3rd party. Any calculations based on Users would also be on this pool of students, staff, and faculty.
- f) **Business Hours** are defined in Schedule 1(G).
- g) **Organizational Data** is any data in any form associated with any UNC User.
- h) **Vendor Vulnerability Patch** is any patch that will remediate a known security vulnerability for a product. These patches are not patches for routine bug fixes and program updates. For a patch to constitute a Vendor Vulnerability Patch, the Platform, Organizational Data, and or User systems must be at risk without the patch.
- i) **2tor's Hosting Services** is any organization that 2tor has contracted to house any and all of its computer hardware, software and peripherals.

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2) Service Description

- a) 2tor will provide, support, and be responsible for the availability of the hosting network, 2tor's Hosting Services, any server operating system, the Platform, and any third party application required to operate the Platform.
 - b) 2tor will provide hosting support and maintenance, as set forth in this SLA, on the Platform including:
 - i) Initial development of the Platform; and
 - ii) Patches and upgrades to the Platform
 - c) The Platform will be accessible through the then-most popular browsers in their most popular configurations. These include the latest widely adopted production releases of Mozilla Firefox, MS Internet Explorer, Apple Safari and Google Chrome once they have been accepted, and past versions of those browsers within two years of release. The Platform may require a variety of plug-ins. 2tor shall evaluate new releases of such browsers promptly, but no later than thirty days after their release.
- 3) Defects:** 2tor will repair errors, bugs, or defects in the Platform, and respond promptly to UNC Users experiencing problems with the Platform.

4) Availability

- a) Availability of the Platform will be guaranteed at % for any given calendar month, excluding the items defined in the Exceptions Section below.
- b) Should Availability of the Platform fall below % in any given month, 2tor and UNC will meet to discuss the impact of the Availability and reasonable, mutually agreeable steps to improve the Availability above %.
- c) Availability is measured as the percentage of a particular calendar month that access to the Platform is available by third parties via HTTP and HTTPS.
- d) Availability is measured by a third party contracted by 2tor, and reasonably acceptable to UNC, whose determinations shall be binding on the parties.
- e) Outages due to executing a Vendor Vulnerability Patch will not be included in the Availability calculation regardless of the scheduling and notification capability and those patches will be applied at 2tor's discretion. In addition, Vendor Vulnerability Patching will be excluded from the calculation of Availability.

5) Exceptions: The Availability guarantee set forth above shall not apply to the following service interruptions:

- a) Unscheduled necessary maintenance shall result in no more than one half hour of unavailability of the Platform during any calendar week. 2tor will use commercially reasonable efforts to give Users one (1) hour advance notice of unscheduled

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necessary maintenance. Any unscheduled maintenance resulting in more than one half hour of unavailability of the Platform during any calendar week once will count against the Platform Availability calculation.

- b) Scheduled maintenance and upgrades:
 - i) Routine scheduled maintenance means maintenance on the Platform that is scheduled at least 24 hours ahead and which results in less than one (1) hour of unavailability of the Platform. 2tor will use commercially reasonable efforts to schedule such routine maintenance between 6:00 AM and 11:00 AM ET on Mondays, Wednesdays and Fridays. 2tor will give Users 24 hours advance notice of routine scheduled maintenance for any maintenance requiring more than 15 minutes of unavailability of the Platform. 2tor will select a time for the outage with the lowest level of activity based on recent activity trends for the Platform. A routine scheduled maintenance occurring more than once in any 24 hour period will count against the Platform Availability calculation.
 - ii) Extensive scheduled maintenance means maintenance on the Platform that is scheduled at least 7 days ahead and which results in more than one (1) hour of unavailability of the Platform. 2tor will schedule extensive scheduled maintenance during the lowest expected level of activity on the Platform based on recent activity on the Platform. 2tor will give Users seven (7) days advance notice of extensive scheduled maintenance. An extensive scheduled maintenance occurring more than once in one calendar month will count against the Availability calculation.
 - iii) Upgrades are defined as updates to the Platform. Upgrades will be applied during a routine scheduled maintenance window or other mutually agreed timeframe.
- c) Outages due to UNC-requested events such as intrusive testing, data loading, custom export or usage outside SLA parameters.
- d) Domain Name Server (DNS) propagation or DNS issues outside the direct control of 2tor. Similarly, outages elsewhere on the Internet that hinder access to the Platform. 2tor is not responsible for browser or DNS caching that may make the Platform appear inaccessible when others can still access it.
- e) Circumstances beyond 2tor's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage or other criminal act, armed conflict, embargo, fire, flood, strike or other labor disturbance, interruption or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, failure of third party Services contracted for use in the Platform or inability to obtain raw materials, supplies, or equipment needed for provision of this SLA.

6) Disaster Recovery

- a) Geographically-redundant data backups are made on the following schedule:
 - i)

7) Remedies

- a) If UNC believes that a service level commitment herein is not being met, it shall notify 2tor of the perceived problem. 2tor shall promptly investigate any such matter and respond within two business days by either (i) acknowledging the shortfall, and summarizing the steps and estimating the time necessary to correct it, or (ii) by disagreeing that any commitment has not been met and explaining its reasons. If more than one problem is asserted, 2tor shall respond separately to each.
- b) If UNC believes that the response is insufficient, the parties shall meet in person as promptly as possible to discuss and attempt to resolve such differences. If the parties are unable to resolve all differences at that meeting, then they shall resolve such differences as they are able, and 2tor shall proceed immediately and diligently in accordance with such resolution, and UNC may, if it thinks appropriate, send a notice of default as set forth in Section 7(C) of the Services Agreement with regard to any unresolved difference.

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SCHEDULE 2(K)

Career Services Plan

See discussion of Career Services in the Program Operational Plan.

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SCHEDULE 4(C)(ii)

Direct Costs of Licenses and Support for Classroom Course

At UNC's request, 2tor will support UNC's Classroom Courses, as specified in Section 4(C)(ii), through the Platform in the following ways:

- 1) Platform. 2tor will make its Platform available to UNC students and faculty at no fee.
- 2) Support. 2tor may provide technical and other support for UNC students and faculty.
- 3) Development.

FOURTH AMENDMENT TO SERVICES AGREEMENT

This Fourth Amendment to Services Agreement (the “Fourth Amendment”) dated February 24, 2015 (the “Fourth Amendment Effective Date”) is entered into by and between The University of North Carolina at Chapel Hill (“UNC”), on behalf of the UNC Kenan-Flagler Business School (“UNC Kenan-Flagler”) and 2U, Inc. (f/k/a 2tor, Inc.).

WITNESSETH

WHEREAS, UNC and 2U entered into a Services Agreement dated November 1, 2010, as amended by the First Amendment to Services Agreement, the Second Amendment to Services Agreement and the Third Amendment to Services Agreement (collectively, the “Original Agreement”), for the provision of an online distance learning MBA program, (the “Program”); and

WHEREAS, UNC and 2U desire to amend the Original Agreement as set forth below.

NOW, THEREFORE, in consideration of the mutual promises and other good and valuable consideration set forth below, UNC and 2U agree as follows:

1. All terms not defined herein shall have the same meaning as they do in the Original Agreement.

2. To the extent any of the terms and conditions of this Fourth Amendment conflict with the terms and conditions of the Original Agreement, the terms and conditions set forth herein shall prevail.

3. Beginning on the Fourth Amendment Effective Date, the definitions section of the Original Agreement is amended by inserting the following defined term in the appropriate alphabetical order:

“UNC Proprietary Information” means all UNC trade secrets associated with the Program, including without limitation UNC’s immersion strategies and processes, UNC’s corporate relations strategies and activities, and UNC’s Program expansion plans (e.g., new concentrations contemplated, new joint degrees contemplated, etc.).

4. Beginning on the Fourth Amendment Effective Date, the following Section 1(M)(i) is hereby inserted into the Original Agreement:

- (i) UNC hereby permits 2tor to share quantitative and anonymized information (e.g., number of prospects opting in to receive information about a Competitive Program offered by a CPS,

number of such prospects applying to such Competitive Program offered by such CPS, number of prospects enrolling in such Competitive Program offered by such CPS, general synopsis of prospects applying and/or enrolling in such CPS, and such other information which UNC and the CPS agree to share) regarding prospects generated by any marketing property identifying both UNC and any CPS/Competitive Program where UNC is primarily identified and the CPS(s)/Competitive Program(s) is/are secondarily identified (through any marketing technique approved herein or otherwise in accordance with this Agreement) with any CPS that has agreed to provide reciprocal rights to 2tor to share like information with UNC where such CPS/Competitive Program is primarily identified in any marketing property that secondarily identifies UNC.

5. Beginning on the Fourth Amendment Effective Date, the following Sections 4(C)(v), (vi) and (vii) are hereby inserted into the Original Agreement:

- (v) All monies paid by 2tor to UNC pursuant to Section 12(B)(i) below shall be and shall remain subject to adjustment (including reimbursement, as may be applicable following any adjustment) in the same method and manner as any CPS may adjust any payment(s) to 2tor for its services provided to any such CPS to account for, for example, refunds and charges written off by the CPS and other revenue reversals, as determined solely by and between 2tor and each CPS.
- (vi) On a quarterly basis, 2tor shall provide UNC with a written report demonstrating all amounts owed by 2tor to UNC pursuant to Section 12(B)(i) for the quarter most recently ended, and any adjustments to payments made pursuant to Section 12(B)(i) in prior quarters. Such reports shall be prepared by 2tor in form and substance reasonably satisfactory to UNC. Each such report shall be delivered to UNC by no later than forty-five (45) days after the end of the quarter most recently ended. Concurrently with the delivery of each report required by this Section 4(C)(vi), 2tor shall pay by wire transfer of funds to such bank account as UNC may direct by notice to 2tor, the amount owed for the quarter most recently ended, as set forth in the corresponding report.
- (vii) 2tor shall maintain such books and records as are necessary to substantiate all amounts paid by 2tor to UNC pursuant to Section 12(B)(i). During the term of this Agreement and for a period of 180 days after the expiration or termination of this Agreement for any reason, UNC shall have the right to examine such books and records that are specifically related to any payments owed or made

pursuant to Section 12(B)(i). Such examinations shall be held upon reasonable advance notice to 2tor at 2tor's offices during normal business hours and shall take place no more frequently than once each Fiscal Year. Once a particular quarter has been examined, such quarter shall not be subject to any subsequent re-examination pursuant to this Section 4(C)(vii) or otherwise, unless UNC can show reasonable grounds for believing that an uncorrected error that would materially affect the amounts owed or paid pursuant to Section 12(B)(i) occurred in such previously examined quarter, either because a new error is subsequently found in a different quarter or UNC can demonstrate that new information evidencing such error has come to its attention. Any such examination shall be made at UNC's sole cost and expense. If such examination discloses that any amounts have not been paid or have been made in incorrect amounts, and such amounts are not in dispute, the parties shall promptly take appropriate steps to correct such errors in payment, including interest accruing at the rate of 6% per annum if an underpayment is less than five percent (5%) of the amount that should have been paid and at the rate of 12% per annum if an underpayment is equal to or greater than five percent (5%) of the amount that should have been paid, such interest to be calculated from the date such payment should have been made to the date on which such payment is made, and any reasonable costs of the audit.

6. Beginning on the Fourth Amendment Effective Date, Section 7(B) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

This Agreement and its initial term shall be deemed to have commenced on the Effective Date and continue for twenty (20) years ending on October 31, 2030, subject to earlier termination or non-renewal as set forth in Sections 7(C), 7(D) and 7(E) below.

7. Beginning on the Fourth Amendment Effective Date, Section 12(B) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

2tor may offer Competitive Programs with any CPS (defined below) in its sole and exclusive discretion, provided that (i) such Competitive Program is not offered through any school listed on Schedule 12(B); (ii) 2tor does not utilize Curriculum, Work Product, UNC Proprietary Information or UNC Confidential Information in offering such Competitive Program; and (iii) 2tor shall be solely

responsible to recruit prospective students on behalf of any CPS, and UNC shall have no responsibility to recruit, and shall not recruit, prospective students for any CPS.

8. As consideration for the amendment to Section 12(B) set forth in paragraph no. 7 above, the following Sections 12(B)(i) and (ii) are hereby inserted into the Original Agreement:

(i)

(ii) If the total number of students newly enrolling in the Program in Fiscal Year 2016 (*i.e.*, the Fiscal Year beginning on July 1, 2015 and ending on June 30, 2016) or in any subsequent Fiscal Year is lower than the total number of students who newly enrolled in the Program in Fiscal Year 2014 (*i.e.*, the Fiscal Year beginning on July 1, 2013 and ending on June 30, 2014) (any such occurrence, a "Shortfall"), and UNC's admissions standards have not been changed to be more stringent than they were in Fiscal Year 2014, then, in the Fiscal Year immediately succeeding the Fiscal Year in which any Shortfall occurs, 2tor will market the Program (including, without limitation, offering partial or full scholarships to prospective Program students) so as to increase new enrollment in the Program until the number of newly enrolled Program students equals or is greater than the sum of (x) the total number of students who newly enrolled in the Program in Fiscal Year 2014 plus (y) the amount of any Shortfall. Notwithstanding the foregoing, 2tor shall be deemed to have cured any Shortfall in accordance with this Section 12(B)(ii) if 2tor offers full scholarships to a number of qualified candidates in excess of such Shortfall. 2tor's obligations under this Section 12(B)(ii) shall immediately terminate when the number of students newly enrolling in the Program in any Fiscal Year subsequent to a Shortfall is greater than or equal to the total number of students who newly enrolled in the Program in Fiscal Year 2014; provided, however, that 2tor's obligations under this Section 12(B)(ii) shall be reinstated in the event of a subsequent Shortfall. Notwithstanding any of the foregoing, should any event or circumstances outside of 2tor's reasonable control cause a material adverse impact on overall enrollment within UNC Kenan-Flagler's on-campus MBA program or the Program, or should UNC Kenan-

Flagler, its on-campus MBA program or the Program lose accreditation, 2tor's obligations pursuant to this Section 12(b)(ii) shall terminate.

9. Beginning on the Fourth Amendment Effective Date, Section 24 of the Original Agreement is deleted in its entirety and replaced with the following:

24. UNC Grant of Competitive Program Marketing Rights to 2tor. In connection with 2tor's offering of any Competitive Program with any CPS in accordance with Section 12 of this Agreement, UNC hereby agrees that 2tor may utilize any or all of the methods set forth in Section 24(A) below to market any or all such Competitive Program(s). 2tor will regularly consult with UNC during the term of this Agreement on the marketing methods listed below as the number of Competitive Program Schools (defined below) increases.

A. Approved Competitive Program Marketing Methods.

- i. 2tor may provide information (2tor's use of any of UNC's Intellectual Property subject in form and content to UNC's advance review and approval, not to be unreasonably conditioned, withheld or delayed) through landing pages (including but not necessarily limited to in the same or similar form as those attached hereto as Exhibit A) about any or all Competitive Programs and/or Competitive Program Schools (defined below) to prospective students generated as part of 2tor's provision of recruitment services pursuant to Section 1(A) of this Agreement who request information regarding, or who otherwise express interest in, any Competitive Program or the school with which 2tor offers such Competitive Program ("Competitive Program School" or "CPS"); provided that in order for information concerning a CPS to be eligible for inclusion on a UNC landing page, reciprocal information concerning UNC's Program must also be included on the CPS's landing page.
- ii. On the Program application, 2tor may offer: (a) an option to request information (e.g., via "checkbox(s)") regarding any or all Competitive Programs offered by 2tor through any Competitive Program School, and (b) a shared admissions application option to Program applicants for any Competitive Program, each in the same or similar

manner as set forth in Exhibit B attached hereto; 2tor's use of any of UNC's Intellectual Property subject in form and content to UNC's advance review and approval, not to be unreasonably conditioned, withheld or delayed.

- iii. 2tor may engage in targeted marketing (2tor's use of any of UNC's Intellectual Property subject in form and content to UNC's advance review and approval, not to be unreasonably conditioned, withheld or delayed) about any or all Competitive Program(s) and/or any or all Competitive Program School(s) to prospective students who have either removed themselves from the UNC recruitment and/or admissions process or who 2tor has reasonably and in good faith determined are not likely interested in the Program, such as through communications including but not necessarily limited to the same or similar form as attached hereto as Exhibit C.
- iv. 2tor may engage in targeted marketing (2tor's use of any of UNC's Intellectual Property subject in form and content to UNC's advance review and approval, not to be unreasonably conditioned, withheld or delayed) about any or all Competitive Program(s) and/or Competitive Program School(s) to Program applicants denied admission into the Program (or Program applicants who decline UNC's offer of admission into the Program), such as through communications including but not limited to in the same or similar form as attached hereto as Exhibit D.
- v. UNC agrees that 2tor may host landing pages (including but not limited to in the form set forth in Exhibit E) on 2tor's and/or UNC's web domain, and that such landing pages may generally or specifically identify any or all Competitive Program(s) and/or Competitive Program School(s).
- vi. UNC agrees that 2tor may utilize at any time either or both of the following techniques within any or all of the marketing methods set forth in Sections 24(A)(i) through (v) above: (a) identifying any or all Competitive Program(s) or Competitive Program

School(s) generally or by name (including by displaying the logo, trademark or other identifying intellectual property of any Competitive Program or CPS in proximity to UNC's Intellectual Property within, for example, Exhibits A through E, and (b) providing prospective students the opportunity (*e.g.*, via "checkbox(s)") to request information regarding any or all Competitive Program(s) and/or Competitive Program School(s) (individually or collectively).

B. Competitive Program Shared Program Application Option. UNC agrees that each Competitive Program application may contain an option for any applicant to any or all Competitive Programs to request that their application to any Competitive Program(s) be reviewed by UNC for Program admissions consideration, and UNC shall review such applications as Program applications and shall consider any such Competitive Program applicants exercising the option for review by UNC to be Program applicants.

C. Licenses.

i. UNC grants to 2tor a non-exclusive, non-transferrable, royalty-free license to use the information of any Program applicant referenced in Section 24(A) above solely for the purposes set forth therein; provided that, 2tor may share the Program application of any Program applicant (or any information contained therein) with any Competitive Program School if 2tor has first obtained the express permission of such Program applicant.

ii. For the avoidance of doubt, UNC's license of the UNC Intellectual Property set forth in Section 6(C) of the Agreement shall extend to each Competitive Program and each CPS solely as necessary to fulfill the terms set forth in Section 24(B) above. 2tor shall not use or disclose to any CPS (or disclose to any other person or entity) any UNC Proprietary Information without first obtaining UNC's advance written consent.

D. Other Competitive Program/CPS Marketing. Nothing set forth in this Section 24 shall be construed to (i) limit 2tor's right to utilize any marketing methods and/or prospective student identification efforts on behalf of any Competitive Program/CPS that do not reference or include UNC or the Program, or (ii) limit 2tor's right or ability to target prospective Program students or

applicants who do not meet the criteria set forth in Sections 24(a)(i) – (iv) on behalf of any Competitive Program/CPS. If 2tor wishes to use any marketing methods and/or prospective student identification efforts that reference or include UNC, the Program, UNC Proprietary Information, and/or UNC Intellectual Property beyond those set forth in Section 24(A) above, 2tor must first obtain UNC's prior approval, such approval not to be unnecessarily conditioned, withheld or delayed.

10. Beginning on the Fourth Amendment Effective Date, the following is hereby inserted into the Original Agreement as Schedule 12(B):

SCHEDULE 12(B)

Schools through which 2tor may not offer a Competitive Program

1. University of Pennsylvania Wharton School of Business
2. Columbia University School of Business
3. New York University Stern School of Business
4. University of Michigan at Ann Arbor Ross School of Business
5. University of Virginia Darden School of Business
6. Duke University Fuqua School of Business
7. University of Texas at Austin McCombs School of Business

11. All the other terms of the Original Agreement shall remain unmodified and in full force and effect.

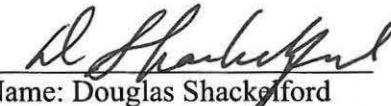
12. This Fourth Amendment shall be governed and construed in accordance with the laws of the State of North Carolina, without giving effect to its conflicts of law principles.

[SIGNATURE PAGE TO FOLLOW]

2U, INC.

By: 
Name: Christopher D. Peacock
Title: CEO

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
on behalf of its Kenan-Flagler Business School

By: 
Name: Douglas Shackelford
Title: Dean of Kenan-Flagler Business School

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
on behalf of its Kenan-Flagler Business School

By: 
Name: James W. Dean, Jr.
Title: Executive Vice Chancellor & Provost

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
on behalf of its Kenan-Flagler Business School

By: 
Name: Matthew M. Fajack
Title: Vice Chancellor for Finance & Administration

Exhibit A

(Prospectus Form)

MBA@UNC

CLOSE

Learn More

This is greeking for form intro copy. This is greeking

First name

Last name

Email

Phone number

Zip code

Lore ipsum dolor sit amet, consectetur adipisicing elit?

- Give -

MBA@UNC's program partner, ZU, Inc., works with Syracuse University, American University and other universities to offer online graduate degree programs in business administration.

Yes, I would like to learn more about these additional online graduate degree programs.

SUBMIT

Disclaimer language: greeking. Disclaimer language: greeking. Disclaimer language: greeking. Disclaimer language: greeking.

SYRACUSE

Exhibit B

(Ex. B-1: Application Info Request)

The screenshot shows the MBA@UNC application portal. At the top, there is a blue header bar with the UNC Kenan-Flagler Business School logo, a phone number (888-966-2622), and a live chat status (Currently Offline). Below the header, the text "MBA@UNC" and "SHAPING GLOBAL LEADERS ONLINE" is displayed. A progress bar indicates "10% COMPLETE". Navigation links include "CHANGE MY PASSWORD", "SAVE & SIGN OUT", and "PREVIEW APPLICATION". On the left, a sidebar lists application sections: "Personal Information" (selected), "Academic Background", "Professional Background", "Recommendations", "Essays", "Security Questions", and "Code Of Conduct". The main content area is titled "Personal Information" and asks for the user's name. It provides instructions: "Please use your legal name. Do not use nicknames or abbreviations. International Students: Type your name exactly as it appears on your passport." Below this, there are fields for Prefix, First Name, Middle Name, and Last Name, with a separator line between Prefix and First Name. A red box highlights a note about program partners and an optional question. The note states: "MBA@UNC's program partner, 2U, Inc., works with Syracuse University, American University and other universities to offer online graduate degree programs in business administration." The optional question asks if the user would like to learn more about these additional online graduate degree programs, with a radio button selected for "Yes".

10% COMPLETE

CHANGE MY PASSWORD SAVE & SIGN OUT PREVIEW APPLICATION

Personal Information

What is your name? *

Please use your legal name. Do not use nicknames or abbreviations.
International Students: Type your name exactly as it appears on your passport.

Prefix	First Name	Middle Name	Last Name
—			

MBA@UNC's program partner, 2U, Inc., works with Syracuse University, American University and other universities to offer online graduate degree programs in business administration.

Yes, I would like to learn more about these additional online graduate degree programs.

Exhibit B

(Ex. B-2: Shared Application)

The screenshot shows the MBA@UNC application dashboard. At the top, there's a blue header bar with the UNC Kenan-Flagler Business School logo, a phone number (888-986-2622), and a live chat status (Currently Offline). Below the header, the page title is "MBA@UNC" and the subtitle is "SHAPING GLOBAL LEADERS ONLINE". A progress bar indicates "100% COMPLETE". To the right of the progress bar are links for "CHANGE MY PASSWORD", "SAVE & SIGN OUT", and "PREVIEW APPLICATION". On the left, a sidebar lists application components: Personal Information, Academic Background, Professional Background, Recommendations, Essays, Security Questions, and Code Of Conduct, each preceded by a green circular icon. The main content area contains a message: "Thank you for submitting your application. Applicants to UNC Kenan-Flagler Business School's MBA@UNC program can choose to have their application separately reviewed for admission by Syracuse University and/or American University, both of whom also work with our technology partner, 2U Inc. To learn more about these options, please call XXX-XXX-XXXX or [click here](#)". Below this message is a red-bordered box containing two checkboxes. The first checkbox is checked and says: "I authorize my application to be reviewed by Syracuse University's Whitman School of Management for their online program MBA@Syracuse". The second checkbox is unchecked and says: "I authorize my application to be reviewed by American University's Kogod School of Business for their online program MBA@American".

Exhibit C

(Sample Email to Disengaged Prospect)

MBA@UNC



Dear [Name],

Thank you for your interest in the online MBA from UNC Kenan-Flagler Business School. We understand that you may be exploring options other than MBA@UNC.

With this in mind, we wanted to let you know about additional opportunities to earn an MBA online. Our program partner, 2U, Inc., has agreements with Syracuse University, American University and other universities to bring their business programs online.

[Request More Information](#)

You can also contact an Admissions Counselor directly at XXX-XXX-XXXX.

Please do not hesitate to let us know if there is any way we can be of assistance in the future.

Sincerely,

MBA@UNC Admissions
UNC Kenan-Flagler Business School
1.888.9UNC.MBA

By requesting more information, you are agreeing to be contacted by 2U, Inc., and its partner universities. You may unsubscribe from those emails at any time.

Exhibit D

(Ex. D-1: Sample Email to Denied MBA@UNC Applicant)



Dear [Name],

Although we were unable to offer you admission, we appreciate your interest in MBA@UNC and your desire to pursue your MBA.

With this in mind, we wanted to let you know about additional opportunities to earn an MBA online. Our program partner, 2U, Inc., has agreements with Syracuse University, American University and other universities to bring their business programs online.

[Request More Information](#)

You can also contact an Admissions Counselor directly at XXX-XXX-XXXX.

Please do not hesitate to let us know if there is any way we can be of assistance in the future.

Sincerely,

MBA@UNC Admissions
UNC Kenan-Flagler Business School
1.888.9UNC.MBA

By requesting more information, you are agreeing to be contacted by 2U, Inc., and its partner universities. You may unsubscribe from those emails at any time.

Exhibit D

(Ex. D-2: Sample mail to Admitted Applicants Choosing Not to Enroll in MBA@UNC (Declines))

MBA@UNC



Dear [Name],

Thank you for your interest in the online MBA from UNC Kenan-Flagler Business School. While we understand that you have chosen not to pursue your master's degree with UNC, we wish you the best in all your future endeavors.

With this in mind, we wanted to let you know about additional opportunities to earn an MBA online. Our program partner, 2U, Inc., has agreements with Syracuse University, American University and other universities to bring their business programs online.

[Request More Information](#)

You can also contact an Admissions Counselor directly at XXX-XXX-XXXX.

Please do not hesitate to let us know if there is any way we can be of assistance in the future.

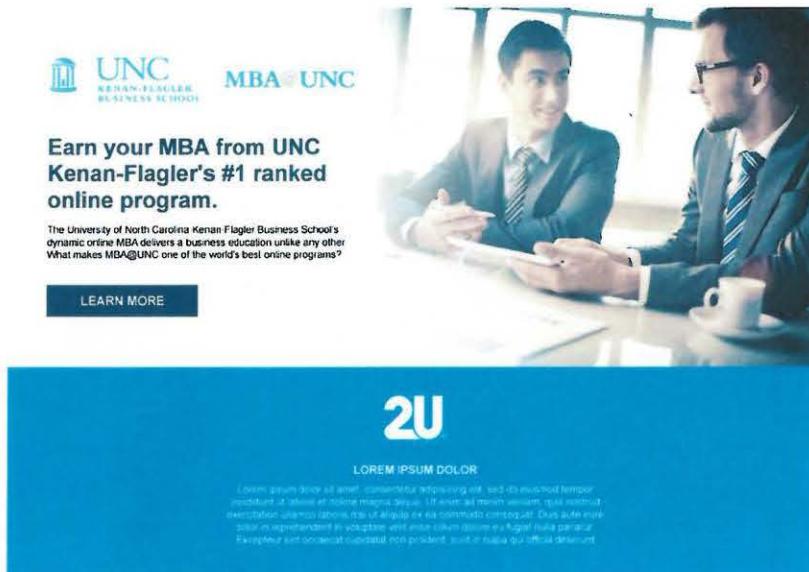
Sincerely,

MBA@UNC Admissions
UNC Kenan-Flagler Business School
1.888.9UNC.MBA

By requesting more information, you are agreeing to be contacted by 2U, Inc., and its partner universities. You may unsubscribe from those emails at any time.

Exhibit E

(Ex. E-1: Co-Branded Landing Page)



The University of North Carolina Kenan-Flagler Business School's dynamic online MBA delivers a business education unlike any other. What makes MBA@UNC one of the world's best online programs?

LEARN MORE

2U

LOREM IPSUM DOLOR

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Whitman
SCHOOL OF MANAGEMENT
SYRACUSE UNIVERSITY

MBA@SYRACUSE

LOREM IPSUM DOLOR

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CALL TO ACTION



KENAN-FLAGLER
BUSINESS
SCHOOL
MBA@SYRACUSE

LOREM IPSUM DOLOR

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CALL TO ACTION

Exhibit E

(Ex. E-2: Co-Branded Landing Page)

The image displays three screenshots of co-branded landing pages for MBA programs, illustrating different design approaches:

- Whitman School of Management, MBA@SYRACUSE:** This page features a white header with the school's name and "MBA@SYRACUSE". Below it is a large image of a man in glasses writing on a whiteboard. The main text area contains placeholder text ("Lorem ipsum dolor sit amet, consectetur adipisicing elit.") and a "CALL TO ACTION" button.
- 2U:** This page has a blue header with the "2U" logo. It includes a small amount of placeholder text and a "LOREM IPSUM DOLOR" section with more placeholder text.
- MBA@UNC:** This page has a teal header with the UNC Kenan-Flagler Business School logo and "MBA@UNC". It contains a detailed description of the program, mentioning it is the #1 ranked online MBA from UNC Kenan-Flagler Business School, and a "LEARN MORE" button.
- MBA@American:** This page has a dark teal header with the American University logo and "MBA@American". It includes a description of the program and a "CALL TO ACTION" button.

FIFTH AMENDMENT TO SERVICES AGREEMENT

This Fifth Amendment to Services Agreement (the "Fifth Amendment") dated January 31, 2016 (the "Fifth Amendment Effective Date") is entered into by and between The University of North Carolina at Chapel Hill ("UNC"), on behalf of the UNC Kenan-Flagler Business School ("UNC Kenan-Flagler") and 2U, Inc. (f/k/a 2tor, Inc.)

WITNESSETH

WHEREAS, UNC and 2U entered into a Services Agreement dated November 1, 2010, as amended by the First Amendment to Services Agreement, the Second Amendment to Services Agreement, the Third Amendment to Services Agreement and the Fourth Amendment to Services Agreement (collectively, the "Original Agreement"), for the provision of an online distance learning MBA program (the "Program"); and

WHEREAS, UNC and 2U desire to amend the Original Agreement as set forth below.

NOW, THEREFORE, in consideration of the mutual promises and other good and valuable consideration set forth below, UNC and 2U agree as follows:

1. All terms not defined herein shall have the same meaning as they do in the Original Agreement.
2. To the extent any of the terms and conditions of this Fifth Amendment conflict with the terms and conditions of the Original Agreement, the terms and conditions set forth herein shall prevail.
3. Beginning on the Fifth Amendment Effective Date, Section 12(B)(i) of the Original Agreement is hereby deleted in its entirety and replaced with the following:
 - (i)

4. Beginning on the Fifth Amendment Effective Date, Schedule 12(B) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

SCHEDULE 12(B)

School through which 2tor may not offer a Competitive Program

1. Duke University Fuqua School of Business

Schools through which 2tor may offer a Competitive Program in accordance with Section 12(B)(i)(a) of the Agreement

1. University of Pennsylvania Wharton School of Business
2. Columbia University School of Business
3. New York University Stern School of Business
4. University of Michigan at Ann Arbor Ross School of Business
5. University of Virginia Darden School of Business
6. University of Texas at Austin McCombs School of Business

5. All the other terms of the Original Agreement shall remain unmodified and in full force and effect.

6. This Fifth Amendment shall be governed and construed in accordance with the laws of the State of North Carolina, without giving effect to its conflicts of law principles.

[SIGNATURE PAGE TO FOLLOW]

2U, INC.

By: Christopher J. Paucek
Christopher J. Paucek (NJ 10, 2016)

Name: Christopher J. Paucek
Title: CEO

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
on behalf of the UNC Kenan-Flagler Business School

By: Douglas Shackelford
Name: Douglas Shackelford
Title: Dean of Kenan-Flagler Business School

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
on behalf of the UNC Kenan-Flagler Business School

By: James W. Dean, Jr.
Name: James W. Dean, Jr.
Title: Executive Vice Chancellor & Provost

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
on behalf of the UNC Kenan-Flagler Business School

By: Matthew M. Fajack
Name: Matthew M. Fajack
Title: Vice Chancellor for Finance & Administration

MASTER SERVICES AGREEMENT

THIS AGREEMENT dated January 30, 2012, by and between The University of North Carolina at Chapel Hill, a nonprofit educational institution ("UNC"), on behalf of the University of North Carolina at Chapel Hill School of Government, with an address of University of Carolina at Chapel Hill; Knapp-Sanders Building, Campus Box 3330, Chapel Hill, NC 27599-3330, and 2tor, Inc., a Delaware corporation, having an office at 60 Chelsea Piers, Suite 6020, New York, NY 10011 ("2tor"). UNC and 2tor are referred to collectively in this Agreement as the "parties" and individually as a "party."

WITNESSETH:

WHEREAS, The University of North Carolina at Chapel Hill is a world class educational institution and includes the University of North Carolina at Chapel Hill School of Government ("School");

WHEREAS, UNC has determined a demand for an online distance learning program for the School's Master of Public Administration program;

WHEREAS, UNC and 2tor have agreed to make a multi-million dollar investment into the development and administration of the Program and to perform the work and furnish services as described in this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth, the sufficiency of which is acknowledged, the parties agree hereby as follows:

Definitions. Capitalized terms shall have the respective meanings ascribed to such terms herein or as set forth below:

"2tor's Intellectual Property" means the Platform, including all copyrights, trademark rights and other intellectual property rights in the Platform, and all other technology, computer programs and software source code developed for the Platform, including, but not limited to, 2tor-developed or 2tor-acquired user interface designs necessary to facilitate access to UNC's Intellectual Property via the Platform, logic and data modules, algorithms, feature sets and source code and documentation relating thereto.

"2tor Surplus" shall mean the amount of Net Program Proceeds received from UNC less the direct costs incurred by 2tor during the Term in connection with the Services and the Agreement. "2tor Surplus" shall include the appropriate pro rata portions of any disbursements that benefit multiple 2tor clients, but shall exclude costs related to 2tor's employment of any c-level executives (e.g., CEO, COO, CFO, CMO CTO) (including any rent or other expenses associated with 2tor's employment of those individuals), and any income taxes payable by 2tor.

"Capital Requirement" means designated for Program development as set forth herein.

"Change in Control" means (i) any merger, consolidation, acquisition or similar transaction(s) resulting in the stockholders of 2tor immediately before such transaction or transactions not retaining a majority of the voting power of the surviving entity, or (ii) a sale of all or substantially all of 2tor's assets.

"Competitive Programs" means any online program offering any Master of Public Administration degree other than the Degree offered by the parties pursuant to this Agreement.

"Confidential Information" means all the business, products, services, costs, and marketing information pertaining to both on-site and online students' admissions, performance, and post-graduation outcomes as well as all information (including, but not limited to, academic as well as personal contact and financial information) pertaining to all faculty, staff, on-site students, on-line students, and future plans of a Disclosing Party, except such information that is or becomes publicly known other than through the action of the Receiving Party. For the avoidance of doubt, non-public information regarding UNC students, faculty and staff, and all GPA, GRE and other admission data provided pursuant to Section 2(b)(i), shall be UNC Confidential Information.

"Curriculum" means the Program curriculum, including all asynchronous lessons.

"Degree" means the School's Master of Public Administration ("MPA") degree.

"Disclosing Party" means a party that discloses its Confidential Information to Receiving Party as specified in Section 8(B).

"Effective Date" means January 30, 2012.

"Excluded Fees" means the following fees that are excluded from the calculation of Net Program Proceeds: Education and Technology Fee, Association of Student Government Fee, Administrative Computing Fee, Field Fee, and Registration Fee. The parties shall negotiate in good faith with respect to any future fees that UNC wishes to constitute Excluded Fees.

"Fiscal Year" means a period starting July 1 and ending on June 30 of the following calendar year.

"Indemnified Party" means a party that is indemnified by an Indemnifying Party as specified in Section 6(D).

"Indemnifying Party" means a party that indemnifies an Indemnified Party as specified in Section 6(D).

"Initial Tuition" means the amount of tuition charged to classroom and online Degree students for the 2012-2013 academic year, such amount equal to \$52,800.

"Net Program Proceeds" means all Program Proceeds minus student refunds and the Excluded Fees.

"Non-Performing Party" means a party that breaches any of its material obligations under this Agreement.

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

“Platform” means a technology platform for the Program, to serve as an online communication portal for students, faculty, course coordinators, course assistants, and Program staff and to enable online applications, course delivery, Program communications, development and maintenance of student portfolios, career services and such other functions as are mutually agreed to by the parties.

“Program” means the online distance learning program for UNC developed, delivered and used pursuant to this Agreement.

“Program Proceeds” means all tuition, fees, and other charges credited to Program Degree students' accounts, including all tuition, fees and other charges actually collected by UNC on behalf of Program Students.

“Promotion Strategies” means all marketing and promotional strategies related to the Program.

“Produced Segments” means the asynchronous products of the Program produced by 2tor from the Curriculum, and comprised of lectures, simulations, videos, PowerPoints and other typical online course content.

“Receiving Party” means the party that receives the Confidential Information of a Disclosing Party as specified in Section 8(B).

“Reviews” means 2tor's due diligence on, audit, inspection and examination of its operations, computer systems, Platform and access controls directly related to the Program.

“Tail Period” has the meaning ascribed in Section 5(G).

“Territory” means the world.

“UNC’s Intellectual Property” means all copyrights, trademark rights and other intellectual property rights, in all of the non-technical content of the Program, including without limitation the Work Product, the Curriculum and the Produced Segments, but excluding 2tor's Intellectual Property.

“UNC Surplus” shall mean the Net Program Proceeds received by UNC less the portion of Net Program Proceeds paid to 2tor during the Term and all direct costs incurred by UNC during the Term in connection with its delivery of the Program. “UNC Surplus” shall exclude all costs incurred for research including research faculty in excess of the reasonable cost of their teaching, all scholarships contributed by UNC in excess of those set forth in Section 3(B)(ii) of the Agreement, and all other costs incurred by UNC that are not directly related to the successful delivery of the Program.

“Work Product” consists of all results and proceeds of 2tor's services hereunder in producing the Produced Segments, whether stored on tape, computer disks or otherwise, and all derivative works that are conceived, created or developed as a result of or in connection with such 2tor services. For the avoidance of doubt, Work Product specifically excludes all of 2tor's Intellectual Property.

1) 2tor's Services. 2tor shall provide technological, marketing, promotional, development and support services with respect to the Program as follows:

A) Recruitment. 2tor shall create and carry out Promotion Strategies targeted toward building awareness of the Program and generating a flow of quality applications from prospective

students from the Territory. To do this, 2tor shall develop a written plan and appropriate marketing materials for the Program and shall execute this plan. 2tor shall fund and develop appropriate materials and shall be responsible for recruiting students into the Program. 2tor's Promotion Strategies may include, but shall not be limited to, engaging personnel or utilizing other resources to recruit prospective students, any and all lead development efforts (including but not limited to purchasing leads), and any and all other efforts 2tor utilizes and resources 2tor engages as part of marketing the Program and generating quality applications from prospective students throughout the Territory. 2tor shall promptly deliver to UNC any collected contact information of any prospective student who, in 2tor's reasonable judgment, is interested in follow-up from UNC concerning a UNC program other than the Program. 2tor shall draft and deliver a written plan regarding the Program to the School no less than annually, and the School shall have the right to review and approve the written plan and the ongoing right to review and approve all marketing materials related to the marketing of the Program. As described in paragraph 2(D), the parties shall jointly agree to the creation of any marketing materials newly created or reformatted for the purpose of including the Program as part of UNC's offerings, and 2tor shall be responsible for all direct costs incurred with respect thereto.

- B) Admissions Processing. 2tor shall collect completed online applications for the Program and forward those applications to the School's admissions office, all through the Platform in a manner that shall be agreed upon by the parties and set forth in Schedule 1(B), as amended from time to time.
- C) Customer Service and Counseling. In an effort to maintain a high level of customer service, 2tor shall provide phone support and guidance, in a manner consistent with reasonable guidelines provided by the School, to prospective students and to students upon matriculation and throughout the Program. Such counseling shall include technical and career issues, but 2tor shall defer academic guidance to School counselors. 2tor shall provide all such counseling in a manner consistent with reasonable written guidelines provided by the School, such guidelines and responsibilities to be set forth in Schedule 1(C), as amended from time to time.
- D) Curriculum Design. In the School's design of the Curriculum as described in paragraph 2(E), 2tor shall provide technical assistance and recommendations with respect to content and techniques that best use the available technologies and methods embodied in the Platform in order to meet the needs of Program students. 2tor may also provide other related support as necessary and as agreed by the parties.
- E) Curriculum Production and Deployment. From the Curriculum designed and created by School faculty, 2tor shall produce, and shall coordinate the logistics to produce, the Produced Segments and shall prepare the Curriculum for online deployment through the Platform. Without limiting the generality of the foregoing, 2tor shall be responsible for (i) all production costs with respect to each Produced Segment, including the cost of all production personnel and equipment (but not including payment to UNC for the use of UNC facilities, or salaries or other compensation of School instructional personnel), (ii) all legal clearances for music and graphics used in and students and others who appear in the Produced Segments, provided that the School shall cooperate with 2tor in securing such clearances from School instructional personnel, and (iii) digitizing and otherwise converting all content for each Produced Segment to a medium suitable for delivery to students via the Platform. Promptly after completion of each Produced Segment, 2tor shall deliver a copy of such Produced Segment to the School. All such Produced Segments

shall conform to the School's design as set forth in Section 2(E) and be subject to the School's written approval prior to any distribution or other release thereof; 2tor will make reasonable efforts to ensure that School online curricular materials are up to the quality standards of its classroom program and are competitive with the best of competing online programs.

- F) Program Delivery and Support. 2tor shall provide consulting assistance for the School's development of the instructional content of the Program, and for its efforts to hire, train and support its faculty who deliver such instruction, all as more fully described in Schedule 1(F). Service levels defined in Schedule 1(F) shall govern 2tor's support for Program students and faculty, such service levels to be revised periodically in writing upon mutual agreement by the School and 2tor. Service level agreements shall include, but not be limited to, timeliness of response and user satisfaction. 2tor shall provide such services as the School may reasonably require to maintain records and communications regarding academic performance. 2tor shall provide training and technical support to School faculty and other instructional personnel with respect to the use of the technologies within the Platform.
- G) Technology. 2tor has built, and shall maintain, periodically revise, and shall host the Platform to deliver the Program. 2tor shall use commercially reasonable efforts to integrate tested new technologies and insights into the Program and the Platform. Should the School wish to use the Platform for other programs, the related fees from 2tor shall be as set forth in Schedule 1(G). 2tor shall reasonably make available 2tor's services and the Platform to assist in creating innovative educational programming for public officials served by the School.
- i) Specifications and Service Levels. The Platform will be accessible through the World Wide Web, and the specifications and performance standards for the Platform and the related service level agreements are as set forth in Schedule 1(G)(i) attached hereto. Such service level agreements shall address availability of the Platform (subject to reasonable amounts of downtime for maintenance and similar matters), correction of any errors, bugs and defects in the Platform and 2tor's responsiveness to students and other users experiencing problems with the Platform. At least once every twelve months following the Program Launch, 2tor shall propose changes and updates to the specifications and performance standards for the Platform, all of which shall be subject to the written approval of the School, in order to maintain the effective performance of the Platform.
- ii) Ongoing Quality. After Program Launch, the School shall notify 2tor if the Platform has failed to satisfy the specifications and standards contemplated hereby or if 2tor is in default of its service level agreements, specifying any failure or default in reasonable detail and suggesting how the School would like such failure to be remedied, and 2tor shall, at its expense promptly after receipt of the School's notice, modify or improve the Platform or take other corrective action in order to bring the Platform into compliance with such specifications and standards or improve its service to comply with such service level agreements. Failure of the Platform to meet such specifications and standards or of 2tor to comply with such service level agreements within a reasonable period, but not more than thirty (30) days after 2tor's receipt of the School's notice, shall, pursuant to Section 5(C) below, constitute a material breach of a 2tor material obligation, subject to the right to cure as set forth therein.
- H) Program and Student Evaluation. 2tor shall gather ongoing data of Program students to assist with overall Program evaluation, including, but not limited to, student satisfaction with the

Program, evaluation of instructors and such other matters in such form and at such frequency as the School may reasonably require. 2tor shall share evaluative data frequently (as agreed upon by the parties) to help drive ongoing improvement.

- I) Career Services. 2tor shall use good-faith efforts to support through the Platform and through other services provided by 2tor under this Agreement the career services provided by the School pursuant to Section 2(K) to Program participants and graduates.
- J) Compliance.
 - i) Personal Information. 2tor acknowledges that UNC is subject to laws and regulations which govern and restrict the collection, storage, processing, dissemination and use of Personal Information. 2tor shall, and shall cause its employees, agents, servants, principals and any subcontractors to, at all times comply with all applicable laws, rules and regulations, including privacy and information security laws and regulations relating to the performance of 2tor's obligations under this Agreement, and UNC internal policies. Without limiting the generality of the foregoing, 2tor agrees (a) not to collect, store, process, disseminate or use any such Personal Information obtained from UNC except to the extent expressly permitted or required in the performance of its obligations under this Agreement, (b) to store all such Personal Information only in secured form within 2tor's information systems and (c) not to sell, distribute, release or disclose lists or compilations of any items of Personal Information without the prior written consent of UNC (including through the School, as appropriate) or of the subject(s) of the Personal Information to be released or disclosed. Any disclosure of Personal Information by 2tor in the performance of its obligations hereunder shall be made only on a "need-to-know" basis and subject to an applicable confidentiality agreement or other obligation substantially similar to the confidentiality, privacy and information security requirements imposed on 2tor under this Agreement and applicable law. The term of this clause 1(J)(i) shall survive the termination of this Agreement.
 - ii) Student Privacy Rights. Without limitation of its obligations under paragraph 1(J)(i) above, (a) 2tor shall take all commercially reasonable measures to protect the Personal Information of Program students consistent with Family Education Rights and Privacy Act ("FERPA"), (b) 2tor shall furnish the School a copy of 2tor's information security procedures for the storage and handling of Personal Information prior to the commencement of 2tor's handling and processing of such matter, (c) 2tor shall furnish the School a copy of any update or other modification of such security procedures and (d) such security procedures and all updates and modifications thereof shall be subject to the School's written approval.
 - iii) Agency Regarding Student Information. For the term of this Agreement and as needed to satisfy regulatory requirements applicable to UNC, UNC may appoint 2tor an agent of the UNC Office of the Registrar for the use of Personal Information solely for the purpose of providing the student and graduate services required hereunder throughout the Program and thereafter, including without limitation counseling of prospective students, continuing contact with graduates of the Program, and ongoing employment of Program students and graduates.
 - iv) Incentive Compensation Rule. 2tor shall compensate its employees engaged in the recruitment of Program students, or in the supervision of such employees, only in

accordance with the provisions of 34 CFR § 668(b)(22), commonly referred to as the Incentive Compensation Rule.

- v) HEOA Section 495 Compliance. 2tor shall remain in compliance with HEOA Section 495. Without limiting the foregoing, 2tor shall, at its sole expense, have and maintain security mechanisms in place to ensure that each student registering for a course is the same student who participates in the course or receives course credit. Such security mechanisms shall, as agreed between the parties, include one or more of the following methods: (a) a secure login and pass code; (b) proctored examinations (with the parties to share equally the marginal costs of any live proctoring); and (c) new or other technologies and practices that are effective in verifying student identification. Nothing herein shall prohibit 2tor from requiring Program students to purchase specific hardware intended to enable the security mechanisms referenced herein.
- vi) Disability Access. UNC and the School shall comply with all applicable federal and state laws requiring access for the disabled to the Program. 2tor shall assist UNC and the School in their compliance efforts with respect to affected Program students.

K) Monitoring and Audits Generally

- i) 2tor shall (a) measure, monitor and track the performance of its services, obligations, and Platform; conduct internal audits and self-testing; and compare such performance to the service level agreements and other specifications and standards provided for in this Agreement, with 2tor to report to the School on the results of such monitoring no less than annually, (b) detect and promptly cure deficiencies and (c) report such performance, deficiencies and cures to the School on a quarterly or other basis as agreed between the parties in a form mutually agreed by the parties from time to time. Such assessment of the performance of 2tor's services and obligations shall include providing the School an opportunity to assess or comment to 2tor on 2tor's performance of its services and obligations, irrespective of any other measurements.
- ii) At least annually as requested by the School, and at such other times as the School may reasonably request, 2tor shall provide reasonable, mutually acceptable, written certifications as to 2tor's compliance with applicable laws, the service level agreements and other specifications and standards provided for in this Agreement, and such other matters as may be reasonably requested by the School. For the avoidance of doubt, such written certifications shall include any sub-certifications reasonably required by the School to enable the School to provide its own written certifications to any students, graduates or regulators as required by applicable law or contract. The School shall consult with 2tor prior to agreeing to provide certifications with regard to the Program that will require a 2tor sub-certification.
- iii) Upon the School's request and subject to 2tor's then-current confidentiality, security and data protection procedures, 2tor will permit the School's authorized representatives and auditors to visit with the appropriate personnel at 2tor, and will provide the School with access to or copies of (a) applicable 2tor records, including testing results (whether conducted by 2tor or a third-party), (b) 2tor's compliance policies and procedures applicable to 2tor's operations related to its services and obligations, and (c) any other records

required to be delivered by 2tor pursuant to this Agreement, in each case in order to conduct Reviews. At the School's reasonable request and expense, Reviews also may include "ethical hacks," penetration testing or other testing of the 2tor system and 2tor's information security, data protection, disaster recovery, business continuity and confidentiality policies, procedures and safeguards. The School agrees that Reviews will be completed at 2tor's facilities upon reasonable advance notice during regular business hours. The parties will cooperate in good faith to minimize the disruption associated with Reviews, including the timing of such Reviews. The School and 2tor will develop a plan for identifying what tests and reports will be part of the standard processes.

- iv) If 2tor receives a request or demand from a student or graduate of the Program, or a regulator in regard to UNC or the School or a student or graduate of the Program, requesting a Review, 2tor shall notify UNC or the School (as appropriate) promptly, and 2tor shall work with UNC and/or the School (as appropriate) or any such student, graduate or regulator in conducting and responding to any such request for a Review, provided that 2tor shall not be required to provide a Review to a third party, except as required by law.
 - v) Subject to 2tor's then-current confidentiality, security and data protection procedures, (a) 2tor will discuss with School personnel, or provide summaries to the School of, any material violations of 2tor's code of ethics or other compliance-related policies and procedures by 2tor personnel related to 2tor's performance hereunder, and (b) 2tor will promptly notify the School of (and, if requested by the School, provide the School summaries of) material changes to 2tor's code of ethics and other compliance-related policies and procedures applicable to 2tor's performance hereunder.
 - vi) If 2tor becomes aware, for any reason, including as a result of any self-testing, "ethical hack," penetration testing or other monitoring or other Review contemplated in this Section 1(K), of a deficiency in meeting any service level or other specification or standard in the performance of any service or obligation under this Agreement, then 2tor shall promptly, at its expense (a) perform an analysis to identify the cause of any such failure or deficiency, (b) provide the School with a report identifying the cause of such failure or deficiency and describing the intended procedure/steps for correcting or resolving such failure or deficiency and the timeline for completing such procedure/steps, (c) if requested by the School, meet with the School (in person or by teleconference) to discuss such failure or deficiency and such intended procedure/steps and timeline, (d) promptly cure such failure or deficiency and (e) after such failure or deficiency is cured, promptly notify the School that such failure or deficiency has been cured.
- L) Data Sharing. 2tor shall provide the following information to the School via electronic access, updated daily: (a) the number of prospective students contacting 2tor as of that date during the month; (b) the number of non-completed applications in the process of completion as of that date during the month; (c) the number of completed applications sent, delivered or otherwise transmitted to the School as of that date during the month; and (d) such other information as may be mutually agreed upon by the parties from time to time.
- M) 2tor Employees & Contractors. 2tor shall employ separate senior personnel, dedicated solely to the Program, to perform the functions specified in Sections 1(A), 1(C) and 1(D)/(E) above. At the School reasonable request, 2tor agrees to promptly remove from involvement with the Program

or from providing services hereunder any 2tor employee or contractor, provided that such employee or contractor is one who (i) uses an email address with a domain of "unc.edu", or (ii) holds himself or herself out as acting on behalf of UNC or the School in the course of performing services under this Agreement, except as prohibited by law.

- 2) UNC's Services. The School shall be exclusively responsible for ensuring the academic quality and academic integrity of the Program, including the following:

A) Recruitment. The Program shall be branded as MPA@UNC. UNC and the School shall promote the Program as equivalent to the School's residential Degree programs, including on the School's website (including, but not limited to, the homepage thereof), within the School's career center, and at all student recruitment events and professional school fairs attended by School representatives in a manner comparable to the promotion of the School's in-classroom Degree programs, and, to the extent UNC and/or the School promotes the School's in-classroom Degree programs, it will promote the Program in a comparable manner, including by characterizing the Program as equal in quality to the in-class program. Further, the School shall consult with 2tor in the development of additional Promotion Strategies, and the School shall have the right to review and approve all marketing and other materials related to the Program prior to their use. UNC and the School shall promptly deliver to 2tor any collected contact information of any prospective student who, in UNC's or the School's reasonable judgment, is interested in follow-up concerning the Program.

B) Admissions Processing and Financial Aid.

- i) After the School's receipt of a complete application from 2tor (as set forth in Section 1(B) above), the School shall, in its sole discretion, determine which qualified students shall be admitted to the Program based on admissions standards that will yield a class equally qualified to that of the current in-classroom program. The process shall be as objective as possible to help make the process predictable for the parties and for students. The School shall share with 2tor GPA, GRE and other admission data to assist 2tor in developing an understanding of the School's admissions process, determining how to apply admissions standards, and making projections. UNC shall make reasonable efforts to admit or reject each applicant within ten business days after receipt of such applicant's completed application for ninety percent (90%) of such completed applications.
- ii) The School shall, in its sole discretion, establish admissions standards for the Program, which shall require that students admitted to the Program have similar academic qualifications to those in the School's in-classroom Degree program. The School and 2tor shall cooperate to make the admissions process and the application of admissions standards streamlined, transparent and clear to enable 2tor to target its promotional efforts to students likely to be accepted. 2tor acknowledges that the School is required to rely on the UNC Graduate School with respect to such process and standards and does not have sole discretion to determine such process and standards.
- iii) UNC shall be solely responsible for the administration of all financial aid programs and will process, with reasonable promptness, all requests for aid. UNC shall provide student financial assistance services similar to those offered students enrolled in the School's in-classroom Degree program. 2tor shall not be involved in any manner in the award or

disbursement of financial assistance provided pursuant to Title IV of the Higher Education Act of 1965, as amended.

- C) Student Service and Counseling. Once admitted to the Program, students shall, to the extent practicable given the inherent differences between in-classroom and online students, have similar rights and privileges and receive services similar to those received by the School's in-classroom Degree students. The School shall ensure the availability and participation of School faculty and staff, and provide academic counseling in Program requirements, add/drop policies, probations, leave of absence and similar matters. Fees for specific activities (e.g., an on campus gymnasium charge) will not be imposed on Program students who cannot reasonably benefit from, and agree to waive, the related services that appropriately apply only to in-classroom Degree students. The School shall provide academic counseling to Program students (in-person to students visiting the campus and by telephone or internet to others) to answer questions concerning incoming/outgoing transfer credits, specific prerequisite academic or certification requirements, academic petitions or disputes and leaves of absence. The School shall provide academic support to any student in danger of dropping or being dropped from the Program, and shall provide academic support to Program students equivalent to the academic support provided to in-classroom students.
- D) Residencies. The School may require or encourage Program students to participate in residencies. UNC shall establish locations and other logistics necessary to conduct and implement the residencies. 2tor shall use commercially reasonable efforts to help UNC establish locations and other logistics necessary to conduct and implement the residencies.
- E) Curriculum Design. The School shall be solely responsible for the design, timely creation and ongoing revision of the Curriculum, making its commercially reasonable efforts to have the framework of the Curriculum set by April 1, 2012, so that the Program can be launched between August 2012 and January 2013. UNC shall require School faculty members' timely participation in the creation and design of the Curriculum and in any modifications thereof. School faculty or other personnel provided by the School shall provide reasonable assistance to 2tor's web team in the adaptation of the Curriculum for the Program to web-based presentation via the Platform. The School shall be solely responsible for the ongoing review and revision of the Curriculum as the School determines, at its sole discretion, to be necessary and appropriate to maintain the academic quality and academic integrity of the Program, provided that 2tor shall use commercially reasonable efforts to promptly include such revisions into the Produced Segments. Further, while 2tor and the School are initially readying the Curriculum for the Program, the School shall provide 2tor with meeting space at the School for 2tor employees in order to facilitate such employees' interactions with participating faculty. The School shall ensure the availability and participation of faculty and other personnel to achieve the Curriculum design as set forth in this Section 2(E). UNC shall be responsible to obtain any necessary rights, permissions, consents or other clearances required, whether relating to copyright or otherwise, with respect to the use of any content or materials (educational or otherwise) incorporated into the Curriculum.
- F) Curriculum Production and Deployment. The School shall use commercially reasonable efforts to prepare drafts of the syllabi (and to obtain timely any required internal approval(s)) (i) on or before a date to be determined by mutual agreement of the parties, for the courses to be included at the time of Program Launch, and (ii) on or before the date(s) to be mutually agreed upon by the parties for courses to be offered subsequent to Program Launch. The School shall

also use commercially reasonable efforts to develop such syllabi into appropriate materials in time for production to meet such schedules. The School shall secure the commitment of those School faculty members and other instructional personnel selected by the School for the Produced Segments and for any modifications to the Curriculum required by the online delivery mechanism. Unless otherwise agreed in writing by the parties, the School shall be solely responsible for the expense of such faculty, other instructional personnel and other UNC and School staff. Each Produced Segment shall conform to the School's design and be subject to the School's review and written approval prior to any distribution or other release thereof. Each course approved by the School shall be released for distribution on the Platform as such course is approved, subject to the provisions of Section 1(F) and 1(G) hereof.

- G) Course Development & Support. Each course that comprises Produced Segments shall be taught exclusively by School faculty and other instructional personnel selected by the School. The School shall be responsible for the creation of a training curriculum and shall be responsible for the hiring, training, support, management and oversight of the work of the School faculty and other instructional personnel, provided that 2tor will provide consulting support to assist the School in such efforts, in the School's development of the instructional content of the Program, and in the School's efforts to hire, train and support its faculty who will deliver instruction within the Program. The School shall use commercially reasonable efforts to maintain faculty availability, experience, quality and a student to faculty ratio for typical course synchronous sessions that does not exceed 15:1. UNC and the School shall provide 2tor with access to information pertaining to both classroom-based and online students' admissions, performance, and post-graduation outcomes as well as information pertaining to relevant faculty, staff information, to the extent permitted by and subject to the requirements of FERPA and such other laws and regulations as may pertain. The School shall identify the course materials to be used within the Program reasonably in advance of each course start.
- H) Technology. The School shall, upon 2tor's reasonable request, advise and consult with 2tor as to the design of the Platform and its sufficiency for use for the Program. The School shall make available to 2tor, upon 2tor's reasonable request, the appropriate School personnel to participate with 2tor in the testing and, as necessary, re-testing of the Platform as contemplated by Section 1(G) above.
- I) Academic or Other Certifications. UNC and the School shall be responsible to secure any accreditations, registrations or approvals with respect to the Program as may be necessary to operate in any jurisdiction. 2tor shall provide to UNC and the School reasonable assistance in securing such accreditations, registrations or approvals as UNC and the School may reasonably request and as mutually agreed by the parties.
- J) Evaluation. The School shall oversee the Program evaluation, utilizing UNC and School data and the data gathered by 2tor pursuant to Section 1(H) above and other available data. UNC and the School shall at their sole discretion determine satisfaction of degree requirements, award all grades, and confer all degrees. UNC and the School shall share evaluative data frequently (as agreed upon by the parties) to help drive ongoing improvement of the Program.
- K) Placement. With 2tor's reasonable assistance, the School shall develop a written plan for providing internship and career services to Program students, such plan to be incorporated herein as Schedule 2(K), as amended from time to time. The intent of the plan will be, to the extent practicable given the inherent differences between in-classroom and online students, to

make internship and career counseling and placement services available to Program students on a basis similar to that provided to students enrolled in the School's in-classroom Degree program, including in-person meetings to the extent Program students visit the School's campus. It shall work to supplement the School's work by developing relationships with employers in other states and countries, provided that any agreements with such employers shall be subject to the School's approval.

- L) Alumni. UNC and the School shall be solely responsible for the management of alumni relationships, provided that the School may request 2tor to provide reasonable assistance in maintaining contact with Program alumni and tracking their career progress. 2tor shall provide Program alumni of the School with access to the applicable components of the Platform throughout the initial Term and any Renewal Term(s) of this Agreement.
 - M) Data Sharing. UNC and/or the School (as applicable) will provide on a daily basis the following information to 2tor via electronic access: (a) information about Program students, which shall include UNC identification number, name, address, UNC email address and any activity restrictions (e.g., financial, health or other holds on newly admitted and registered students); (b) Program professor and administrator information, which shall include basic information regarding each Platform user and his or her role; (c) Program course information, which shall include information regarding student registrations for courses and sections, section numbers, professors and related information; and (d) such other information as may be mutually agreed upon by the parties from time to time.

3) Accounting.

- A) Fiscal Year. The first Fiscal Year of the Program shall end on June 30, 2013.
 - B) Program Proceeds.
 - i) UNC shall collect all Program Proceeds. UNC shall have the sole authority to set tuition, fees and other charges for the Program.
 - ii) UNC may exclude from Net Program Proceeds scholarships in the first Fiscal Year and scholarships in all subsequent Fiscal Years (the "Excluded Scholarships"), each Excluded Scholarship at , provided that all Excluded Scholarships shall be awarded to deserving North Carolina public servants. In addition, for the Fiscal Years, each party shall contribute toward a scholarship fund that will make available at a minimum each year to increase student enrollment among those students who would otherwise enroll in other programs. Contributions will be split , with funded by 2tor and funded by the School, and additional scholarship funds may be contributed in the first and second Fiscal Years if both parties mutually agree. For all subsequent Fiscal Years, the parties shall contribute from of their Net Program Proceeds share from the prior Fiscal Year to a scholarship fund for the Program Students. The fund shall be managed by the School and will be disbursed to Program students with awarded according to the restrictions and guidelines identified by 2tor as the funding agent for those awards and awarded at the School's discretion as the funding agent for those awards. For Program

students, scholarships will appear as discounts or credits against their tuition. All scholarship monies awarded shall constitute Program Proceeds. Any scholarship monies remaining in the fund at the end of a Fiscal Year shall be applied as a credit to the next year's scholarship fund contribution, with _____ applied to the 2tor contribution and _____ applied to the School contribution.

C) Finances. All Net Program Proceeds shall be shared between UNC and 2tor as follows:

- i) 2tor shall be entitled to a part of the Net Program Proceeds, aggregated through each payment/adjustment date under Section 4(D) below, for its technology, curriculum production and deployment, student recruiting, technical support and other services, in the amount of _____ of Net Program Proceeds for the Program.
- ii) UNC shall be entitled to retain all remaining Net Program Proceeds after 2tor receives its share under paragraph 4(C)(i) above for UNC's admissions, instruction, curriculum design, evaluations, and other support of the Program.

D) Reports and Payment.

- i) For each month, no later than the 10th day after the end of the preceding month, UNC shall provide to 2tor reports listing the following: (i) the students offered admission by UNC to the Program, (ii) the students who enrolled in or dropped from each course in the Program, including a course listing for the enrolled students, (iii) the Program Proceeds charged by type of charge for each student, (iv) the Program Proceeds collected for each student, and (v) a calculation of the payments between the parties pursuant to paragraph 3(D)(ii) hereof for such month.
- ii) Concurrently with the delivery of each report required by paragraph 3(D)(i), UNC shall also pay or adjust, as applicable, 2tor's portion of Net Program Proceeds for the month by wire transfer of funds to such bank account as 2tor may direct by notice to UNC no later than ten (10) business days prior to the scheduled date for such wire transfer. The payment for the month shall equal 2tor's portion of the amount of Net Program Proceeds.
- iii) Following the termination of this Agreement for any reason other than expiration, UNC's obligations pursuant to this Section 3 shall survive such termination or expiration and continue with respect to any Program Proceeds collected thereafter, subject to Section 15 (dispute resolution).
- iv) Beginning the first month after 2tor successfully raises additional capital as contemplated in Section 5(G) below and continuing for a period of twelve (12) total months, 2tor shall advance to UNC _____ each month, provided that should the Program reach a cumulative new student registrations during such time period, 2tor shall cease such payments.
- v) For every month with at least _____ new student registrations over the prior twelve months, UNC shall repay to 2tor _____ per month as repayment of the advance received pursuant to Section 3(D)(iv) (but only up to the amount paid by 2tor to UNC pursuant thereto). In the event that _____ new student registrations are not achieved in any rolling twelve month period, UNC shall not be required to repay the advance.

- E) 2tor Minimum Investment. For the twenty-four (24) months commencing four (4) months prior to Program Launch, 2tor shall invest no less than a total of _____ providing the recruitment services set forth in Section 1(A) (which shall include but not be limited to all internal and external resources expended as part of the Promotion Strategies.) Thereafter, 2tor shall invest no less than _____ of its annual share of Net Program Proceeds from the Program in marketing and recruiting for the Program. Notwithstanding the foregoing and anything else contained in this Agreement, should 2tor under invest in any aforementioned period, 2tor shall invest the amount of such underinvestment (the "Underinvestment Amount") in the subsequent period (each, a "Makeup Investment Period") in addition to the minimum investment otherwise required hereunder for that Makeup Investment Period. Should 2tor fail to invest the Underinvestment Amount and the required minimum investment in any Makeup Investment Period, UNC may provide notice of such failure, and shall have the right (but not the obligation) following such notice to terminate this Agreement within the first sixty (60) days following the conclusion of any Makeup Investment Period.
- F) Maintenance of Books and Records; Rights on Audit. UNC shall maintain such books and records as are necessary to substantiate Program Proceeds received in connection with the Program and this Agreement. During the term of this Agreement and for a period of 180 days after the expiration or termination of this Agreement for any reason (or, if applicable, after the Tail Period defined in Section 5(G)), 2tor shall have the right to examine such books and records that are specifically related to the Program and this Agreement. Such examinations shall be held upon reasonable advance notice to UNC at UNC's offices during normal business hours and shall take place no more frequently than once each Fiscal Year. Once a particular Fiscal Year has been so examined, such Fiscal Year shall not be subject to any subsequent re-examination pursuant to this Section 3(F) or otherwise, unless 2tor can show reasonable grounds for believing that an uncorrected error that would materially affect the Net Program Proceeds payable to 2tor for such Fiscal Year occurred in such previously examined Fiscal Year, either because a new error is subsequently found in a different Fiscal Year or 2tor can demonstrate that new information evidencing such error has come to its attention. Any such examination shall be made at 2tor's sole cost and expense. If such examination discloses that any amounts have not been paid or have been made in incorrect amounts, and such amounts are not in dispute, the parties shall promptly take appropriate steps to correct such errors in payment, including interest accruing at the rate of 9% per annum if an underpayment is equal to or greater than five percent (5%) of the amount that should have been paid, such interest to be calculated from the date such payment should have been made to the date on which such payment is made, and any reasonable costs of the audit.

4) Intellectual Property.

- A) UNC Property. UNC shall own and retain all right, title and interest to UNC's Intellectual Property. 2tor acknowledges and agrees that all of its contributions to UNC's Intellectual Property, including the Work Product, the Curriculum and the Produced Segments, shall constitute a "work made for hire" for UNC, as that phrase is defined in Section 101 and 201 of the Copyright Act of 1976 (Title 17, United States Code), including without limitation a work specially commissioned by UNC, and (ii) notwithstanding the foregoing subparagraph (i), if and to the extent 2tor retains any interest in such contributions (in whole or in part), 2tor hereby grants, assigns and transfers to UNC all right, title and interest in and to such contributions, and all intellectual property rights therein, including without limitation all patent, copyright, trade

secret and other proprietary rights, and the right to make any modifications, adjustments or additions thereto (2tor hereby expressly waiving any *droit moral* or similar rights to object to any such changes), the right to make and distribute derivative works thereof and the right to all claims for past infringement thereof. Upon UNC's request, 2tor shall execute and deliver to UNC all documents and instruments, including without limitation copyright assignments, and shall otherwise assist UNC, at UNC's expense, to perfect in UNC the sole and exclusive right, title and other interests in UNC's Intellectual Property, including the Work Product, the Curriculum and the Produced Segments. In the event UNC is unable, because 2tor is no longer in business, to obtain the signature of 2tor to any document or instrument necessary or desirable to apply for protection of, or to enforce any action with respect to, any intellectual property right in or to UNC's Intellectual Property, including the Work Product, the Curriculum and the Produced Segments, 2tor hereby irrevocably designates and appoints UNC and its duly authorized officers and agents as 2tor's agent and attorney-in-fact, whose power is expressly coupled with an interest, to act for and on behalf of 2tor, to execute such documents and instruments and to take all lawfully permitted actions to protect UNC's interests in any intellectual property right with the same legal force and effect as if executed by 2tor. During the term of this Agreement and any Renewal Term(s), UNC may use the Work Product and the Produced Segments solely with respect to the Program, School in-classroom non-Program degree programs, and for School certificate programs and School continuing education classes in ways that are consistent with this Agreement.

- B) 2tor Property. 2tor shall own and retain all right, title and interest to all 2tor's Intellectual Property, provided that, for further clarity, 2tor's rights therein shall not give it any right whatsoever in or to any portion of UNC's Intellectual Property, none of which may be used by 2tor except in accordance with the express terms of this Agreement. Anything in this Agreement to the contrary notwithstanding, this Section 4(B) shall not apply to software licensed from persons or entities other than the parties and included in 2tor's Intellectual Property by mutual agreement of the parties. 2tor's Intellectual Property shall also include all micro sites and other marketing content created, developed, and/or hosted by 2tor as part of 2tor's Promotion Strategies, but specifically excluding any UNC Intellectual Property which may be used or incorporated therein during the Term.
- C) License of UNC Intellectual Property. UNC grants to 2tor the non-exclusive right to use, during the term of this Agreement, the names "UNC," "UNC Chapel Hill," and any other trade names, trademarks, service marks, designs and logos specified by UNC and/or the School solely for use by 2tor in connection with the Program, including, but not limited to, 2tor's marketing and promotion of the Program, subject to the School's prior approval of the form and manner of each such use. Subject to the provisions of this Agreement, UNC and the School grant to 2tor the non-exclusive right and royalty free license during the term of this Agreement to use all of UNC's Intellectual Property within the Territory *only* to the extent necessary for UNC's Intellectual Property to be incorporated into or used with the Program pursuant to the terms of this Agreement (but specifically including 2tor's marketing and other obligations set forth herein). Such right and license shall include without limitation a license of all rights under copyright and the rights to reproduce and copy UNC's Intellectual Property in all editions, versions and formats for print and in any other form or medium, whether now known or hereafter known, throughout the Territory, including, without limitation, electronic, magnetic, digital, laser, or optical-based media (but excluding the right to make any changes in UNC's Intellectual Property or to create derivative or related products). 2tor shall acquire no rights in

any of UNC's Intellectual Property or in any of UNC's or the School's trade names, trademarks, service marks, designs or logos from 2tor's use hereunder.

- D) License of 2tor Intellectual Property. 2tor grants to UNC and its affiliates (specifically including the School) the right and license during the term of this Agreement, and during the Tail Period described in Section 5(G), to use all of 2tor's Intellectual Property, including, without limitation, a license of all rights under copyright and the rights to reproduce and copy 2tor's Intellectual Property in all editions, versions and formats for print and in any other form or medium, whether now known or hereafter known, throughout the world, including, without limitation, electronic, magnetic, digital, laser, or optical-based media, for use *only* in conjunction with;
- (i) the School's delivery of the Program anticipated by this Agreement,
 - (ii) the School's delivery of any course from the Program to students in any on-site Degree program, and
 - (iii) as otherwise agreed by the parties in writing in ways that are not competitive with the Program, provided that all such uses comply with the terms of this Agreement.

2tor shall also grant to each student enrolled in the Program a royalty-free license to use the 2tor Intellectual Property as part of the School's permitted delivery of the Program to such student.

- E) Other Uses of Marks. Other than the licenses granted in Sections 4(C) and 4(D), no party may use the other's name, trademark, sign, logo or similar designation without each other's prior written approval, which may be granted in such other's sole discretion. The rights under Section 4(C) above may not be (i) transferred, except to an entity acquiring all or substantially all of the business of 2tor, or (ii) sublicensed.
- F) Infringements by Others. Each party shall promptly report in writing to the other during the term any known or suspected infringement of any of UNC's Intellectual Property or 2tor's Intellectual Property of which such party becomes aware, and shall provide the other with all available evidence supporting such known or suspected infringement or unauthorized use.
- G) Infringements by Parties. In the event that a party becomes aware of any claim that the practice by either party in the development, production, promotion, marketing or distribution of the Program infringes the intellectual property rights of any third party, such party shall promptly notify the other party. In any such instance, the parties shall cooperate and shall mutually agree upon an appropriate course of action. Each party shall provide to the other party copies of any notices it receives from any person or entity other than a party regarding any alleged infringement or misappropriation of third party intellectual property relating to the development, production, promotion or marketing of the Program. Such notices shall be provided promptly, but in no event after more than fifteen (15) days following receipt thereof.

5) Term and Termination.

- A) Program Launch. The parties contemplate a rollout of the Program as follows:

B) Initial Term. This Agreement and its initial term shall be deemed to have commenced on the Effective Date and continue for ten (10) Fiscal Years ending on June 30, 2022, subject to earlier termination or non-renewal as set forth in Sections 5(C), 5(D), 5(E), 5(F) and 5(G) below.

C) Termination For Cause.

- i) If 2tor breaches any of its obligations hereunder that is reasonably likely to have a material adverse effect on UNC's reputation or the academic integrity of the Program, then UNC may deliver, in writing, a notice to 2tor describing in detail such breach and adequately listing reasonable suggestions as to the steps that may be taken to cure such breach. If 2tor has not cured such breach within a period of time, no longer than thirty (30) days, then UNC may terminate this Agreement effective upon delivery of written notice to 2tor.
- ii) If UNC fails to pay in full the amounts owed to 2tor at such time said amounts are due under this Agreement, then 2tor may deliver, in writing, a notice to UNC describing in detail such failure to pay. If UNC has not paid such owed amounts within a period of time specified in such notice, such period of time to be at least thirty (30) days from the date of such notice, then 2tor may terminate this Agreement effective upon delivery of written notice to UNC.
- iii) Upon the occurrence of a breach other than as described in paragraph 5(C)i or 5(C)(ii) above, a party may deliver, in writing, a notice to the Non-Performing Party describing in detail such breach and adequately listing reasonable suggestions as to the steps that may be taken to cure such breach. If after ninety (90) days following the date of such notice, the Non-Performing Party has not undertaken and diligently pursued a cure of such breach, the other party may terminate this Agreement upon delivery of written notice to the Non-Performing Party.
- iv) A Non-Performing Party that receives a notice of breach and that has reasonable grounds for the position that the alleged breach is not, in fact, a breach hereof, may apply to a court for a temporary restraining order or preliminary injunctive relief to in effect toll the period hereunder to cure such breach or other similar relief, until the court has determined whether such alleged breach is, in fact, a breach hereof.
- v) Either party may terminate this Agreement if: (a) at any time the other party files or has filed against it a petition for bankruptcy, insolvency, reorganization or for the appointment of a receiver, and such petition is not dismissed, vacated or set aside within sixty (60) days from the commencement thereof; (b) either party becomes insolvent or unable to pay its debts as they mature in the ordinary course of business; or (c) either party takes any action to make an assignment for the benefit of creditors or to liquidate or to dissolve.

vi) Should 2tor (or its successor organization) become unable to continue to do business in the ordinary course through bankruptcy or otherwise, and following a reasonable opportunity to restructure or otherwise cure, 2tor (or its successor organization) shall immediately make the Platform (including any Platform materials reasonably required for the School to use the Platform) available to UNC to enable the School to continue to deliver the Program and receive the benefits afforded to UNC under or pursuant to this Agreement, except that such rights shall be fully subject to, and only as permitted by, all applicable licensing and other agreements relating to the Platform and Platform materials. UNC shall be obligated at all times to maintain the confidentiality of all confidential aspects of the Platform (including any Platform materials). Should the event(s) causing UNC to exercise its rights under this Section 5(C)(vi) be remedied, the School's right to use the Platform shall cease.

D) UNC Termination following 2tor Change in Control. Should 2tor experience a Change of Control, UNC may terminate this Agreement prior to the end of the Initial Term if either:

- i) such change results in 2tor being controlled by a person or entity in whom or with whom UNC would not be permitted to invest or contract based on UNC's investment policies then in effect, or because of moral, social justice or similar reasons; or
- ii) the surviving entity following a Change in Control unilaterally makes a material reduction in the financial or other resources devoted by 2tor (or its successor) to 2tor's services as set forth in this Agreement and to the Program, or unilaterally reduces its obligations in operating plans previously agreed upon between 2tor and UNC and in effect at the time of the Change in Control, subject to the notice and right to cure provisions of Section 5(C)(ii), above.

E) Termination Based on Financial Unsustainability of Program. Beginning after the 3rd full Fiscal Year subsequent to the Program Launch, either party shall have the right to terminate this Agreement upon thirty (30) days prior written notice to the other party

F) Termination Based on Inability to Achieve Accreditation. UNC may terminate this Agreement upon 30 days' written notice to 2tor in the event that the School is unable to secure accreditation from the National Association of Schools of Public Affairs and Administration ("NASPAA") necessary for the Program to operate.

G) Termination Based on Inability of 2tor to Raise Sufficient Capital. The parties acknowledge that 2tor shall need (and shall seek) to raise additional capital sufficient to perform its obligations and to support the Program as set forth herein, and further acknowledge that the parties' full execution of this Agreement substantially improves 2tor's ability to succeed in raising such additional capital. UNC agrees that 2tor shall not be obligated to provide its services hereunder unless and until 2tor successfully raises its Capital Requirement. Unless 2tor and UNC mutually agree to waive 2tor's Capital Requirement, either party shall have the right to terminate this Agreement immediately upon written notice to the other party any time following 100 days after the Effective Date if such Capital Requirement has not been raised. 2tor may adjust the Program Launch timeframe set forth in Section 5(A) above in the event that 2tor's believes in

good-faith that its ability to raise such additional capital is delayed for any reason following 2tor's commercially reasonable diligence in such fundraising efforts. Upon 2tor either raising its Capital Requirement or waiving its Capital Requirement as set forth herein, 2tor shall be obligated to provide its services hereunder. In the event that either party terminates this Agreement pursuant to this Section 5(G), 2tor shall pay to UNC up to \$250,000 to cover certain costs incurred by UNC in anticipation of the Program following execution of this Agreement.

- H) Renewal Terms. Subject to earlier termination as set forth in Sections 5(C), 5(D), 5(E), 5(F) and 5(G), up to one year before the expiration of the original term or any Renewal Term of this Agreement, UNC shall have the exclusive right to extend the Agreement for an additional three (3) years ("Renewal Terms"). If UNC renews, the parties shall negotiate in good faith with

If UNC does not renew the Agreement (except for any reason that would permit early termination of the Agreement), it shall pay to 2tor, in accordance with Section 3,

- I) Effect of Termination. Any provision herein notwithstanding, after any termination or expiration of this Agreement:

- i) Subject to paragraph 5(H)(ii), each party shall cease all use of the other party's intellectual property, and 2tor shall surrender to UNC all UNC's Intellectual Property, including the Work Product and Produced Segments, and any reproductions thereof, except for one copy that may be maintained solely for archival purposes and not distributed.
- ii) 2tor and the School shall allow each student using the Platform to complete all individual courses in the Program that such student has actually commenced prior to the termination of this Agreement (except to the extent that such student is expelled by UNC or does not finish such course within six months following such termination or expiration). Notwithstanding any other provision of this Agreement, 2tor and UNC shall be entitled to receive their respective shares of any Net Program Proceeds paid by such students for such courses.
- iii) Upon any termination or expiration, the School shall enable each then-enrolled Program student to complete his or her degree in an online format, subject to the School's right in its sole discretion to determine student evaluation, the awarding of degrees and expulsion of students for cause, and provided that such student does so diligently and within three years of termination or expiration of this Agreement.
- iv) Sections 4(A), 6(D), 6(E), 8, 9, and 12 through 19 of this Agreement, and any other provisions of this Agreement that are expressly stated to survive for a period after termination, shall survive termination or expiration of this Agreement; and Sections 3 and 4(C) shall survive in respect of the Tail Period described in Section 5(H).

- v) Termination of this Agreement shall not prejudice the terminating party's rights to any sums due or accrued under this Agreement prior to termination or expiration and shall not prejudice any cause of action or claim of the terminating party accrued or to accrue on account of any breach or default by the non-terminating party.
 - J) Non-Solicitation. For one year following termination or expiration of this Agreement, and unless otherwise agreed in writing by the parties, each of the parties shall not, and shall not allow their affiliates, or any of their affiliates' employees or agents, to employ or otherwise obtain services from, or solicit or otherwise attempt to employ or otherwise obtain services from, or assist any person or business entity in employing or otherwise obtaining services from, or attempting to employ or otherwise obtain services from, any person who is then, or at any time during the preceding twelve months shall have been, in the employ of or retained by the other party. Notwithstanding the foregoing, the restrictions contained in this Section 5(J) shall not apply to UNC should 2tor (or its successor organization) cease to do business in the ordinary course. Notwithstanding the foregoing, responses to general advertisements in the media or on the Internet shall not be deemed to be a solicitation for hire within the context of this Section.
 - K) Transition Plan. UNC may, at any time, require 2tor to provide, at UNC's expense, a plan setting forth the method and manner for UNC to continue operating the Program with UNC personnel and assets or through a person (or persons) or entity (or entities) other than 2tor ("Transition Plan"). 2tor shall cooperate with UNC in implementing any such Transition Plan should UNC terminate the Agreement as per Section 5(C) or 5(D).
- 6) Representations and Warranties; Indemnifications.
- A) Laws and Regulations. Each party shall comply with all applicable federal, state and local laws and regulations applicable to it.
 - B) Representations of 2tor. 2tor represents and warrants that (i) it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; (ii) this Agreement has been duly executed and delivered by 2tor and constitutes the legal, valid and binding obligation of 2tor, enforceable in accordance with its terms; (iii) the delivery and performance of this Agreement does not and will not conflict with, result in the breach of, constitute a default, with or without notice and/or lapse of time, under, result in being declared void or voidable any provision of, or result in any right to terminate or cancel any contract, lease or agreement to which 2tor or any of its affiliates is bound, constitute a violation of any statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator applicable or relating to 2tor or any 2tor affiliate, or result in the acceleration of any debt or other obligation of 2tor; (iv) 2tor, in its actions in connection with this Agreement, shall comply with all applicable federal, state and local laws, regulations and rules applicable to it; (v) 2tor owns, or will own, the rights and interests in, or to, the 2tor Intellectual Property necessary to enter into this Agreement and to be developed pursuant to this Agreement, and to grant the licenses and assignments of such property described in this Agreement; (vi) 2tor Intellectual Property do not, and will not, infringe any statutory or common law copyright, privacy, trade secret or other intellectual property right of any third party; (vii) 2tor has not previously assigned, pledged, licensed or otherwise encumbered any rights or interest in, or to, any component of 2tor Intellectual Property in any way that would interfere with or prevent the grant of the licenses and assignments of such property described in this Agreement; and (viii) on the Effective Date of

this Agreement, 2tor has access to sufficient financial resources to fulfill its obligations under this Agreement.

- C) Representations of UNC. UNC represents and warrants that (i) it is an institution of higher education chartered by the laws of the State of North Carolina; (ii) this Agreement has been duly executed and delivered by UNC and constitutes the legal, valid and binding obligation of UNC enforceable in accordance with its terms; (iii) the delivery and performance of this Agreement does not and will not conflict with, result in the breach of, constitute a default, with or without notice and/or lapse of time, under, result in being declared void or voidable any provision of, or result in any right to terminate or cancel any material contract, lease or agreement to which UNC or any of its properties is bound, constitute a violation of any material statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator applicable or relating to UNC, or result in the acceleration of any debt or other obligation of UNC; (iv) UNC, in its actions in connection with this Agreement, shall comply with all applicable federal, state and local laws, regulations and rules applicable to it; (v) UNC owns, or will own, the rights and interests in, or to, the UNC Intellectual Property necessary to enter into this Agreement and to grant the licenses of such property described in this Agreement; (vi) UNC Intellectual Property and the trademarks licensed under Section 4 above do not, and will not, infringe any statutory or common law copyright, privacy, trade secret, trademark or other intellectual property right of any third party; and (vii) UNC has not previously assigned, pledged, licensed or otherwise encumbered any rights or interest in, or to, any component of UNC Intellectual Property or the trademarks licensed under Section 4 above in any way which would interfere with or prevent the grant of the licenses of such property described in this Agreement.
- D) Indemnity. The Indemnifying Party shall indemnify and defend the Indemnified Party against any costs, expenses (including reasonable attorneys' fees whether arising out of a third-party claim or in enforcing this indemnification), claims, judgments, settlements and damages (including all damages awarded to any person or entity other than the parties payable by Indemnified Party) arising out of, or related to: (i) the inaccuracy or breach of any of the representations, warranties or covenants of the Indemnifying Party in this Agreement, and (ii) any breach by the Indemnifying Party of any applicable laws, regulations and rules (and such breach is unknown to the Indemnified Party); provided in each case that the indemnification arises out of the administration of the Program and that the Indemnified Party gives prompt notice to the Indemnifying Party of any possible claim for indemnification under this Agreement promptly after the Indemnified Party becomes aware of such possible claim, and permits the Indemnifying Party to control the defense and settlement, if any, of any action brought by any person or entity other than a party relating to any such claim with counsel of its choosing at the Indemnifying Party's expense; and provided further that any delay by the Indemnified Party in notifying the Indemnifying Party shall not relieve the Indemnifying Party from any liability or obligation under this Agreement unless (and then solely to the extent) the Indemnifying Party is damaged thereby. If the Indemnifying Party shall fail to promptly and diligently defend any such action after notice, the Indemnified Party may re-assume the defense and settlement of such action. The Indemnified Party shall cooperate in the defense of any claim for which the Indemnifying Party is indemnifying hereunder, at the expense of the Indemnifying Party, except the Indemnified Party shall bear the expense of the time of its own employees. UNC's obligations under this Section 6(D) are subject to the terms of the N.C. Tort Claims Act.
- E) Indemnification Procedure. Following notice of a claim or a threatened or actual suit that might result in an indemnification liability under Section 6(D) above, the Indemnifying Party may, at its

own expense, without obligation to do so, procure for the Indemnified Party the right to continue to use the relevant intellectual property or to replace or modify such intellectual property with products of substantially similar functionality to avoid the infringement or alleged infringement claimed, but such procurement shall not release such Indemnifying Party of its indemnification obligation under this Agreement.

- 7) **Insurance.** Each party shall be solely responsible for obtaining workers compensation insurance for its employees and agents and such other insurance as may be required by applicable laws. In addition, each party agrees to carry (or, in UNC's case, to self-insure for) general liability insurance in an amount not less than \$1,000,000 per occurrence. Any insurance policy required above shall name the other party as additional insured on broad form endorsements with respect to all bodily injury, personal injury, advertising injury, and property damage liability arising out of the party's operations, services or products. Any such insurance policy shall be endorsed to provide that such coverage shall be primary over any coverage available to the other party under its own insurance program in the event of any suit, claim damages or loss. Each party shall provide to the other party a copy or copies of a Certificate or Certificates of Insurance, or in UNC's case evidence of a self-insurance program, demonstrating that the insurance coverage set forth above is in full force and effect no later than sixty (60) business days after the date of the parties' execution of this Agreement. The certificate(s) shall also evidence the insurers' agreement to endeavor to provide the other party at least 30 days' advance notice of any cancellation or material change in any policy of insurance for coverage required under this Agreement. Further, each party shall maintain any insurance coverage referenced herein for a period of five (5) years after termination of this Agreement.
- 8) **Confidentiality.**
 - A) **Announcements.** Neither 2tor or any of its subsidiaries, officers, directors, employees, other affiliates or agents on the one hand, nor UNC or any of its subsidiaries, officers, directors, employees, other affiliates or agents on the other hand shall, without the prior consent of the other, make any public statement or announcement or any release to trade publications or through the press or otherwise, or make any statement to any customer or other third party with respect to this Agreement (including, without limitation, the intent and the terms of this Agreement), except as may be necessary to comply with the requirements of any applicable law, governmental order or regulation or legal proceeding. 2tor may also disclose this Agreement to potential financing parties who agree in a customary form of confidentiality agreement to keep its terms confidential.
 - B) **Confidential Information.** Each Receiving Party acknowledges that it has been informed that it is the policy of each Disclosing Party to maintain as secret and confidential all Confidential Information, and further acknowledges that such Confidential Information is of great value to a Disclosing Party. The terms of this Agreement shall be included in the definition of Confidential Information. The parties recognize that in negotiating and carrying out the terms of this Agreement, each Receiving Party has and will acquire Confidential Information as aforesaid. Each Receiving Party confirms that it is reasonably necessary to protect each Disclosing Party's Confidential Information and associated goodwill, and accordingly:

Each Receiving Party shall not directly or indirectly (except where authorized by the Disclosing Party in writing for the benefit of the Disclosing Party), for or on behalf of the Receiving Party or any Person for any reason, divulge any of the Disclosing Party's

Confidential Information to any Person other than the Disclosing Party (hereinafter referred to collectively as a "Third Party"), except as required by law, in which case, when possible, only after providing prior notice to the Disclosing Party, or use or cause to authorize any third parties to use, any such Confidential Information, or any other information regarded as confidential and valuable by the Disclosing Party that the Receiving Party knows or should know is regarded as confidential and valuable by the Disclosing Party (whether or not any of the foregoing information is actually novel or unique or is actually known to others and whether or not the Confidential Information is labeled as confidential). Each Receiving Party shall, upon the expiration or termination of this Agreement for any reason, forthwith deliver up to the Disclosing Party, or destroy or delete, any and all documents and materials, or copies thereof, in electronic format or otherwise, in the Receiving Party's possession or under its control that relate to any Confidential Information or that are otherwise the property of the Disclosing Party, provided that the Receiving Party may maintain one copy of records containing Confidential Information for archival purposes only.

- C) Return of Confidential Information. Upon the request of the Disclosing Party at any time after the termination of this Agreement, the Receiving Party will return (and purge its systems and files of) all Confidential Information supplied to, or otherwise obtained by, the Receiving Party in connection with this Agreement or provide, in form and substance acceptable to the Disclosing Party, a certificate of destruction with respect to all such Confidential Information, except the Receiving party may retain one copy solely for archival purposes, which shall remain subject to the confidentiality provisions hereof.
- D) Remedies. Any breach or threatened breach by either party of any provision of this Section 8 will, because of the unique nature of the Confidential Information entrusted to it as aforesaid, cause irreparable harm to the other party and shall entitle such other party, in addition to any other legal remedies available to it, to apply to any court of competent jurisdiction to enjoin such breach or threatened breach. The parties understand and intend that each restriction agreed to in this Section 8 shall be construed as separable and divisible from every other restriction, and the unenforceability, in whole or in part, of any such restriction, shall not affect the enforceability of the remaining restrictions and that one or more or all of such restrictions may be enforced in whole or in part as the circumstances warrant. Each party further acknowledges that the other party is relying upon such covenants as an inducement to enter into this Agreement. 2tor shall cause its employees, agents and independent contractors to enter into appropriate confidentiality agreements to enforce the provisions of this Section 8. UNC shall cause its employees, agents and independent contractors to comply with the provisions of this Section 8. For the purposes of this Section 8, the term "person" shall mean any person, corporation, limited liability company, partnership or other entity, along with the heirs, successors and assigns of the same. The provisions of this Section 8 shall apply to a party and any affiliate of such party at any time during the term hereof, including at any time that such affiliate is no longer an affiliate of such party, and each party shall cause each of such affiliates to enter into an agreement agreeing to comply with the terms of this Section 8.

- 9) Limitation of Liability. To the maximum extent permitted by law, in no event shall either party be liable to the other or to any other person for any indirect, incidental, consequential, exemplary or special damages, of any character, including, but not limited to, damages for loss of goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of warranty or term of the Agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance. In no event will a party's aggregate liability for all claims, damages or losses under this Agreement, apart from claims, damages or losses asserted by a third party and subject to such party's indemnification obligations hereunder, exceed the Net Program Proceeds received by such party under Section 3(C) of this Agreement during the twelve (12) month period preceding the occurrence of the initial event that gives rise to a claim.
- 10) Exclusivity. This Agreement shall be exclusive among the parties, and, during the term of this Agreement, no party shall offer, or begin to develop or otherwise enter into any other agreement (either written or oral) to develop or collaborate on or offer, any Competitive Programs within any part of the world, except as follows:
- A) UNC may offer traditional residential and live face-to-face Competitive Programs at any time.
- B) 2tor may offer Competitive Programs as follows:
- (iv) Subject to 2tor's ability to recruit a sufficient number of qualified applicants to the Program, UNC agrees that, no later than the third anniversary of the Effective Date, it shall permit up to 1,000 new student starts (across all programs), or such higher number of starts as the School may permit ("Maximum Class Size").
- C) Any party offering Competitive Programs hereunder shall not utilize any Confidential Information obtained from the other party for the benefit of any Competitive Program. Any party offering Competitive Programs shall create, implement and maintain an "ethical wall" to

ensure complete separation of personnel identifying themselves as working for UNC from personnel identifying themselves as working for any Competitive Program.

- 11) Force Majeure. The nonperformance of either party to this Agreement, except nonperformance of payment obligations, will be excused to the extent that performance is rendered impossible by any act of God or circumstances beyond the control of a party and without its fault or negligence, including without limitation, fire, war, riots, flood, earthquake, failure of third party hardware or software, governmental acts or orders or restrictions, or power or communications failure (each a "Force Majeure Event"), provided that the non-performing party gives prompt notice of such Force Majeure Event to the other party and makes all commercially reasonable efforts to remove such causes of nonperformance promptly and perform whenever such Force Majeure Event has ceased. In the event that the Force Majeure Event continues and prevents substantial use of the Program for more than forty-five (45) days, either party may terminate this Agreement with respect to that School upon written notice to the other party, and upon such termination, neither party shall have any further obligation or liability to the other except as set forth in Section 5(l) hereof.
- 12) Sharing of Information. UNC and 2tor shall share information (including access to appropriate electronic data), but only to the degree permitted by applicable law and guidelines. Upon reasonable request, both parties shall share information about online and in-classroom students' admissions, performance, and post-graduate outcomes. All information shared under this Section 12 shall be deemed Confidential Information, whether it constitutes Personal Information or not. Such shared information shall include daily updates for admission and financial aid status, grades and academic status. UNC and 2tor shall collaborate to analyze the correlation of application data with grades and other outcome metrics to help the Program continually refine admissions standards.
- 13) Entire Agreement. This Agreement (including all schedules hereto) contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior agreement between the parties. No change, amendment, termination or attempted waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom the same is sought to be enforced. The parties hereby acknowledge the existence of a certain November 1, 2010 Services Agreement between UNC, on behalf of the UNC Kenan-Flagler Business School, and 2tor, and agree that nothing herein is intended to or shall be considered deemed or held to modify, supersede, cancel or otherwise affect the validity, enforceability or terms thereof, either in whole or in part or parts, and that this Agreement and that certain November 1, 2010 Services Agreement constitute independent contracts containing separate and distinct terms, conditions and obligations between and among certain parties hereto and thereto.
- 14) Successors and Assigns. This Agreement, including, without limitation, all service levels, quality maintenance controls and investment obligations, shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties, provided that neither party may assign, subcontract or sublicense this Agreement in whole or in part or any of its rights or obligations hereunder without the prior written consent of the other, provided, however, that 2tor may subcontract out aspects of the work for the Program other than overall Program management, provided further that 2tor shall be responsible for any subcontractor work engaged by 2tor for the Program as if 2tor were performing it.

15) Governing Law. This Agreement and any claim or dispute arising out of, relating to or in connection with this Agreement or the transactions contemplated hereby, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of North Carolina without giving effect to its conflicts of law principles.

16) Review and Notices.

- A) Approvals Generally. If either party hereto wishes to object to any proposal or other matter submitted by the other party for consent or approval, the objecting party shall promptly after submission of such proposal provide to the submitting party a description of its objection(s) in reasonable detail together with suggestions as to how it would like to see such objection(s) cured. Unless otherwise specified herein, approval for or consent to any proposal hereunder shall not be unreasonably delayed, conditioned or withheld and shall be deemed to have been given following 10 days after the written submission of such proposal, unless the reviewing party has provided a notice of objection(s) as described in this Section.
 - B) Content and Brand Approvals. In the case of any consent or approval required from the School with respect to the content or appearance (to users) of the Program, any substantive modification of any UNC Intellectual Property, or the content or appearance of any use of any UNC or School brands in the context of any marketing message in which it will appear, such approval or consent may be withheld in the sole and absolute discretion of the School. Once the content or appearance of any use of any such brand in context is approved by the School in its sole and absolute discretion, no further approval shall be required hereunder for re-purposing such content or appearance in any different media that would be consistent with any marketing plan that the School otherwise approves.
 - C) Notices. Any notices or other communications under this Agreement, except as may otherwise be provided in this Agreement, will be deemed given and delivered (a) when delivered personally or (b) on the date received by or rejected by addressee, if mailed postage prepaid by certified mail, return receipt requested or if sent shipping prepaid by nationally recognized courier service requesting signature on delivery or (c) on the date received, if sent by confirmed facsimile (provided, however, in each case, if such confirmation is not by 3 p.m. on a business day, then on the next business day), in each case addressed to the address on the first page hereof, or, in the case of fax, to 2tor at: Chelsea Piers, Pier 60, Suite 6020, New York, NY 10011; fax no: (212) 656-1109, and to UNC at MPA Director, School of Government, The University of North Carolina at Chapel Hill, Campus Box 3330, Chapel Hill, NC 27599-3330, or to such other address as either party shall designate by notice to the other, effective ten (10) days after such notice. In the case of notice to 2tor, a copy shall also be sent to Obermayer Rebmann Maxwell & Hippel LLP, attention: Todd J. Glassman, Esquire, One Penn Center, Suite 1900, 1617 John F. Kennedy Boulevard, Philadelphia, PA 19103-1895, fax no.: (215) 665-3165. In the case of UNC, a copy shall also be sent to General Counsel, The University of North Carolina at Chapel Hill, 110 Bynum Hall, Campus Box 9105, Chapel Hill, NC 27599-9105, fax no: 919-843-1617.
- 17) Severability. The invalidity or unenforceability of any particular provision of this Agreement in any jurisdiction shall not affect the other provisions hereof or such provision in other jurisdictions, and this Agreement shall be construed in such jurisdiction in all respects as if such invalid or unenforceable provisions were omitted.

- 18) Independent Contractors. Each party shall be an independent contractor of the other party hereto. This Agreement shall not create a partnership and shall not authorize either party hereto to bind the other party in any manner.
- 19) Specific Performance. Each party acknowledges that money damages will not be a sufficient remedy for a breach of certain material obligations of the other party under this Agreement, and each party hereto shall be entitled to equitable relief pursuant to Section 19 compelling specific performance of such material obligations as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach of a material obligation of this Agreement but shall be in addition to all other remedies available at law or equity to the parties.
- 20) 2tor Employee Benefit. The School agrees that 2tor employees and their immediate family members (as appropriate) who are academically qualified to attend the Program shall be eligible for the same discounts available to UNC and/or School employees and their immediate family members attending the Program.

(Signature page to follow)

IN WITNESS WHEREOF, UNC and 2tor have each caused this Agreement to be executed by its duly authorized officer as of the date first above written.

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

By: Karol Kain Gray

Karol Kain Gray
Vice Chancellor for Finance & Administration

2TOR, INC.

By:



Christopher J. Paucek
Chief Executive Officer

By: Michael R. Smith

Michael R. Smith
Dean, UNC School of Government

SCHEDULE 1(B)

Admissions Processing

See discussion of Admissions Processing in the Program Operational Plan.

SCHEDULE 1(C)

Customer Service & Counseling

See discussion of Customer Service & Counseling in the Program Operational Plan.

SCHEDULE 1(F)

2tor Support of Program Students & Faculty

- 1) Scope of SLA.** This SLA covers a broad range of services and support provided by 2tor throughout the Program student lifecycle. *(Disclaimer - This SLA is designed to serve as a framework for constructive review and dialogue around the key service components for the Program. The Service Level Agreement will be revised periodically and modified through mutual agreement. 2tor and the School agree to review annually but may do so more frequently.)*
- 2) Student Support.** 2tor's Post-Enrollment Services team will provide full lifecycle support for Program students as follows:
 - a) **New Enrollment Services.** This is defined as assisting Program students once they have signed their Intent to Enroll form and continuing through the on boarding and orientation to the start of courses.
 - b) **Student Support.** 2tor's Student Support team will offer customer and technical support to all Program students.

c) Administrative Support

3. Faculty Support

- 4. Metrics and Measurement.** The School and 2tor will agree on Platform, program, and service metrics to track Program success.
- 5. Changes and Renewal.** The parties will mutually agree on adjustments to this SLA on an annual basis or more frequently as mutually agreed.

The following describes the high-level division of roles and responsibilities between 2tor's Student Services team and the School Program Office. These lists can be altered upon mutual agreement of the parties.

2tor Student Services

School Program Office

SCHEDULE 1(G)

1. To the extent possible given the technological considerations with respect thereto, UNC may use the Produced Segments and Work Product outside of the Platform for on-campus Degree students, for non-Program degree students, and for residents of the State of North Carolina enrolled in a certificate program within the School or enrolled in continuing education classes within the School.

Notwithstanding anything contained in the Agreement or otherwise, 2tor makes no representations or warranties with respect to the usability or functionality of the Produced Segments or Work Product when accessed or used outside of the Platform.

2. 2tor shall provide non-synchronous Platform access to residents of the State of North Carolina enrolled in a certificate program within the School or enrolled in continuing education classes within the School for the purpose of accessing the Produced Segments. In addition, 2tor shall provide non-synchronous Platform access to School faculty for the purpose of accessing the Produced Segments. 2tor shall not be responsible for the entry, training or support of these users. In exchange for the services 2tor renders pursuant to this paragraph 2 of this Schedule 1(G),

. Should the School wish to expand the scope of its continuing education classes beyond residents of the State of North Carolina, the parties shall negotiate in good faith with respect to the appropriate payments by the UNC to 2tor for its services rendered with respect to such an expanded scope.

3. Upon request by the School at any time after Program Launch, 2tor shall provide asynchronous access to and use of the Platform to in-classroom Degree students for the purpose of accessing the Produced Segments and the Curriculum as well as communicating with other students and professors. In addition, 2tor shall provide asynchronous access to and use of the Platform to UNC faculty for the purpose of accessing the Produced Segments and the Curriculum. 2tor shall not be responsible for the training or support of these users.

4. Upon request by the School, 2tor shall provide in-classroom Degree students the following services to support full use of synchronous and asynchronous Platform features for in-class courses: (a) the Customer Service and Counseling services to matriculated students as set forth in Section 1(C) of the Agreement; (b) technical support of the Platform, but not training, to such in-classroom students and their professors; and (c) access to and use of the Platform as provided to the corresponding online Degree students. In exchange for the services 2tor renders pursuant to this paragraph 4 of this Schedule 1(G), UNC shall pay to 2tor for each student to receive access and support for the duration of the Program on a schedule to be mutually agreed upon by the parties.

5. The parties agree that Program students may enroll in classroom courses within the classroom Degree program, and that classroom Degree program students may enroll in online courses within the Program, provided that neither program may enroll in the other program more than of the total courses within its program in any Fiscal Year. 2tor shall pay to UNC for each classroom course in which each online Degree Program student is enrolled. UNC shall pay to 2tor for each online course in which each classroom Degree program student is enrolled.

6. Upon request by the School at any time after Program Launch, 2tor shall provide asynchronous access to and use of the Platform for the purpose of accessing the Produced Segments and the Curriculum as well as communicating with other students and professors to in-classroom students enrolled in any School program that does not offer an online degree. 2tor shall provide technical support of the Platform, but not customer support, with respect to such in-classroom students. 2tor

shall not be obligated to develop any additional content with respect to this paragraph 4(B) of this Schedule 1(G), provided that 2tor may develop such additional content for an additional fee to be mutually agreed upon in writing by the parties. In exchange for the services 2tor renders pursuant to paragraph 5 of this Schedule 1(G), UNC shall pay to 2tor _____ for each student to receive access and support for the duration of the Program on a schedule to be mutually agreed upon by the parties.

7. UNC may offer both degree programs and certificate programs that are up to online using the Platform and the Produced Segments. 2tor and UNC shall negotiate in good faith with respect to UNC's payment to 2tor (and timing thereof) for the services 2tor renders pursuant to this paragraph 6 of this Schedule 1(G).

SCHEDULE 1(G)(i)
Specifications and Performance Standards for the Platform and
Related Service Level Agreements

This Service Level Agreement (“SLA”) sets forth 2tor’s responsibilities as they apply to the Platform it provides to students and faculty, pursuant to the terms of the Services Agreement between UNC and 2tor. The purpose of this SLA is to ensure that the proper elements and commitment are in place to provide excellent and consistent data processing services.

1) Definitions

- a) **Platform** is a technology platform for the Program that serves as an online communication portal for students, faculty, course coordinators, course assistants, and Program staff and that enables online applications, course delivery, Program communications, development and maintenance of student portfolios, career services and such other functions as are mutually agreed to by the parties. The Platform is the custom developed Learning Management System (LMS), Admissions and Student Information System. The Platform includes the technology for delivering the Produced Segments.
- b) **Functions** include but are not limited to, the ability to authenticate/authorize; submit an application; respond to applicants and track communications; accept the offer of admittance; transfer accepted applicant data to University systems; receive or submit all course material (video, documents, audio); receive and submit course assignments; view the “news feed”; leverage checklist for assignments; upload comments in written or video form; collaborate via synchronous sessions with video, audio, whiteboard, slide sharing; and delivery of dashboard style reports for student information throughout the student lifecycle with the Program.
- c) **Initial Response** is contacting a User via email or phone to determine the details of such User’s particular issue. Initial response is not an automated email but rather an individualized discussion.
- d) **Mass Initial Response** is contacting a group of Users for communication of a known issue rather than communicating on a one-by-one basis.
- e) **User or Users** is defined as Program students, staff and faculty related to the UNC at Chapel Hill School of Government online programs regardless of whether they work for 2tor or UNC or a 3rd party. Any calculations based on Users would also be on this pool of students, staff, and faculty.
- f) **Business Hours** are defined in Schedule 1(F).
- g) **Organizational Data** is any data in any form associated with any UNC User.
- h) **Vendor Vulnerability Patch** is any patch that will remediate a known security vulnerability for a product. These patches are not patches for routine bug fixes and program updates. For a patch to constitute a Vendor Vulnerability Patch, the Platform, Organizational Data, and or User systems must be at risk without the patch.
- i) **2tor’s Hosting Services** is any organization that 2tor has contracted to house any and all of its computer hardware, software and peripherals.

2) Service Description

- a) 2tor will provide, support, and be responsible for the availability of the hosting network, 2tor's Hosting Services, any server operating system, the Platform, and any third party application required to operate the Platform.
- b) 2tor will provide hosting support and maintenance, as set forth in this SLA, on the Platform including:
 - i) Initial development of the Platform; and
 - ii) Patches and upgrades to the Platform
- c) The Platform will be accessible through the then-most popular browsers in their most popular configurations. These include the latest widely adopted production releases of Mozilla Firefox, MS Internet Explorer, Apple Safari and Google Chrome once they have been accepted, and past versions of those browsers within two years of release. The Platform may require a variety of plug-ins. 2tor shall evaluate new releases of such browsers promptly, but no later than thirty days after their release.

- 3) Defects:** 2tor will repair errors, bugs, or defects in the Platform, and respond promptly to UNC Users experiencing problems with the Platform.

Priority	Initial Response Time

- d) 2tor will provide a solution to a User problem based on the priority of the issue as follows:

Priority	Solution Time

4) Availability

- a) Availability of the Platform will be guaranteed at _____ for any given calendar month, excluding the items defined in the Exceptions Section below.
- b) Should Availability of the Platform fall below _____ in any given month, 2tor and the School will meet to discuss the impact of the Availability and reasonable, mutually agreeable steps to improve the Availability above _____.
- c) Availability is measured as the percentage of a particular calendar month that access to the Platform is available by third parties via HTTP and HTTPS.
- d) Availability is measured by a third party contracted by 2tor, and reasonably acceptable to the School, whose determinations shall be binding on the parties.
- e) Outages due to executing a Vendor Vulnerability Patch will not be included in the Availability calculation regardless of the scheduling and notification capability and those patches will be applied at 2tor's discretion. In addition, Vendor Vulnerability Patching will be excluded from the calculation of Availability.

5) Exceptions: The Availability guarantee set forth above shall not apply to the following service interruptions:

- a) Unscheduled necessary maintenance shall result in no more than one half hour of unavailability of the Platform during any calendar week. 2tor will use commercially reasonable efforts to give Users one (1) hour advance notice of unscheduled

necessary maintenance. Any unscheduled maintenance resulting in more than one half hour of unavailability of the Platform during any calendar week once will count against the Platform Availability calculation.

b) Scheduled maintenance and upgrades:

- i) Routine scheduled maintenance means maintenance on the Platform that is scheduled at least 24 hours ahead and which results in less than one (1) hour of unavailability of the Platform. 2tor will use commercially reasonable efforts to schedule such routine maintenance between 6:00 AM and 11:00 AM ET on Mondays, Wednesdays and Fridays. 2tor will give Users 24 hours advance notice of routine scheduled maintenance for any maintenance requiring more than 15 minutes of unavailability of the Platform. 2tor will select a time for the outage with the lowest level of activity based on recent activity trends for the Platform. A routine scheduled maintenance occurring more than once in any 24 hour period will count against the Platform Availability calculation.
 - ii) Extensive scheduled maintenance means maintenance on the Platform that is scheduled at least 7 days ahead and which results in more than one (1) hour of unavailability of the Platform. 2tor will schedule extensive scheduled maintenance during the lowest expected level of activity on the Platform based on recent activity on the Platform. 2tor will give Users seven (7) days advance notice of extensive scheduled maintenance. An extensive scheduled maintenance occurring more than once in one calendar month will count against the Availability calculation.
 - iii) Upgrades are defined as updates to the Platform. Upgrades will be applied during a routine scheduled maintenance window or other mutually agreed timeframe.
- c) Outages due to School-requested events such as intrusive testing, data loading, custom export or usage outside SLA parameters.
 - d) Domain Name Server (DNS) propagation or DNS issues outside the direct control of 2tor. Similarly, outages elsewhere on the Internet that hinder access to the Platform. 2tor is not responsible for browser or DNS caching that may make the Platform appear inaccessible when others can still access it.
 - e) Circumstances beyond 2tor's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage or other criminal act, armed conflict, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, failure of third party Services contracted for use in the Platform or inability to obtain raw materials, supplies, or equipment needed for provision of this SLA.

6) Disaster Recovery

- a) Geographically-redundant data backups are made on the following schedule:

7) Remedies

- a) If the School believes that a service level commitment herein is not being met, it shall notify 2tor of the perceived problem. 2tor shall promptly investigate any such matter and respond within two business days by either (i) acknowledging the shortfall, and summarizing the steps and estimating the time necessary to correct it, or (ii) by disagreeing that any commitment has not been met and explaining its reasons. If more than one problem is asserted, 2tor shall respond separately to each.
- b) If the School believes that the response is insufficient, the parties shall meet in person as promptly as possible to discuss and attempt to resolve such differences. If the parties are unable to resolve all differences at that meeting, then they shall resolve such differences as they are able, and 2tor shall proceed immediately and diligently in accordance with such resolution, and UNC may, if it thinks appropriate, send a notice of default as set forth in Section 5(C) of the Services Agreement with regard to any unresolved difference.

FIRST AMENDMENT TO SERVICES AGREEMENT

This First Amendment to Services Agreement (the "First Amendment") dated June 4, 2015, 2015 (the "First Amendment Effective Date") is entered into by and between The University of North Carolina at Chapel Hill ("UNC"), on behalf of the University of North Carolina at Chapel Hill School of Government and 2U, Inc. (f/k/a 2tor, Inc.).

WITNESSETH

WHEREAS, UNC and 2U entered into a Master Services Agreement dated January 30, 2012 (the "Original Agreement"), for the provision of an online distance learning MPA program, (the "Program");

WHEREAS, subsequent to the parties' execution of the Original Agreement, 2tor, Inc. changed its name to 2U, Inc., but, notwithstanding the foregoing, 2U, Inc. is the same legal entity and has the same rights, responsibilities and obligations (legal and otherwise) as 2tor, Inc., and the parties may hereinafter refer to 2tor as 2U as a matter of convenience to the parties without otherwise affecting the rights, responsibilities or obligations of either party hereunder or otherwise; and

WHEREAS, UNC and 2U desire to amend the Original Agreement as set forth below.

NOW, THEREFORE, in consideration of the mutual promises and other good and valuable consideration set forth below, UNC and 2U agree as follows:

1. All capitalized terms not defined herein shall have the same meaning as they do in the Original Agreement.
2. To the extent any of the terms and conditions of this First Amendment conflict with the terms and conditions of the Original Agreement, the terms and conditions set forth herein shall prevail.
3. Beginning on the First Amendment Effective Date, the definitions section of the Original Agreement is amended by inserting the following defined terms in the appropriate alphabetical order:

"Competitive Program School" or "CPS" means any school with which 2tor offers a Competitive Program.

"Other Program" means any online graduate program enabled by 2tor in fields other than in the field of the Competitive Program.

“Other Program School” or “OPS” means any school with which 2U offers an Other Program.

“UNC Proprietary Information” means all UNC trade secrets associated with the Program, including without limitation UNC’s immersion strategies and processes, UNC’s corporate relations strategies and activities, and UNC’s Program expansion plans (e.g., new concentrations contemplated, new joint degrees contemplated, etc.).

4. Beginning on the First Amendment Effective Date, the following Section 1(M)(i) is hereby inserted into the Original Agreement:

- (i) UNC hereby permits 2tor to share quantitative and anonymized information (e.g., number of prospects opting in to receive information about a Competitive Program offered by a CPS, number of such prospects applying to such Competitive Program offered by such CPS, number of prospects enrolling in such Competitive Program offered by such CPS, general synopsis of prospects applying and/or enrolling in such CPS, and such other information which UNC and the CPS agree to share) regarding prospects generated by any marketing property identifying both UNC and any CPS/Competitive Program where UNC is primarily identified and the CPS(s)/Competitive Program(s) is/are secondarily identified (through any marketing technique approved herein or otherwise in accordance with this Agreement) with any CPS that has agreed to provide reciprocal rights to 2tor to share like information with UNC where such CPS/Competitive Program is primarily identified in any marketing property that secondarily identifies UNC.

5. Beginning on the First Amendment Effective Date, the following Sections 3(C)(iii), (iv) and (v) are hereby inserted into the Original Agreement:

- (iii) All monies paid by 2tor to UNC pursuant to Section 10(B)(i) below shall be and shall remain subject to adjustment (including reimbursement, as may be applicable following any adjustment) in the same method and manner as any CPS may adjust any payment(s) to 2tor for its services provided to any such CPS to account for, for example, refunds and charges written off by the CPS and other revenue reversals, as determined solely by and between 2tor and each CPS.
- (iv) On a quarterly basis, 2tor shall provide UNC with a written report demonstrating all amounts owed by 2tor to UNC pursuant to Section 10(B)(i) for the quarter most recently ended, and any

adjustments to payments made pursuant to Section 10(B)(i) in prior quarters. Such reports shall be prepared by 2tor in form and substance reasonably satisfactory to UNC. Each such report shall be delivered to UNC by no later than forty-five (45) days after the end of the quarter most recently ended. Concurrently with the delivery of each report required by this Section 3(C)(iv), 2tor shall pay by wire transfer of funds to such bank account as UNC may direct by notice to 2tor, the amount owed for the quarter most recently ended, as set forth in the corresponding report.

- (v) 2tor shall maintain such books and records as are necessary to substantiate all amounts paid by 2tor to UNC pursuant to Section 12(B)(i). During the term of this Agreement and for a period of 180 days after the expiration or termination of this Agreement for any reason, UNC shall have the right to examine such books and records that are specifically related to any payments owed or made pursuant to Section 12(B)(i). Such examinations shall be held upon reasonable advance notice to 2tor at 2tor's offices during normal business hours and shall take place no more frequently than once each Fiscal Year. Once a particular quarter has been examined, such quarter shall not be subject to any subsequent re-examination pursuant to this Section 4(C)(v) or otherwise, unless UNC can show reasonable grounds for believing that an uncorrected error that would materially affect the amounts owed or paid pursuant to Section 12(B)(i) occurred in such previously examined quarter, either because a new error is subsequently found in a different quarter or UNC can demonstrate that new information evidencing such error has come to its attention. Any such examination shall be made at UNC's sole cost and expense. If such examination discloses that any amounts have not been paid or have been made in incorrect amounts, and such amounts are not in dispute, the parties shall promptly take appropriate steps to correct such errors in payment, including interest accruing at the rate of 6% per annum if an underpayment is less than five percent (5%) of the amount that should have been paid and at the rate of 12% per annum if an underpayment is equal to or greater than five percent (5%) of the amount that should have been paid, such interest to be calculated from the date such payment should have been made to the date on which such payment is made, and any reasonable costs of the audit.

6. Beginning on the First Amendment Effective Date, Section 5(B) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

This Agreement and its initial term shall be deemed to have commenced on the Effective Date and continue for twenty (20) Fiscal Years ending on June 30, 2032, subject to earlier termination or non-renewal as set forth in Sections 5(C), 5(D), 5(E), 5(F) and 5(G) below.

7. Beginning on the First Amendment Effective Date, Section 10(B) of the Original Agreement is hereby deleted in its entirety and replaced with the following:

2tor may offer Competitive Programs with any CPS (defined below) in its sole and exclusive discretion, provided that (i) such Competitive Program is not offered through the University of Georgia, the University of Kansas, the University of Virginia, Duke University or NC State University; (ii) 2tor does not utilize Curriculum, Work Product, UNC Proprietary Information or UNC Confidential Information in offering such Competitive Program; and (iii) 2tor shall be solely responsible to recruit prospective students on behalf of any CPS, and UNC shall have no responsibility to recruit, and shall not recruit, prospective students for any CPS.

8. As consideration for the amendment to Section 10(B) set forth in paragraph no. 7 above, the following Section 10(B)(i) and is hereby inserted into the Original Agreement:

(i)

9. Beginning on the First Amendment Effective Date, the following is hereby inserted as Section 21 into the Original Agreement:

21. UNC Grant of Additional Marketing Rights to 2tor. In connection with 2tor's offering of any Competitive Program with any CPS in accordance with Section 10 of this Agreement or in connection with 2tor's offering of any Other Program with any OPS, UNC hereby agrees that 2tor may utilize any or all of the methods set forth in Section 21(A) below to market any or all such Competitive Program(s) and/or Other Programs. 2tor will regularly consult with UNC during the term of this Agreement on the marketing methods listed below as the number of Competitive Program Schools and Other Program Schools increases.

A. Approved Marketing Methods.

- i. 2tor's use of any of UNC's Intellectual Property (except as already approved herein, including Exhibits A – F) shall be subject in form and content to UNC's advance review and approval, not to be unreasonably conditioned, withheld or delayed.
- ii. 2tor may provide information through landing pages (including but not necessarily limited to in the same or similar form as those attached hereto as Exhibit A) about any or all Competitive Programs, CPSs, Other Programs and/or OPSs to prospective students generated as part of 2tor's provision of recruitment services pursuant to Section 1(A) of this Agreement who request information regarding, or who otherwise express interest in, any Competitive Program, CPS, Other Program and/or OPS.
- iii. On the Program application, 2tor may offer: (a) an option to request information (*e.g.*, via "checkbox(s)") regarding any or all Competitive Programs and Other Programs and (b) a shared admissions application option to Program applicants for any Competitive Program, each in the same or similar manner as set forth in Exhibits B and C attached hereto.
- iv. 2tor may engage in targeted marketing about any or all Competitive Program(s), CPS(s), Other Program(s) and/or OPS(s) to prospective students who have either removed themselves from the UNC recruitment and/or admissions process or who 2tor has reasonably and in good faith determined are not likely interested in the Program, such as through communications including but not necessarily limited to the same or similar form as attached hereto as Exhibit D.
- v. 2tor may engage in targeted marketing about any or all Competitive Program(s) CPS(s), Other Program(s) and/or OPS(s) to Program applicants denied admission into the Program (or Program applicants who decline UNC's offer of admission into the Program), such as through communications

including but not limited to in the same or similar form as attached hereto as Exhibits E and F.

- vi. UNC agrees that 2tor may host landing pages (including but not limited to in the form set forth in Exhibit G) on 2tor's home page and on any other 2tor owned web domain, and that such landing pages may generally or specifically identify any or all Competitive Program(s), CPS(s), Other Program(s) and/or OPS(s).
- vii. UNC agrees that 2tor may utilize at any time either or both of the following techniques within any or all of the marketing methods set forth in Sections 24(A)(ii) through (vi) above: (a) identifying any or all Competitive Program(s) or CPS(s) generally or by name (including by displaying the logo, trademark or other identifying intellectual property of any Competitive Program or CPS in proximity to UNC's Intellectual Property within, for example, Exhibits A through G, and (b) providing prospective students the opportunity (e.g., via "checkbox(s)") to request information regarding any or all Competitive Program(s) and/or CPS(s) (individually or collectively) and/or any or all Other Program(s) and/or OPS(s) (collectively only).

B. Competitive Program Shared Program Application Option. UNC agrees that each Competitive Program application may contain an option for any applicant to any or all Competitive Programs to request that their application to any Competitive Program(s) be reviewed by UNC for Program admissions consideration, and UNC shall review such applications as Program applications (provided that such applications constitute complete Program applications) and shall consider any such Competitive Program applicants exercising the option for review by UNC to be Program applicants. 2tor acknowledges that the School is required to rely on the UNC Graduate School with respect to application processes and standards and does not have sole discretion to determine such processes and standards.

C. License.

i. UNC grants to 2tor a non-exclusive, non-transferrable, royalty-free license to use the information of any Program applicant referenced in Section 21(A) above solely for the

purposes set forth therein; provided that, 2tor may share the Program application of any Program applicant (or any information contained therein) with any Competitive Program School if 2tor has first obtained the express permission of such Program applicant.

ii. For the avoidance of doubt, UNC's license of UNC's Intellectual Property as set forth in Section 4(C) of this Agreement shall extend to each Competitive Program, CPS, Other Program and OPS solely as necessary to fulfill the terms set forth in Sections 21(A) and 21(B) above. 2tor shall not use or disclose to any CPS or OPS (or disclose to any other person or entity) any UNC Proprietary Information without first obtaining UNC's advance written consent.

D. Other Competitive Program/CPS/Other Program/OPS Marketing. Nothing set forth in this Section 21 shall be construed to (i) limit 2tor's right to utilize any marketing methods and/or prospective student identification efforts on behalf of any Competitive Program/CPS/Other Program/OPS that do not reference or include UNC or the Program, or (ii) limit 2tor's right or ability to target prospective Program students or applicants who do not meet the criteria set forth in Sections 21(a)(ii) – (v) on behalf of any Competitive Program/CPS. If 2tor wishes to use any marketing methods and/or prospective student identification efforts that reference or include UNC, the Program, UNC Proprietary Information, and/or UNC Intellectual Property beyond those set forth in Section 21(A) above, 2tor must first obtain UNC's prior approval, such approval not to be unreasonably conditioned, withheld or delayed.

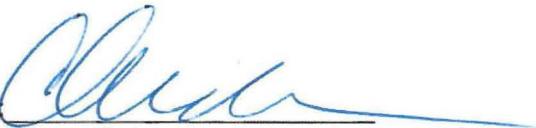
E. Reciprocal Rights. 2tor shall secure the same or substantially similar rights on behalf of UNC with respect to any CPS or OPS receiving rights under the foregoing Sections 21(A)(ii) through (vii) and 21(B).

10. All the other terms of the Original Agreement shall remain unmodified and in full force and effect.

11. This First Amendment shall be governed and construed in accordance with the laws of the State of North Carolina, without giving effect to its conflicts of law principles.

[SIGNATURE PAGE TO FOLLOW]

2U, INC.

By 

Name: Christopher J. Paucek
Title: CEO

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
on behalf of its School of Government

By: 
Name: Michael R. Smith
Title: Dean, School of Government

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
on behalf of its School of Government

DocuSigned by:
By: 
Name: James W. Dean, Jr.
Title: Executive Vice Chancellor & Provost

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL,
on behalf of its School of Government

DocuSigned by:
By: 
Name: Matthew M. Fajack
Title: Vice Chancellor for Finance & Administration

Exhibit A

Sample UNC Prospect Landing Page

Get More Information!

This will only take a minute.

90% complete

123

First Name	Last Name
Email	Phone
Zip	State <div style="border: 1px solid #ccc; padding: 2px; width: 150px; text-align: center;">— Select —</div>

UNC's program partner, 2U, Inc., works with other universities to offer online graduate programs in public administration and other fields.

Yes, I would like to learn more about these additional online graduate opportunities.

Submit

Your privacy is important to us. 

Exhibit B

Application Information Request

[Change Password](#)[Sign Out](#)[Overview](#) [Application Form](#) [Review & Submit](#)

Need help? Call us at (855) 461-7466.

- [Personal Information](#)
- [Language Information](#)
- [Program Information](#)
- [Academic Background](#)
- [Clinical Experience](#)
- [Recommendations](#)
- [Essays & Uploads](#)

Personal Information

UNC's program partner, 2U, Inc., works with other universities to offer online graduate programs in public administration and other fields.

Yes, I would like to learn more about these additional online graduate degree programs.

Saved a minute ago

EXHIBIT C

Application: opt-in to share application information with additional programs

The screenshot shows a web-based application form for the MPA@UNC program. At the top, there's a blue header bar with the text "MPA@UNC" on the left and "Change Password" and "Sign Out" on the right. Below the header, the page has a white background. At the top left, there are three navigation links: "Overview", "Application Form" (which is underlined in blue, indicating it's the active page), and "Review & Submit". On the right side, there's a message: "Need help? Call us at (855) 461-7466." In the center-left, there's a vertical list of sections, each preceded by a radio button. The sections are: "Personal Information" (selected, indicated by a blue outline), "Language Information", "Program Information", "Academic Background" (disabled, indicated by a red X), "Clinical Experience", "Recommendations" (disabled, indicated by a red X), and "Essays & Uploads". Below this list, there's a timestamp: "Saved a minute ago". To the right of the list, there's a large section titled "Personal Information" in bold. It contains a paragraph about UNC's partnership with 2U, Inc., explaining that applicants can choose to have their application reviewed separately for admission to other universities. It also provides a phone number for assistance. At the bottom of this section, there are two checkboxes for opting in to review by "University A" or "University B".

MPA@UNC

Change Password Sign Out

Overview Application Form Review & Submit

Need help? Call us at (855) 461-7466.

○ Personal Information
○ Language Information
○ Program Information
✗ Academic Background
○ Clinical Experience
✗ Recommendations
○ Essays & Uploads

Saved a minute ago

Personal Information

UNC's program partner, 2U, Inc., works with additional universities to offer online graduate public administration programs. Applicants to the MPA@UNC program can choose to have their application reviewed separately for admission to these universities. To learn more about these options, please call XXX-XXXX or click here.

I authorize my application to be reviewed by "University A" for their online program "Program Name"

I authorize my application to be reviewed by "University B" for their online program "Program Name"



EXHIBIT D
**Email to
disengaged
prospects**

Dear [Name],

You expressed interest in the MPA@UNC program, but it has been some time since we have been in touch. We know that there are many considerations when choosing a master's degree program and you may still be researching other options.

With this in mind, we wanted to let you know about additional opportunities to earn a graduate degree online. Our program partner, 2U, Inc., works with other universities to offer additional online graduate degree programs in public administration and other fields.

[button] REQUEST INFORMATION

If you would like to discuss additional opportunities to earn your degree online, you can contact an admissions counselor directly at XXX-XXX-XXXX.

Please do not hesitate to let us know if there is any way we can be of assistance in the future.

Sincerely,

Name
XXX-XXX-XXXX |

By requesting more information, you are agreeing to be contacted by 2U, Inc. and its partner universities. You may unsubscribe from these communications at any time.



UNC
SCHOOL OF GOVERNMENT

EXHIBIT E
**Email to
denied
applicants**

Dear [Name],

Although we were unable to offer you admission, we appreciate your interest in MPA@UNC and your desire to pursue your Master of Public Administration.

With this in mind, we wanted to let you know about additional opportunities to earn a graduate degree online. Our program partner, 2U, Inc., works with other universities to offer additional online graduate degree programs in public administration and other fields.

[button] REQUEST INFORMATION

If you would like to discuss additional opportunities to earn your degree online, you can contact an admissions counselor directly at XXX-XXX-XXXX.

Please do not hesitate to let us know if there is any way we can be of assistance in the future.

Sincerely,

Name
XXX-XXX-XXXX

By requesting more information, you are agreeing to be contacted by 2U, Inc. and its partner universities. You may unsubscribe from these communications at any time.



UNC
SCHOOL OF GOVERNMENT

EXHIBIT F
**Email to
accepted
applicants who
decline
admission to
the program**

Dear [Name],

We understand that you have not chosen not to pursue your master's degree with UNC. With this in mind, we wanted to let you know about additional opportunities to earn a graduate degree online. Our program partner, 2U, Inc., works with other universities to offer additional online graduate degree programs in public administration and other fields.

[button] REQUEST INFORMATION

If you would like to discuss additional opportunities to earn your degree online, you can contact an admissions counselor directly at XXX-XXX-XXXX.

Please do not hesitate to let us know if there is any way we can be of assistance in the future.

Sincerely,

Name
XXX-XXX-XXXX

By requesting more information, you are agreeing to be contacted by 2U, Inc. and its partner universities. You may unsubscribe from these communications at any time.

Exhibit G

2U Hosted Landing Page



Public Administration Degrees

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labore et dolore magna aliqua*



MPA@UNC
COMMITTED TO PUBLIC SERVICE LEADERSHIP

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CALL TO ACTION

Logo of
Additional
Program

LOREM IPSUM DOLOR SIT AMET, CONSECTETUR ADIPISCING ELIT, SED DO EIUSMOD TEMPOR INCIDIDUNT UT LABORE ET DOLORE MAGNA ALIQUA. LOREM IPSUM DOLOR SIT AMET, CONSECTETUR ADIPISCING ELIT, SED DO EIUSMOD TEMPOR INCIDIDUNT UT LABORE ET DOLORE MAGNA ALIQUA. LOREM IPSUM DOLOR SIT AMET, CONSECTETUR ADIPISCING ELIT, SED DO EIUSMOD TEMPOR INCIDIDUNT UT LABORE ET DOLORE MAGNA ALIQUA.

CALL TO ACTION

SERVICES AGREEMENT

THIS AGREEMENT dated May 7, 2014, by and between The University of North Carolina at Chapel Hill, a nonprofit educational institution ("UNC"), on behalf of the UNC Kenan-Flagler Business School, whose address is McColl Building, Chapel Hill, NC 27599-3490, and 2U, Inc., a Delaware corporation, having an office at 8201 Corporate Drive, Suite 900, Landover MD 20785 ("2U"). UNC and 2U are referred to collectively in this Agreement as the "parties" and individually as a "party."

WITNESSETH:

WHEREAS, The University of North Carolina at Chapel Hill is a world class educational institution and includes the Kenan-Flagler Business School ("UNC Kenan-Flagler") as one of its professional schools;

WHEREAS, UNC and UNC Kenan-Flagler, on the one hand, and 2U (f/k/a 2tor, Inc.) are currently parties to a Services Agreement dated November 1, 2010 through which the parties deliver the "MBA@UNC" online degree program (the "MBA@UNC Agreement");

WHEREAS, UNC has determined a demand for an online Masters of Accounting ("MAC") degree program (the "Program");

WHEREAS, in consideration of the preexisting relationship between the parties, namely, that the MAC Program is the second program being offered by and between 2U and the UNC Kenan-Flagler Business School, and also for other good and valuable consideration set forth below, the parties wish to offer the Program hereunder; and

WHEREAS, UNC and 2U have agreed to make a multi-million dollar investment into the development and administration of the Program and to perform the work and furnish services as described in this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth, the sufficiency of which is acknowledged, the parties agree hereby as follows:

Definitions. Capitalized terms shall have the respective meanings ascribed to such terms herein or as set forth below:

"2U's Intellectual Property" means all copyrights, trademark rights and other intellectual property rights, in the Platform and all other technology, computer programs and software source code, developed for the Platform, including, but not limited to, 2U-developed or 2U-acquired user interface designs necessary to facilitate access to UNC's Intellectual Property via the Platform, logic and data modules, algorithms, feature sets and source code and documentation relating thereto.

"Change in Control" means (i) any merger, consolidation, acquisition or similar transaction(s) resulting in the stockholders of 2U immediately before such transaction or transactions not retaining a majority of the voting power of the surviving entity (but excluding a change in ownership resulting from the sale of greater than fifty percent (50%) of ownership in 2U as part of a public offering), or (ii) a sale of all or substantially all of 2U's assets.

“Classroom Course” means any course taken towards a UNC degree that (i) requires regular face-to-face interaction between UNC students and faculty or instructors in a physical space in a manner consistent with traditional classroom courses and (ii) is marketed by UNC, or generally known to UNC students, as a classroom course.

“Classroom Program” means any UNC MAC program that (i) UNC markets as occurring primarily face-to-face and (ii) in which more than seventy percent (70%) of the course credits counting towards the MAC degree are Classroom Courses.

“Competitive Programs” means any for-credit online offering of any MAC degrees other than the Program offered by the parties pursuant to this Agreement.

“Confidential Information” means all the business, products, services, costs, and marketing information pertaining to both on-site and online students’ admissions, performance, and post-graduation outcomes as well as all information (including, but not limited to, academic as well as personal contact and financial information) pertaining to all faculty, staff, on-site students, on-line students, and future plans of a Disclosing Party, except such information that is or becomes publicly known other than through the action of the Receiving Party. For the avoidance of doubt, non-public information regarding UNC students, faculty and staff shall be UNC Confidential Information

“Curriculum” means the Program curriculum, including all asynchronous lessons.

“Disclosing Party” means a party that discloses its Confidential Information to Receiving Party as specified in Section 11(B).

“Effective Date” means May 7, 2014.

“Fiscal Year” means a period starting July 1 and ending on June 30 of the following calendar year.

“Indemnified Party” means a party that is indemnified by an Indemnifying Party as specified in Section 9(D).

“Indemnifying Party” means a party that indemnifies an Indemnified Party as specified in Section 9(D).

“Net Program Proceeds” means all Program Proceeds net of (i) refunds actually granted by UNC, and (ii) fellowship amounts disbursed by UNC to Program students pursuant to Section 4(B)(iii).

“Non-Performing Party” means a party that breaches any of its material obligations under this Agreement.

“Personal Information” means (i) any educational record of a UNC student or an applicant to the Program, or (ii) other non-public personal information that relates to applicants to the Program, UNC students, or UNC personnel that could be used, either directly or indirectly, to identify any such person.

“Platform” means a technology platform for the Program, to serve as an online communication portal for students, faculty, course coordinators, course assistants, and Program staff and to enable course delivery, Program communications, development and maintenance of student portfolios, career

services and such other functions as are mutually agreed to by the parties.

“Post-Expiration Period” means:

- (i) two (2) Fiscal Years if this Agreement is terminated under Section 7(E) and this Agreement has been in effect for less than ten (10) Fiscal Years;
- (ii) one (1) Fiscal Year if this Agreement expires at the end of the Initial Term; and
- (iii) one (1) Fiscal Year if this Agreement is terminated under Section 7(E) and this Agreement has been in effect for ten (10) Fiscal Years or more.

“Program” means the online distance learning program for UNC developed, delivered and used pursuant to this Agreement.

“Program Launch” shall have the meaning set forth in Section 7(A) of this Agreement.

“Program Proceeds” means all tuition and fees charged to Program students, except for pass-through fees and costs, including, without limitation, surcharges for global extension courses.

“Promotion Strategies” means all marketing and promotional strategies related to the Program.

“Produced Segments” means the asynchronous products of the Program produced by 2U from the Curriculum, and comprised of lectures, simulations, videos, PowerPoints and other typical online course content.

“Receiving Party” means the party that receives the Confidential Information of a Disclosing Party as specified in Section 11(B).

“Residencies” means face-to-face components of the Program led in a physical environment by UNC faculty, staff or instructors within each other’s physical presence. For avoidance of doubt, participation in any Residencies shall not affect the percentage calculations contemplated by the definition of Classroom Program.

“Reviews” means 2U’s due diligence on, audit, inspection and examination of its operations, computer systems, Platform and access controls directly related to the Program.

“Term” shall have the meaning set forth in Section 7(G).

“Territory” means the world.

“UNC’s Intellectual Property” means all copyrights, trademark rights and other intellectual property rights, in all of the non-technical content of the Program, including without limitation the content of the Curriculum.

“UNC-GA Approval” shall have the meaning set forth in Section 2(I) of this Agreement.

“Work Product” consists of all results and proceeds of 2U’s services hereunder in producing the Produced Segments, whether stored on tape, computer disks or otherwise, and all derivative works that are conceived, created or developed as a result of or in connection with such 2U services. For the avoidance of doubt, Work Product specifically excludes all of 2U’s Intellectual Property.

1) 2U's Services. 2U shall provide technological, promotional, development and support services with respect to the Program as follows:

- A) Recruitment. 2U shall not be responsible to perform, and shall not perform, Promotion Strategies or otherwise be responsible for recruiting students into the Program. 2U shall not be responsible to provide or make available, and shall not provide or make available, any technologies typically associated with Promotion Strategies (e.g., online applications, Salesforce, etc.).
- B) [Intentionally omitted.]
- C) Customer Service and Counseling. In an effort to maintain a high level of customer service, 2U shall provide phone support, in a manner consistent with reasonable guidelines provided by UNC, to students upon matriculation and throughout the Program. Such counseling shall include technical and logistic issues, but 2U shall defer academic guidance and career guidance to UNC counselors. 2U shall provide all such counseling in a manner consistent with reasonable written guidelines provided by UNC, such guidelines and responsibilities to be set forth in Schedule 1(C), as amended from time to time.
- D) Residencies. As described in paragraph 2(D), UNC may require or encourage Program students to participate in Residencies. 2U shall use commercially reasonable efforts to help UNC establish locations and other logistics necessary to conduct and implement the Residencies, including delivery of any online content through the Platform.
- E) Curriculum Design. In UNC's design of the Curriculum as described in paragraph 2(E), 2U shall provide technical assistance and recommendations with respect to content and techniques that best use the available technologies and methods embodied in the Platform in order to meet the needs of Program students. 2U may also provide other related support as necessary and as agreed by the parties.
- F) Curriculum Production and Deployment. From the Curriculum designed and created by UNC faculty, 2U shall produce, and shall coordinate the logistics to produce, the Produced Segments and shall prepare the Curriculum for online deployment through the Platform. Without limiting the generality of the foregoing, 2U shall be responsible for (i) all production costs with respect to each Produced Segment, including the cost of all production personnel and equipment (but not including salaries or other compensation of UNC instructional personnel), (ii) all legal clearances for music and graphics used in and students and others who appear in the Produced Segments where necessary in connection with developing the Work Product for use in the Program, provided that UNC shall cooperate with 2U in securing such clearances from UNC instructional personnel, and (iii) digitizing and otherwise converting all content for each Produced Segment to a medium suitable for delivery to students via the Platform. Promptly after completion of each Produced Segment, 2U shall deliver a copy of such Produced Segment to UNC. All such Produced Segments shall conform to UNC's design as set forth in Section 2(E) and be subject to UNC's written approval prior to any distribution or other release thereof; 2U will make reasonable efforts to ensure that UNC online curricular materials are up to the quality standards of its classroom program and are competitive with the best of competing online programs.

- G) Program Delivery and Support. 2U shall provide consulting assistance for UNC's development of the instructional content of the Program, and for its efforts to hire, train and support its faculty who deliver such instruction, all as more fully described in Schedule 1(G). Service levels defined in Schedule 1(G) shall govern 2U's support for Program students and faculty, such service levels to be revised periodically in writing upon mutual agreement by UNC and 2U. Service level agreements shall include, but not be limited to, timeliness of response and user satisfaction. 2U shall provide such services as UNC may reasonably require to maintain records and communications regarding academic performance. 2U shall provide training and technical support to the UNC Kenan-Flagler faculty and other instructional personnel with respect to the use of the technologies within the Platform. 2U shall develop and implement such systems as are reasonable and necessary to make course materials readily available for purchase by UNC and delivery to Program Students.
- H) Technology. 2U has built, and shall maintain, periodically revise, and host the Platform. 2U shall use commercially reasonable efforts to integrate tested new technologies and insights into the Program.
- i) Specifications and Service Levels. The specifications and performance standards for the Platform and the related service level agreements are as set forth in Schedule 1(H)(i). Such service level agreements shall address availability of the Platform (subject to reasonable amounts of downtime for maintenance and similar matters), correction of any errors, bugs and defects in the Platform and 2U's responsiveness to students and other users experiencing problems with the Platform. At least once every twelve months following the Program Launch, 2U shall propose changes and updates to the specifications and performance standards for the Platform, all of which shall be subject to the written approval of UNC, in order to maintain the effective performance of the Platform.
- ii) Ongoing Quality. After Program Launch, UNC shall notify 2U if the Platform has failed to satisfy the specifications and standards contemplated hereby or if 2U is in default of its service level agreements, specifying any failure or default in reasonable detail and suggesting how UNC would like such failure to be remedied, and 2U shall, at its expense promptly after receipt of UNC's notice, modify or improve the Platform or take other corrective action in order to bring the Platform into compliance with such specifications and standards or improve its service to comply with such service level agreements. Failure of the Platform to meet such specifications and standards or of 2U to comply with such service level agreements within a reasonable period, but not more than thirty (30) days, after 2U's receipt of UNC's notice shall, pursuant to Section 7(C) below, constitute a material breach of a 2U material obligation, subject to the right to cure as set forth therein.
- I) Program and Student Evaluation. 2U shall gather ongoing data of Program students to further overall Program evaluation, including, but not limited to, student satisfaction with the Program, evaluation of instructors and such other matters in such form and at such frequency as UNC may reasonably require. 2U shall share evaluative data frequently (as agreed upon by the parties) to help drive ongoing improvement.
- J) Career Services. 2U shall use good-faith efforts to support through the Platform and through other services provided by 2U under this Agreement the career services provided by UNC pursuant to Section 2(K) to Program participants and graduates.

K) Compliance.

- i) Personal Information. 2U acknowledges that UNC is subject to laws and regulations which govern and restrict the collection, storage, processing, dissemination and use of Personal Information. 2U shall, and shall cause its employees, agents, servants, principals and any subcontractors to, at all times comply with all applicable laws, rules and regulations, including privacy and information security laws and regulations relating to the performance of 2U's obligations under this Agreement. Without limiting the generality of the foregoing, 2U agrees (a) not to collect, store, process, disseminate or use any such Personal Information obtained from UNC except to the extent expressly permitted or required in the performance of its obligations under this Agreement, (b) to store all such Personal Information only in secured form on 2U's computer system and (c) not to sell, distribute, release or disclose lists or compilations of any items of Personal Information without the prior written consent of UNC or of the subject(s) of the Personal Information to be released or disclosed. Any disclosure of Personal Information by 2U in the performance of its obligations hereunder shall be made only on a "need-to-know" basis and subject to an applicable confidentiality agreement or other obligation substantially similar to the confidentiality, privacy and information security requirements imposed on 2U under this Agreement and applicable law. The term of this clause 1(K)(i) shall survive the termination of this Agreement.
- ii) Student Privacy Rights. Without limitation of its obligations under paragraph 1(K)(i) above, (a) 2U shall take all measures to protect the Personal Information of Program students consistent with Family Education Rights and Privacy Act ("FERPA"), (b) 2U shall furnish UNC a copy of 2U's information security procedures for the storage and handling of Personal Information prior to the commencement of 2U's handling and processing of such matter, (c) 2U shall furnish UNC a copy of any update or other modification of such security procedures and (d) such security procedures and all updates and modifications thereof shall be subject to UNC's written approval.
- iii) Agency Regarding Student Information. For the Term of this Agreement, 2U is hereby appointed as an agent of the UNC Office of the Registrar for the use of Personal Information solely for the purpose of providing the student and graduate services required hereunder throughout the Program, including without limitation counseling of prospective students and continuing contact with graduates of the Program, and ongoing employment of Program students and graduates.
- iv) Incentive Compensation Rule. 2U shall compensate its employees engaged in the recruitment of Program students, or in the supervision of such employees, only in accordance with the provisions of 34 CFR § 668.14(b)(22), commonly referred to as the Incentive Compensation Rule.
- v) HEOA Section 495 Compliance. 2U shall remain in compliance with HEOA Section 495. Without limiting the foregoing, 2U shall, at its sole expense, have and maintain security mechanisms in place to ensure that each student registering for a course is the same student who participates in the course or receives course credit. Such security mechanisms shall, as agreed between the parties, include one or more of the following methods: (a) a secure login and pass code; (b) proctored examinations (with the parties to share equally the marginal costs of any live proctoring); and (c) new or other technologies and practices

that are effective in verifying student identification. Nothing herein shall prohibit 2U from requiring Program students to purchase specific hardware intended to enable the security mechanisms referenced herein.

L) Monitoring and Audits Generally

- i) 2U shall (a) measure, monitor and track the performance of its services, obligations, and Platform; conduct internal audits and self-testing; and compare such performance to the service level agreements and other specifications and standards provided for in this Agreement, with 2U to report to UNC on the results of such monitoring no less than annually, (b) detect and promptly cure deficiencies and (c) report such performance, deficiencies and cures to UNC on a quarterly or other basis as agreed between the parties in a form mutually agreed by the parties from time to time. Such assessment of the performance of 2U's services and obligations shall include providing UNC an opportunity to assess or comment to 2U on 2U's performance of its services and obligations, irrespective of any other measurements.
- ii) At least annually as requested by UNC, and at such other times as UNC may reasonably request, 2U shall provide reasonable, mutually acceptable, written certifications as to 2U's compliance with applicable laws, the service level agreements and other specifications and standards provided for in this Agreement, and such other matters as may be reasonably requested by UNC. For the avoidance of doubt, such written certifications shall include any sub-certifications reasonably required by UNC to enable UNC to provide its own written certifications to any students, graduates or regulators as required by applicable law or contract. UNC shall consult with 2U prior to agreeing to provide certifications with regard to the Program that will require a 2U sub-certification.
- iii) Upon UNC's request and subject to 2U's then-current confidentiality, security and data protection procedures, 2U will permit UNC's authorized representatives and auditors to visit with the appropriate personnel at 2U, and will provide UNC with access to or copies of (a) applicable 2U records, including testing results (whether conducted by 2U or a third-party), (b) 2U's compliance policies and procedures applicable to 2U's operations related to its services and obligations, and (c) any other records required to be delivered by 2U pursuant to this Agreement, in each case in order to conduct Reviews. At UNC's reasonable request and expense, Reviews also may include "ethical hacks," penetration testing or other testing of the 2U system and 2U's information security, data protection, disaster recovery, business continuity and confidentiality policies, procedures and safeguards. UNC agrees that Reviews will be completed at 2U's facilities upon reasonable advance notice during regular business hours. The parties will cooperate in good faith to minimize the disruption associated with Reviews, including the timing of such Reviews.
- iv) If 2U receives a request or demand from a student or graduate of the Program, or a regulator in regard to UNC or a student or graduate of the Program, requesting a Review, 2U shall notify UNC promptly, and 2U shall work with UNC or any such student, graduate or regulator in conducting and responding to any such request for a Review, provided that 2U shall not be required to provide a Review to a third party, except as required by law.
- v) Subject to 2U's then-current confidentiality, security and data protection procedures, (a) 2U will discuss with UNC personnel, or provide summaries to UNC of, any material violations of

2U's code of ethics or other compliance-related policies and procedures by 2U personnel related to 2U's performance hereunder, and (b) 2U will promptly notify UNC of (and, if requested by UNC, provide UNC summaries of) material changes to 2U's code of ethics and other compliance-related policies and procedures applicable to 2U's performance hereunder.

- vi) If 2U becomes aware, for any reason, including as a result of any self-testing, "ethical hack," penetration testing or other monitoring or other Review contemplated in this Section 1(L), of a deficiency in meeting any service level or other specification or standard in the performance of any service or obligation under this Agreement, then 2U shall promptly, at its expense (a) perform an analysis to identify the cause of any such failure or deficiency, (b) provide UNC with a report identifying the cause of such failure or deficiency and describing the intended procedure/steps for correcting or resolving such failure or deficiency and the timeline for completing such procedure/steps, (c) if requested by UNC, meet with UNC (in person or by teleconference) to discuss such failure or deficiency and such intended procedure/steps and timeline, (d) promptly cure such failure or deficiency and (e) after such failure or deficiency is cured, promptly notify UNC that such failure or deficiency has been cured.

M) [Intentionally omitted.]

- N) 2U Employees & Contractors. At UNC's reasonable request, 2U agrees to promptly remove from involvement with the Program or from providing services hereunder any 2U employee or contractor, provided that such employee or contractor is one who (i) uses an email address with a domain of "unc.edu", or (ii) holds himself or herself out as acting on behalf of UNC in the course of performing services under this Agreement, except as prohibited by law.
- 2) UNC's Services. UNC shall be exclusively responsible for ensuring the academic quality and academic integrity of the Program, including the following:
 - A) Recruitment. The Program shall be branded as "MAC@UNC" or as otherwise agreed upon by the parties. UNC shall create and carry out Promotion Strategies targeted toward building awareness of the Program and generating a flow of quality applications from prospective students from the Territory. UNC shall be responsible for recruiting students into the Program. UNC shall promote the Program on UNC Kenan-Flagler's website (including, but not limited to, the homepage thereof), within UNC Kenan-Flagler's career center, and at all appropriate student recruitment events and professional school fairs attended by UNC Kenan-Flagler representatives in a manner comparable to the promotion of UNC Kenan-Flagler's in-classroom business programs, and, to the extent UNC promotes UNC Kenan-Flagler's in-classroom business programs, it will promote the Program in a comparable manner, including by characterizing the Program as equal in quality to the in-class program.
 - B) Admissions Processing and Financial Aid.
 - i) UNC shall, in its sole discretion, determine which qualified students shall be admitted to the Program based on admissions standards that will yield a class equally qualified to that of the current in-classroom programs. UNC shall use commercially reasonable efforts to accept or reject each applicant within ten (10) business days after receipt of such applicant's completed application.

- ii) UNC shall, in its sole discretion, establish admissions standards for the Program, which shall require that students admitted to the Program have similar academic qualifications to those in the UNC Kenan-Flagler's in-classroom business programs, as applicable.
 - iii) UNC shall be solely responsible for the administration of all financial aid programs and will promptly process all requests for aid (generally within a number of business days of receiving a completed application as agreed by the parties in writing). UNC shall provide student financial assistance services similar to those offered students enrolled in the UNC Kenan-Flagler's in-classroom business programs. 2U shall not be involved in any manner in the award or disbursement of financial assistance provided pursuant to Title IV of the Higher Education Act of 1965, as amended.
- C) Student Service and Counseling. Once admitted to the Program, students shall, to the extent practicable given the inherent differences between in-classroom and online students, have similar rights and privileges and receive services similar to those received by UNC Kenan-Flagler in-classroom students. UNC shall ensure the availability and participation of UNC Kenan-Flagler faculty and staff, and provide academic counseling in Program requirements, add/drop policies, probations, leave of absence and similar matters. Fees for specific activities (e.g., an on campus gymnasium charge) will not be imposed on Program students who cannot reasonably benefit from, and agree to waive, the related services that appropriately apply only to in-classroom business students. UNC shall provide academic counseling to Program students (in-person to students visiting the campus and by telephone or internet to others) to answer questions concerning incoming/outgoing transfer credits, specific prerequisite academic or certification requirements, academic petitions or disputes and leaves of absence. UNC shall provide academic support to any student in danger of dropping or being dropped from the Program, and shall provide academic support to Program students equivalent to the academic support provided to in-classroom students.
- D) Field Operations. UNC may require or encourage MAC students to participate in Residencies. Subject to Section 1(D) above, UNC shall establish locations and other logistics necessary to conduct and implement the Residencies.
- E) Curriculum Design. UNC shall be solely responsible for the design, timely creation and ongoing revision of the Curriculum, making its commercially reasonable efforts to have the framework of the Curriculum set by May 31, 2014, so that the Program can be launched by July 1, 2015. UNC Kenan-Flagler faculty or other personnel provided by UNC shall provide reasonable assistance to 2U's web team in the adaptation of the Curriculum for the Program to web-based presentation via the Platform. UNC shall be solely responsible for the ongoing review and revision of the Curriculum as UNC determines, at its sole discretion, to be necessary and appropriate to maintain the academic quality and academic integrity of the Program, provided that 2U shall use commercially reasonable efforts to promptly include such revisions into the Produced Segments. UNC shall ensure the availability and participation of faculty and other personnel to achieve the Curriculum design as set forth in this Section 2(E). UNC shall be responsible to obtain any necessary rights, permissions, consents or other clearances required, whether relating to copyright or otherwise, with respect to the use of any content or materials (educational or otherwise) incorporated into the Curriculum.

- F) Curriculum Production and Deployment. UNC shall use commercially reasonable efforts to prepare drafts of the syllabi (and to obtain timely any required internal approval(s)) (i) on or before May 31, 2014, for the Program Launch courses, and (ii) on or before the date(s) to be mutually agreed upon by the parties for the courses to be offered subsequent to Program Launch. UNC shall also use commercially reasonable efforts to develop such syllabi into appropriate materials in time for production to meet such schedule. UNC shall secure the commitment of those UNC Kenan-Flagler faculty members and other instructional personnel selected by UNC for the Produced Segments and for any modifications to the Curriculum required by the online delivery mechanism. Unless otherwise agreed in writing by the parties, UNC shall be solely responsible for the expense of such faculty, other instructional personnel and other UNC and UNC Kenan-Flagler staff. Each Produced Segment shall conform to UNC's design and be subject to UNC's review and written approval prior to any distribution or other release thereof. Each course approved by UNC shall be released for distribution on the Platform as such course is approved, subject to the provisions of Section 1(G) and 1(H) hereof.
- G) Course Development & Support. Each course that comprises Produced Segments shall be taught exclusively by UNC Kenan-Flagler faculty and other instructional personnel selected by UNC. UNC shall be responsible for the creation of a training curriculum and shall be responsible for the hiring, training, support, management and oversight of the work of the UNC Kenan-Flagler faculty and other instructional personnel, provided that 2U shall provide such faculty and personnel with technical training and support for using the Platform as may be reasonably needed from time to time. UNC shall use commercially reasonable efforts to maintain faculty availability, experience, quality and student to faculty ratio similar to those of competitive programs. UNC shall provide 2U with access to information pertaining to both classroom-based and online students' admissions, performance, and post-graduation outcomes as well as information pertaining to relevant faculty, staff information, to the extent permitted by and subject to the requirements of the FERPA and such other laws and regulations as may pertain. UNC shall identify the course materials to be used within the Program reasonably in advance of each course start.
- H) Technology. UNC shall, upon 2U's reasonable request, advise and consult with 2U as to the design of the Platform and its sufficiency for use for the Program. UNC shall make available to 2U, upon 2U's reasonable request, the appropriate UNC personnel to participate with 2U in the testing and, as necessary, re-testing of the Platform as contemplated by Section 1(H) above.
- I) Academic or Other Certifications. UNC shall be responsible to secure any accreditations, registrations or approvals with respect to the Program as may be necessary to operate in any jurisdiction, including without limitation, approval from the University of North Carolina General Administration to offer the Program (the "UNC-GA Approval"). 2U shall provide to UNC reasonable assistance in securing such accreditations, registrations or approvals as UNC may reasonably request and as mutually agreed by the parties.
- J) Evaluation. UNC shall oversee the Program evaluation, utilizing UNC data and the data gathered by 2U pursuant to Section 1(I) above and other available data. UNC shall at its sole discretion determine satisfaction of degree requirements, award all grades, and confer all degrees. UNC shall share evaluative data frequently (as agreed upon by the parties) to help drive ongoing improvement of the Program.

- K) Career Services. With 2U's reasonable assistance, UNC shall develop a written plan for providing career services to Program students, such plan to be incorporated herein as Schedule 2(K), as amended from time to time. The intent of the plan will be, to the extent practicable given the inherent differences between in-classroom and online students, to make career services available to Program students on a basis similar to that provided to students enrolled in UNC's executive programs, including in-person meetings to the extent Program students visit the UNC campus.
- L) Alumni. UNC shall be solely responsible for the management of alumni relationships, provided that UNC may request 2U to provide reasonable assistance maintaining contact with alumni and tracking their career progress.
- M) Data Sharing. UNC will provide on a regular basis the following information to 2U via electronic access: (a) the number of prospective students contacting UNC as of that date during the month; (b) the number of non-completed applications in the process of completion as of that date during the month; (c) the number of completed applications sent, delivered or otherwise transmitted to UNC as of that date during the month; (d) information about Program students, which shall include UNC identification number, name, address, UNC email address and any activity restrictions (e.g., financial, health or other holds on newly admitted and registered students); (e) Program professor and administrator information, which shall include basic information regarding each Platform user and his or her role; (f) Program course information, which shall include information regarding student registrations for courses and sections, section numbers, professors and related information; and (g) such other information as may be mutually agreed upon by the parties from time to time.

3) Classroom Program and Cross-Format Electives.

- A) Classroom Program. At UNC's option, (i) UNC students enrolled in a Classroom Program and UNC faculty/instructors teaching in such Classroom Program shall have the right to use the Platform and the related Program material as part of any Classroom Course subject only to the fees set forth in Section 4(C)(ii) below, and (ii) UNC may offer any course provided in the Program to UNC students enrolled in a Classroom Program subject only to the fees set forth in Section 4(C)(ii) below. Notwithstanding the foregoing, UNC shall not use the Platform to materially increase the number of students enrolled in any Classroom Program.
- B) Cross-Format Electives. Each student enrolled in UNC's MAC Classroom Program and each student enrolled in UNC's MBA classroom program shall be permitted to take up to eight (8) credit hours of online courses in the Program and/or in the MBA@UNC program as electives. In consideration therefor, UNC shall pay 2U a flat fee of _____ per course per student. The parties shall mutually agree upon the timing and process for UNC to make such payments to 2U.
- C) MBA@UNC Courses Taken By MAC@UNC Students. UNC may offer any course provided in the MBA@UNC Program to UNC students enrolled in the Program. All tuition and fee proceeds received from any UNC student enrolled in the Program shall be included in Program Proceeds solely under this Agreement, regardless of whether the student took courses in the MBA@UNC Program. For the avoidance of doubt, all tuition and fee proceeds received from any UNC student enrolled in the MBA@UNC Program shall be included in "Program Proceeds" (as defined in the MBA@UNC Agreement) solely under MBA@UNC Agreement, regardless of whether the

student took courses in the Program (as defined herein).

4) Accounting.

- A) Fiscal Year. The first full Fiscal Year of the Program shall commence on the Effective Date and end on June 30, 2015.
- B) Program Proceeds.
 - i) UNC shall collect all Program Proceeds. Tuition for Program students shall be set annually in a manner consistent with the process for setting such tuition for in-classroom students at UNC Kenan-Flagler.
 - ii) In the event that UNC and 2U agree to target certain students (e.g. those in a geographic region) with grants or scholarships, such grants will be considered a reduction to Net Program Proceeds.
 - iii) UNC may create a fellowship fund for Program students, pursuant to which UNC may, at its discretion, provide fellowships to Program students. Fellowships disbursed to Program students shall be deemed a reduction to Net Program Proceeds in the current Fiscal Year to the extent that such fellowships do not exceed _____ of Program Proceeds for the current Fiscal Year.
- C) Finances. All Net Program Proceeds shall be shared between UNC and 2U as follows:
 - i) 2U shall be entitled to a part of the Net Program Proceeds, aggregated through each payment/adjustment date under Section 4(D) below, for its technology, production, technical support and other services, as follows:
 - (1) for the first one hundred (100) new students enrolled in each Fiscal Year, percent of Net Program Proceeds; and
 - (2) for all new students enrolled in each Fiscal Year in excess of one hundred (100), percent of Net Program Proceeds.
 - ii) If UNC wishes to use the Platform as part of any Classroom Course, as specified in Section 3(A) above, UNC shall pay to 2U a per-student fee to cover the direct costs of licenses and support as set forth in Schedule 4(C)(ii) and as may be reasonably adjusted from time to time to reflect increases in such direct costs. However, UNC may use any Produced Segment in any Classroom Course without additional compensation to 2U.
 - iii) UNC will be entitled to retain all remaining Net Program Proceeds after 2U receives its share under paragraph 4(C)(i) above for UNC's admissions, marketing, Curriculum development, Program instruction, student evaluation, Program evaluation, faculty support, and other support of the Program.
 - iv) UNC may offset from the payments it owes to 2U under this Agreement any amounts 2U owes to UNC hereunder.

D) Reports and Payment.

- i) For each month, no later than the first business day following the 9th day of the subsequent month, UNC shall provide to 2U reports listing the following: (i) the students offered admission by UNC to the Program, (ii) the students who enrolled in or dropped from each course in the Program, including a course listing for the enrolled students, (iii) the Program Proceeds charged by type of charge for each student, (iv) the Program Proceeds collected by type of charge for each student, and (v) a calculation of the payments between the parties pursuant to paragraph 4(D)(ii) and 4(D)(v) hereof for such month.
- ii) On a regular basis, and no less frequently than each month that a Program term begins, UNC shall also pay or adjust, as applicable, 2U's portion of Net Program Proceeds for the period by wire transfer of funds to such bank account as 2U may direct by notice to UNC no later than ten (10) business days prior to the scheduled date for such wire transfer. The payment for such period shall equal 2U's portion (determined pursuant to paragraph 4(C)(i)) of the amount of Net Program Proceeds collected by UNC from all Program students.
- iii) Following the termination of this Agreement for any reason other than expiration, UNC's obligations pursuant to this Section 4 shall survive such termination or expiration and continue with respect to any Program Proceeds collected thereafter.
- iv) Each month from July 2014 through June 2015, 2U shall advance to UNC \$62,500.
- v) Each month from July 2016 through June 2017, UNC will pay to 2U \$62,500 per month as repayment of the advance received under paragraph 4(D)(iv).

E) UNC Minimum Investment. UNC shall invest no less than the following amounts in the following timeframes in providing the recruitment services set forth in Section 2(A):

- i) \$500,000 in the first full Fiscal Year;
- ii) \$750,000 in the second Fiscal Year; and
- iii) \$1,000,000 in the third Fiscal Year.

F) Maintenance of Books and Records; Rights on Audit. UNC shall maintain such books and records as are necessary to substantiate Program Proceeds received in connection with the Program and this Agreement and the minimum investment requirements set forth in Section 4(E) above. During the Term of this Agreement and for a period of 180 days after the expiration or termination of this Agreement for any reason (or, if applicable, after the 2-year period described in Section 7(F)), 2U shall have the right to examine such books and records that are specifically related to the Program and this Agreement. Such examinations shall be held upon reasonable advance notice to UNC at UNC's offices during normal business hours and shall take place no more frequently than once each Fiscal Year. Once a particular Fiscal Year has been so examined, such Fiscal Year shall not be subject to any subsequent re-examination pursuant to this Section 4(F) or otherwise, unless 2U can show reasonable grounds for believing that an uncorrected error that would materially affect the Net Program Proceeds payable to 2U for such Fiscal Year occurred in such previously examined Fiscal Year, either because a new error is subsequently found in a different Fiscal Year or 2U can demonstrate that new information evidencing such error has come to its attention. Any such examination shall be made at 2U's sole cost and expense. If such examination discloses that any amounts have not been paid or have been made in incorrect amounts, and such amounts are not in dispute, the parties shall promptly take

appropriate steps to correct such errors in payment, including interest accruing at the rate of 6% per annum if an underpayment is less than five percent (5%) of the amount that should have been paid and at the rate of 12% per annum if an underpayment is equal to or greater than five percent (5%) of the amount that should have been paid, such interest to be calculated from the date such payment should have been made to the date on which such payment is made, and any reasonable costs of the audit.

5) Masters of Finance.

- A) UNC and 2U shall explore the potential development and administration of online Masters of Finance ("M.Fin.") degree on terms substantially similar to the terms of the MBA@UNC Agreement. The parties contemplate that, should the parties so agree to develop and administer a M.Fin degree, 2U shall develop up to four (4) courses for the M.Fin. degree on terms substantially similar to the corresponding terms for the MBA Program in Sections 1.E, 1.F, 1.G and 2.E, 2.F and 2.G (and any other applicable terms) of the Agreement and keep such courses current in the same method and manner as with respect to Program courses, provided that should UNC determine that 2U must develop fewer than three (3) courses to offer the M.Fin. degree, 2U shall pay to UNC \$ [REDACTED] on or around the first day of M.Fin. degree classes.
 - B) The parties' obligations set forth in Section 5(A) shall not be binding unless and until UNC obtains any and all approvals necessary for UNC to offer the M.Fin degree, and UNC agrees that, should the parties so agree to develop and administer a M.Fin degree, it shall use diligent efforts in its pursuit of all such approvals. Should UNC fail to obtain all such approvals following such diligent efforts, all rights and obligations set forth in Section 5(A) above shall be stricken in their entirety. For the avoidance of doubt, the parties intend that UNC's obtaining or failing to obtain all such approvals shall not affect the enforceability of this Agreement.

6) Intellectual Property.

- A) UNC Property. UNC shall own and retain all right, title and interest, including, but not limited to, UNC's Intellectual Property. 2U acknowledges and agrees that all right, title and interest in and to the Work Product shall be the sole property of UNC, whether such 2U services are completed or not. 2U acknowledges and agrees that (i) all Work Product shall constitute a "work made for hire" for UNC, as that phrase is defined in Section 101 and 201 of the Copyright Act of 1976 (Title 17, United States Code), including without limitation a work specially commissioned by UNC, and (ii) notwithstanding the foregoing subparagraph (i), if and to the extent 2U retains any interest in the Work Product (in whole or in part), 2U hereby grants, assigns and transfers to UNC all right, title and interest in and to the Work Product, and all intellectual property rights therein, including without limitation all patent, copyright, trade secret and other proprietary rights, and the right to make any modifications, adjustments or additions thereto (2U hereby expressly waiving any *droit moral* or similar rights to object to any such changes), the right to make and distribute derivative works thereof and the right to all claims for past infringement thereof. Upon UNC's request, 2U shall execute and deliver to UNC all documents and instruments, including without limitation copyright assignments, and shall otherwise assist UNC, at UNC's expense, to perfect in UNC the sole and exclusive right, title and other interests in the Work Product. In the event UNC is unable, because 2U is no longer in business, to obtain the signature of 2U to any document or instrument necessary or desirable to apply for protection of, or to enforce any action with respect to, any intellectual property right in or to the Work Product, 2U hereby irrevocably designates and appoints UNC and its duly authorized officers

and agents as 2U's agent and attorney-in-fact, whose power is expressly coupled with an interest, to act for and on behalf of 2U, to execute such documents and instruments and to take all lawfully permitted actions to protect UNC's interests in any intellectual property right with the same legal force and effect as if executed by 2U. UNC shall not use such Work Product except:

- (i) in connection with the Program hereunder,
- (ii) for the exclusive use by students in Classroom Programs or in UNC's MBA classroom program as permitted pursuant to Section 3 above,
- (iii) for the exclusive use by participants in programs delivered by Kenan-Flagler Business School Executive Education, LLC, provided that, for the avoidance of doubt, UNC shall not use the Platform to deliver any such Work Product to such program participants,
- (iv) to users licensed to use 2U's Intellectual Property under Section 6(D) below,
- (v) upon expiration or termination of this Agreement as permitted in Section 7(I),
- (vi) in the event that 2U becomes insolvent or admits its inability, or becomes unable, to pay its debts generally as they become due; files a petition for relief or for reorganization or for the adoption of an arrangement under the federal bankruptcy laws or any other similar law or statute for the relief or aid of debtors of the United States of America or any State thereof, as now or hereafter in effect (the "Bankruptcy Laws"), or makes an admission seeking the relief therein provided; or has an order for relief entered against it under the Bankruptcy Laws,
- (vii) in the event that this Agreement is terminated by 2U pursuant to Section 7(C) below or terminated by UNC pursuant to subparagraph 7(C)(i)(a) below, and/or
- (viii) under terms the parties shall negotiate from time to time in good faith for other uses that are not competitive with the Program.

B) **2U Property.** 2U shall own and retain all right, title and interest to all 2U's Intellectual Property, provided that, for further clarity, 2U's rights therein shall not give it any right whatsoever in or to any portion of UNC's Intellectual Property, none of which may be used by 2U except in accordance with the express terms of this Agreement. Anything in this Agreement to the contrary notwithstanding, this Section 6(B) shall not apply to software licensed from persons or entities other than the parties and included in 2U's Intellectual Property by mutual agreement of the parties. 2U's Intellectual Property shall also include any micro sites created, developed, and/or hosted by 2U as part of any 2U Promotion Strategies provided hereunder, but specifically excluding any UNC Intellectual Property which may be used or incorporated therein during the Term.

C) **License of UNC Intellectual Property.** UNC grants to 2U the non-exclusive right to use, during the Term of this Agreement, the names "UNC," "UNC Chapel Hill," "Kenan-Flagler Business School" and other trade names, trademarks, service marks, designs and logos specified by UNC solely for use by 2U in connection with the Program, including, but not limited to, 2U's marketing and promotion of the Program, subject to UNC's prior approval of the form and manner of each such use. Subject to the remaining provisions of this Agreement, UNC grants to 2U the non-exclusive right and license during the Term of this Agreement to use all of UNC's Intellectual Property within the Territory *only* to the extent necessary for UNC's Intellectual Property to be incorporated into or used with the Program pursuant to the terms of this Agreement. Such right and license shall include without limitation a license of all rights under

copyright and the rights to reproduce and copy UNC's Intellectual Property in all editions, versions and formats for print and in any other form or medium, whether now known or hereafter known, throughout the Territory, including, without limitation, electronic, magnetic, digital, laser, or optical-based media (but excluding the right to make any changes in UNC's Intellectual Property or to create derivative or related products). 2U shall acquire no rights in any of UNC's Intellectual Property or in any of UNC's trade names, trademarks, service marks, designs or logos from 2U's use hereunder.

- D) License of 2U Intellectual Property. 2U grants to UNC and its affiliates (specifically including the Kenan-Flagler Business School Executive Education, LLC) the right and license during the Term of this Agreement, and during the Post-Expiration Period, to use all of 2U's Intellectual Property, including, without limitation, a license of all rights under copyright and the rights to reproduce and copy 2U's Intellectual Property in all editions, versions and formats for print and in any other form or medium, whether now known or hereafter known, throughout the world, including, without limitation, electronic, magnetic, digital, laser, or optical-based media, for use *only* in conjunction with;
- (i) UNC's delivery of the Program anticipated by this Agreement,
 - (ii) UNC's delivery of any Classroom Course within any Classroom Program,
 - (iii) UNC's delivery of any course from the Program to (a) students in any Classroom Program as permitted pursuant to Section 3 above, (b) students in UNC's MBA classroom program as permitted pursuant to Section 3 above, (c) students in the MBA@UNC program as permitted pursuant to Section 3 above, and (d) alumni as permitted pursuant to Section 23 below,
 - (iv) as otherwise agreed by the parties in writing in ways that are not competitive with the Program, provided that all such uses comply with the terms of this Agreement, and
 - (v) UNC's use of the Work Product as permitted in Section 6(A).

2U shall also grant to each student enrolled in the Program and/or in any Classroom Program a royalty-free license to use the 2U Intellectual Property as part of UNC's permitted delivery of the Program to such student.

- E) Other Uses of Marks. Other than the licenses granted in Sections 6(C) and 6(D), no party may use the other's name, trademark, sign, logo or similar designation without each other's prior written approval, which may be granted in such other's sole discretion. The rights under Section 6(C) above may not be (i) transferred, except to an entity acquiring all or substantially all of the business of 2U, or (ii) sublicensed.
- F) Infringements by Others. Each party shall promptly report in writing to the other during the Term any known or suspected infringement of any of UNC's Intellectual Property or 2U's Intellectual Property of which such party becomes aware, and shall provide the other with all available evidence supporting such known or suspected infringement or unauthorized use.
- G) Infringements by Parties. In the event that a party becomes aware of any claim that the practice by either party in the development, production, promotion, marketing or distribution of the Program infringes the intellectual property rights of any third party, such party shall promptly notify the other party. In any such instance, the parties shall cooperate and shall mutually agree upon an appropriate course of action. Each party shall provide to the other party copies of any

notices it receives from any person or entity other than a party regarding any alleged infringement or misappropriation of third party intellectual property relating to the development, production, promotion or marketing of the Program. Such notices shall be provided promptly, but in no event after more than fifteen (15) days following receipt thereof.

7) Term and Termination.

A) Program Launch. The parties contemplate a Program consisting of seventeen (17) total courses plus the non-credit orientation course projected to start in July, 2015 (the "Program Launch"). Subject to Section 1(H) and 1(I) and the date of the UNC-GA Approval, the parties shall agree in good faith when the Program is ready for Program Launch. UNC and 2U shall initially offer two (2) initial Program start dates per Fiscal Year for the Program and shall work towards four (4) initial Program start dates per Fiscal Year for the Program based on flexibility in seasonal hiring of employers of Program graduates.

- i) 2U will develop one (1) additional course (up to four (4) total additional such courses) the first time that UNC reaches each of the following enrollment levels in the Program during the Term of this Agreement:
 - (1) one hundred and fifty (150) new students in any Fiscal Year;
 - (2) two hundred (200) new students in any Fiscal Year;
 - (3) two hundred and fifty (250) new students in any Fiscal Year; and
 - (4) three hundred (300) new students in any Fiscal Year.

For the avoidance of doubt, if new student enrollments reach two (2) or more of the thresholds set forth in Section 7(a)(i)(1) – (4) above for the first time in any same Fiscal Year, 2U will develop two (2) (or more, as applicable) additional such courses.

- ii) 2U will develop one (1) additional course if and when during the Term of this Agreement UNC reaches an enrollment level in the Program of three hundred (300) new students in a Fiscal Year after the first Fiscal Year in which UNC reached an enrollment level in the Program of three hundred (300) new students.

B) Initial Term.

- i) This Agreement and its initial term shall be deemed to have commenced on the Effective Date and continue for ten (10) full Fiscal Years ending on June 30, 2024, subject to earlier termination or non-renewal as set forth in Sections 7(C), 7(D), 7(E) and 7(F) below (the "Initial Term").
- ii) Notwithstanding the foregoing, and subject to Section 7(E) below, upon the commencement of the first Renewal Term (as defined in the MBA@UNC Agreement) of the MBA@UNC Agreement, the Term of this Agreement shall immediately become coterminous with the MBA@UNC Agreement. For the avoidance of doubt, the foregoing shall mean that, immediately upon commencement of the first Renewal Term (as defined in the MBA@UNC Agreement) of the MBA@UNC Agreement, the Initial Term of this Agreement shall be deemed completed, and the first Renewal Term of this Agreement shall be deemed to have commenced as of the same time as the commencement of the first Renewal Term (as defined in the MBA@UNC Agreement) of the MBA@UNC Agreement.

C) Termination For Cause.

- i) If 2U breaches any of its obligations hereunder that is reasonably likely to have a material adverse effect on UNC's reputation or the academic integrity of the Program, then UNC may deliver, in writing, a notice to 2U describing in detail such breach and adequately listing reasonable suggestions as to the steps that may be taken to cure such breach. If 2U has not cured such breach within a period of time, no longer than thirty (30) days, then UNC may terminate this Agreement effective upon delivery of written notice to 2U.
- ii) If UNC fails to pay in full the amounts owed to 2U at such time said amounts are due under this Agreement, then 2U may deliver, in writing, a notice to UNC describing in detail such failure to pay. If UNC has not paid such owed amounts within a period of time specified in such notice, such period of time to be at least thirty (30) days from the date of such notice, then 2U may terminate this Agreement effective upon delivery of written notice to UNC.
- iii) Upon the occurrence of a breach other than as described in paragraph 7(C)i or 7(C)(ii) above, a party may deliver, in writing, a notice to the Non-Performing Party describing in detail such breach and adequately listing reasonable suggestions as to the steps that may be taken to cure such breach. If after thirty (30) days following the date of such notice, the Non-Performing Party has not undertaken and diligently pursued a cure of such breach, with the goal of curing such breach within sixty (60) days after the Non-Performing Party's receipt of the original notice from the other party, the other party may terminate this Agreement effective upon delivery of written notice to the Non-Performing Party.
- iv) A Non-Performing Party that receives a notice of breach and that has reasonable grounds for the position that the alleged breach is not, in fact, a breach hereof, may apply to a court for a temporary restraining order or preliminary injunctive relief to in effect toll the period hereunder to cure such breach or other similar relief, until the court has determined whether such alleged breach is, in fact, a breach hereof.
- v) Either party may terminate this Agreement if: (a) at any time the other party files or has filed against it a petition for bankruptcy, insolvency, reorganization or for the appointment of a receiver, and such petition is not dismissed, vacated or set aside within sixty (60) days from the commencement thereof; (b) either party becomes insolvent or unable to pay its debts as they mature in the ordinary course of business; or (c) either party takes any action to make an assignment for the benefit of creditors or to liquidate or to dissolve.
- vi) Should 2U (or its successor organization) become unable to continue to do business in the ordinary course through bankruptcy or otherwise, and following a reasonable opportunity to restructure or otherwise cure, 2U (or its successor organization) shall immediately make the Platform (including any Platform materials reasonably required for UNC to use the Platform) available to UNC to enable UNC to continue to deliver the Program and receive the benefits afforded to UNC under or pursuant to this Agreement, except that such rights shall be fully subject to, and only as permitted by, all applicable licensing and other agreements relating to the Platform and Platform materials. UNC shall be obligated at all times to maintain the confidentiality of all confidential aspects of the Platform (including any Platform materials). Should the event(s) causing UNC to exercise its rights under this Section 7(C)(v) be remedied, UNC's right to use the Platform shall cease.

D) UNC Termination following 2U Change in Control. Should 2U experience a Change of Control, UNC may terminate this Agreement prior to the end of the Term if either:

- i) such change results in 2U being controlled by a person or entity in whom or with whom UNC would not be permitted to invest or contract based on UNC's investment policies then in effect, or because of moral, social justice or similar reasons; or
- ii) the surviving entity following a Change in Control unilaterally makes a material reduction in the financial or other resources devoted by 2U (or its successor) to 2U's services as set forth in this Agreement and to the Program, or unilaterally reduces its obligations in operating plans previously agreed upon between 2U and UNC and in effect at the time of the Change in Control, subject to the notice and right to cure provisions of Section 7(C)(ii), above.

E) Termination Based on Non-Renewal of MBA@UNC Agreement. Notwithstanding any other term contained in this Agreement, should UNC elect for any reason not to extend the MBA@UNC Agreement at the end of the initial term of the MBA@UNC Agreement or any Renewal Term (as defined in the MBA@UNC Agreement) of the MBA@UNC Agreement, this Agreement shall automatically terminate upon such expiration of the MBA@UNC Agreement.

F) Termination Based on UNC's Non-Obtainment of UNC-GA Approval. This Agreement shall terminate if UNC has been unable to obtain UNC-GA Approval on or before December 31, 2014. Nothing shall preclude the parties from extending the aforementioned deadline for UNC to obtain UNC-GA Approval by mutual written agreement. Prior to UNC obtaining UNC-GA Approval, 2U shall be obligated to provide only those services necessary to commence development of Program courses in accordance with the terms of this Agreement.

G) Renewal Term. Subject to earlier termination as set forth in Section 7(C), 7(D) and 7(E), and subject at all times to Section 7(B)(ii) above, up to one year before the expiration of the Initial Term or any Renewal Term of this Agreement, UNC shall have the exclusive right to extend the Agreement for three (3) years (each a "Renewal Term" and together with the Initial Term, the "Term"). If UNC does not renew, or if this Agreement terminates in accordance with Section 7(E) above, then UNC shall pay to 2U during the Post-Expiration Period after the effective date of the expiration of this Agreement

Payment for such Post-Expiration Period shall be made on a schedule and otherwise in accordance with the terms of this Agreement.

H) Effect of Termination. Any provision herein notwithstanding, after any termination or expiration of this Agreement:

- i) Subject to paragraph 7(G)(ii), each party shall cease all use of the other party's intellectual property, and 2U shall surrender to UNC all Work Product and any reproductions thereof, except for one copy that may be maintained solely for archival purposes and not distributed.

- ii) 2U and UNC shall allow each student using the Platform, to complete all individual courses in the Program that such student has actually commenced prior to the termination of this Agreement (except to the extent that such student is expelled by UNC or does not finish such course within six months following such termination or expiration). Notwithstanding any other provision of this agreement, 2U and UNC shall be entitled to receive their respective shares of any Net Program Proceeds paid by such students for such courses.
 - iii) Upon any termination or expiration, UNC shall enable each then-enrolled Program student to complete his or her degree in an online format, subject to UNC's right in its sole discretion to determine student evaluation, the awarding of degrees and expulsion of students for cause, and provided that such student does so diligently and within three years of termination or expiration of this Agreement.
 - iv) Sections 4(D)(v), 6(A), 8(D), 8(E), 10, 11, and 14 through 21 of this Agreement, and any other provisions of this Agreement that are expressly stated to survive for a period after termination, shall survive termination or expiration of this Agreement; and Sections 4 and 6(C) shall survive in respect of the Post-Expiration Period.
 - v) Termination of this Agreement shall not prejudice the terminating party's rights to any sums due or accrued under this Agreement prior to termination or expiration and shall not prejudice any cause of action or claim of the terminating party accrued or to accrue on account of any breach or default by the non-terminating party.
 - I) Non-Solicitation. For one year following termination or expiration of this Agreement, and unless otherwise agreed in writing by the parties, each of the parties shall not, and shall not allow their affiliates, or any of their affiliates' employees or agents, to employ or otherwise obtain services from, or solicit or otherwise attempt to employ or otherwise obtain services from, or assist any person or business entity in employing or otherwise obtaining services from, or attempting to employ or otherwise obtain services from, any person who is then, or at any time during the preceding twelve months shall have been, in the employ of or retained by the other party. Notwithstanding the foregoing, the restrictions contained in this Section 7(I) shall not apply to (a) UNC (or any UNC affiliate) should 2U (or its successor organization) cease to do business in the ordinary course, or (b) the employment by UNC (or any UNC affiliate) of a graduate of UNC's Kenan-Flagler Business School.
 - J) Transition Plan. UNC may, at any time, require 2U to provide, at UNC's expense, a plan setting forth the method and manner for UNC to continue operating the Program with UNC personnel and assets or through a person (or persons) or entity (or entities) other than 2U ("Transition Plan"). 2U shall cooperate with UNC in implementing any such Transition Plan should UNC terminate the Agreement as per Section 7(C) or 7(D).
- 8) Representations and Warranties; Indemnifications.
- A) Laws and Regulations. Each party shall comply with all applicable federal, state and local laws and regulations applicable to it.
 - B) Representations of 2U. 2U represents and warrants that (i) it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; (ii) this Agreement has been duly executed and delivered by 2U and constitutes the legal, valid and binding

obligation of 2U, enforceable in accordance with its terms; (iii) the delivery and performance of this Agreement does not and will not conflict with, result in the breach of, constitute a default, with or without notice and/or lapse of time, under, result in being declared void or voidable any provision of, or result in any right to terminate or cancel any contract, lease or agreement to which 2U or any of its affiliates is bound, constitute a violation of any statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator applicable or relating to 2U or any 2U affiliate, or result in the acceleration of any debt or other obligation of 2U; (iv) 2U, in its actions in connection with this Agreement, shall comply with all applicable federal, state and local laws, regulations and rules applicable to it; (v) 2U owns, or will own, the rights and interests in, or to, the 2U Intellectual Property necessary to enter into this Agreement and to be developed pursuant to this Agreement, and to grant the licenses and assignments of such property described in this Agreement; (vi) 2U Intellectual Property do not, and will not, infringe any statutory or common law copyright, privacy, trade secret or other intellectual property right of any third party; (vii) 2U has not previously assigned, pledged, licensed or otherwise encumbered any rights or interest in, or to, any component of 2U Intellectual Property in any way that would interfere with or prevent the grant of the licenses and assignments of such property described in this Agreement; and (viii) on the Effective Date of this Agreement, 2U has access to sufficient financial resources to fulfill its obligations under this Agreement.

- C) Representations of UNC. UNC represents and warrants that (i) it is an institution of higher education chartered by the laws of the State of North Carolina; (ii) this Agreement has been duly executed and delivered by UNC and constitutes the legal, valid and binding obligation of UNC enforceable in accordance with its terms; (iii) the delivery and performance of this Agreement does not and will not conflict with, result in the breach of, constitute a default, with or without notice and/or lapse of time, under, result in being declared void or voidable any provision of, or result in any right to terminate or cancel any material contract, lease or agreement to which UNC or any of its properties is bound, constitute a violation of any material statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator applicable or relating to UNC, or result in the acceleration of any debt or other obligation of UNC; (iv) UNC, in its actions in connection with this Agreement, shall comply with all applicable federal, state and local laws, regulations and rules applicable to it; (v) UNC owns, or will own, the rights and interests in, or to, the UNC Intellectual Property necessary to enter into this Agreement and to grant the licenses of such property described in this Agreement; (vi) UNC Intellectual Property and the trademarks licensed under Section 4 above do not, and will not, infringe any statutory or common law copyright, privacy, trade secret, trademark or other intellectual property right of any third party; and (vii) UNC has not previously assigned, pledged, licensed or otherwise encumbered any rights or interest in, or to, any component of UNC Intellectual Property or the trademarks licensed under Section 4 above in any way which would interfere with or prevent the grant of the licenses of such property described in this Agreement.
- D) Indemnity. The Indemnifying Party shall indemnify and defend the Indemnified Party against any costs, expenses (including reasonable attorneys' fees whether arising out of a third-party claim or in enforcing this indemnification), claims, judgments, settlements and damages (including all damages awarded to any person or entity other than the parties payable by Indemnified Party) arising out of, or related to: (i) the inaccuracy or breach of any of the representations, warranties or covenants of Indemnifying Party in this Agreement, and (ii) any breach by Indemnifying Party of any applicable laws, regulations and rules (and such breach is unknown to the Indemnified Party); provided in each case that the indemnification arises out of

the administration of the Program and that the Indemnified Party gives prompt notice to Indemnifying Party of any possible claim for indemnification under this Agreement promptly after the Indemnified Party becomes aware of such possible claim, and permits Indemnifying Party to control the defense and settlement, if any, of any action brought by any person or entity other than a party relating to any such claim with counsel of its choosing at Indemnifying Party's expense; and provided further that any delay by Indemnified Party in notifying Indemnifying Party shall not relieve Indemnifying Party from any liability or obligation under this Agreement unless (and then solely to the extent) Indemnifying Party is damaged thereby. If Indemnifying Party shall fail to promptly and diligently defend any such action after notice, Indemnified Party may re-assume the defense and settlement of such action. Indemnified Party shall cooperate in the defense of any claim for which Indemnifying Party is indemnifying hereunder, at the expense of Indemnifying Party, except the Indemnified Party shall bear the expense of the time of its own employees. UNC's obligations under this Section 8(E) are subject to the terms of the N.C. Tort Claims Act.

- E) Indemnification Procedure. Following notice of a claim or a threatened or actual suit that might result in an indemnification liability under Section 8(D) above, Indemnifying Party may, at its own expense, without obligation to do so, procure for Indemnified Party the right to continue to use the relevant intellectual property or to replace or modify such intellectual property with products of substantially similar functionality to avoid the infringement or alleged infringement claimed, but such procurement shall not release such Indemnifying Party of its indemnification obligation under this Agreement.
- 9) Insurance. Each party shall be solely responsible for obtaining workers compensation insurance for its employees and agents and such other insurance as may be required by applicable laws. In addition, each party agrees to carry (or, in UNC's case, to self-insure for) general liability insurance in an amount not less than \$1,000,000 per occurrence. Any insurance policy required above shall name the other party as additional insured on broad form endorsements with respect to all bodily injury, personal injury, advertising injury, and property damage liability arising out of the party's operations, services or products. Any such insurance policy shall be endorsed to provide that such coverage shall be primary over any coverage available to the other party under its own insurance program in the event of any suit, claim damages or loss. Each party shall provide to the other party a copy or copies of a Certificate or Certificates of Insurance, or in UNC's case evidence of a self-insurance program, demonstrating that the insurance coverage set forth above is in full force and effect no later than sixty (60) business days after the date of the parties' execution of each Addendum. The certificate(s) shall also evidence the insurers' agreement to endeavor to provide the other party at least 30 days' advance notice of any cancellation or material change in any policy of insurance for coverage required under this Agreement. Further, each party shall maintain any insurance coverage referenced herein for a period of five (5) years after termination of this Agreement.

10) Confidentiality.

- A) Announcements. Neither 2U (or any of its subsidiaries, officers, directors, employees, other affiliates or agents) on the one hand, nor UNC (or any of its subsidiaries, officers, directors, employees, other affiliates or agents) on the other hand shall, without the prior consent of the other, make any public statement or announcement or any release to trade publications or through the press or otherwise, or make any statement to any customer or other third party with respect to this Agreement (including, without limitation, the intent and the terms of this

Agreement), except as may be necessary to comply with the requirements of any applicable law, governmental order or regulation or legal proceeding. 2U may also disclose this Agreement to potential financing parties who agree in a customary form of confidentiality agreement to keep its terms confidential.

- B) Confidential Information. Each Receiving Party acknowledges that it has been informed that it is the policy of each Disclosing Party to maintain as secret and confidential all Confidential Information, and further acknowledges that such Confidential Information is of great value to a Disclosing Party. Certain terms of this Agreement shall be included in the definition of Confidential Information. The parties recognize that in negotiating and carrying out the terms of this Agreement, each Receiving Party has and will acquire Confidential Information as aforesaid. Each Receiving Party confirms that it is reasonably necessary to protect each Disclosing Party's Confidential Information and associated goodwill, and accordingly:

Each Receiving Party shall not directly or indirectly (except where authorized by the Disclosing Party in writing for the benefit of the Disclosing Party), for or on behalf of the Receiving Party or any Person for any reason, divulge any of the Disclosing Party's Confidential Information to any Person other than the Disclosing Party (hereinafter referred to collectively as a "Third Party"), except as required by law, in which case, when possible, only after providing prior notice to the Disclosing Party, or use or cause to authorize any third parties to use, any such Confidential Information, or any other information regarded as confidential and valuable by the Disclosing Party that the Receiving Party knows or should know is regarded as confidential and valuable by the Disclosing Party (whether or not any of the foregoing information is actually novel or unique or is actually known to others and whether or not the Confidential Information is labeled as confidential). Each Receiving Party shall, upon the expiration or termination of this Agreement for any reason, forthwith deliver up to the Disclosing Party, or destroy or delete, any and all documents and materials, or copies thereof, in electronic format or otherwise, in Receiving Party's possession or under its control that constitute Confidential Information or that are otherwise the property of the Disclosing Party, provided that the Receiving Party may maintain one copy of records containing Confidential Information for archival purposes only. Notwithstanding anything to the contrary in this Section 10, UNC's compliance with the North Carolina Public Records Act (N.C. Gen. Stat. § 132-1 et seq.) shall not be deemed a violation of this Agreement.

- C) Return of Confidential Information. Upon the request of the Disclosing Party at any time after the termination of this Agreement, the Receiving Party will return (and purge its systems and files of) all Confidential Information supplied to, or otherwise obtained by, the Receiving Party in connection with this Agreement or provide, in form and substance acceptable to the Disclosing Party, a certificate of destruction with respect to all such Confidential Information, except the Receiving party may retain one copy solely for archival purposes, which shall remain subject to the confidentiality provisions hereof.
- D) Remedies. Any breach or threatened breach by either party of any provision of this Section 10 will, because of the unique nature of the Confidential Information entrusted to it as aforesaid, cause irreparable harm to the other party and shall entitle such other party, in addition to any other legal remedies available to it, to apply to any court of competent jurisdiction to enjoin such breach or threatened breach. The parties understand and intend that each restriction agreed to in this Section 10 shall be construed as separable and divisible from every other restriction, and the unenforceability, in whole or in part, of any such restriction, shall not affect

the enforceability of the remaining restrictions and that one or more or all of such restrictions may be enforced in whole or in part as the circumstances warrant. Each party further acknowledges that the other party is relying upon such covenants as an inducement to enter into this Agreement. 2U shall cause its employees, agents and independent contractors to enter into appropriate confidentiality agreements to enforce the provisions of this Section 10. UNC shall cause its employees, agents and independent contractors to comply with the provisions of this Section 10. For the purposes of this Section 10, the term "person" shall mean any person, corporation, limited liability company, partnership or other entity, along with the heirs, successors and assigns of the same. The provisions of this Section 10 shall apply to a party and any affiliate of such party at any time during the Term hereof, including at any time that such affiliate is no longer an affiliate of such party, and each party shall cause each of such affiliates to enter into an agreement agreeing to comply with the terms of this Section 10.

- E) Survival. The parties obligations under this Section 10 shall survive the termination of this Agreement.
- 11) Limitation of Liability. To the maximum extent permitted by law, neither party shall be liable to the other or to any other person for any indirect, incidental, consequential, exemplary or special damages, of any character, including, but not limited to, damages for loss of goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of warranty or term of the Agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance. In no event will a party's aggregate liability for all claims, damages or losses under this Agreement, apart from claims, damages or losses asserted by a third party and subject to such party's indemnification obligations hereunder, exceed the Net Program Proceeds received by such party under Section 4(C) of this Agreement during the twelve (12) month period preceding the occurrence of the initial event that gives rise to a claim.
- 12) Competitive Programs. During the Term, UNC may not offer any Competitive Programs. 2U may offer online Competitive Programs to any party in its sole and exclusive discretion. Any party offering Competitive Programs hereunder shall not utilize any Confidential Information obtained from the other party for the benefit of any Competitive Program. Any party offering Competitive Programs shall create, implement and maintain an "ethical wall" to ensure complete separation of personnel identifying themselves as working for UNC from personnel identifying themselves as working for any Competitive Program.
- 13) Force Majeure. The nonperformance of either party to this Agreement, except nonperformance of payment obligations, will be excused to the extent that performance is rendered impossible by any act of God or circumstances beyond the control of a party and without its fault or negligence, including without limitation, fire, war, riots, flood, earthquake, failure of third party hardware or software, governmental acts or orders or restrictions, or power or communications failure (each a "Force Majeure Event"), provided that the non-performing party gives prompt notice of such Force Majeure Event to the other party and makes all commercially reasonable efforts to remove such causes of nonperformance promptly and perform whenever such Force Majeure Event has ceased. In the event that the Force Majeure Event continues and prevents substantial use of the Program for more than forty-five (45) days, either party may terminate this Agreement upon written notice to the other party, and upon such termination, neither party shall have any further obligation or liability to the other except as set forth in Section 7(F) hereof.

- 14) Sharing of Information. UNC and 2U shall share information, but only to the degree permitted by applicable law and guidelines. Upon 2U's reasonable request, UNC shall share information about in-classroom students' admissions, performance, and post-graduate outcomes, such information to be used by 2U solely to assess the Program. Both parties shall share information about online students admissions, performance, and post-graduate outcomes. All information shared under this Section 14 shall be deemed Confidential Information, whether it constitutes Personal Information or not. Such shared information shall include timely updates for admission and financial aid status, grades and academic status. UNC and 2U shall collaborate to connect application data with grades and other outcome metrics to help them continually refine admissions standards.
- 15) Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior agreement between the parties. No change, amendment, termination or attempted waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom the same is sought to be enforced.
- 16) Successors and Assigns. This Agreement, including, without limitation, all service levels, quality maintenance controls and investment obligations, shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties, provided that neither party may assign, subcontract or sublicense this Agreement in whole or in part or any of its rights or obligations hereunder without the prior written consent of the other, provided, however, that 2U may subcontract out aspects of the work for the Program other than overall Program management, provided further that 2U shall be responsible for any subcontractor work engaged by 2U for the Program as if 2U were performing it.
- 17) Governing Law. This Agreement and any claim or dispute arising out of, relating to or in connection with this Agreement or the transactions contemplated hereby, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws of North Carolina without giving effect to its conflicts of law principles.
- 18) Review and Notices.
- A) Approvals Generally. If either party hereto wishes to object to any proposal or other matter submitted by the other party for consent or approval, the objecting party shall promptly after submission of such proposal provide to the submitting party a description of its objection(s) in reasonable detail together with suggestions as to how it would like to see such objection(s) cured. Unless otherwise specified herein, approval for or consent to any proposal hereunder shall not be unreasonably delayed, conditioned or withheld and shall be deemed to have been given following 10 days after the written submission of such proposal, unless the reviewing party has provided a notice of objection(s) as described in this Section.
- B) Content and Brand Approvals. In the case of any consent or approval required from UNC with respect to the content or appearance (to users) of the Program, any substantive modification of any UNC Intellectual Property, or the content or appearance of any use of the UNC-Kenan Flagler brand in the context of any marketing message in which it will appear, such approval or consent may be withheld in the sole and absolute discretion of UNC. Once the content or appearance of any use of the UNC-Kenan Flagler brand in context is approved by UNC in its sole and absolute discretion, no further approval shall be required hereunder for re-purposing such content or appearance in any different media that would be consistent with any marketing plan

that UNC otherwise approves.

- C) **Notices.** Any notices or other communications under this Agreement, except as may otherwise be provided in this Agreement, will be deemed given and delivered (a) when delivered personally or (b) on the date received by or rejected by addressee, if mailed postage prepaid by certified mail, return receipt requested or if sent shipping prepaid by nationally recognized courier service requesting signature on delivery or (c) on the date received, if sent by confirmed facsimile (provided, however, in each case, if such confirmation is not by 3 p.m. on a business day, then on the next business day), in each case addressed to the address on the first page hereof, or, in the case of fax, to 2U at: 8201 Corporate Drive, Suite 900, Landover MD 20785; fax no. (301) 459-5890, and to UNC at Kenan-Flagler Business School, ATTN: David Stevens, McColl Building, Campus Box 3490, Chapel Hill, NC, 27599-3490; fax no.: (919) 962-1300, or to such other address as either party shall designate by notice to the other, effective ten (10) days after such notice. In the case of notice to 2U, a copy shall also be sent to Cooley LLP, attention: Michael R. Lincoln, Esquire, One Freedom Square, Reston Town Center, 11951 Freedom Drive, Reston, VA 20190-5656, fax no: (703) 456-8100. In the case of UNC, a copy shall also be sent to General Counsel, The University of North Carolina at Chapel Hill, 11 Bynum Hall, Campus Box 9105, Chapel Hill, NC 27599-9105, fax no: 919-843-1617.
- 19) **Severability.** The invalidity or unenforceability of any particular provision of this Agreement in any jurisdiction shall not affect the other provisions hereof or such provision in other jurisdictions, and this Agreement shall be construed in such jurisdiction in all respects as if such invalid or unenforceable provisions were omitted.
- 20) **Independent Contractors.** Each party shall be an independent contractor of the other party hereto. This Agreement shall not create a partnership and shall not authorize either party hereto to bind the other party in any manner.
- 21) **Specific Performance.** Each party acknowledges that money damages will not be a sufficient remedy for a breach of certain material obligations of the other party under this Agreement, and each party hereto shall be entitled to equitable relief pursuant to Section 21 compelling specific performance of such material obligations as a remedy for any such Breach. Such remedies shall not be deemed to be the exclusive remedies for a Breach of a material obligation of this Agreement but shall be in addition to all other remedies available at law or equity to the parties.
- 22) **2U Employee Benefit.** UNC agrees that 2U employees and their immediate family members (as appropriate) who are academically qualified to attend the Program shall be eligible for the same discounts available to UNC employees and their immediate family members attending the Program.
- 23) **Kenan-Flagler Alumni Benefit.** 2U agrees that any UNC Kenan-Flagler alumnus holding any MAC degree issued by the UNC Kenan-Flagler Business School may enroll in any online course offered through the Platform as part of the Program. In consideration therefor, UNC shall pay 2U a flat fee of _____ per course per alumnus. The parties shall mutually agree upon the timing and process for UNC to make such payments to 2U.

(Signature page to follow)

IN WITNESS WHEREOF, UNC and 2U have each caused this Agreement to be executed by its duly authorized officer as of the date first above written.

THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

By: Kevin R. Seitz

Name: Kevin R. Seitz

Title: Interim Vice Chancellor for Finance and Administration President & COO

2U INC.

By: Rob Cohen

Rob Cohen

President & COO

By: Douglas A. Shackelford

Name: Douglas A. Shackelford

Title: Dean, Kenan-Flagler School of Business

SCHEDULE 1(C)

Customer Service & Counseling

See discussion of Customer Service & Counseling in the Program Operational Plan.

SCHEDULE 1(G)

2U Support of Program Students & Faculty

1) Scope of SLA. This SLA covers a broad range of services and support provided by 2U throughout the Program student lifecycle. *(Disclaimer - This SLA is designed to serve as a framework for constructive review and dialogue around the key service components for the Program. The Service Level Agreement will be revised periodically and modified through mutual agreement. 2U and UNC agree to review annually but may do so more frequently.)*

2) Student Support. 2U's Post-Enrollment Services team will provide full lifecycle support for Program students as follows:

a) New Enrollment Services. This is defined as assisting Program students once they have signed their Intent to Enroll form and continuing through the on boarding and orientation to the start of courses.

b) Student Support. 2U's Student Support team will offer customer and technical support to all Program students.

c) Administrative Support

3. Faculty Support

4. Metrics and Measurement. UNC and 2U will agree on Platform, program, and service metrics to track Program success.

5. Changes and Renewal. The parties will mutually agree on adjustments to this SLA on an annual basis or more frequently as mutually agreed.

The following describes the high-level division of roles and responsibilities between 2U's Student Services team and the UNC Program Office. These lists can be altered upon mutual agreement of the parties.

2U Student Services

UNC Program Office

SCHEDULE 1(H)(i)
Specifications and Performance Standards for the Platform and
Related Service Level Agreements

This Service Level Agreement ("SLA") sets forth 2U's responsibilities as they apply to the Platform it provides to students and faculty, pursuant to the terms of the Services Agreement between UNC and 2U. The purpose of this SLA is to ensure that the proper elements and commitment are in place to provide excellent and consistent data processing services.

1) Definitions

- a) **Platform** is a technology platform for the Program that serves as an online communication portal for students, faculty, course coordinators, course assistants, and Program staff and that enables online applications, course delivery, Program communications, development and maintenance of student portfolios, career services and such other functions as are mutually agreed to by the parties. The Platform is the custom developed Learning Management System (LMS), Admissions and Student Information System. The Platform includes the technology for delivering the Produced Segments.
- b) **Functions** include but are not limited to, the ability to authenticate/authorize; receive or submit all course material (video, documents, audio); receive and submit course assignments; view the "news feed"; leverage checklist for assignments; upload comments in written or video form; collaborate via synchronous sessions with video, audio, whiteboard, slide sharing; and delivery of dashboard style reports for student information throughout the student lifecycle with the Program.
- c) **Initial Response** is contacting a User via email or phone to determine the details of such User's particular issue. Initial response is not an automated email but rather an individualized discussion.
- d) **Mass Initial Response** is contacting a group of Users for communication of a known issue rather than communicating on a one-by-one basis.
- e) **User or Users** is defined as Program students, staff and faculty related to the UNC Kenan-Flagler Business School online programs regardless of whether they work for 2U or UNC or a 3rd party. Any calculations based on Users would also be on this pool of students, staff, and faculty.
- f) **Business Hours** are defined in Schedule 1(G).
- g) **Organizational Data** is any data in any form associated with any UNC User.
- h) **Vendor Vulnerability Patch** is any patch that will remediate a known security vulnerability for a product. These patches are not patches for routine bug fixes and program updates. For a patch to constitute a Vendor Vulnerability Patch, the Platform, Organizational Data, and or User systems must be at risk without the patch.
- i) **2U's Hosting Services** is any organization that 2U has contracted to house any and all of its computer hardware, software and peripherals.

2) Service Description

- a) 2U will provide, support, and be responsible for the availability of the hosting network, 2U's Hosting Services, any server operating system, the Platform, and any third party application required to operate the Platform.
- b) 2U will provide hosting support and maintenance, as set forth in this SLA, on the Platform including:
 - i) Initial development of the Platform; and
 - ii) Patches and upgrades to the Platform
- c) The Platform will be accessible through the then-most popular browsers in their most popular configurations. These include the latest widely adopted production releases of Mozilla Firefox, MS Internet Explorer, Apple Safari and Google Chrome once they have been accepted, and past versions of those browsers within two years of release. The Platform may require a variety of plug-ins. 2U shall evaluate new releases of such browsers promptly, but no later than thirty days after their release.

3) Defects: 2U will repair errors, bugs, or defects in the Platform, and respond promptly to UNC Users experiencing problems with the Platform.

- a) 2U characterizes Functions as Core, Minor or Ancillary as described below:

- d) 2U will provide a solution to a User problem based on the priority of the issue as follows:

4) Availability

- a) Availability of the Platform will be guaranteed at % for any given calendar month, excluding the items defined in the Exceptions Section below.
- b) Should Availability of the Platform fall below % in any given month, 2U and UNC will meet to discuss the impact of the Availability and reasonable, mutually agreeable steps to improve the Availability above %.
- c) Availability is measured as the percentage of a particular calendar month that access to the Platform is available by third parties via HTTP and HTTPS.
- d) Availability is measured by a third party contracted by 2U, and reasonably acceptable to UNC, whose determinations shall be binding on the parties.
- e) Outages due to executing a Vendor Vulnerability Patch will not be included in the Availability calculation regardless of the scheduling and notification capability and those patches will be applied at 2U's discretion. In addition, Vendor Vulnerability Patching will be excluded from the calculation of Availability.

5) Exceptions: The Availability guarantee set forth above shall not apply to the following service interruptions:

- a) Unscheduled necessary maintenance shall result in no more than one half hour of unavailability of the Platform during any calendar week. 2U will use commercially reasonable efforts to give Users one (1) hour advance notice of unscheduled necessary maintenance. Any unscheduled maintenance resulting in more than one

half hour of unavailability of the Platform during any calendar week once will count against the Platform Availability calculation.

- b) Scheduled maintenance and upgrades:
 - i) Routine scheduled maintenance means maintenance on the Platform that is scheduled at least 24 hours ahead and which results in less than one (1) hour of unavailability of the Platform. 2U will use commercially reasonable efforts to schedule such routine maintenance between 6:00 AM and 11:00 AM ET on Mondays, Wednesdays and Fridays. 2U will give Users 24 hours advance notice of routine scheduled maintenance for any maintenance requiring more than 15 minutes of unavailability of the Platform. 2U will select a time for the outage with the lowest level of activity based on recent activity trends for the Platform. A routine scheduled maintenance occurring more than once in any 24 hour period will count against the Platform Availability calculation.
 - ii) Extensive scheduled maintenance means maintenance on the Platform that is scheduled at least 7 days ahead and which results in more than one (1) hour of unavailability of the Platform. 2U will schedule extensive scheduled maintenance during the lowest expected level of activity on the Platform based on recent activity on the Platform. 2U will give Users seven (7) days advance notice of extensive scheduled maintenance. An extensive scheduled maintenance occurring more than once in one calendar month will count against the Availability calculation.
 - iii) Upgrades are defined as updates to the Platform. Upgrades will be applied during a routine scheduled maintenance window or other mutually agreed timeframe.
- c) Outages due to UNC-requested events such as intrusive testing, data loading, custom export or usage outside SLA parameters.
- d) Domain Name Server (DNS) propagation or DNS issues outside the direct control of 2U. Similarly, outages elsewhere on the Internet that hinder access to the Platform. 2U is not responsible for browser or DNS caching that may make the Platform appear inaccessible when others can still access it.
- e) Circumstances beyond 2U's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage or other criminal act, armed conflict, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, failure of third party Services contracted for use in the Platform or inability to obtain raw materials, supplies, or equipment needed for provision of this SLA.

6) Disaster Recovery

- a) Geographically-redundant data backups are made on the following schedule:

7) Remedies

- a) If UNC believes that a service level commitment herein is not being met, it shall notify 2U of the perceived problem. 2U shall promptly investigate any such matter and respond within two business days by either (i) acknowledging the shortfall, and summarizing the steps and estimating the time necessary to correct it, or (ii) by disagreeing that any commitment has not been met and explaining its reasons. If more than one problem is asserted, 2U shall respond separately to each.
- b) If UNC believes that the response is insufficient, the parties shall meet in person as promptly as possible to discuss and attempt to resolve such differences. If the parties are unable to resolve all differences at that meeting, then they shall resolve such differences as they are able, and 2U shall proceed immediately and diligently in accordance with such resolution, and UNC may, if it thinks appropriate, send a notice of default as set forth in Section 7(C) of the Services Agreement with regard to any unresolved difference.

SCHEDULE 2(K)

Career Services Plan

See discussion of Career Services in the Program Operational Plan.

SCHEDULE 4(C)(ii)

Direct Costs of Licenses and Support for Classroom Course

At UNC's request, 2U will support UNC's Classroom Courses, as specified in Section 4(C)(ii), through the Platform in the following ways:

- 1) Platform. 2U will make its Platform available to UNC students and faculty at no fee.
- 2) Support. 2U may provide technical and other support for UNC students and faculty.
- 3) Development.