

MEMORANDUM OF UNDERSTANDING

Dated 9/21/2016, 2016

PARTIES

- (1) **Trilogy Education Services, LLC**, a Delaware limited liability company with an office at 31 E 32nd Street, #1202, New York, New York, 10016 ("**TES**"); and
- (2) **The Regents of the University of California**, on behalf of the University of California Berkeley Extension, located at 1995 University Avenue, #110, Berkeley, CA 94704 ("UC Berkeley" or "UCB").

RECITALS

- (A) TES helps colleges prepare learners for high growth careers in the digital economy.
- (B) TES offers a turnkey package of services including coding curriculum, student recruitment, and career placement services to position graduates for job market success.
- (C) The Parties are proposing to offer TES' non-credit, part-time intensive coding boot camp (approximately 250 contact hours in length) which shall be classroom-based at facilities provided by UC Berkeley and supported by video content (the "**Program**").
- (D) This Memorandum of Understanding ("**MoU**") defines the terms of agreement (the "**Agreement**") for a pilot project to offer the Program. Each party will dedicate the appropriate resources required to meet the deadlines and obligations defined in this MoU.

1. TERM

- 1.1. The term of this Agreement ("**Term**") will initially be for one (1) year.
- 1.2. If the Program is successful (based on a joint review after completion of the first cohort), the Agreement may be renewed for two (2) years followed thereafter by automatic one-year renewals unless either party opts not to renew the Agreement by giving the other party at least one hundred eighty (180) days written notice before the end of the first year, the two-year period or any subsequent renewal period.

2. TIMEFRAME

- 2.1. The Parties anticipate a sales and marketing launch on or around October 1, 2016, with the first cohort to start in January 2017.

3. STRUCTURE OF THE PROGRAM

- 3.1. The Program will be based on TES' intensive coding boot camp and shall be approximately 250 contact hours, as mutually agreed. It shall consist of face-to-face learning conducted in facilities supplied by UC Berkeley. There shall also be portions of the Program that are video-based. Additional details of the Program shall be agreed in the course design phase.
- 3.2. The Parties agree that the initial location for the face-to-face sessions included in the Program will be in Berkeley, CA.
- 3.3. The Parties will target a minimum of two (2) cohorts during the initial term. If the Program is successful, additional cohorts may be offered during the initial term or the renewal term.
- 3.4. If the Program is successful, the Parties may discuss and agree in writing about offering one or more of the following additional (blended online and on campus) programs:
- (a) Full-time intensive coding boot camp (350 hours +/-);
 - (b) Part-time abbreviated boot camp (96 hours +/-); and
 - (c) Additional coding programs (i.e., IOS Application Development) based on demand.

4. UCB TRADEMARK LICENSE

- 4.1. The Program will be marketed by UC Berkeley and TES in accordance with the terms of this Agreement, with the names and logos of the University of California Berkeley Extension shown in Exhibit A. Subject to the terms and conditions hereunder, UC Berkeley hereby grants to TES for the Term of the Agreement a limited, revocable, non-exclusive, royalty-free, non-transferrable and non-sublicensable license to use the trademarks identified in the attached Exhibit A solely for the limited purposes as set forth in this Agreement. All marketing materials in whatever forms and media bearing "UC Licensed Marks" (as defined in Exhibit A, hereto attached) shall be subject to prior written approval by UC Berkeley before such materials are employed per the terms of this Agreement.
- 4.2. The parties acknowledge and agree that other than the rights expressly granted to TES in this section, the names of the University of California, UC Berkeley, UC Berkeley Extension or any abbreviations thereof, or any name the foregoing is a part, as well as any other trademarks such as logos, landmarks, slogans, and graphic

representations (collectively "University Marks"), are protected by U.S. state, federal, and/or international laws, shall not be used in a manner to imply an endorsement or sponsorship of TES, its products or services. TES shall not use any University Marks in any commercial context, such as may appear on products, in media (including websites) and print advertisements in cases when such use may imply an endorsement or sponsorship. All uses of University Marks beyond those outlined in this Agreement must first receive prior written consent of The Regents of the University of California through the Office of Business Contracts and Brand Protection. This provision is in compliance with the State of California Education Code Section 92000.

- 4.3. TES shall neither directly or indirectly obtain, or attempt to obtain during the Term hereof or at any time thereafter, any right, title or interest in or to any University Marks including those licensed to TES hereunder ("UC Licensed Marks"). Upon termination or expiration of the agreement, TES shall immediately discontinue the use of all UC Licensed Marks.

5. TES'S OBLIGATIONS

- 5.1. TES will be responsible for generating all enrollments for the Program, however, as noted below in the UC Berkeley obligations, UC Berkeley will support the Program with standard UC Berkeley levels of marketing and publicity, reasonably similar to that currently provided for other similar non-credit UC Berkeley programs.
- 5.2. TES will be responsible for marketing the Program, which will include the use of UC Berkeley' brand per Section 4 above.
- 5.3. TES will select faculty who will be presented to UC Berkeley for approval in its sole discretion. Faculty are subject to UC Berkeley approval for any teaching, in any format, in any TES program bearing the UC Licensed Marks. Faculty are hired 'at will' by TES for programs and subject to evaluation by UC Berkeley before any reappointment or new appointments.
- 5.4. TES will ensure that the instructor selected to teach in the Program will receive all trainings required of UCB instructors including training in legal and University of California policy requirements concerning privacy, data security and protection of students' educational records and other personally identifiable information and comply with all University of California policies as applicable to UCB instructors teaching courses at UCB. TES will be responsible for and bear any liability resulting from any negligent or willful violation or misconduct by such instructors of requirements of FERPA, any other applicable laws, or University of California policies provided to TES or the instructor during the instructor's training as set forth herein.
- 5.5. TES will provide support services for students in the Program and placement services for students in the Program.

- 5.6. TES will collect all enrollment fees.
- 5.7. TES shall provide the course materials required for the Program subject to review and approval by UC Berkeley in its reasonable discretion. TES shall retain all right, title and interest in and to all course materials, know-how, methodologies, processes, technologies or other Intellectual Property Rights (as defined below) contained in the course materials and used in providing the Program including any and all additions, improvements, supplements, enhancements or developments to the course materials that are used in the Program. "Intellectual Property Rights" means all patents and industrial property rights, patent applications and registrations, trademarks, trademark applications and registrations, copyrights and moral rights, copyright applications and registrations, renewals, extensions, continuations, divisions, and reissues of, and applications for any of the rights referred to herein, Trade Secrets, trade names and industrial designs, domestic or foreign, whether arising by statute or common law. "Trade Secrets" means information that is used or may be used in business or for any commercial advantage, derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use, is the subject of reasonable efforts to prevent it from becoming generally known, and the disclosure of which would result in harm or improper benefit. TES hereby grants to UC Berkeley and its employees and agents involved in implementing this Agreement a non-exclusive, royalty-free, fully paid-up, license for the Term to use, reproduce and distribute any Program course materials provided by TES hereunder for the purpose of providing copies to Program participants in the event that TES or a member of the Program faculty requests the same. Any other provision herein to the contrary notwithstanding, UCB shall retain all Intellectual Property Rights in and to the University's official course approval documents ("Course Approval Documents") consisting of documents submitted, reviewed and approved pursuant to applicable UCB academic regulations related to the approval of courses of instruction, typically consisting of a course description, a statement of learning objectives and a topical outline. TES may not, without the prior written permission of the UCB, use, copy, modify, publicly perform or display such Course Approval Documents. It is understood that except as otherwise expressly provided herein, (i) no rights or permissions concerning preexisting or otherwise independently developed or acquired Intellectual Property Rights of UC Berkeley is being granted to TES by this Agreement, and (ii) the Regents of University of California shall retain all rights and titles to all University Marks now existing or to be adopted in the future in association with the Program.

6. UC BERKELEY'S OBLIGATIONS

- 6.1. UC Berkeley will provide appropriate classrooms for the Program at its sole cost and expense; provided, however, that if the parties agree to hold the Program off-campus, the cost of the space will be added to the budget as a joint expense. Any licensing required to offer the Program shall be provided under UC Berkeley's license as an educational institution in the state of California.

- 6.2. UC Berkeley will market the Program according to its standard marketing practices for similar non-credit programs, including in its printed materials, social media and on its website. In connection therewith, UC Berkeley shall make its brand available (according to the conditions stated above including prior written approval) to TES for marketing of the Program. In addition, a specific list of marketing support activities will be agreed between the Parties (i.e., listing the Program on University of California Berkeley Extension's Facebook page, etc.).
- 6.3. UC Berkeley agrees that leads for the Program that are received by UC Berkeley directly from the UC Berkeley website will be sent to TES as soon as reasonably practicable for follow-up and/or processing so that all enrollments can be managed by TES regardless of origin.
- 6.4. UC Berkeley will have approval of any marketing materials sent to the University of California at Berkeley student and alumni database, which shall include, at a minimum, one email with the course offering to said database per calendar quarter. The contents of the email will be agreed among the parties and UC Berkeley shall be responsible for transmitting the same.
- 6.5. UC Berkeley will not offer any part-time coding boot camp substantially the same or similar to the Program targeting the same potential student pools in California or online except as offered with and through TES while this Agreement is in effect, it being understood that the foregoing in no way restricts UC Berkeley's ability to offer (i) any existing or new courses or programs of the same type and formats as currently being offered to the public in its normal course of business, whether or not such course or program involves computer programming or coding; or (ii) any programs of whatever type relating to data science. UC Berkeley agrees that the right to offer the Program, will be exclusive to TES during the initial term, which will be extended if the term is extended under Section 1.2. Notwithstanding the foregoing, if UC Berkeley desires to offer any program referenced in Section 3.4 of this Agreement, TES shall have the right of first refusal to be the educational partner for the new coding boot camp. For purposes of clarity, the Parties agree that these covenants shall not apply to the University of California at Berkeley beyond University of California Berkeley Extension.
- 6.6. UC Berkeley shall not offer financial aid and/or loans in the one-year initial term but will endeavor to provide financial aid and/or loans to prospective students and shall provide TES with a summary of its process flow for approving and disbursing funds.

7. JOINT OBLIGATIONS

- 7.1. The Parties will agree on the plan and supervised execution of public notification concerning this MoU any other activities of the Parties involving both organizations, The timing, content, delivery and media to be used for any and all publicity about the Parties' relationship or about the Program or any other activities involving both Parties, is subject to prior written approval by both Parties. Both Parties retain the

absolute right to determine whether permission will be granted to use that party's name or brand or when and how to publicize the relationship between the Parties.

- 7.2. Subject to the success of the Program and the structure for the Program set forth herein, the Parties acknowledge that there is no inherent restriction on the number of cohorts per year; however, the Parties agree that, assuming minimum enrollment targets are met; there will be a minimum of two (2) cohorts per year.
- 7.3. TES may choose to offer financial support in the form of special discounts or scholarships to interested, selected students, subject to the prior written (email acceptable) approval of UC Berkeley.
- 7.4. The Parties agree that the optimal price point for the Program will be determined by mutual agreement between the Parties. Any amendment to the optimal price point must be agreed in writing (which may include email).

8. REVENUE SHARE

- 8.1. TES shall collect all revenue related to the Program. The Parties shall agree on a budget for the pilot phase of the Program and for each year thereafter for the Term, a copy of which is hereby attached as Exhibit C. Program accounting shall be on a quarterly basis.
- 8.2. For the purpose of this Agreement,
 - (i) "Gross Revenue" for a quarter means all tuition and fees received for the Program attributable to enrollments for the quarter. Gross revenue shall be recognized on an "as taught" (i.e., prorated over the length of the Program) basis in lieu of an "as received" basis.
 - (ii) "Net Revenue" means Gross Revenue received for each quarter less expenses agreed to in the applicable budget per Section 8.1 hereof, with such variances to expenses as are reasonably incurred, not to exceed 2% without the prior written approval of UCB.
- 8.3. The parties will split the "Net Revenue" on a 50/50 basis irrespective of any bad debt related to payment plans offered by TES; provided however, that in the event that 50% of the Net Revenue for any quarter during the initial one (1) year term is less than 20% of the Gross Revenue for that quarter, UC Berkeley shall receive 20% of the Gross Revenue for the quarter.

9. PAYMENT TERMS AND BOOKS AND RECORDS

- 9.1. TES will generate a quarterly revenue report as of the end of each calendar quarter that will show quarterly enrolments by cohort and revenue received. That report will be received by UC Berkeley no later than thirty (30) days after the end of the calendar quarter. Payment of the amount due in full will be received by UC Berkeley

no later than thirty (30) days of the date the Parties agree on the calculation and the amount to be paid to UC Berkeley.

- 9.2. TES shall maintain true, accurate, and complete books, records, and accounts as relating to the Program and the calculation of Gross Revenue and Net Revenue, in accordance with the terms of this Agreement. TES shall, for the Term and a period of two (2) years after the end of each fiscal year, keep safe and intact all of its books, records and accounts for such fiscal year that are required to be maintained under this Agreement. TES' books and records shall show in reasonable detail all items, deductions, and additions included in the calculation of Gross Revenue and Net Revenue, and shall be true, accurate and complete and certified as such by TES, and shall otherwise be in such form and contain such information as UCB may from time to time reasonably request.
- 9.3. During the Term and for a period of two years thereafter UCB shall have the right to examine such books and records that are specifically related to the Agreement. Such examinations shall be held upon reasonable advance notice to TES and TES will make relevant books and records available to UCB, who shall have the right to object to TES's calculation of Gross Revenue or Net Revenue. 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 take appropriate steps to correct such errors in payment within thirty (30) days of such disclosure, with interest to be calculated from the date such payment should have been made to the date on which such payment is made at a rate equal to the Prime Rate as listed at <http://www.bankrate.com> (or similar publication if unavailable) plus two percent (2%). If UCB and TES cannot agree with respect to any overpayment or underpayment of revenue, UCB may in its discretion retain the service of an independent auditor reasonably acceptable to both parties for the purpose of resolving such dispute, with the party found to be in error in the disagreement to bear the cost of the service of such independent auditor.

10. CONFIDENTIALITY

- 10.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 10.2.
- 10.2. Each Party may disclose the other Party's confidential information:
- (a) To its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the Party's obligations under this MoU. Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's confidential information comply with this clause 9;

- (b) As may be required by law, court order or any governmental or regulatory authority; and
- 10.3. No party shall use any other Party's confidential information for any purpose other than to perform its obligations under this MoU. For the purpose of this Agreement, a party's confidential information means its proprietary non-public information marked in writing as confidential including such party's trade secrets, business and financial information, and other legally protected information whether or not marked as confidential, such as personally identifiable information, student information protected under the Federal Family Educational Rights and Privacy Act ("FERPA"), the State of California Education Code, the State Information Practices Act, and the policies of University of California.

11. INFORMATION SHARING AND COMPLIANCE

- 11.1. All information and data concerning Program leads, the conversion of such leads into Program applicants, job placements for Program students who complete the Program and salaries of such employed former Program students shall be the Confidential Information of TES ("TES Information and Data"). TES shall provide UC Berkeley TES Information and Data and any other related information reasonably requested by UC Berkeley as soon as practicable in forms and at frequencies to be agreed by the parties, provided that UCB will abide by any non-disclosure obligation set forth herein and any other applicable privacy or data security requirements under the law.
- 11.2. All information and data concerning Program applicants, Program students and their participation in the Program, evaluation or grading of students' performance in the Program, enrollment numbers, courses started and completed, number of students completing the Program, student demographics, learning methodology and results, and other related information are Confidential Information of UCB ("UCB Information and Data"). Subject to the following Section, UCB hereby grants to TES a non-exclusive, non-transferable, revocable license to access UCB Information and Data only as necessary to satisfy TES' obligations hereunder.
- 11.3. Each party warrants it will fully comply with all federal and state law requirements concerning any access, disclosure, storage, transmission of the information and data of the other party. Without limiting the generality of the foregoing, the parties will comply with all applicable laws, including FERPA and other privacy laws, in maintaining the security, privacy, and integrity and to the extent applicable accessibility of Program students' information, as well as any other personally identifiable information. For the limited purpose of implementing its obligations under this Agreement, TES is hereby appointed an official of UCB and TES covenants to comply with all FERPA requirements pertaining to any Program student educational records. Further, TES agrees to be bound by the terms of the University of California privacy and data security requirements as set forth in the attached Exhibit B or any future updated version thereof ("Appendix DS") with respect to all

Program students' and applicants' information. TES acknowledges and agrees that TES shall be deemed to be a "supplier" of UC Berkeley for the limited purpose of complying with Appendix DS. To the extent applicable, TES shall ensure all its course materials including those for on-line use comply with all requirements for disability access under the American Disabilities Act. If and as requested by UCB, TES shall work with UCB to ensure compliance of TES course materials with the foregoing requirements.

- 11.4. The parties agree that any breach by a party or any its employees or agents, of this Section shall constitute a material breach of this Agreement.

12. INDEMNIFICATION

- 12.1. Each of UCB and TES shall defend, indemnify and hold the other party, its officers, agents, and employees, harmless from and against any and all liability, loss, expense, including reasonable attorney's fees, or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from (i) the negligent or intentional acts of the indemnifying party, its officers, agents, or employees, or (ii) without limiting the generality of the foregoing, (a) the breach by the indemnifying party of any provision of this Agreement, including without being limited to its representations or warranties under this Agreement; or (b) any violation of law or infringement of the intellectual property or contractual rights of a third party by the indemnifying party, its employees, officers or agents.
- 12.2. Without limiting the indemnified party's available rights and remedies permitted by law or provided hereunder, if the indemnifying party believes that the performance of this Agreement may become the subject of a third-party infringement claim, it may (a) obtain a license to continue providing such Performance; (b) modify the Performance such that they are no longer infringing upon written approval by the indemnifying party in its sole discretion; or (c) if neither of the foregoing is reasonably practicable after the indemnifying party's application of commercially reasonable efforts, terminate this MoU upon reasonable written notice to the other party, provided however, that the party exercising the foregoing right to terminate this Agreement shall satisfy its obligation under Section [13] of this Agreement and shall indemnify and hold the other party harmless from and against any and all damages, losses, liabilities, costs and expenses directly or indirectly resulting from (and will defend the other party from) any claim, suit, dispute, or proceeding arising from or relating to the termination.
- 12.3. For those Claims which the indemnified party wishes the indemnifying party to defend, the indemnified party will (i) provide prompt notice to the indemnifying party of the existence of such Claim (and in any event, within 14 days of it learning of the existence of such Claim); (ii) tender control of the defense to the indemnifying

party, provided that the indemnifying party may not enter into any settlement affecting the indemnified party's interests without the indemnified party's consent; and (iii) provide reasonable assistance to the indemnifying party at the expense of the indemnifying party in the defense of such Claim. The indemnified party may participate in the defense with counsel of its choice at its own expense. Without limiting the generality of the foregoing, the indemnifying party may apply for strike-off (or similar relief in any jurisdiction) of any vexatious claims which counsel advises have no reasonable prospect of success.

- 12.4. Except for the parties' indemnification obligation set forth in Section 12 for liability for death, bodily injury or fraud or infringement of the Intellectual Property Rights of a third party, no Party shall be liable to the other Party for any lost profit or consequential, exemplary, punitive, statutory or other special damages, and each Party hereby unconditionally, expressly and forever waives any right it may now or hereafter have against the other Party respecting any and all such damages, in each case: (i) whether through action, suit, counterclaim or otherwise; (ii) whether in contract, tort, strict liability, indemnity, reimbursement or otherwise; (iii) whether or not it has been advised of the possibility of any such damages; (iv) whether or not any other remedy is available or enforceable under this MOU or applicable law; and (v) to the greatest extent such agreement or waiver is permitted under applicable law. Except for the parties' indemnification obligation set forth in Section 12 for liability for death, bodily injury or fraud or infringement of the Intellectual Property Rights of a third party, either party's liability to the other under this MoU, whether in law or equity, shall not exceed \$3,000,000.

13. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 13.1. Each of TES and UCB hereby represents and warrants that it
- (a) is duly organized, validly existing, and in good standing under the laws of the state of its incorporation, and has the capacity and authority to enter into this Agreement;
 - (b) has duly authorized, executed and delivered this Agreement and that this Agreement constitutes legal, valid and binding obligations enforceable in accordance with its terms;
 - (c) is not a party to, bound by or subject to any statute, regulation, decree or law, any contract, instrument, charter or by-law provision which would be violated, contravened or breached by, or under which any default would occur as a result of, the execution and delivery by such party of this Agreement or the performance by such party of any of the terms of this Agreement;

- (d) in entering into and performing this Agreement, it has complied with and will, during the term of this Agreement, comply with all applicable laws and policies;
- (e) it will not engage in any conduct to impair or omit to take any action necessary to avoid impairing the name or the reputation of the other party.
- (f) it has not and will not engage in any conduct to infringe on or omit to take any action necessary to avoid infringing any intellectual property rights of the other party or any other third party.

The parties agree that any breach of this Section shall constitute a material breach of this Agreement.

14. TERMINATION

- 14.1. The parties may terminate this Agreement at any time by written agreement.
- 14.2. Either party may terminate this Agreement for convenience upon 180 days' prior written notice to the other party after the end of the two year period following the pilot phase as set forth in Section 1 hereof.
- 14.3. A party may terminate this Agreement effective immediately upon its delivery of a termination notice in the event of a material breach of this Agreement by the other party which breach is not cured within 30 days of the breaching party's receipt of a written notice concerning the breach.
- 14.4. A party may terminate this Agreement with reasonable notice if there is any change in law that prohibits or renders impracticable the continued performance of this Agreement.
- 14.5. In the event of termination of this Agreement per the terms of this Section, the parties shall work together to ensure that students already enrolled in the Program prior to the date of termination be permitted to complete the Program.

15. INSURANCE

- 15.1. The parties shall keep in full force and effect during the term, at each party's own expense, insurance or in the case of the university, self-insurance with coverages as follows ("insurance"):
- (a) Commercial form general liability insurance with minimum limits as follows:
 - (b) Each occurrence \$1,000,000
 - (c) Products/completed operations aggregate \$2,000,000
 - (d) Personal and advertising injury \$1,000,000

- (e) General aggregate \$2,000,000
- (f) Workers compensation as required by applicable law.
- (g) Business automobile insurance with insurance coverage amount of \$1,000,000 per occurrence.

- 15.2. If the insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement.
- 15.3. The insurance shall provide for a retroactive date of placement prior to or coinciding with the effective date of this Agreement.
- 15.4. Each party shall be named as an additional insured on the general liability and business automobile insurance of the other party, in proportion to and to the extent of the negligent acts or omissions of the former party's officers, employees and agents.
- 15.5. within thirty (30) days of the execution of this Agreement, each party shall furnish the other party with a certificate of insurance (the "certificate of insurance") evidencing compliance with the insurance provisions of this Agreement. Organization's certificate of insurance shall be delivered to university at the address specified in the Preamble. Each party is required to give 30 days' advance written notice to such other party of any modification, change, or cancellation with respect to the insurance.
- 15.6. in addition to the insurance required above, TES at its sole cost and expense shall obtain, and maintain an insurance policy (or policies) that provides coverage for privacy and data security breaches with coverage for reasonable costs in investigating and responding to privacy and/or data breaches with the following minimum limits: \$1,000,000 each occurrence and \$3,000,000 aggregate.
- 15.7. The insurance requirements set forth in this section shall not limit a party's liability.

16. INDEPENDENT RELATIONSHIP

The parties to this Agreement shall be and remain at all times independent contractors, neither being the employee, agent, representative, joint venture partner, or sponsor of the other in their relationship under this Agreement and neither party may bind the other party in any agreement with a third party or otherwise act on behalf of or in the name of the other party in any fashion without the express written consent of the other party.

17. SURVIVAL

The parties agree that that the provisions of this Agreement which expressly or by implication are intended to survive the termination or expiration of the Agreements, including but not limited to Sections [-----] shall survive the expiration or early termination of this Agreement and continue to bind the parties.

18. SUBCONTRACTING AND ASSIGNMENT

Neither party shall subcontract any of its obligations pursuant to this Agreement without the express written consent of the other party; provided, however, that (i) the use by UCB of non-employee independent professional consultants shall be permitted, and (ii) that TES can use subcontractors to provide course instruction subject to the terms of this Agreement including the requisite approval of such subcontractors by UC Berkeley. No assignment of this Agreement may be made by either party except with the express written consent of the other party. In the event that a party subcontracts any work or services under this Agreement or delegates such work or services in accordance with this provision, such party shall be fully responsible for the compliance of the subcontractor or consultant with this Agreement.

19. NOTICES

All notices under this Agreement shall be in writing and shall be served either personally, by overnight delivery service, by registered or certified mail, return receipt requested, or by email, addressed to the parties set forth above. Any notice shall be deemed delivered (a) seven (7) business days after notice is mailed, or (b) if personally delivered, when acknowledgment of receipt is signed, or (c) if given by a reputable overnight courier, the next business day after deposit with the courier (provided that proof of delivery is obtained), or (d) if sent by e-mail, upon actual delivery as evidenced by printed confirmation of transmission. Notwithstanding the foregoing, (i) in the case of e-mail, if the notice or communication cannot be transmitted because of a problem affecting the recipient's computer, then it shall be deemed given and received at the end of the next business day; and (ii) if delivery occurs after 5:00 p.m. (local time where received) or on a non-business day, then such notice or communication so made shall be deemed received on the first business day after the day of delivery. By written notice to the other, either party may change its notice address.

20. FORCE MAJEURE

A "Force Majeure" event shall mean any event, circumstance or conditions that (i) directly or indirectly prevents the fulfillment of any material obligation specified under this Agreement by one (or both) party, (ii) is beyond the reasonable control of the party, and (iii) could not, by the exercise of due diligence and prudence, have been avoided or overcome in whole or in part by such party. Subject to the aforementioned items (i), (ii) and (iii), a Force Majeure event includes, but is not limited to, acts of God, war, terrorism, civil commotion, riot, blockade or embargo, delays of carriers, fire, explosion, organized labor dispute, casualty, accident, earthquake, epidemic, flood, windstorm, or by reason of any law, order, proclamation, regulation, ordinance, demand, expropriation, requisition or requirement or any other act of any governmental authority, including military action, court orders, judgments or decrees. Any delay or failure in performance of this Agreement caused by an event of Force Majeure shall not constitute default by the party prevented from performing the Agreement or give rise to any claim for damage, losses or penalties. Under such circumstances, both parties are still under an obligation to take reasonable measures to implement this Agreement, so far as is practical. Once the Force Majeure event ends, the party that has been prevented from performing shall notify the other party as soon as possible of the end of such event, and the other party shall confirm receipt of such notice. Both parties should then continue to perform their respective obligations under the

Agreement.

21. MISCELLANEOUS PROVISIONS

21.1 Entire Agreement; Amendments.

This Agreement along with its attached schedules and exhibits represent the entire understanding between UCB and TES concerning the subject matter hereof and supersede all prior negotiations, representations and agreements between them, both written and oral, concerning the subject matter hereof. This Agreement may only be modified pursuant to a written amendment signed by duly authorized signatories of the parties.

21.2 Governing Law.

The formation of this Agreement, its validity, performance of this Agreement, and the settlement of any disputes between the parties hereunder, shall be governed by the laws of the State of California, excluding its conflict of law provisions.

21.3 Severability.

If any provision of this Agreement shall be held by a tribunal of competent jurisdiction to be invalid or unenforceable, the remaining portions hereof shall remain in full force and effect.

21.4 No Waiver.

The waiver by any party of a default under any provision of this Agreement shall not be construed as a waiver of any subsequent default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of a party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy.

21.5 Headings; Construction.

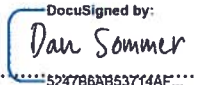
Headings in this Agreement are solely for convenience and shall not be used to define or construe any provision hereof. Ambiguities, if any, in this Agreement shall be reasonably construed in accordance with all relevant circumstances, including, without limitation, prevailing practices in the industry of the parties in the place where the contract is to be performed and shall not be construed against either party, irrespective of which party may be deemed to have authored the ambiguous provision.

21.6 Counterparts.

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same instrument. Execution and delivery of this Agreement by delivery of a facsimile or electronically recorded copy (including a .pdf file) bearing a copy of the signature of a party shall constitute a valid and binding execution and delivery of this Agreement by such party. Such copies shall constitute enforceable original documents.

IN WITNESS WHEREOF, the Parties have executed this MOU as of the date first written above.

TRILOGY EDUCATION SERVICES, LLC

DocuSigned by:

.....S247B6AB53714AF....., Daniel Sommer, CEO
duly authorized for and on behalf of TES

THE REGENTS OF UNIVERSITY OF CALIFORNIA

, Ling Zhu, Associate Director, BCBP
duly authorized for and on behalf of UC Berkeley Extension
9/21/2016

Exhibit A
UC Licensed Marks

Word Marks:

1. University of California, Berkeley Extension
2. UC Berkeley Extension

Logos:



URL (i.e., domain name):

6. <http://extension.berkeley.edu/>

II. University marks: The following may not be used independently but only in connection with the names and/or logos as shown above.

- Word Marks:
 - University of California, Berkeley
 - UC Berkeley
 - Berkeley

EXHIBIT B
Appendix – Data Security and Privacy

ARTICLE 1 – PURPOSE AND SCOPE OF APPLICATION

- A. This Data Security and Privacy Appendix is designed to protect the University of California's (UC) Non-public Information and UC Information Resources (defined below). This Appendix describes the data security and privacy obligations of Supplier and its sub-suppliers that connect to UC Information Resources and/or gain access to Non-public Information (defined below).
- B. Supplier agrees to be bound by the obligations set forth in this Appendix. To the extent applicable, Supplier also agrees to impose, by written contract, the terms and conditions contained in this Appendix on any third party retained by Supplier to provide services for or on behalf of the UC.

ARTICLE 2 – DEFINED TERMS

- A. Breach. Breach means the unauthorized acquisition, access, use or disclosure of Non-public Information that compromises the security, confidentiality or integrity of such information.
- B. Non-public Information. Supplier's performance of Services under this Agreement may involve access to certain information that UC wishes to be protected from further use or disclosure. Non-public Information shall be defined as: (i) Protected Information (defined below); (ii) information UC discloses, in writing, orally, or visually, to Supplier, or to which Supplier obtains access to in connection with the negotiation and performance of the Agreement, and which relates to UC, its students or employees, its third-party vendors or licensors, or any other individuals or entities that have made confidential information available to UC or to Supplier acting on UC's behalf (collectively, "UC Users"), marked or otherwise identified as proprietary and/or confidential, or that, given the nature of the information, ought reasonably to be treated as proprietary and/or confidential; (iii) trade secrets; and (iv) business information.
- C. Protected Information. Protected Information shall be defined as information that identifies or is capable of identifying a specific individual, including but not limited to personally-identifiable information, medical information other than Protected Health Information as defined under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the HIPAA regulations (including, but not limited to 45 CFR § 160.103), Cardholder Data (as currently defined by the Payment Card Industry Data Security Standard and Payment Application Standard Glossary of Terms, Abbreviations, and Acronyms), student records, or individual financial information that is subject to laws restricting the use and disclosure of such information, including but not limited to Article 1, Section 1 of the California Constitution; the California Information Practices Act (Civil Code § 1798 *et seq.*); the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g); the federal Fair and

Accurate Credit Transactions Act (15 USC § 1601 *et seq.*) and the Fair Credit Reporting Act (15 USC § 1681 *et seq.*).

- D. UC Information Resources. UC Information Resources shall be defined as those devices, networks and related infrastructure that UC owns, operates or has obtained for use to conduct UC business. Devices include but are not limited to, UC-owned or managed storage, processing, communications devices and related infrastructure on which UC data is accessed, processed, stored, or communicated, and may include personally owned devices. Data includes, but is not limited to, Non-public Information, other UC-created or managed business and research data, metadata, and credentials created by or issued on behalf of UC.
- E. Work Product. Work Product shall be defined as works-in-progress, notes, data, reference materials, memoranda, documentation and records in any way incorporating or reflecting any Non-public Information and all proprietary rights therein, including copyrights. Work Product is subject to the Agreement's Intellectual Property, Copyright and Patents Article. For the avoidance of doubt, Work Product shall belong exclusively to UC and unless expressly provided, this Appendix shall not be construed as conferring on Supplier any patent, copyright, trademark, license right or trade secret owned or obtained by UC.

ARTICLE 3 – ACCESS TO UC INFORMATION RESOURCES

In any circumstance when Supplier is provided access to UC Information Resources, it is solely Supplier's responsibility to ensure that its access does not result in any access by unauthorized individuals to UC Information Resources. This includes conformance with minimum security standards in effect at the UC location(s) where access is provided. Any Supplier technology and/or systems that gain access to UC Information Resources must contain, at a minimum, the elements in the Computer System Security Requirements set forth in Attachment 1 to this Appendix.

ARTICLE 4 – COMPLIANCE WITH APPLICABLE LAWS, FAIR INFORMATION PRACTICE PRINCIPLES AND UC POLICIES

Supplier agrees to comply with all applicable state, federal and international laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Protected Information. Additionally Supplier will comply as applicable with the *Fair Information Practice Principles*, as defined by the U.S. Federal Trade Commission ([http:// www.nist.gov/nstic/NSTIC-FIPPs.pdf](http://www.nist.gov/nstic/NSTIC-FIPPs.pdf)). Such principles would typically require Supplier to have a privacy policy, and a prominently-posted privacy statement or notice in conformance with such principles. If collecting Protected Information electronically from individuals on behalf of UC, Supplier's prominently-posted privacy statement will be similar to those used by UC (UC's sample Privacy Statement for websites is available at <http://www.ucop.edu/information-technology-services/policies/it-policies-and-guidelines/records-mgmt-and-privacy/files/sampleprivacystatement.doc>). Supplier also agrees, to the extent applicable, to comply with UC's Business and Finance Bulletin IS-2, *Inventory, Classification, and Release of UC Electronic Information* (<http://policy.ucop.edu/doc/7020447/BFB-IS-2>), and IS-3, *Electronic Information Security* (<http://policy.ucop.edu/doc/7000543/BFB-IS-3>).

ARTICLE 5 – PROHIBITION ON UNAUTHORIZED USE OR DISCLOSURE OF NON-PUBLIC INFORMATION

Supplier agrees to hold UC's Non-public Information, and any information derived from such information, in strictest confidence. Supplier will not access, use or disclose Non-public Information other than to carry out the purposes for which UC disclosed the Non-public Information to Supplier, except as permitted or required by applicable law, or as otherwise authorized in writing by UC. For avoidance of doubt, this provision prohibits Supplier from using for its own benefit Non-public Information or any information derived from such information. If required by a court of competent jurisdiction or an administrative body to disclose Non-public Information, Supplier will notify UC in writing immediately upon receiving notice of such requirement and prior to any such disclosure, to give UC an opportunity to oppose or otherwise respond to such disclosure (unless prohibited by law from doing so). Supplier's transmission, transportation or storage of Non-public Information outside the United States, or access of Non-public Information from outside the United States, is prohibited except on prior written authorization by UC.

ARTICLE 6 – SAFEGUARD STANDARD

Supplier agrees to protect the privacy and security of Non-public Information according to all applicable laws and regulations, by commercially-acceptable standards, and no less rigorously than it protects its own confidential information, but in no case less than reasonable care. Supplier will implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of the Non-public Information. All Protected Information stored on portable devices or media must be encrypted in accordance with the Federal Information Processing Standards (FIPS) Publication 140-2. Supplier will ensure that such security measures are regularly reviewed and revised to address evolving threats and vulnerabilities while Supplier has responsibility for the Non-public Information under the terms of this Appendix. Prior to agreeing to the terms of this Appendix, and periodically thereafter (no more frequently than annually) at UC's request, Supplier will provide assurance, in the form of a third-party audit report or other documentation acceptable to UC, such as SOC2 Type II, demonstrating that appropriate information security safeguards and controls are in place.

ARTICLE 7 – INFORMATION SECURITY PLAN

- A. Supplier acknowledges that UC is required to comply with information security standards for the protection of Protected Information as required by law, regulation and regulatory guidance, as well as UC's internal security program for information and systems protection.
- B. Supplier will establish, maintain and comply with an information security plan ("Information Security Plan"), which will contain, at a minimum, such elements as those set forth in Attachment 1 to this Appendix.
- C. Supplier's Information Security Plan will be designed to:
 - i. Ensure the security, integrity and confidentiality of Non-public Information;
 - ii. Protect against any anticipated threats or hazards to the security or integrity of such information;

- iii. Protect against unauthorized access to or use of such information that could result in harm or inconvenience to the person that is the subject of such information;
 - iv. Reduce risks associated with Supplier having access to UC Information Resources; and
 - v. Comply with all applicable legal and regulatory requirements for data protection.
- D. On at least an annual basis, Supplier will review its Information Security Plan, update and revise it as needed, and submit it to UC upon request. At UC's request, Supplier will make modifications to its Information Security Plan or to the procedures and practices thereunder to conform to UC's security requirements as they exist from time to time. If there are any significant modifications to Supplier's Information Security Plan, Supplier will notify UC within 72 hours.

ARTICLE 8 – RETURN OR DESTRUCTION OF NON-PUBLIC INFORMATION

Within 30 days of the termination, cancellation, expiration or other conclusion of this Appendix, Supplier will return the Non-public Information to UC unless UC requests in writing that such data be destroyed. This provision will also apply to all Non-public Information that is in the possession of subcontractors or agents of Supplier. Such destruction will be accomplished by "purging" or "physical destruction," in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88. Supplier will certify in writing to UC that such return or destruction has been completed.

If Supplier believes that return or destruction of the Non-public Information is technically impossible or impractical, Supplier must provide UC with a written statement of the reason that return or destruction by Supplier is technically impossible or impractical. If UC determines that return or destruction is technically impossible or impractical, Supplier will continue to protect the Non-public Information in accordance with the terms of this Appendix.

ARTICLE 9 – NOTIFICATION OF CORRESPONDENCE CONCERNING NON-PUBLIC INFORMATION

Supplier agrees to notify UC immediately, both orally and in writing, but in no event more than two (2) business days after Supplier receives correspondence or a complaint regarding Non-public Information, including but not limited to, correspondence or a complaint that originates from a regulatory agency or an individual.

ARTICLE 10 – BREACHES OF NON-PUBLIC INFORMATION

- A. **Reporting of Breach:** Supplier will report any confirmed or suspected Breach to UC immediately upon discovery, both orally and in writing, but in no event more than two (2) business days after Supplier reasonably believes a Breach has or may have occurred. Supplier's report will identify: (i) the nature of the unauthorized access, use or disclosure, (ii) the Non-public Information accessed, used or disclosed, (iii) the person(s) who accessed, used, disclosed and/or received Non-public Information (if known), (iv) what Supplier has done or will do to mitigate any deleterious effect of the unauthorized access, use or disclosure, and (v) what corrective action Supplier has taken or will take to prevent future unauthorized access, use or disclosure.

Supplier will provide such other information, including a written report, as reasonably requested by UC. In the event of a suspected Breach, Supplier will keep UC informed regularly of the progress of its investigation until the uncertainty is resolved.

B. Coordination of Breach Response Activities: Supplier will fully cooperate with UC's investigation of any Breach involving Supplier and/or the Services, including but not limited to making witnesses and documents available immediately upon Supplier's reporting of the Breach. Supplier's full cooperation will include but not be limited to Supplier:

- i. Immediately preserving any potential forensic evidence relating to the Breach, and remedying the Breach as quickly as circumstances permit
- ii. Promptly (within 2 business days) designating a contact person to whom UC will direct inquiries, and who will communicate Supplier responses to UC inquiries;
- iii. As rapidly as circumstances permit, applying appropriate resources to remedy the Breach condition, investigate, document, restore UC service(s) as directed by UC, and undertake appropriate response activities;
- iv. Providing status reports to UC on Breach response activities, either on a daily basis or a frequency approved by UC;
- v. Coordinating all media, law enforcement, or other Breach notifications with UC in advance of such notification(s), unless expressly prohibited by law; and
- vi. Ensuring that knowledgeable Supplier staff is available on short notice, if needed, to participate in UC-initiated meetings and/or conference calls regarding the Breach.

C. Grounds for Termination. Any Breach may be grounds for immediate termination of the Agreement by UC.

D. Assistance in Litigation or Administrative Proceedings. Supplier will make itself and any employees, subcontractors, or agents assisting Supplier in the performance of its obligations available to UC at no cost to UC to testify as witnesses, or otherwise, in the event of a Breach or other unauthorized disclosure of Non-public Information caused by Supplier that results in litigation, governmental investigations, or administrative proceedings against UC, its directors, officers, agents or employees based upon a claimed violation of laws relating to security and privacy or arising out of this Appendix.

ARTICLE 11 – ATTORNEY'S FEES

In any action brought by a party to enforce the terms of this Appendix, the prevailing party will be entitled to reasonable attorney's fees and costs, including the reasonable value of any services provided by in-house counsel. The reasonable value of services provided by in-house counsel will be calculated by applying an hourly rate commensurate with 50% of the prevailing market rates charged by attorneys in private practice for such services.

ARTICLE 12 – INDEMNITY

The Agreement includes an Indemnity provision, but for the avoidance of doubt regarding a Breach involving Protected Information, Supplier's indemnification obligations under the

Agreement will include the following fees and costs which arise as a result of Supplier's breach of this Appendix, negligent acts or omissions, or willful misconduct: any and all costs associated with notification to individuals or remedial measures offered to individuals, whether or not required by law, including but not limited to costs of notification of individuals, establishment and operation of call center(s), credit monitoring and/or identity restoration services; time of UC personnel responding to Breach; fees and costs incurred in litigation; the cost of external investigations; civil or criminal penalties levied against UC; civil judgments entered against UC; attorney's fees, and court costs.

ARTICLE 13 – ADDITIONAL INSURANCE

In addition to the insurance required under the Agreement, Supplier at its sole cost and expense will obtain, keep in force, and maintain an insurance policy (or policies) that provides coverage for privacy and data security breaches. This specific type of insurance is typically referred to as Privacy, Technology and Data Security Liability, Cyber Liability, or Technology Professional Liability. In some cases, Professional Liability policies may include some coverage for privacy and/or data breaches. Regardless of the type of policy in place, it needs to include coverage for reasonable costs in investigating and responding to privacy and/or data breaches with the following minimum limits unless UC specifies otherwise: \$1,000,000 Each Occurrence and \$5,000,000 Aggregate.

**FIRST AMENDMENT TO APPENDIX – DATA SECURITY AND PRIVACY
SAFEGUARD STANDARD FOR PAYMENT CARD DATA (IF APPLICABLE)**

- A. Supplier agrees that it is responsible for the security of Cardholder Data (as currently defined by the Payment Card Industry Data Security Standard and Payment Application Standard Glossary of Terms, Abbreviations, and Acronyms) that it possesses (if any), including the functions relating to storing, processing and transmitting Cardholder Data. In this regard, Supplier represents and warrants that it will implement and maintain certification of Payment Card Industry (“PCI”) compliance standards regarding data security, and that it will undergo independent third party quarterly system scans that audit for all known methods hackers use to access private information and vulnerabilities that would allow malicious software (e.g., viruses and worms) to gain access to or disrupt UC Information Resources. These requirements, which are incorporated herein, can be found at https://www.pcisecuritystandards.org/security_standards/index.php. Supplier agrees to provide at least annually, and from time to time at the written request of UC, current evidence (in form and substance reasonably satisfactory to UC) of compliance with these data security standards, which has been properly certified by an authority recognized by the payment card industry for that purpose.
- B. In connection with credit card transactions processed for UC, Supplier will provide reasonable care and efforts to detect fraudulent payment card activity. In performing the Services, Supplier will comply with all applicable rules and requirements, including security rules and requirements, of UC’s financial institutions, including its acquiring bank, the major payment card associations and payment card companies. If during the term of an Agreement with UC, Supplier undergoes, or has reason to believe that it will undergo, an adverse change in its certification or compliance status with the PCI standards and/or other material payment card industry standards, it will promptly notify UC of such circumstances.
- C. Supplier further represents and warrants that software applications it provides for the purpose of performing Services related to processing payments, particularly credit card payments, are developed in accordance with all applicable PCI standards, and are in compliance with all applicable PCI standards, including but not limited to Payment Application Data Security Standards (PA-DSS), Point to Point Encryption Solution Requirements (P2PE) including approved card readers or Point of Interaction (POI). As verification of this, Supplier agrees to provide at least annually, and from time to time upon written request of UC, current evidence (in form and substance reasonably satisfactory to UC) that any such application it provides is certified as complying with these standards and agrees to continue to maintain that certification as may be required.
- D. Supplier will immediately notify UC if it learns that it is no longer PCI compliant under one of the standards identified above, or if any software applications or encryption solutions are no longer PCI compliant.

ATTACHMENT 1

- A. Supplier will develop, implement, and maintain a comprehensive Information Security Plan that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards. The safeguards contained in such program must be consistent with the safeguards for protection of Protected Information and information of a similar character set forth in any state or federal regulations by which the person who owns or licenses such information may be regulated.
- B. Without limiting the generality of the foregoing, every comprehensive Information Security Plan will include, but not be limited to:
 - i. Designating one or more employees to maintain the comprehensive Information Security Plan;
 - ii. Identifying and assessing internal and external risks to the security, confidentiality, and/or integrity of any electronic, paper or other records containing Protected Information and of UC Information Resources, and evaluating and improving, where necessary, the effectiveness of the current safeguards for limiting such risks, including but not limited to:
 - a. Ongoing employee (including temporary and contract employee) training;
 - b. Employee compliance with policies and procedures; and
 - c. Means for detecting and preventing security system failures.
 - iii. Developing security policies for employees relating to the storage, access and transportation of records containing Protected Information outside of business premises.
 - iv. Imposing disciplinary measures for violations of the comprehensive Information Security Plan rules.
 - v. Preventing terminated employees from accessing records containing Protected Information and/or UC Information Resources.
 - vi. Overseeing service providers, by:
 - a. Taking reasonable steps to select and retain third-party service providers that are capable of maintaining appropriate security measures to protect such Protected Information and UC Information Resources consistent with all applicable laws and regulations; and
 - b. Requiring such third-party service providers by contract to implement and maintain such appropriate security measures for Protected Information.
 - vii. Placing reasonable restrictions upon physical access to records containing Protected Information and UC Information Resources and requiring storage of such records and data in locked facilities, storage areas or containers.
 - viii. Restrict physical access to any network or data centers that may have access to Protected Information or UC Information Resources.

- ix. Requiring regular monitoring to ensure that the comprehensive Information Security Plan is operating in a manner reasonably calculated to prevent unauthorized access to or unauthorized use of Protected Information and UC Information Resources; and upgrading information safeguards as necessary to limit risks.
- x. Reviewing the scope of the security measures at least annually or whenever there is a material change in business practices that may reasonably implicate the security or integrity of records containing Protected Information and of UC Information Resources.
- xi. Documenting responsive actions taken in connection with any incident involving a Breach, and mandating post-incident review of events and actions taken, if any, to make changes in business practices relating to protection of Protected Information and UC Information Resources.

Computer System Security Requirements

To the extent that Supplier electronically stores or transmits Protected Information or has access to any UC Information Resources, it will include in its written, comprehensive Information Security Plan the establishment and maintenance of a security system covering its computers, including any wireless system, that, at a minimum, and to the extent technically feasible, will have the following elements:

- A. Secure user authentication protocols including:
 - i. Control of user IDs and other identifiers;
 - ii. A secure method of assigning and selecting passwords, or use of unique identifier technologies, such as biometrics or token devices;
 - iii. Control of data security passwords to ensure that such passwords are kept in a location and/or format that does not compromise the security of the data they protect;
 - iv. Restricting access to active users and active user accounts only; and
 - v. Blocking access to user identification after multiple unsuccessful attempts to gain access or the limitation placed on access for the particular system.
 - vi. Periodic review of user access, access rights and audit of user accounts.
- B. Secure access control measures that:
 - i. Restrict access to records and files containing Protected Information and systems that may have access to UC Information Resources to those who need such information to perform their job duties; and
 - ii. Assign unique identifications plus passwords, which are not vendor supplied default passwords, to each person with computer access, which are reasonably designed to maintain the integrity of the security of the access controls.
- C. Encryption of all transmitted records and files containing Protected Information.
- D. Adequate security of all networks that connect to UC Information Resources or access Protected Information, including wireless networks.

- E. Reasonable monitoring of systems, for unauthorized use of or access to Protected Information and UC Information Resources.
- F. Encryption of all Protected Information stored on Supplier devices, including laptops or other portable storage devices.
- G. For files containing Protected Information on a system that is connected to the Internet or that may have access to UC Information Resources, reasonably up-to-date firewall, router and switch protection and operating system security patches, reasonably designed to maintain the integrity of the Protected Information.
- H. Reasonably up-to-date versions of system security agent software, including intrusion detection systems, which must include malware protection and reasonably up-to-date patches and virus definitions, or a version of such software that can still be supported with up-to-date patches and virus definitions, and is set to receive the most current security updates on a regular basis.
- I. Education and training of employees on the proper use of the computer security system and the importance of Protected Information and network security.

With reasonable notice to Supplier, UC may require additional security measures which may be identified in additional guidance, contracts, communications or requirements.

EXHIBIT C

Budget for Pilot Program

Estimated P&L for UC Berkeley	Jan	Feb	Mar	Apr	May	Jun
Gross Revenue	\$190,000.0	\$190,000.0	\$95,000.0	\$190,000.0	\$190,000.0	\$95,000.0
Early Registration Discounts	(13,300.0)	(13,300.0)	(6,650.0)	(13,300.0)	(13,300.0)	(6,650.0)
Allowance for Bad Debt	(7,600.0)	(7,600.0)	(3,800.0)	(7,600.0)	(7,600.0)	(3,800.0)
Net Revenue	\$169,100.0	\$169,100.0	\$84,550.0	\$169,100.0	\$169,100.0	\$84,550.0
<u>Cost of Goods Sold</u>						
Sales & Marketing						
Merchant Processing Fees	4,859.3	4,859.3	2,429.6	4,859.3	4,859.3	2,429.6
Admissions Expense						
Total Cost of Goods Sold	\$40,604.3	\$40,604.3	\$20,864.6	\$40,604.3	\$40,604.3	\$20,864.6
Gross Profit	\$128,495.8	\$128,495.8	\$63,685.4	\$128,495.8	\$128,495.8	\$63,685.4
% Margin	76.0%	76.0%	75.3%	76.0%	76.0%	75.3%
<u>Operating Expenses</u>						
Instructor Expense						
Teaching Assistant Expense						
Student Success Expense						
Career Coach/Planning Expense						
Academic Operations Expense						
Academic Interviewers						
Travel						
Career Events						
Miscellaneous Expense						
Telephone Expense						
Learning & Classroom Tools						
Total Operating Expenses	\$65,482.5	\$55,982.5	\$32,881.3	\$62,982.5	\$55,982.5	\$32,881.3
Net Income Attributable to Profit Share	\$63,013.3	\$72,513.3	\$30,804.1	\$65,513.3	\$72,513.3	\$30,804.1
% Margin	37.3%	42.9%	36.4%	38.7%	42.9%	36.4%
Income to University at 50% Profit Share	\$31,506.6	\$36,256.6	\$15,402.1	\$32,756.6	\$36,256.6	\$15,402.1

Income to University at 20% Net Revenue Share	\$33,820.0	\$33,820.0	\$16,910.0	\$33,820.0	\$33,820.0	\$16,910.0
--	-------------------	-------------------	-------------------	-------------------	-------------------	-------------------

Jul	Aug	Sep	Oct	Nov	Dec	Total	Per Student
\$190,000.0	\$190,000.0	\$95,000.0	\$190,000.0	\$190,000.0	\$95,000.0	\$1,900,000.0	\$9,500.0
(13,300.0)	(13,300.0)	(6,650.0)	(13,300.0)	(13,300.0)	(6,650.0)	(133,000.0)	(665.0)
(7,600.0)	(7,600.0)	(3,800.0)	(7,600.0)	(7,600.0)	(3,800.0)	(76,000.0)	(380.0)
\$169,100.0	\$169,100.0	\$84,550.0	\$169,100.0	\$169,100.0	\$84,550.0	\$1,691,000.0	\$8,455.0
4,859.3	4,859.3	2,429.6	4,859.3	4,859.3	2,429.6	48,592.5	243.0
\$40,604.3	\$40,604.3	\$20,864.6	\$40,604.3	\$40,604.3	\$20,864.6	\$408,292.5	\$2,041.5
\$128,495.8	\$128,495.8	\$63,685.4	\$128,495.8	\$128,495.8	\$63,685.4	\$1,282,707.5	\$6,413.5
76.0%	76.0%	75.3%	76.0%	76.0%	75.3%	75.9%	75.9%
\$62,982.5	\$55,982.5	\$32,881.3	\$62,982.5	\$55,982.5	\$32,881.3	\$609,885.0	\$3,049.4
\$65,513.3	\$72,513.3	\$30,804.1	\$65,513.3	\$72,513.3	\$30,804.1	\$672,822.5	\$3,364.1
38.7%	42.9%	36.4%	38.7%	42.9%	36.4%	39.8%	39.8%
\$32,756.6	\$36,256.6	\$15,402.1	\$32,756.6	\$36,256.63	\$15,402.06	\$336,411.3	\$1,682.1

Assumptions

Number of Students
 Gross Enrollment Price
 % of Students Early Registration
 Early Registration Discount
 % Bad Debt

 Sales & Marketing per Enrollment
 Merchant Processing Fees
 Admissions Directors
 Instructors
 Instructor Sub Time
 Teaching Assistants
 Student Success Managers
 Career Coaches
 Academic Operations Support
 Academic Interviewers
 Travel (initial)
 Travel (ongoing)
 Career Events
 Miscellaneous Expense
 Telephone Expense
 Learning & Classroom Tools

\$33,820.0	\$33,820.0	\$16,910.0	\$33,820.0	\$33,820.0	\$16,910.0	\$338,200.0	\$1,691.0
------------	------------	------------	------------	------------	------------	-------------	-----------

Amount Per

n

ent

FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING

This First Amendment (this "Amendment") to Memorandum of Understanding (the "MOU") is made with an effective date of March 3, 2017 (the "Effective Date"), by and between Trilogy Education Services, LLC, a Delaware limited liability company ("TES") and The Regents of the University of California, on behalf of the University of California Berkeley Extension ("UCB" and together with TES, the "Parties"). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the MOU.

WHEREAS, UCB and TES entered into that certain MOU dated September 21, 2016 whereby they would offer an intensive coding boot camp (the "Program").

WHEREAS, UCB and TES desire to amend the MOU to add a new program on data visualization and analytics titled "The Data Visualization Coding Bootcamp at UC Berkeley Extension" (the "New Program").

NOW, THEREFORE, in consideration of the above, the Parties agree as follows:

1. Amendments of MOU. The MOU shall be amended such that from and after the Effective Date the parties may offer the New Program as more fully defined below:

a. The New Program shall be a Data Visualization and Analytics program that provides comprehensive training on the fundamental and specialized skills necessary for data intensive fields. The New Program will include significant work with off-the-shelf tools such as Microsoft Excel and Tableau, extensive training on core programming languages like Python and JavaScript, real-world exercises with database systems like MySQL and MongoDB, and introductory exposure to advanced topics like Hadoop and Machine Learning.

2. Other Agreements.

a. The parties anticipate a sales and marketing launch for the New Program in March 2017, with the first cohort to start in June 2017.

b. UCB will not offer any data boot camp or program substantially the same or similar to the New Program as defined in Section 1.a above in the Berkeley, California metropolitan area or online except as offered by UCB with and through TES while this Agreement is in effect, it being understood that the foregoing in no way restricts UCB's ability to offer (i) any existing or new courses or programs of the same type and formats as currently being offered to the public in its normal course of business, whether or not such course or program involves advanced data science topics such as machine learning and deep

- learning; or (ii) any programs of whatever type focused on more advanced data science topics such as deep learning and machine learning, or to data wrangling, data mining, statistical modeling, and machine learning on data sets that may be very large and/or complex.
- c. TES shall not re-use leads generated under the MOU for any purpose other than to recruit students for UCB's programs. TES shall share leads that are 12 months old and are no longer active with UCB so that UCB may market other non-competing programs to those leads.
 - d. The New Program will be launched with one section of between twenty-five (25) and thirty (30) students at consumer facing price point of \$11,500. UCB shall provide a classroom that holds up to thirty (30) students.
 - e. Except as specified in this Amendment, all other provisions of the MOU related to the Program shall be applicable to the New Program.

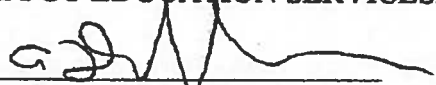
3. No Other Amendments. Except as modified by the terms of this Amendment, the MOU is hereby ratified and confirmed in its entirety, and shall remain in full force and effect in accordance with its terms.

4. General. This Amendment shall be governed by the laws of the State of California. Captions are for convenience only and are not deemed to be part of this Amendment. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Amendment may be executed by facsimile.

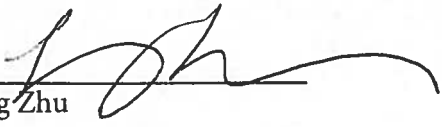
[Signatures on Following Page]

IN WITNESS WHEREOF, the TES and UCB have executed this Amendment on the day and year first written above.

TRILOGY EDUCATION SERVICES, LLC

By: 
Name: A. Daniel Sommer
Title: CEO

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, ON BEHALF OF THE
UNIVERSITY OF CALIFORNIA BERKELEY
EXTENSION

By: 
Name: Ling Zhu
Title: Associate Director,
Business Contracts and Brand Protection