

## MASTER SERVICES AGREEMENT

This Master Services Agreement is entered into as of October 23, 2015 ("Effective Date") by and between Pearson Education, Inc., ("Pearson"), and Cincinnati State Technical and Community College (the "College"), pursuant to College's Request for Proposal for Partnership/Professional Services CS-TC-15-007.

### ARTICLE I INTERPRETATION

#### 1.1 Introduction

Pearson and the College have entered into this Agreement for the purpose of providing services to the College pursuant to Statements of Work hereto.

#### 1.2 Definitions.

1.2.1 "Agreement" means this Master Services Agreement, including, but not limited to, any and all exhibits and Statements of Work hereunder.

1.2.2 "College Intellectual Property" means all Intellectual Property that is originally conceived, created, developed, authored, or produced by the College, including, but not limited to, the College's trademarks and trade names.

1.2.3 "College Systems" means those College student and applicant databases to which Pearson requires access to meet its obligations and services under this Agreement, including but not limited to the College's student applicant tracking system, student information system, and learning management system.

1.2.4 "Confidential Information" means information that is identified as "confidential" either verbally or in writing at the time of disclosure, or is of such a nature that a reasonable person would understand such information to be confidential. Confidential Information will include, at a minimum: (i) all information protected by FERPA and/or Title IV of the Higher Education Act, as amended; (ii) Intellectual Property; (iii) the manner in which the Services are provided; and (iv) the pricing of the Services. Confidential Information does not include information: (1) that was known by the receiving Party, as shown by written documentation, other than as a result of a prior confidential disclosure to such Party; (2) that is in the public domain through no fault or omission of the receiving Party; (3) that is obtained from a third party free from any obligation of confidentiality to the disclosing Party; (4) that is created or developed by the receiving Party, without use of the Confidential Information of the disclosing Party, by persons who did not have access to the disclosing Party's Confidential Information; or (5) is required by law or legal process to be disclosed to a third party.

1.2.5 "Deliverable" means a tangible work product produced by Pearson and delivered to the College pursuant to a Statement of Work.

1.2.6 "FERPA" means the Family Education Rights and Privacy Act of 1974, as amended.

1.2.7 "Intellectual Property" means: (i) all trademark rights, logos, trade dress, service marks, trade names and brand names; (ii) all copyrights, copyright registrations and copyright applications; (iii) all patents and patent applications; (iv) all inventions, know-how, improvements, enhancements, inventions, graphic design elements, graphic user interface, order of operations, ideas, concepts, know-how, discoveries, improvements, designs, trade secrets, shop and royalty rights, computer programs, applications and files; and/or (vi) all rights in any derivative works of the foregoing.

1.2.8 "Parties" or individually, "Party," means the entities entering into this Agreement, and their successors and permitted assigns.

1.2.9 "Pearson Intellectual Property" means all Intellectual Property that is originally conceived, created, developed, authored, or produced by Pearson or by its affiliates, subsidiaries, licensors, or others pursuant to a Statement of Work, including, but not limited to, the Deliverables.

1.2.10 "Programs" means the College academic programs for which Pearson provides services or support pursuant to a Statement of Work.

1.2.11 "Public Records" shall mean those public records, as such term is defined by Ohio Revised Code Section 149.43, concerning or relating to the subject matter of this Agreement or any Statement of Work hereto.

1.2.12 "Statement of Work" means a work order executed by the Parties pursuant to the template Statement of Work attached hereto as Exhibit A.

1.2.13 "Term" means the term of a Statement of Work.

**ARTICLE 2**  
**STATEMENTS OF WORK**

**2.1 Services.**

Pearson agrees to provide the services to College set forth in any Statement of Work executed by the Parties pursuant to this Agreement ("Services"). All Services will be performed in accordance with any mutually-agreed upon specifications set forth in the applicable Statement of Work.

**2.2 Compensation.**

In return for the performance by Pearson of the Services, College will pay Pearson fees and costs as set forth in the applicable Statement of Work to this Agreement. Payment terms shall be net thirty (30) days from receipt of invoice by College. All invoices shall be subject to reconciliation as set forth in the applicable Statement of Work. Undisputed amounts not paid within sixty (60) days of the invoice date shall accrue interest at the rate defined by Ohio Revised Code Section 5703.47 and calculated pursuant to the late payment calculator set forth at <http://obm.ohio.gov/StateAccounting/voucherreview/calculator.aspx> or successor site.

**ARTICLE 3**  
**COLLEGE OBLIGATIONS**

**3.1 Records.**

The College will have the sole duty and responsibility to maintain all academic records in accordance with its existing contractual obligations with students, the College's policies and practices, and in compliance with all applicable laws and regulations.

**3.2 Third Party Agreements.**

Subject to the confidentiality obligations set forth herein, the College shall promptly provide to Pearson, upon Pearson's reasonable request, material information regarding the College's agreements with third parties that directly affect any and all Statements of Work under this Agreement.

**3.3 Access to College Systems**

The College shall provide all Pearson employees with user names and passwords to access the College Systems as necessary to perform services pursuant to any and all Statements of Work under this Agreement, without the necessity of requiring Social Security numbers, home addresses, driver's license numbers, or other personal identifying information from said Pearson employees.

**3.4 Accreditation and Regulatory Compliance**

The College shall take all actions necessary to comply with all applicable laws, regulations, and accrediting body standards, possess all required educational approvals and accreditations, maintain Title IV eligibility, and comply with all terms of its program participation agreement with the U.S. Department of Education then in effect. The College acknowledges and agrees that it is solely responsible for obtaining all necessary state, federal, and accrediting body approvals for its Programs.

#### **ARTICLE 4** **LICENSE AND INTELLECTUAL PROPERTY**

##### **4.1 License to Pearson.**

The College hereby grants to Pearson for the Term of this Agreement a personal, non-transferable, and non-exclusive license to use, modify, revise, augment, create derivative works of, develop, produce, reproduce, manufacture, distribute, host, perform, display, promote, advertise, and/or otherwise exploit the College Intellectual Property in furtherance of each Statement of Work to this Agreement. The College further grants Pearson, for the Term of this Agreement, the world-wide, royalty-free, non-exclusive right and license to use and display the name, trade names, and trademarks of the College ("College Trademarks") for the promotion, advertisement, selling, and exploitation of the Programs in furtherance of each Statement of Work to this Agreement. **ALL OTHER RIGHTS AND INTERESTS CONCERNING THE COLLEGE INTELLECTUAL PROPERTY ARE RESERVED BY THE COLLEGE.**

##### **4.2 License to the College.**

Pearson hereby grants to the College for the Term of this Agreement a personal, non-transferable, and non-exclusive license to use Pearson Intellectual Property to access and use, for internal purposes only, the Deliverables and Services in furtherance of each Statement of Work to this Agreement. Unless otherwise expressly agreed to in writing between the Parties, the College shall not, directly or indirectly, create, author, develop, or produce any modifications, changes, revisions, adaptations, derivative works, alterations, deletions from, additions to, or customizations of all or any part of any Pearson Intellectual Property. **ALL OTHER RIGHTS AND INTERESTS CONCERNING THE PEARSON INTELLECTUAL PROPERTY ARE RESERVED BY PEARSON.**

#### **ARTICLE 5** **AUDIT**

##### **5.1 Right to Audit.**

The College shall have the right, at the College's expense, to have an independent certified public accountant (the "Auditor") perform an audit (the "Audit") of Pearson's

performance of its financial obligations to the College under a Statement of Work, exercisable by at least five (5) days prior written notice delivered to Pearson, including providing reasonable access to Pearson's relevant financial books, records, and materials. An Audit may only be conducted for the limited purposes of verifying (a) the fees payable by the College to Pearson under a Statement of Work and/or (b) whether Pearson has met any funding obligations under a Statement of Work. An Audit will not unreasonably interfere with the conduct of Pearson's business operations. If the Audit determines that Pearson has been overcompensated by any amount for such Audit period, then Pearson shall immediately repay such over-compensation to the College. If the Audit determines that Pearson has not met a funding obligation, then Pearson shall immediately meet such funding obligations on the terms and conditions set forth in the applicable Statement of Work.

Pearson shall have the right to have an Auditor perform an Audit of the College's financial obligations to Pearson under a Statement of Work, exercisable by at least five (5) days prior written notice delivered to the College, including providing reasonable access to the College's relevant financial books, records and materials. An Audit may only be conducted for the limited purpose of verifying (a) the fees payable by the College to Pearson under a Statement of Work and/or (b) whether the College has met any funding obligations under a Statement of Work. An Audit will not unreasonably interfere with the conduct of the College's business operations. If the Audit determines that Pearson has been undercompensated by any amount for such Audit period, then the College shall immediately pay such under-compensation to Pearson. If the Audit determines that the College has not met a funding obligation, then the College shall immediately meet such funding obligations on the terms and conditions set forth in the applicable Statement of Work, subject to the availability of such funds from then-current tuition collections.

## **5.2 Maintenance of Books and Records.**

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

## **ARTICLE 6** **CONFIDENTIAL INFORMATION**

### **6.1 Confidentiality.**

6.1.1 Except as otherwise provided in Section 6.1.2 regarding requests of Public Records under the Ohio Public Records Act, the College and Pearson each agree to maintain the Confidential Information of the other Party in the same manner that it maintains its own confidential information, but in no event less than a commercially reasonable standard of care. The College and Pearson each agree that any disclosure of the other Party's Confidential Information to any of its officers, employees, consultants, contractors, or agents shall be made only if and to the extent necessary to carry out its rights and responsibilities under this

Agreement, shall be limited to the maximum extent possible consistent with such rights and responsibilities, and shall be made only to persons who are bound by written confidentiality obligations no less restrictive than those set forth in this Agreement. Except as set forth above, the College and Pearson each agree not to disclose the other Party's Confidential Information to any third parties under any circumstance without the prior written approval from the other Party (such approval not to be unreasonably withheld), except as required in any application for regulatory approvals or as otherwise required by applicable law, including but not limited to Ohio Public Records Act. Each Party will notify the other Party if disclosure is required in any application for regulatory approvals or by law, but any additional action to prevent release or otherwise protect the Confidential Information must be undertaken by the Party in receipt of such notice at its own expense.

**6.1.2** Notwithstanding Section 6.1.1, the College will notify Pearson in the course of the College's counsel's legal review of any Public Records requested under Ohio Public Records Act to give Pearson an opportunity to establish to the satisfaction of the College that information set forth in the requested Public Records constitutes a proprietary trade secret and is exempt from disclosure under the Ohio Public Records Act. If the College does not find that such information constitutes a proprietary trade secret, the College will notify Pearson of its intention to disclose the Public Records containing such information in accordance with the law. Pearson may choose to seek appropriate legal action, including injunctive relief, to prevent disclosure of the information at issue.

## **6.2 Publicity.**

The Parties agree that Pearson may release an initial public announcement relating to the transactions contemplated by this Agreement provided that the contents of such public announcement are approved by the College, such approval to be provided within ten (10) days and not unreasonably withheld. Any public announcement that has been previously approved by the Parties may be subsequently released without further approval. Any costs incurred for public relations in respect of this Agreement will be paid by the Party incurring the expense.

## **6.3 Return of Confidential Information.**

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

## **6.4 Prohibition on Solicitation.**

Neither Party shall, during term of this Agreement and for a period of one (1) year thereafter, solicit any person who was employed by the other Party hereto or its affiliates during such period, whether such person is hired as an employee or consultant, unless authorized in writing by the other Party, or unless such person has not been employed by the other Party for at

least twelve (12) months prior to his or her solicitation. Advertisements of open positions which are directed to the general public will not constitute a violation of this provision.

## **ARTICLE 7**

### **TERM AND TERMINATION**

#### **7.1 Term.**

This Agreement will take effect as of the Effective Date and continue for so long as a Statement of Work is in effect, unless terminated earlier pursuant to Section 7.2. A Statement of Work may be renewed by mutual agreement of the Parties. The initial term and any applicable renewal term of a Statement of Work shall be referred to as the "Term."

#### **7.2 Termination.**

A Statement of Work may be terminated prior to the expiration of its Term in the following ways: (i) by mutual written consent of the College and Pearson; (ii) by one Party upon written notice to the other Party hereto in the event that (a) a Party has dissolved, ceased active business operations or liquidated, unless such dissolution, cessation or liquidation results from reorganization, acquisition, merger or similar event, or (b) bankruptcy or insolvency proceedings, including any proceeding under Title 11 of the United States Code, have been brought by or against another Party and, in the event such a proceeding has been brought against such Party, remains dismissed for a period of sixty (60) days, or an assignment has been made for the benefit of such Party's creditors or a receiver of such Party's assets has been appointed; (iii) by one Party upon default of another Party hereto in the full and timely observance or performance of a material covenant or obligation under the Statement of Work, upon thirty (30) days prior written notice in the case of a payment breach and sixty (60) days' prior written notice in the case of any other such breach by the other Party, which notice will specify the nature of the material default and the steps to be taken to cure such default; provided, however, that if such default is cured by the defaulting Party within such thirty (30) or sixty (60) day period, such notice of termination will be deemed withdrawn, null, and void and the Statement of Work will not be terminated pursuant thereto; or (iv) on such grounds as may be set forth in such Statement of Work.

#### **7.3 Termination Obligations.**

Without limiting any other provisions of this Agreement, the Parties will remain liable for all obligations and will be entitled to all rights accruing prior to termination as well as those obligations and rights which survive the termination or expiration of a Statement of Work pursuant to (i) Section 11.13 and (ii) the terms and conditions of a Statement of Work.

**ARTICLE 8**  
**REPRESENTATIONS, WARRANTIES, AND COVENANTS**

**8.1 College Representations.**

- i. **Organization.** The College represents and warrants that it is duly organized, validly existing and in good standing, and has all requisite power and authority, corporate or otherwise, to conduct its business as now being conducted, and to execute, deliver and perform this Agreement under applicable law, including but not limited to Ohio procurement law.
- ii. **Right to Use.** The College represents and warrants that it presently has, or will have during the Term of this Agreement, permission to use, and for Pearson to access, display, and use, (a) the College Systems, or any other College systems or databases accessed by Pearson pursuant to a Statement of Work, and (b) the College Intellectual Property.
- iii. **Infringement.** The College represents and warrants that it has no actual knowledge that the College Intellectual Property infringes upon the valid Intellectual Property rights of any third party.
- iv. **Compliance with Laws.** The College represents and warrants that it is in material compliance with all applicable laws, regulations, and accrediting body standards, possesses all required educational approvals and accreditations, is a Title IV eligible institution with a program participation agreement with the U.S. Department of Education presently in effect, and has no actual knowledge of any basis for the revocation or material limitation of any of its educational approvals or accreditations.
- v. **No Legal Violation.** The performance of this Agreement by the College will not violate any provision of any agreement, law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to either this Agreement, or to any provision of the College charter documents.
- vi. **Binding Agreement.** This Agreement is a legal, valid and binding obligation of the College enforceable against it in accordance with its terms and conditions.
- vii. **No Inconsistent Obligation.** The performance of this Agreement by the College will not infringe, breach, contravene or detrimentally affect any other person's contractual, confidentiality, or Intellectual Property rights, and the College does not require any authorization, consent, permission, or approval otherwise from any other person concerning the ability of the College to perform all, or any part of, this Agreement. The College is not under any obligation to any person, or entity, contractual or otherwise, that is conflicting or inconsistent in any respect with the terms of this Agreement or that would prevent, delay, interfere with, or otherwise impede the diligent and complete fulfillment of the College's obligations hereunder.



## 8.2 Pearson Representations.

- i. Organization. Pearson represents and warrants that it is a corporation duly organized, validly existing and is in good standing under the laws of the jurisdiction of its incorporation and it holds the required registrations to perform its obligations hereunder.
- ii. Right to Use. Pearson represents and warrants that it presently has, or will have during the Term of this Agreement, permission to use any Pearson Intellectual Property as set forth in a Statement of Work.
- iii. Compliance with Laws. Pearson represents and warrants that it is in material compliance with all laws and regulations applicable to the Services and the Deliverables.

## 8.3 WARRANTY DISCLAIMER.

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

## ARTICLE 9 RISK MANAGEMENT

### 9.1 Infringement Responsibilities of the College.

The College expressly agrees and acknowledges that it shall be responsible for any damages, claims, suits, liabilities, losses and expenses, including attorney's fees, arising from or related to any claim that use of the College Intellectual Property in accordance with the terms of this Agreement infringes the Intellectual Property of such third party. If any of the College Intellectual Property or its use is held to constitute an infringement of any third party's Intellectual Property or if in Pearson's opinion, any of the College Intellectual Property is, or is likely to be held to constitute, such an infringement, the College take such action, in a manner consistent with applicable law, as reasonably necessary to cure such infringement.

### 9.2 Infringement Responsibilities of Pearson.

Pearson shall be responsible for any damages, claims, suits, liabilities, losses and expenses, including attorney's fees, arising from or related to any claim that Pearson Intellectual Property infringes any Intellectual Property of any third party. If Pearson Intellectual Property or its use is held to constitute an infringement of any third party's Intellectual Property, Pearson shall at its expense and option: (1) procure the right for the College to continue using such Pearson Intellectual Property; (2) replace such Pearson Intellectual Property with non-infringing equivalent content conforming to the applicable specification required by this Agreement; or (3) modify such Pearson Intellectual Property to make it non-infringing while conforming to the applicable specifications.

**9.3 Limitation and Exclusion of Liability.**

Except for any breaches of Sections 9.1 and 9.2, the Parties agree and confirm that neither Party will, in any circumstance, be liable, responsible or obligated for any indirect, third party, consequential, special or punitive liability, damages, compensation, award, loss, harm, injury, cost or expense whatsoever regardless of the cause of action for same arose, including contract, tort, negligence, common law, equity, statute or otherwise; and each Party's sole, exclusive, and exhaustive liability, responsibility, and remedy to the other Party shall be strictly limited, in the aggregate for all occurrences, to no more than \$1,000,000.00 during the Term.

**ARTICLE 10  
DISPUTE RESOLUTION**

**10.1 Informal Resolution Attempts.**

In the event of any dispute arising between the Parties in connection with this Agreement, the Parties shall attempt to informally resolve the dispute, including through escalation of the matter to a senior representative or senior representatives of each Party.

**10.2 Mediation.**

In the event that the dispute is not resolved through informal resolution attempts, the Parties may, upon mutual agreement refer the matter to non-binding mediation, with the mediator to be chosen by the Parties upon mutual agreement at such time. The decision of the mediator will not be binding on the parties.

**10.3 Litigation**

In the event that the dispute is not resolved through mediation, then any dispute involving a claim for money damages against the College shall be settled by litigation exclusively in the Ohio Court of Claims in Columbus, Ohio.

**ARTICLE 11  
GENERAL PROVISIONS**

**11.1 Relationship of the Parties.**

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

**11.2 Entire Agreement.**

This Agreement constitutes the entire agreement and understanding between the Parties relating to the subject matter of this Agreement and supersedes all prior agreements, conditions, warranties, representations, arrangements, and communications, whether oral or written, with respect to the subject matter hereof.

**11.3 No Waiver.**

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

**11.4 Currency.**

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

**11.5 Severability.**

If any portion of this Agreement is held to be illegal, invalid or inoperative then so far as is reasonable and possible: (i) the remainder of this Agreement will be considered valid and operative; and (ii) effect will be given to the intent manifested by the portion held invalid or inoperative.

**11.6 Amendments**

This Agreement may be modified only upon the mutual written consent of Pearson and the College.

**11.7 Compliance with Law.**

The Parties agree that this Agreement and all activities in any way relating to it shall be conducted in compliance with all applicable laws. Pearson agrees to materially comply with the College's policies with respect to privacy of educational records that are provided to Pearson in writing as at the Effective Date.

**11.8 Governing Law.**

This Agreement will be governed by and construed in accordance with the laws of the State of Ohio, without regard to its law governing conflict of laws.

**11.9 Further Assurances.**

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

**11.10 Notices.**

Any notice to be given to the College or Pearson under the terms of this Agreement may be delivered personally, by email, fax, or other form of written electronic transmission, or by registered or certified mail, postage prepaid, and shall be addressed as follows:

If to Pearson:

Pearson Education  
2145 MetroCenter Blvd., Suite 400  
Orlando, FL 32835-7632

Attention: Todd Hitchcock  
Chief Operating Officer

If to the College:

Cincinnati State Technical and Community College  
3520 Central Parkway  
Cincinnati, OH 45223

Attention: Michael J. Geoghegan  
Vice President, Finance/Treasurer

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

**11.11 Assignment.**

Neither Party may assign this agreement without first obtaining the written consent of the other Party, which may not be unreasonably withheld, except that Pearson may assign this Agreement, including all licenses granted hereunder, to an affiliate or subsidiary.

**11.12 Counterpart Execution.**

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

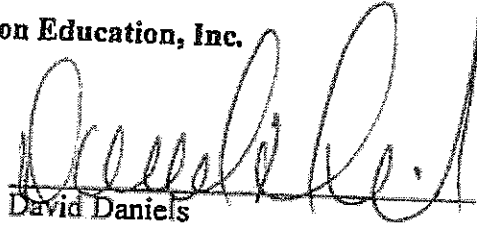
**11.13 Survival.**

Notwithstanding any provision herein to the contrary, the rights and obligations set forth in Articles 5, 6, 8, 9, and 10, and Section 7.3 shall survive the expiration or termination of this Agreement.

Wherefore, the Parties have entered into this Agreement as of the Effective Date.

**Pearson Education, Inc.**

By:



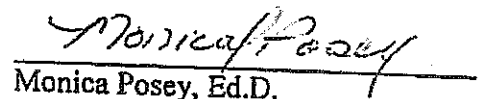
David Daniels  
Managing Director  
Higher Education Services

Date:

10-25-15

**Cincinnati State Technical and  
Community College**

By:

  
Monica Posey, Ed.D.  
Interim President

Date:

10-23-15

Exhibit A

STATEMENT OF WORK #\_\_

This Statement of Work #\_\_ ("SOW #\_\_") is entered into as of \_\_\_\_\_, 2015 ("Effective Date") by and between Pearson Education, Inc. ("Pearson") and Cincinnati State Technical and Community College ("College") pursuant to the Master Services Agreement between the Parties effective \_\_\_\_\_, 2015 ("Agreement").

1. **Definitions.**
2. **Objective**
3. **Term.**
4. **Pearson Services.**
5. **College Obligations.**
6. **Service Fees.**
7. **Additional Terms and Conditions.**

Wherefore, the Parties have entered into this SOW #\_\_ as of the Effective Date.

**Pearson Education, Inc.**

**Cincinnati State Technical and  
Community College**

By: \_\_\_\_\_  
[name]  
[title]

By: \_\_\_\_\_  
[name]  
[title]

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## STATEMENT OF WORK #1

This Statement of Work #1 ("SOW #1") is entered into as of October 23, 2015 ("Effective Date") by and between Pearson Education, Inc. ("Pearson") and Cincinnati State Technical and Community College ("College") pursuant to the Master Services Agreement between the Parties effective October 21, 2015 ("Agreement").

### 1. Definitions.

- a. "Academic Programs" means all for-credit degree and certificate programs offered by the College at its Clifton (main), Middletown, and Harrison campuses, including workforce development programs, excluding College Credit Plus programs as such programs are defined as of the Effective Date.
- b. "Baseline Course Enrollments" means, 4,000 newly registered students per academic year taking for-credit coursework, which represents the recent historical average number of Course Enrollments (defined below) measured on a per academic term basis.
- c. "Baseline Marketing Spend" means \$550,000, which represents the recent historical lead generation expenditure made by the College on an annual basis.
- d. "College Courses" means any and all for-credit courses offered by College in an Academic Program during the SOW #1 Term, whether conducted online, hybrid, or on-ground, and including workforce development courses. College Courses exclude any workforce development courses that are corporate-sponsored as well as dual enrollment courses.
- e. "College Students" means any and all individuals enrolled in any College Course as of the College's published add/drop date of each academic term conducted in the SOW #1 Term, excluding College Credit Plus programs as such programs are defined as of the Effective Date.
- f. "Course Enrollments" means the number of College Student enrollments in College Courses for any given academic term conducted in the SOW #1 Term.
- g. "Persistence Rate" means the percentage of the College's student population who return to register for College Courses term-over-term (including Fall-to-Spring, Spring-to-Summer, and Summer-to-Fall), excluding students who have graduated from their program of study.
- h. "Retention Rate" means the percentage of the College's student population who return to register for College Courses year-over-year (example: Fall 2016-to-Fall 2017), excluding students who have graduated from their program of study.
- i. "Graduation Rate" means the percentage of the College's student population who has completed their chosen program of study measured over a defined time range.

j. "Pearson Optional Termination Period" means the calendar month of March or September, as the case may be, occurring after the Effective Date and before December 31, 2018.

k. "Student Capacity" means the College's capacity to accommodate and provide services to all projected College Students and Course Enrollments, including but not limited to (1) the capacity of the College's physical campuses and facilities, (2) the capacity of the College's registrar, financial aid, counseling, and admissions offices, and (3) the capacity of the College's academic departments to offer College Courses to meet College Student demand subject to Sections 5(a) and 5(b) of this SOW #1.

l. "SOW #1 Term" means the term of this SOW #1, as set forth in Section 3 herein.

m. "Termination Condition" means the occurrence of the following: the College's total Gross Revenues, as that term is defined in Exhibit B hereto, arising from all student enrollments for the College's 2017-2018 fiscal year is less than the College's total Gross Revenues arising from all student enrollments for the College's 2014-2015 fiscal year.

## 2. Objective

The objective of this SOW #1 is for the Parties to jointly design, develop, and implement new and innovative methods to market, recruit, and support College Students in furtherance of College's educational mission and strategic plan (a) to grow enrollments over and above the Baseline Course Enrollments and (b) exceed the College's current Persistence, Retention, and Graduation Rates. The Parties acknowledge that they cannot reasonably foresee all future issues arising from the design, development, and implementation of these methodologies, and that this SOW #1 may not completely or adequately address all such issues. Consequently, the Parties agree that they shall work together and take appropriate measures to address and resolve all such issues arising from this the SOW #1 as may be reasonably required to effectuate the objective and intent expressed herein, up to and including the execution of amendments of this SOW #1.

## 3. Term and Termination.

a. **Term.** The term of this SOW #1 shall commence on the Effective Date and end ten (10) years from the first day of the Spring 2016 semester ("SOW #1 Term").

b. **Optional Termination by Pearson.** Pearson may, in its sole discretion, terminate this SOW #1 upon written notice to College delivered during a Pearson Optional Termination Period. Termination pursuant to this Section 3(b) shall take effect (a) on June 30 in the event the Pearson Optional Termination Period is March, or (b) December 31 in the event the Pearson Optional Termination Period is September. In the event Pearson exercises this option to terminate, the Parties shall work together in good faith to transition the Marketing Services, Recruitment and Enrollment Management Services, and Retention-Focused Student Support Services back to College with minimal disruption of services to College Students.

c. **Optional Termination by College.** In the event the Termination Condition occurs, the College may terminate this SOW #1 upon written notice to Pearson delivered during



the calendar month of July 2018. Termination pursuant to this Section 3(e) shall take effect on December 31, 2018.

**4. Pearson Services.**

Pearson shall perform services as set forth below (collectively, "Pearson Services"). Pearson shall have sole and absolute discretion to determine the manner in which each of the Pearson Services is performed. Unless otherwise expressly set forth below, each of the Pearson Services will commence as soon as commercially practicable after the Effective Date.

- a. **Marketing Services.** Pearson shall design, develop, and manage a comprehensive marketing plan for the Academic Programs to encourage new Student enrollments and expand the College's brand into new markets ("Marketing Plan"). The Marketing Plan shall set forth the external marketing spend required to meet Baseline Course Enrollments ("Marketing Spend"). College shall be responsible for funding the Marketing Spend, which shall be administered and managed by Pearson. Pearson shall consult and work with the College to determine the appropriate periodic Marketing Spend. The Marketing Spend shall, at a minimum, be equal to the Baseline Marketing Spend adjusted annually by a year-to-year increase in United States higher education search marketing costs not to exceed 5% unless otherwise agreed to by the College. The Marketing Plan shall be staffed as provided in Exhibit A hereto. Pearson shall train and provide goals, best practices, and strategic direction to the College's marketing staff assigned to carry out the Marketing Plan under Exhibit A hereto. Pearson shall monitor, consult, advise, measure, and report on the effectiveness of the Marketing Plan.
- b. **Recruitment and Enrollment Management Services.** Pearson shall design, develop, and manage a comprehensive plan for the recruitment of prospective College Students ("Recruitment Plan"). The Recruitment Plan shall be staffed as provided in Exhibit A hereto. Pearson shall train and provide goals, best practices, and strategic direction to the College's recruiting staff assigned to carry out the Recruitment Plan under Exhibit A hereto. Pearson shall monitor, consult, advise, measure, and report on the effectiveness of the Recruitment Plan.
- c. **Retention-Focused Student Support Services.** Pearson shall design, develop, and manage a comprehensive plan for the non-academic support of the College Students ("Student Support Plan"). The Student Support Plan shall supplement the College's Campus Completion Plan dated June 24, 2014. The Student Support Plan shall be staffed as provided in Exhibit A hereto. Pearson shall train and provide goals, best practices, and strategic direction to the College's student support staff assigned to carry out the Student Support Plan under Exhibit A hereto. Pearson shall monitor, consult, advise, measure, and report on the effectiveness of the Student Support Plan following an agreed-upon timeline with the College. Pearson shall commence servicing College Students pursuant to the Student Support Plan effective the first day of the Summer 2016 term.
- d. **Consultative Services.** Subject to Section 5(a) of this SOW, Pearson shall (1) recommend to College the appropriate staffing ratios for College's student services departments

such as the financial aid office, the registrar's office, and the transcript evaluation office; (2) advise the College as to appropriate methodologies to maximize and build student capacity over the SOW #1 Term; and (3) conduct market analysis for the College's consideration to ascertain the viability of proposed future Academic Programs.

e. **Relationship Manager.** Pearson shall appoint a relationship manager who shall be reasonably available to meet and interface with key College personnel to further the purposes of this SOW #1.

f. **Management and Funding of College Staff Positions.** As provided in Exhibit A hereto, Pearson shall (i) manage performance of selected College Staff and (ii) fund, and the College shall hire, selected College staff positions for the purpose of facilitating the execution of the Marketing Plan, Recruitment Plan, and Student Support Plan.

## 5. College Obligations.

The College shall be responsible for the following obligations (collectively, "College Obligations"):

a. **Curriculum.** The College shall be responsible for academic programming and curriculum. The College shall make decisions with respect to, and shall be fully responsible for, the College provided material and the quality of the curriculum of each Academic program. Such curricula shall be established in accordance with all applicable laws, regulations, and accreditation standards, and with the policies, procedures and guidelines of the College.

b. **Faculty and Staff.** Except as otherwise set forth in this SOW, the College shall be responsible for the following faculty activities and matters.

i. Reviewing credentials, selection, appointment, administering, hiring, evaluation, coordination, and discharging of the faculty, staff, administrators, and their activities.

ii. Payment of all expenses and compensation of the College personnel including, without limitation, the faculty, staff, administrators, and their activities.

iii. Participation by the faculty, staff, and administrators in promotional events, marketing, training, and planning sessions.

c. **Admission and Registration of College Students.** The College shall be responsible for the following matters:

i. **Admission and Administration of Student Services.** The College shall be responsible for all decisions regarding the admission and registration criteria of College Students. The College shall provide to College Students referred to each academic program by Pearson such services as are reasonably necessary for admission, registration, withdrawal, financial aid, recording of grades, and awarding of certificates and degrees in accordance with the College's policies and procedures for administering student services, as amended from time to time.

- ii. **Collection of Tuition and Fees.** The College shall be responsible for all activities related to the collection of all tuition and other fees with respect to each College Student and each academic program.
- iii. **Processing of Student Loans and Grants.** The College shall be responsible for performing any function required by any statutory provision of or applicable to Title IV of the Higher Education Act, as amended, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the Higher Education Act, as amended, and any other student lender including, but not limited to, processing student financial aid applications, determining student eligibility, and processing payments to College Students.
- iv. **Reporting.** The College shall report in writing to Pearson College Student application and enrollment data weekly during registration for each academic term. The College shall also report final Course Enrollment data for each academic term to Pearson within five (5) business days of the published drop/add date for each academic term.
- d. **Technology.** The College shall be responsible for the following technology matters:

- i. The College shall provide technology and access, for College Students and faculty to support its academic program including, without limitation, all facilities, personnel and materials required therefore.
- ii. The College shall provide and maintain the Course Management System including, without limitation, the procurement and payment of any and all licenses necessary for the College, Pearson, program managers and directors, Faculty and College Students to use such Course Management System as contemplated hereunder and under any prospectus made a part hereof.
- iii. The College will create an A Record off of the College main domain that points to an IP address on Pearson server strictly for the purposes of marketing of the College's academic programs, and provide an email address either via forwarding from an xxxx@cincinnatiastate.edu email address to a Pearson email address or via an MX record that points to Pearson Exchange service IP address for purposes of the marketing the College's academic programs, the method of email support will be determined by College. This means the College shall provide Pearson a universal resource locator (URL) name associated with the College's web URL, the content of which will reside on Pearson's server, and the College will designate an email address.

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

f. **Staffing and Execution of Marketing, Recruitment, and Student Support Plans.** As provided in Exhibit A hereto, the College shall be responsible for the staffing and execution of the Marketing Plan, the Recruitment Plan, and the Student Support Plan developed by Pearson pursuant to Section 4 of this SOW #1.

g. **Student Support and Retention.** The College shall be responsible for the retention and non-academic support of College Students during the entirety of the Spring 2016 term.

h. **Funding of College Obligations and Marketing Spend.** The College shall be solely responsible for funding the College Obligations and the Marketing Spend. The College shall use best efforts to obtain all required appropriations and authorizations to fund the Marketing Spend in the amounts set forth in this SOW #1. The College shall pay the Marketing Spend to Pearson in semi-annual installments. Pearson shall invoice the College for such semi-annual installments in each six month period of the SOW #1 Term from January 1- June 30 and July 1-December 31. The amount due under each such invoice shall be paid in accordance with the provisions of the Agreement. Marketing Spend shall be reconciled pursuant to the Service Fees reconciliation process established pursuant to Exhibit B to SOW #1.

i. **Student Capacity.** The College shall take all actions necessary, on an ongoing basis, to build, develop, or secure sufficient Student Capacity throughout the SOW #1 Term. The College further agrees to hire and train staff as necessary to keep pace with, at a minimum, increased anticipated Course Enrollments.

j. **Collective Bargaining Agreement Obligations.** The College shall comply with (a) all obligations arising under Chapter 4117 of the Ohio Revised Code and (b) all obligations arising under any and all collective bargaining agreements between the College and a recognized College bargaining unit (each, a "College CBA"). The Parties acknowledge and agree that Pearson is not, and shall not be considered, a party to any College CBA.

k. **Additional Obligations.** The College shall perform such additional obligations as may be reasonably necessary to address and correct, all of the issues and institutional challenges identified in the Institutional Readiness Assessment and additional discovery conducted by Pearson prior to the execution of this SOW#1 where feasible.

l. **Exclusivity.** During the SOW #1 Term, the College, as a material condition of this Agreement, shall not (a) indirectly or directly engage any other person or entity to perform the same, or substantially similar, services as the Pearson Services for the College; or (b) indirectly or directly provide the same, or substantially similar, services as the Pearson Services to a third party.

m. **Failure to Meet the College Obligations.** In the event College does not meet, or anticipates not meeting, any of the College Obligations in a timely manner, the Parties shall discuss in good faith for the purpose of reaching agreement on appropriate corrective action, up to and including amendment of this SOW #1. In the event the Parties cannot reach agreement on appropriate corrective action, or if College does not execute on the corrective action on the terms and conditions previously agreed to by the Parties, then Pearson may exercise any and all options

under the Agreement and applicable law, including termination pursuant to Section 7.2 of the Agreement.

**6. Service Fees.**

As consideration for the performance of the Pearson Services, the College shall pay Pearson fees as set forth on Exhibit B hereto; provided, however, that (a) such indebtedness shall not constitute debt for which the full faith and credit of the state or an instrumentality or political subdivision of the state may be pledged and monies raised by taxation shall not be obligated or pledged for its payment, and (b) the obligation of the Colleges to pay fees hereunder will be payable only from the collection of tuition and fees and, should such funding sources cease, the College's obligation to pay fees hereunder will terminate, subject to Section 6 of Exhibit B to this SOW #1.

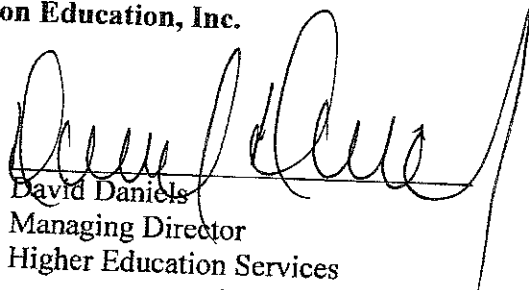
**7. Additional Terms and Conditions.**

- a. Unless otherwise provided herein, capitalized terms in this SOW #1 shall have the same meaning as assigned to them in the Agreement.
- b. This SOW #1 shall be governed by the terms and conditions of the Agreement.
- c. Time is of the essence in regards to each Party's performance under this SOW #1.
- d. In the event of any conflict between the terms and conditions of this SOW #1 and the Agreement, the terms and conditions of this SOW #1 shall prevail.

Wherefore, the Parties have entered into this SOW #1 as of the Effective Date.

**Pearson Education, Inc.**

By:

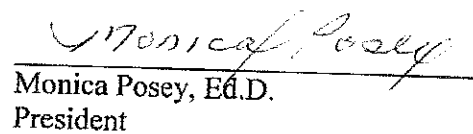
  
David Daniels  
Managing Director  
Higher Education Services

Date:

10-25-15

**Cincinnati State Technical and  
Community College**

By:

  
Monica Posey, Ed.D.  
President

Date:

10-23-15

### TREASURER CERTIFICATION

Pursuant to Ohio Revised Code § 5705.41, this signature certifies the amount required to meet the College's obligation in the fiscal year in which the contract is made has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances. Furthermore, pursuant to Ohio Revised Code § 3358.06, this signature certifies there are funds of the College otherwise uncommitted and sufficient to meet the College's obligation under this contract.

By: Michael J. Geoghegan  
Michael J. Geoghegan  
Chief Financial Officer

Date: October 23, 2015

**EXHIBIT A**  
**Staffing of Pearson Services**

**1. Generally.**

Pearson shall engage staff to provide the Pearson Services in its sole discretion. Pearson may staff the Pearson Services with (i) Pearson employees, (ii) College employees funded and managed by Pearson ("Pearson-Funded College Staff"), (iii) subcontractors, or (iv) a combination of the above (collectively, "Pearson Staff"). In addition, other College employees will be managed by Pearson ("Managed College Staff") and shall contribute to the Pearson Services to the extent mutually agreed by the Parties. The Parties acknowledge and agree that the Pearson Services will be staffed primarily by Pearson employees, Pearson-Funded College Staff, and subcontractors.

**2. Semi-Annual Staffing Plans.**

**a. Development.** Pearson, in collaboration with the College, shall develop a staffing plan on a semi-annual basis for each six month period of the SOW #1 Term from January 1- June 30 and July 1-December 31. Each such six month period shall be referred to as a "Staffing Period," and each such staffing plan shall be referred to as a "Staffing Plan."

**b. Notice of Staffing Plan Requirements.** Pearson shall provide College with notice of Pearson-Funded College Staff and Managed College Staff needs, if any, for each Staffing Period. Such notice shall be referred to as the "Staffing Notice." Pearson shall provide the College with the Staffing Notice at least 60 days before the commencement of the applicable Staffing Period to enable the College to timely budget, approve, post, fill, allot, and/or reassign designated positions. The Staffing Notice shall including the following:

**i. As to designated Pearson-Funded College Staff:**

- The total number of Pearson-Funded College Staff to be engaged by College for the applicable Staffing Period.
- Position titles.
- Job descriptions for each position.
- Start dates for each position.
- Work outline and performance expectations for each position.
- The applicable Pearson Services to which each such employee will be assigned.
- Funding amounts to be provided by Pearson for each position and payment schedule.

**ii. As to designated Managed College Staff:**

- The total number of Managed College Staff to be assigned by College for the applicable Staffing Period.
- Position titles.

- The starting date on which each such position will be managed by Pearson.
- The applicable Pearson Services to which each such employee will be assigned.

**c. No Guarantee of Pearson-Funded College Staff Positions.** The Parties acknowledge and agree that there is no reliable method of forecasting the need for Pearson-Funded College Staff over the entirety of the SOW #1 Term, and that such need may fluctuate from one Staffing Period to the next. The Parties further acknowledge and agree that there is no guarantee that any Pearson-Funded College Positions shall be required or engaged under this Exhibit A.

### 3. College Obligations under Staffing Plans.

**a. Assignment of Managed College Staff.** The College shall assign the Managed College Staff positions as mutually agreed and requested in a Staffing Notice for the applicable Staffing Period. All assigned Managed College Staff employees shall be dedicated to the performance of the Pearson Services as set forth in the Staffing Notice. Pearson reserves the right to evaluate the effectiveness of the Managed College Staff model and make adjustments if performance is adversely affected. It is the Parties' intent that individuals designated by the College as "faculty" will not be included as part of the Managed College Staff who would be in a direct reporting relationship to Pearson.

**b. Engagement of Pearson-Funded College Staff.** The College shall use best efforts to budget, approve, post, and hire the Pearson-Funded College Staff positions designated in a Staffing Notice by the start of the applicable Staffing Period. Pearson shall advise and assist the College on interviewing and assessing potential candidates for the Pearson-Funded College Staff positions. All Pearson-Funded College Staff employees shall be 100% dedicated to the performance of the Pearson Services as set forth in the Staffing Notice. In the event the College cannot fill a Pearson-Funded College staff position by the applicable deadline, the College may engage a temporary employee to fill such position on the mutual agreement of the Parties. The Parties acknowledge and agree that prompt and effective hiring of the Pearson-Funded College Staff is critical to the success of SOW #1's objective.

**c. Compensation of Pearson-Funded College Staff.** The College shall provide each Pearson-Funded College Staff employee the base salary and benefit amounts mutually determined by the Parties as set forth in Section 4(a) of this Exhibit A.

**d. Reconciliation of Position Funding.** In the event any of the Pearson-Funded College Staff employees are not fully employed for the entirety of the applicable Staffing Period for any reason, then the College shall refund the prorated amount of the Pearson Funding pursuant to the Service Fees reconciliation process established pursuant to Exhibit B to SOW #1. In the event the College engages a temporary employee to fill a Pearson-Funded College Staff position pursuant to Section 3(b) of this Exhibit A, the applicable position funded shall be reconciled so as to reimburse the College only for the actual costs paid by the College in engaging such temporary employee on a pass-through basis.



e. **CBA Applicability.** The Parties acknowledge and agree that some or all of the Pearson-Funded College Staff positions will become members of a bargaining unit governed by a College CBA.

**4. Pearson Obligations under Staffing Plans.**

a. **Position Funding.** Pearson shall provide the College with funding for the Pearson-Funded College Staff in the funding amounts set forth in the applicable Staffing Notice ("Position Funding"). Pearson and College shall work together in good faith to determine the appropriate Position Funding amounts in advance of Pearson providing the College with the applicable Staffing Notice. Each such amount shall consist of the employee's base salary and the cost of benefits payable by the College to or and behalf of such employee during the applicable Staffing Period. The Parties acknowledge and agree that, in the case of long-term Pearson-Funded College Staff employees engaged pursuant to multiple Staffing Notices, the base salary of such employees shall increase over time in a manner consistent with the usual and customary increases given to the College's other long-term employees.

b. **Engagement of All Other Pearson Staff.** Except for the Pearson-Funded College Staff and the Managed College Staff, Pearson shall engage all other Pearson Staff required under a Staffing Plan as it deems necessary and appropriate, in its sole and absolute discretion, to perform the Pearson Services.

**5. Management of Union College Staff.**

The College hereby delegates to Pearson all of its management rights under an applicable College CBA as they relate to unionized Pearson-Funded College Staff and Managed College Staff employees (collectively, "Union Employee Management Rights"). All management rights, prerogatives, and actions that could be exercised by the College under an applicable College CBA as they relate to unionized Pearson-Funded College Staff and Managed College Staff employees shall be exercisable by Pearson. The Parties shall cooperate in all aspects of the exercise of the Union Employee Management Rights and their exercise by Pearson. Where necessary, the College shall effectuate the exercise of the Union Employee Management Rights where such cannot be performed by Pearson acting alone.

**6. Management of Non-Union College Staff.**

Pearson shall have the exclusive right to manage the performance of all non-union Pearson-Funded College Staff and Managed College Staff employees designated to carry out any of the Pearson Services under a Staffing Plan. Pearson's management rights in regards to such non-union Pearson-Funded College Staff and Managed College Staff employees shall be coextensive with the management rights set forth in Section 5 of this Exhibit A.

**7. Management of All Other Pearson Staff.**

Pearson reserves the right to exclusively manage the performance of all other Pearson Staff engaged directly by Pearson to perform any Pearson Services as it sees fit in its sole and absolute discretion.

**EXHIBIT B**  
**Service Fees**

**1. Definitions.**

“College Retention Target” means College’s achievement of a Spring 2016 to Fall 2016 retention rate for New Students recruited by Pearson in the Spring 2016 term equal to or greater than 95% of the College’s average spring-to-fall retention rate over the five (5) year period preceding the Effective Date.

“Existing Students” means all College Students who were either (1) enrolled in any College Course for the first time during the period from the Spring 2010 term to the Fall 2015 term, inclusive, or (2) admitted to the College prior to the Spring 2016 term but deferred enrollment in any College Course until the Spring 2016 term or later.

“New Students” means all College Students who either (1) enroll in any College Course during the SOW #1 Term for the first time in the Spring 2016 term or later or (2) re-enroll in any College Course during the SOW #1 Term following a lapse of six (6) years or more since their last enrollment in any College Course.

“Gross Tuition” means the College’s instructional charges, customarily expressed as a per credit hour charge. The Parties acknowledge that Gross Tuition as of the Effective Date is \$148.64 per credit hour. The College agrees that all subsequent increases in instructional charges shall be considered Gross Tuition, including but not limited to any instruction-related fees assessed on a per credit hour or per course basis.

“Gross Revenue” means:

- (1) all Gross Tuition, arising from, or attributable to, College Student enrollments in College Courses without regard to whether such amount are paid or collectible, or the method or source of payment, less
- (2) amounts refunded to College Students who withdrew from College Courses pursuant to published College policy.

“Post-Termination Period” means the four (4) year period immediately following the expiration or termination of SOW #1.

**2. Calculation of Service Fees.**

The College shall pay Service Fees to Pearson in an amount equal to the sum of:

- (a) 12% of the Gross Revenue attributable to the enrollment of New Students in College Courses in the Spring 2016 term; provided, however, if the College Retention Target is not met, then 20% of the Gross Revenue attributable to the enrollment of New Students in College Courses in the Spring 2016 term;

(b) 20% of the Gross Revenue attributable to the enrollment of New Students in College Courses in the Summer 2016 term and all subsequent terms; and

(c) as the case may be, either (i) 15% of the Gross Revenue attributable to the enrollment of Existing Students in College Courses in the Summer 2016 through Fall 2017 terms, inclusive, or (ii) 10% of the Gross Revenue attributable to the enrollment of Existing Students in College Courses in the Spring 2018 term and all subsequent terms.

**3. Invoicing and Payment of Service Fees.**

Pearson shall invoice the College each academic term for Service Fees arising out of said term as soon as practicable after receipt the relevant Course Enrollment data from College pursuant to Section 5(c)(iv) of this SOW #1. The College shall pay Service Fees in accordance with the provisions of the Agreement.

Notwithstanding the foregoing, Pearson shall invoice the College in the Fall 2016 term for Service Fees arising out of the Spring 2016 and Summer 2016 terms. Such invoice shall be processed and paid simultaneously with the invoice for Service Fees arising out of the Fall 2016 term. The Fall 2016 invoice will reconcile any change to the Spring 2016 invoice necessitated as a result of the College not meeting the College Retention Target pursuant to Section 2(a) of this Exhibit B.

**4. Reconciliation of Service Fees.**

The Parties shall work together to reconcile Services Fees, and all other payments or amounts due to either Party under this SOW #1, in each academic term. Amounts due either Party pursuant to a reconciled invoice shall be paid in accordance with the provisions of the Agreement.

**5. Post-Termination Service Fees.**

The College acknowledges that, as a result of the Pearson Services provided under this SOW #1, the College will continue to benefit by increased Course Enrollments after the expiration or termination of this SOW #1. Accordingly, upon termination or expiration of this SOW #1, the College shall pay Service Fees to Pearson arising from the enrollment of New Students in College Courses that would otherwise be due under this SOW #1 but for its termination or expiration, for so long as such New Students continue to enroll in College Courses during the Post-Termination Period ("Post-Termination Service Fees"). University shall pay Pearson all Post-Termination Service Fees in the same manner, and on the same terms, as set forth in this SOW #1 and the Agreement.

**6. Material Change in College Funding and/or Instructional Model.**

The Parties acknowledge that the pricing model set forth in this Exhibit B and the College's termination option under Section 3(c) of SOW #1 are based on the College's current funding and instructional model. The Parties further acknowledge that a material change to the College's funding or instructional model during the SOW #1 Term could render the pricing model and such termination option unworkable for one or both Parties. In the event of a material

change to the College's funding or instructional model during the SOW #1 Term, the Parties shall work together in good faith to amend the Service Fee structure set forth in this Exhibit B and/or the College's termination option in Section 3(c) of SOW #1 to accommodate such material change. Examples of material changes in the College's funding model include: (a) the creation of any new federal subsidy of community colleges or community college students, and (b) any change in the calculation or availability of the state subsidy received by the College. Examples of materials changes to the College's instructional model include: (a) the recognition of academic credit for prior learning, (b) the expansion or overhaul of the College's development education programs, and (c) the establishment or expansion of competency-based/direct assessment educational programs beyond the size and scope of the College's current initiatives as of the Effective Date. . In the event the Parties cannot reach agreement on an appropriate amendment to the Service Fee structure set forth in this Exhibit B and/or the College's termination option in Section 3(c) of SOW #1, the Party adversely affected by the material change in the College's funding or instructional model may terminate SOW #1 upon ninety (90) days written notice.