



**CONNECTIONS EDUCATION LLC
DBA
PEARSON VIRTUAL SCHOOLS
VIRTUAL LEARNING PROGRAMS
STATEMENT OF WORK**

Customer:	Bryan Independent School District
Customer Address:	801 South Ennis, Bryan, TX 77802
Contact Person:	Dr. Christina Richardson, Director of Advanced Academics
Phone Number:	(979) 209-1072
Email Address:	christina.richardson@bryanisd.org

The above-named Customer (“Customer”) and Connections Education LLC dba Pearson Virtual Schools (“Pearson”), are hereby entering into this Statement of Work (“Statement of Work”) whereby Customer is contracting with Pearson to receive access to certain virtual education products through Pearson’s suite of products and services, that includes Pearson’s education management system, and any successor technology platform to which Pearson transitions the School for purposes of this Agreement, collectively the “Education Management System” or “EMS,” along with associated Pearson-provided support services, as more fully set forth herein (collectively, the “Education Program”), said Education Program to be offered to Students enrolled in a Customer-sponsored virtual academic program (“School”).

1. **Pearson Responsibilities:**

- a. Education Program. Provide access to the following Education Program licenses, products and services (“Educational Products and Services”), including a robust curriculum that combines proven and rigorous educational content and materials with the best in technology-enhanced learning such that a significant portion of the curriculum is delivered through the internet and other electronic means (the “Curriculum”). The Curriculum is updated regularly, based on a rigorous analysis of student performance on state standards as measured by state testing results and internal assessments. As state standards are modified or changed in the future, Pearson will continue to modify or change the curriculum to meet state standards. The Curriculum includes:
 - i. Pearson Courses, including core and elective subjects, provided through Pearson Online Academy, and augmented by Pearson-provided Instructional Services (“Courses”). Courses may be modified from time to time and may be

subject to the State approval process before they can be made available for Student enrollment.

- ii. In accordance with the license terms set forth herein, a license to use all required curricular and instructional materials that are part of Pearson’s standard digital offering, including: textbooks; ancillary materials such as workbooks, kits, and texts; and other instructional resources (collectively “Instructional Materials”). Instructional Materials are delivered in a digital format.
 - iii. Pearson warrants the Curriculum will at all times during the Term materially align to then-current Texas state standards for the applicable grade/course; if misalignment occurs, Pearson will work with Customer to deliver modifications within a commercially reasonable timeframe.
- b. EMS Access.
- i. In accordance with the license terms set forth herein, a license for the duration of the Term to access the EMS, for purposes of utilizing the Education Program set forth in this Statement of Work, including providing web-based access from non-school sites to the Education Program by Students, Caretakers of Students, Customer Administrator, and other Customer designees.
 - ii. Access to other technologies, including those offered through the EMS, lesson scheduling tools, accountability tools, e-mail system, video and audio streaming, and the ability to track Student progress.
 - iii. Pearson will provide 99% monthly EMS uptime (excluding scheduled maintenance with 72 hours’ notice). Pearson agrees that in the event the EMS and the virtual program availability is less than 95% in a given month, Customer has the option to terminate the Agreement upon 30 days prior written notice.
- c. Instructional Support.
- i. If Customer elects to use Pearson Certified Online Teachers for any Courses, Pearson will provide Pearson Teachers who are Texas Certified and subject credentialed, except Texas Certified teachers may not be provided for Career and Technical Education courses, American Sign Language courses, or in instances when substitute teachers are needed. Further descriptions of Instructional Services are provided on Exhibit A. Access to Courses taught by Pearson Teachers shall be through Pearson Online Academy, and Pearson will, if requested by Customer, implement Course completion requirements consistent with POA to enable Customer the ability to transfer credits earned. Instructional support will be provided in U.S. standard business hours. In addition, when Customer elects to use Pearson Teachers, Pearson will provide the following:
 1. A credentialed, certified teacher (per above) to provide student- and teacher-initiated direct instruction to one student in one course for an academic year. The Pearson teacher acts as the teacher of record, responds to student-initiated chat, email, and telephone calls; grade assignments and assigns final grade; and moderate discussion boards.

2. With respect to Students with Full-Time Student Seats grades 6-12 only, an advisor whose responsibilities shall include: monitoring Student participation and performance; assisting Students in navigating Pearson's technology and systems; and facilitating communication between the Student and the subject matter Teacher on an as-needed basis.
3. Modification or adaptation of assessments, instructional approach and/or lesson presentation by Pearson Teachers to meet particular Students' IEP/504 plans supplied by Customer as is reasonably afforded within the EMS. Pearson will not provide additional resources related to Special Education. Pearson's ability to perform such modifications and adaptations is dependent on Customer's provision of accurate, timely and detailed IEP/504 documentation regarding the Students. Pearson will implement reasonable accommodations and modifications consistent with IEP/504 requirements within the existing capability of the scope of products and services provided and will collaborate with Customer to support compliance. Pearson will not charge additional fees for such modifications within the EMS. Provided, however, Customer shall remain fully responsible for ensuring compliance with Students' IEP/504 plan.
 - ii. If Pearson Teachers are not being used for a Course, Customer must provide Customer Teachers to teach Students enrolled in such Course.
 - iii. If Pearson Teachers are being used for a Course, Customer shall communicate with Pearson monthly regarding the number of projected enrollments in each such Course, and if so communicated, Pearson will provide full access to Pearson Teachers within 2 business days following enrollment and in no event later than 5 business days. In a documented, unforeseeable force majeure that prevents timely staffing, Pearson will notify Customer within 24 hours, and work to achieve compliance within a reasonable amount of time depending on the force majeure situation and will collaborate with Customer in doing so.
- d. Complaints. Promptly investigate any concerns or complaints raised by the Customer, involving the performance of any Pearson personnel providing support services, including Instructional Support to the School.
- e. Student Records Support.
 - i. Pearson shall maintain the confidentiality of all Students' records in compliance with applicable state and federal laws, and pursuant to the confidentiality provisions under this Statement of Work.
 - ii. All Student Record information shall remain the property of the Customer, and Customer is responsible for retrieving such information via the EMS during the Term. To the extent permitted by law, Pearson may retain a copy of such records subject to the confidentiality requirements of this Statement of Work.
 - iii. Pearson will implement industry-standard security (e.g., NIST CSF/ISO

- 27001-aligned), encrypt PII in transit and at rest, and store/process Student PII in the United States unless Customer approves otherwise.
- iv. Pearson will notify Customer of any security incident involving Student PII within 48 hours after discovery of a security incident, provide details known, mitigate harm, offer appropriate notices/credit monitoring if required, and indemnify Customer for costs if the security incident was the direct result of Pearson's breach.
 - f. Implementation Specialist. Provide an Implementation Specialist who will be dedicated to ensuring a smooth and successful program launch. A collaborative call between the Customer and Pearson will begin the process, in order to gather program objectives and critical academic and technical information. The Implementation Specialist will then build a custom EMS Domain based on the Customer's preferences. The Implementation Specialist will also facilitate scheduling administrator and teacher user trainings, assigning Pearson teachers, and provisioning courses and user enrollments in Pearson Connexus to prepare the school program for academic success. At the culmination of the process, the dedicated District Success Partner will become the Pearson point of contact.
 - g. Program Management. Provide a program liaison ("District Success Partner") who shall be the point of contact for the individual designated by the Customer as the Customer-designated Administrator(s) (described below). The Pearson District Success Partner shall respond to Customer inquiries and support student achievement in the Education Products through ensuring smooth program start; championing fidelity of implementation; providing consultative support related to effective online program implementation, support schools in implementing best practices for monitoring data and identifying performance trends, and by acting as Pearson's liaison for the Customer.
 - h. Training and Professional Development. Customer must identify the person(s) responsible for being the district/platform administrator(s). Prior to program start, district administrators will be supported through online training in getting started and using the platform. In addition, Exhibit A describes various Training and Professional Development options, some of which may be required and others available to Customer at the stated rates.
 - i. Other Professional and Technical Support Services.
 - i. Provide 24/7 technical support through on-line help and live phone support via Pearson's Support Services to Authorized Users as follows: School Support services Monday-Friday 8:00 am to 6:00 pm (ET) and Student Technical Support services Monday-Friday 9:00 am to 9:00 pm (ET), excluding Pearson's designated holidays. Students must have access to a computer that meets the minimum system requirements set forth at <https://support.ems.connexus.com/hc/en-us/articles/360007993234-Pearson-Connexus-System-Requirements>. Pearson shall provide these Students with initial technical support to assist in determining if Students have the minimum

requirements necessary to participate in the Education Program, and limited ongoing technical support on an as-needed basis for the Students' use of the EMS.

- ii. Provide online tutorials to Students and Caretakers on the Education Program, use of the EMS, various Pearson policies and procedures, and other technology to support Student learning as appropriate.
- iii. Virtual Set-up of School. Pearson will create a dedicated EMS site build for Customer's school. In order to complete this site set-up, Customer must provide the necessary information to set up Customer's school site. Platform feature allows Customer capacity to brand the login page with their own logo. Pearson shall not use Customer's name, logos, or refer to the relationship in marketing without prior written consent.

2. **Customer Responsibilities:** The Customer, or Customer's designee, shall be responsible for the day-to-day management of the School and shall perform any responsibility not explicitly delegated to Pearson under the terms of this Statement of Work, including, but not limited to:

- a. Course Completion and Transfer Credits. Establish requirements for Course completion (including awarding of transfer credit where applicable), grade attainment and attendance in order to meet minimum requirements for graduation with a School diploma.
- b. Counseling and Special Education Services. Deliver all counseling and Special Education Services, including but not limited to identifying Students who are Special Needs Students and providing said students with any necessary specially designed instruction, accommodations and/or modifications, including assistive technology, or non-standard materials.
- c. Course Placement. Complete course placement changes for enrolled students.
- d. Reporting. File all information directly with the applicable state or regulatory authorities, associated with the operation of the School, as required by any applicable state or federal law. Pearson will support the Customer in the preparation of such reports, per state law, utilizing information provided by Customer. With regard to the Customer's reporting responsibilities, the Customer shall timely inform Pearson of the information that is required to comply with any reporting obligation, including any required format or means of delivery (for example, Student Record fields and the required electronic format suitable for transferring such information in the Customer's or other regulatory authorities' records) at least thirty (30) days prior to any due date.
- e. Standardized Testing. Administer any required standardized tests at its own cost.
- f. Student Data Transfer/Access Requests. To the extent the Customer requests Pearson to provide any Customer employee or third-party contractor with access to Student personally identifiable information, or to transfer such Student personally identifiable information outside of the EMS to a third party, the Customer is responsible for determining that such request for access of transfer is compliant with applicable local or Customer policies and procedures, as well as state or federal law, and for informing Pearson of any restrictions Pearson must follow in providing such requested access or

- transfer. Each Party remains responsible for its own compliance with laws when requesting or granting access to PII. Pearson will not be indemnified for its own negligence, willful misconduct, or violations of law. To the extent permitted by law, the Customer shall hold Pearson harmless and indemnify Pearson for such access or transfer.
- g. Customer Administrator. The Customer shall designate and employ one or more Customer Administrator(s) and shall provide the names of such Customer Administrator(s) to Pearson in writing. The Customer Administrator(s) shall be responsible for: (a) identifying all individuals authorized to have access to Customer and/or Student information; and (b) granting such access. All grants of access are determined by the Customer, and may be customized, including, but not limited to, the following categories of access: Customer Administrator, Customer staff; Customer Teacher; Student; or Caretaker. In addition, the Customer Administrator(s) will provide information to Customer's prospective families and address concerns about Students, including those raised by Teachers or other parties.
 - h. Modifications to Content. It is the responsibility of the Pearson Teacher, as the trained content expert, to deliver the educational content in the way that teacher deems appropriate. To the extent a Customer modifies Content (including but not limited to course content, assessments, and grade weighting), the Customer holds Pearson harmless and assumes all responsibility for such modifications. Further, the Pearson Teacher may choose to discuss or protest such modification, and Pearson reserves the right to withdraw its Teacher as teacher of record in response to the Customer's modifications, if Pearson deems that appropriate. The ultimate responsibility for any unauthorized modification lies with the Customer.
 - i. National Collegiate Athletic Association Eligibility. Many of Pearson's high school core and elective courses, delivered by Pearson's teachers via the EMS, have been cleared as meeting NCAA Eligibility Center requirements. The Customer, by purchasing a package of services that complies with the requirements for the NCAA Eligibility Center approval of Pearson's courses, and delivering those courses as set forth below, may offer its student athletes courses that may be used for NCAA initial eligibility. In order for the Customer's purchased Pearson courses to maintain their status as meeting NCAA Eligibility Center requirements, the following must be in place:
 - i. The list of Pearson NCAA-approved courses can be found on the [NCAA website](#). In the High School field, enter Pearson Virtual School, and click submit. Select Pearson Virtual School on the next page, and you'll see the courses that are NCAA eligible.
 - ii. The courses must be delivered through the EMS by Pearson's Certified Online Teachers (defined on Exhibit A).
 - iii. The course content must be delivered via the sequential option. Credit recovery, diagnostic prescriptive, and flex courses are not NCAA-approved.
 - iv. Customers may not modify NCAA approved courses. Any necessary

modifications may only be made by Pearson staff.

- v. The Student and the Pearson Teacher should be in contact, at a minimum, as the Student completes each quarter of a Course, and the student must complete one (1) synchronous Curriculum Based Assessment (CBA) each semester for any core (Math, Science, Social Studies, Language Arts) course.
 - vi. NCAA approval of Pearson courses is dependent upon both Pearson and the Customer abiding by a programmatic structure that adheres to the requirements set forth in the NCAA Guidelines for Pearson Online and Blended Learning Customers.
 - vii. If the Customer's program is not in full compliance with all elements of this section, then Pearson shall consider such lack of compliance a material breach of this Statement of Work, and reserves the right, in its sole discretion, to terminate this Statement of Work accordingly.
3. **Limitations**: Customer acknowledges that Pearson's responsibility is only to deliver the contracted-for Educational Program listed above. Customer will provide all other resources, materials, products or services and take all other actions required for Customer's School, in accordance with Customer's policies. Customer acknowledges that Pearson is not serving as the credit-granting institution under this Statement of Work. Pearson will provide necessary documentation, gradebooks, and completion verifications to facilitate Customer's credit granting within 5 business days of request.
 4. **Representation Regarding Non-discrimination**: Neither Pearson nor the Customer will illegally discriminate against any person on the basis of race, creed, color, sex, national origin, religion, ancestry, sexual orientation or disability, or any other basis prohibited by federal or state law.
 5. **Internet Access**: Each Student (or each household as applicable) shall be required to have access to the Internet for a sufficient amount of time to complete the instructional program (including assignments, online communication and collaboration, research and access to supplemental online resources). Students will be advised that high-speed access will provide for optimal participation.
 6. **Education Program Offerings**. Exhibit A to this Statement of Work, attached hereto and incorporated herein by reference, details the specific Educational Products and Services being made available to Customer hereunder, and the prices therefor, subject to Section 7. Exhibit B to this Statement of Work, attached hereto and incorporated herein by reference, details the pricing and invoicing procedures for the specific Educational Products and Services being made available to Customer hereunder
 7. **Term**: This Statement of Work will commence upon its execution by both parties (the "Effective Date"). The Initial term shall be through June 30, 2027. Thereafter, renewal shall be by mutual written agreement. Any price adjustments during renewal shall not exceed 3% year-over-year. Pearson shall provide pricing at least 120 days before expiration; Customer may decline without penalty. This Agreement is subject to the availability and appropriation of funds. If funds are not appropriated or are reduced, Customer may terminate without penalty upon written notice effective at the end of the then-current Academic Year.

8. **Termination:**

- a. **Grounds for Early Termination.** Unless otherwise renewed or earlier terminated, this Statement of Work shall terminate immediately upon the expiration of the Term. Any notice of early termination shall take effect at the closing of the last day of the Academic Year, unless otherwise agreed to by the parties or provided for herein. Except as specifically provided for herein and in the Standard Terms, this Statement of Work can only be terminated before its expiration as follows:
 - i. Termination by operation of law, if the School is no longer certified to be operational pursuant to applicable state law.
 - ii. Termination by Pearson at the close of the then Academic Year, if the payments to which Pearson is entitled under this Statement of Work are materially reduced as a result of a change in funding provided to the Customer or applicable laws or regulations impose requirements that are materially different from those previously provided under this Statement of Work and Pearson is unwilling or unable to make the required changes.
 - iii. Either Party may terminate for convenience, in whole or in part, upon 30 days' written notice, provided however, any such termination shall take effect at the end of the then current Academic Year. Either Party may terminate for material breach not cured within 30 days after written notice.
- b. **Obligations on Termination.** In the event this Statement of Work is terminated by either party for any reason:
 - i. Each party will promptly (not later than thirty (30) days after the effective date of termination) return to the other party all Confidential Information, property and material of any type belonging to the other party, including but not limited to, electronic versions, hard copies and reproductions and will not retain copies of any such property or material except as may be expressly permitted in this Statement of Work or required by applicable law;
 - ii. All access to the EMS and other Educational Products and Services contracted for herein shall be discontinued;
 - iii. Customer shall pay Pearson all amounts due under this Statement of Work upon the earlier of either their due dates or thirty (30) days after the effective date of termination; and
 - iv. The parties shall continue to be bound by the following provisions of this Statement of Work, which shall survive termination of this Statement of Work: Sections 7, 8, 9, and 11.

9. **Limitation of Liabilities:** In no event will either party, or such party's Affiliates, directors, officers, employees, or agents, be responsible or liable for the debts, acts or omissions of the other party or such party's Affiliates, directors, officers, employees, or agents, except for (i) breach of confidentiality/data security; (ii) infringement/indemnified claims; (iii) bodily injury/death; (iv) gross negligence or willful misconduct; and (v) violations of law (including background check obligations), each Party's aggregate liability shall not exceed 2x the fees paid by Customer in the 12 months preceding the claim.



10. **Notices:** All notices, consents and other communications under this Statement of Work shall be given in writing and shall be sent by and deemed to have been sufficiently given or served for all purposes as of the date it is delivered by hand, received by overnight courier, or within three (3) business days of being sent by registered or certified mail, postage prepaid to the parties at the following addresses (or to such other address as hereafter may be designated in writing by such party to the other party). The parties also agree that notice may be delivered through email to designated addresses with confirmation of receipt. Notwithstanding the foregoing notice procedures, the parties acknowledge that notices regarding the ordinary operation of the Education Program may be sent through the usual and customary means that the parties establish for such communications, including electronic communications.

If to Pearson:	Pearson Virtual Schools 509 S. Exeter Street Suite 202 Baltimore, MD, 21202 Attn: Angela Bryant
With a copy to:	Pearson Virtual Schools 509 S. Exeter Street Suite 202 Baltimore, MD, 21202 Attn: Dept. of School Legal Affairs Legal-PearsonOBL@pearson.com
If to the Customer:	Bryan Independent School District 801 South Ennis Bryan, TX 77802 Attn.: Ms. Ginger Carrabine, Superintendent ginger.carrabine@bryanisd.org

11. **Miscellaneous:**

- a. **Governing Law.** This Statement of Work shall be governed and controlled by the laws of the State of Texas. Any legal actions prosecuted or instituted by any party under this Statement of Work shall be brought in a court of competent jurisdiction located in Brazos County, State of Texas, and each party hereby consents to the jurisdiction and venue of any such courts for such purpose.
- b. **Severability.** If any provision of this Statement of Work is held to be invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this Statement of Work.
- c. **Complete Agreement; Modification and Waiver.** This Statement of Work constitutes

- the entire agreement between the parties with respect to the matter contained herein and supersedes all prior and contemporaneous agreements, warranties and understandings of the parties. There are no agreements, representations or warranties of any kind except as expressly set forth in this Statement of Work. No supplement, modification or amendment of this Statement of Work shall be binding unless executed in writing by both parties; provided, however, Pearson may accept quotes offered by Pearson and duly signed and returned by Customer, and such quotes shall be governed by this Statement of Work. No waiver of any provision of this Statement of Work will be effective unless it is in writing and signed by the party to be charged with such modification, and no such waiver will constitute a waiver of any other provision(s) or of the same provision on another occasion.
- d. Sales Tax. The Customer shall provide Pearson with support that it is tax exempt. To the extent that the Customer is not tax exempt, the Customer shall be responsible for federal, state, or local taxes assessed, if any, based on the Education Program provided by Pearson hereunder. Pearson will not invoice sales/use tax upon receipt of Customer's exemption documentation; Pearson will cooperate in providing any forms needed.
 - e. No Third-Party Rights. This Statement of Work is made for the sole benefit of the parties. Except as otherwise expressly provided, nothing in this Statement of Work shall create or be deemed to create a relationship among the parties or any of them, and any third party, including a relationship in the nature of a third-party beneficiary or fiduciary. Neither Party may assign this Agreement without the other's prior written consent, except to a successor in interest in a merger or asset sale not involving a competitor of the Customer, and an affiliated entity.
 - f. Compliance with Laws, Policies, Procedures, and Rules. Each party will comply with all applicable federal and state laws and regulations. Pearson represents and warrants the EMS, Courseware, and content conform to WCAG 2.1 AA and applicable accessibility laws;
 - g. Headings; Exhibits. The section headings contained herein are for convenience only and shall not in any way affect the interpretation or enforceability of any provision of this Statement of Work. All schedules and exhibits to this Statement of Work are incorporated herein and shall be deemed a part of this Statement of Work as fully as if set forth in the body hereof.
 - h. Status and Relationship of the Parties. The Parties intend that the relationship created by this Statement of Work is that of an independent contractor and not employer-employee. Except as expressly provided in this Statement of Work, no agent or employee of Pearson shall be deemed to be an agent or employee of the Customer. Each Party shall be solely responsible for its acts and the acts of its agents, employees and subcontractors. The relationship between Pearson and the Customer is based solely on the terms of this Statement of Work, and the terms and conditions of any other written agreement between Pearson and the Customer.

- i. Standard Terms. This Statement of Work is subject to the Standard Terms, meaning the Terms and Conditions for Virtual Learning Programs located at <https://www.pearson.com/obl-terms-conditions>. Capitalized terms not otherwise defined in this Statement of Work shall have the meanings ascribed to them in the Standard Terms. Once this Statement of Work is executed by the parties, this Statement of Work, including any subsequent amendments thereto, and the Standard Terms together will comprise the agreement of the parties. This Statement of Work shall be read so as to be compatible with the Standard Terms. However, to the extent there is an irreconcilable conflict between the two, the provisions set forth in the Statement of Work shall govern. Customer will issue a purchase order simultaneous with signature of this Statement of Work in order to facilitate its own internal billing procedures when applicable. Any terms set forth in such purchase order contradicting or adding to the terms of this Statement of Work shall be null, void, and of no effect. No material changes to web-posted terms shall apply unless expressly agreed in a written amendment signed by both Parties. The Parties attach the Standard Terms as Exhibit C and freeze them for the Term.
- j. Electronic Signatures. This Statement of Work and related documents may be signed in counterparts, and may be accepted in electronic form (e.g., by scanned copy of the signed document, an electronic or digital signature or other means of demonstrating assent) and each Party's acceptance will be deemed binding on the Parties. Computer maintained records of the Statement of Work and related documents when produced in hard copy form shall constitute business records and shall have the same validity as any other generally recognized business records.
- k. Criminal History Background Checks; Covered Employees. Definitions. 'Covered Employee' means an employee, agent, subcontractor, or volunteer of Pearson who (i) has or will have continuing duties related to the services under this Agreement; and (ii) has or will have direct contact with students or access to Student PII beyond directory information, as those terms are construed under Texas Education Code Chapter 22.
 - i. Fingerprint-Based Checks. Prior to a Covered Employee being assigned to perform services under this Agreement, Pearson will, at its sole cost, direct the Covered Employee to utilize IdentoGO (or such other vendor authorized by the Texas Department of Public Safety ("DPS")) to facilitate the electronic capture and submission of fingerprints for purposes of obtaining fingerprint-based criminal history record information ("CHRI"), as required by applicable law. The Parties acknowledge that Pearson, as a private entity, is not a qualified school contractor under the National Child Protection Act and Texas law and is therefore unable to access the DPS Fingerprint Application Clearinghouse of Texas ("FACT") or receive results of the fingerprint-based criminal history review. Accordingly, and consistent with Texas Education Code § 22.0834(b-1) and Texas Government Code § 411.097, Customer will be solely responsible for accessing and reviewing CHRI through the FACT Clearinghouse, making

all eligibility determinations regarding whether a Covered Employee may perform services involving direct contact with students, and promptly notifying Pearson in writing (email sufficient) of each Covered Employee's clearance or ineligibility. No Covered Employee shall begin providing services under this Agreement until Customer has confirmed to Pearson in writing that the individual has cleared the fingerprint-based background check requirements.

- ii. **Ongoing Monitoring.** Customer shall enroll Covered Employees in the DPS and/or FBI Rap Back subscription service through the FACT Clearinghouse for ongoing criminal history monitoring. Pearson will not receive notifications from the Rap Back service. Customer shall notify Pearson in writing (email sufficient) within five (5) business days of receiving any Rap Back notification or other information indicating that a Covered Employee may no longer be eligible to perform services under this Agreement, and Pearson shall promptly remove such individual from any assignment upon receipt of such notice. Customer shall also be responsible for checking the Do Not Hire Registry established under Texas Education Code § 22.092 for each Covered Employee prior to the individual's commencement of services and shall promptly notify Pearson if any Covered Employee appears on such registry.
- iii. **Certifications and Exclusions.** Pearson certifies that it has reviewed the criminal history information for each Covered Employee and that no Covered Employee has been convicted of a disqualifying offense under Texas law that would bar school district service or would be inconsistent with student safety. Pearson shall not assign, and shall immediately remove and replace, any Covered Employee who (i) is ineligible under Texas law; (ii) refuses to submit fingerprints; or (iii) is arrested for or convicted of a disqualifying offense.
- iv. **Records and Verification.** Upon request, Pearson shall provide the Customer with (i) the full name and role of each Covered Employee; (ii) the DPS Fingerprint Applicant Transaction Identifier (ATI) or equivalent verification; and (iii) written report of compliance for each Covered Employee. Pearson shall not provide raw criminal history records to the Customer.
- v. **Notice Obligation.** Pearson shall notify the Customer promptly upon discovering that a Covered Employee is arrested for or convicted of a disqualifying offense or otherwise becomes ineligible, and shall immediately thereafter remove such individual from Customer-related duties.
- vi. **Indemnification.** Pearson shall indemnify, defend, and hold harmless the Customer and its trustees, officers, employees, and agents from and against any third-party claims, damages, losses, penalties, fines, costs, and expenses (including reasonable attorneys' fees) arising out of Pearson's material breach of this section or applicable law. Customer shall provide Pearson prompt written notice of any such claim, reasonably cooperate with, and permit Pearson to control the defense.



- vii. No Student Contact Absent Compliance. No Covered Employee may have direct contact with students or access to Student PII (beyond directory information) until Pearson has complied with this section for that Covered Employee.

Agreed to by:

Pearson Virtual Schools

Bryan Independent School District

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A
EDUCATIONAL PRODUCTS AND SERVICES AND PRICES

Offering	Description	Price
Pearson CoursewarePLUS with Teaching Services		
Full-Time Student Seat with Certified Online Teachers – Academic Year	The Full-Time Student Seat with Certified Online Teacher license is an academic year license that provides for one student to be enrolled in up to eight (8) courses with a Pearson teacher. Enrollments may be in any offered courses within the Pearson Connexus catalog. If a student completes or withdraws from their assigned courses, this license may be reused for another student. Minimum purchase of 8 licenses.	\$2,889.00
Full-Time Student Seat with Certified Online Teachers – Semester	The Full-Time Student Seat (Semester) with Certified Online Teacher license is a semester license that provides for one student to be enrolled in up to eight (8) courses with a Pearson teacher. Enrollments may be in any offered courses within the Pearson Connexus catalog. If a student completes or withdraws from their assigned courses, this license may be reused for another student. Minimum purchase of 16 licenses.	\$1,496.00
Course Seat with Certified Online Teacher – Academic Year	The Course Seat with Certified Online Teacher license is an academic year license that provides access for one student to be enrolled in one (1) course with a Pearson teacher. An enrollment may be in any offered course within the Pearson Connexus catalog. If a student completes or withdraws from their assigned course, this license may be reused to enroll the same student (or another student) in another course. Minimum purchase of 47 licenses.	\$497.00
Course Seat with Certified Online Teacher – Semester	The Course Seat (Semester) with Certified Online Teacher license is a semester license that provides access for one student to be enrolled in one (1) course with a Pearson teacher. An enrollment may be in any offered course within the Pearson Connexus catalog. If a student completes or withdraws from their assigned course, this license may be reused to enroll the same student (or another student) in another course. Minimum purchase of 85 licenses.	\$275.00
Pearson CoursewarePLUS		
Custom Content Individual Course Enrollment (Academic Year)	Each Custom Content Individual Course Enrollment license provides access for one student to be enrolled in one semester-long course during an academic year. An enrollment must be in any offered customer created course. If a student completes or withdraws from their assigned course, this license may be reused to enroll the same student (or another student) in another customer created course. Must be used in conjunction with another license type where standard minimums are met.	\$20.00
Custom Content Individual Course Enrollment (Semester)	Each Custom Content Individual Course Enrollment license provides access for one student to be enrolled in one semester-long course during an academic semester. An enrollment must be in any offered customer created course. If a student completes or withdraws from their assigned course, this license may be reused to enroll the same student (or another student) in another customer created course. Must be used in conjunction with another license type where standard minimums are met.	\$12.00

Custom Content Individual Course Enrollment (Summer)	Each Custom Content Individual Course Enrollment license provides access for one student to be enrolled in one customer created course during the summer term. An enrollment must be in any offered customer created course. This license is not reusable or assignable to another student. Must be used in conjunction with another license type where standard minimums are met.	\$15.00
Individual Student Seat – Academic Year	Each Individual Student Seat license provides access for one student to be enrolled in up to six (6) Academic Year courses (or twelve (12) Semester courses) at a time during an academic year. Enrollments may be in any offered courses within the Pearson Connexus catalog. If a student completes or withdraws from their assigned courses, this license may be reused for another student. Minimum purchase of 93 licenses.	\$249.00
Individual Student Seat – Semester	Each Individual Student Seat license provides access for one student to be enrolled in up to six (6) Semester courses at a time during an academic semester. Enrollments may be in any offered courses within the Pearson Connexus catalog. If a student completes or withdraws from their assigned courses, this license may be reused for another student. Minimum purchase of 170 licenses.	\$137.00
Individual Course Enrollment – Academic Year	Each Individual Course Enrollment license provides access for one student to be enrolled in one (1) Academic Year course (or two (2) Semester courses) during an academic year. An enrollment may be in any offered course within the Pearson Connexus catalog. If a student completes or withdraws from their assigned course, this license may be reused to enroll the same student (or another student) in another course. Minimum purchase of 390 licenses.	\$59.00
Individual Course Enrollment – Semester	Each Individual Course Enrollment license provides access for one student to be enrolled in one (1) Semester course during an academic semester. An enrollment may be in any offered course within the Pearson Connexus catalog. If a student completes or withdraws from their assigned course, this license may be reused to enroll the same student (or another student) in another course. Minimum purchase of 720 licenses.	\$32.00
CoursewarePLUS Instructional Options		
Certified Online Teacher – Academic Year	Each COT course seat provides for a credentialed, Certified teacher to provide student- and teacher-initiated direct instruction to one student in one course for an academic year. The COT teacher acts as the teacher of record, responds to student-initiated chat, email, and telephone calls; grade assignments and assigns final grade; and moderate discussion boards.	\$449.00
Certified Online Teacher (Semester)	Each COT course seat provides for a credentialed, Certified teacher to provide student- and teacher-initiated direct instruction to one student in one course for an academic semester. The COT teacher acts as the teacher of record, responds to student-initiated chat, email, and telephone calls; grade assignments and assigns final grade; and moderate discussion boards.	\$247.00
LiveLesson	LiveLesson® is Pearson’s online teaching tool and meeting area accessed through a secured link within the platform. LiveLesson sessions are delivered using the Adobe Connect web-based program. A LiveLesson session allows district teachers to communicate with their students synchronously (live) and asynchronously (recorded session). Each LiveLesson subscription is per teacher per school year.	\$350.00

District Teacher Training Package – Online Options		
Getting Started: Teaching on Pearson Connexus	Training on how to teach in the EMS, including how to: navigate course materials; engage/communicate with students; grade assignments and provide student feedback; use basic EMS teacher tools, etc. This training is required for all customers planning to use their own Teachers on Pearson Connexus. Enrollment is only open to Customer’s teachers. Available to 30 teachers per session.	\$600.00
Monitoring Student Progress	Training on how to use the EMS reporting tools to monitor student progress and performance. Enrollment is only open to Customer’s teachers. Available to 30 teachers per session.	\$450.00
Navigating the Semester Closeout Process	Training on final grading and closing out the semester on the EMS. Enrollment is only open to Customer’s teachers. Teachers can register to attend any of the scheduled “Navigating the Semester Closeout Process” sessions. Enrollment is only open to Customer’s teachers. Available to 30 teachers per session.	\$450.00
On Demand Training Resource	Access to just-in-time learning materials, including tutorials, user guides, training materials, implementation ideas, and more.	Included
Add-On Advanced Teaching Training (Online)		
Course Customization Training	Training on how to use the course customization features of the EMS to modify and/or personalize courses. Available to up to 30 teachers.	\$500.00
Special Populations Training	Training targeted to Special Populations Service Providers and Case Managers provides guidance on how to use the features of Pearson Connexus to support individualized plans for students including IEPs, 504s, Gifted, and English Language Learners. The training is best suited for those who work directly with special populations. This training will be delivered as a closed enrollment session and participation will be limited to Customer teachers. Available to up to 30 teachers.	\$500.00
Administrator Trainings (Online)		
Getting Started: Training for Administrators	Training for Administrators on using the administrative tools available in the EMS, including how to provision users, copy courses, and enroll students and teachers into course sections. This training is required for all new customers. Available to up to 15 administrators.	\$400.00
Reporting on Student Performance	Training for administrators on how to use the EMS reporting tools to monitor student performance. Enrollment is open to Customer and other organizations concurrently. Administrators can register to attend any of the scheduled “Reporting on Student Performance” sessions. This training is only required if Customer is using Pearson teachers. Available to up to 15 administrators.	\$200.00
Teacher Professional Development (Online)		
Course: Teaching for Impact (12 modules)	Teaching for Impact is designed to provide teachers with research-based instructional strategies and effective practices for teaching in a virtual or blended learning environment. Each course includes examples of teachers modeling best practices with students, utilizing an online learning platform. Course topics align to the National Standards for Quality Online Teaching and include resources that teachers can use immediately with their students.	Included

Family Engagement Support		
Family Information Session	A designated Pearson administrator will work directly with the Customer to plan and host a personalized virtual Family Information Session prior to the launch of the program. During the event, prospective and newly enrolled students and their families will learn more about Customer's requirements of the virtual program, receive an overview of Pearson Connexus, view a quick demo of the solution, and participate in a Q&A session. The event can be recorded, and the recording can be made available to the Customer as a resource for their families.	Included
Summer School		
Summer Course Enrollment	Each Summer Course Enrollment license provides access for one student to be enrolled in one course during the summer term. An enrollment may be in any offered course within the Pearson Connexus catalog.	\$55.00
Summer School Course with Certified Online Teacher	Each Summer School Course with COT provides access for one student to be enrolled in one course with a Pearson teacher. Enrollment may be in any course offered within the Pearson Summer School catalog. This license is not reusable or assignable to another student.	\$249.00
Summer Smarts Reading	Make up for reading learning gaps in elementary and middle school with Summer Smarts Reading. At the beginning of the Summer Smarts Reading program, the student is assessed for placement in the academic continuum. The student is then able to progress through the program independently, with individual pathways that maximize help in the student's area of need. Throughout the summer, the student will be invited to participate in weekly hands-on activities for further engagement in math. This up to nine-week program includes a teacher monitoring student progress and providing weekly reports on student performance.	\$149.00
Summer Smarts Math	Make up for math learning gaps in elementary and middle school with Summer Smarts Math. At the beginning of the Summer Smarts Math program, the student is assessed for placement in the academic continuum. The student is then able to progress through the program independently, with individual pathways that maximize help in the student's area of need. Throughout the summer, the student will be invited to participate in weekly hands-on activities for further engagement in math. This nine-week up to program includes a teacher monitoring student progress and providing weekly reports on student performance.	\$149.00

Exhibit B
Pricing and Invoicing

1. **Pricing and Invoicing.** In consideration for the Education Program provided by Pearson to the Customer during the Term, Pearson shall be paid the sums set forth on Exhibit A, and subject to the terms of the Statement of Work.
 - a. **General.**
 - i. All Educational Products and Services expire at the end of their duration listed herein, or if not stated, at the end of the then-current Academic Year, unless agreed to otherwise.
 - ii. A number of products and services are offered under this Agreement. Customer is responsible for understanding the differences between the options and for its choices to purchase among them. For example, the appropriate license type for a given student is dependent on variables such as the number of courses that student will be enrolled into, which instructional model will be utilized, and whether the student will be provided access to services. Customer shall be solely responsible for assigning the appropriate license type to each student and understands that charges will be incurred based on the license that Customer selects.
 - iii. If volume discounts are indicated in this Statement of Work, they shall apply as follows: any discount percentage indicated on the Statement of Work will only be applied to the products designated in the Statement of Work (the “Eligible Products”) if Customer purchases at least the minimum indicated on the Statement of Work. In the event Customer makes such a qualifying purchase, the discount will also be applied to all subsequent purchases of Eligible Products for the remainder of that Academic Year. Eligibility for volume discounts resets each Academic Year.
 - b. **Payment.**
 - i. Customer shall remit payment to Pearson for invoices within thirty (30) days from the invoice date. Customer agrees to pay to Pearson all such fees, and all applicable sales, use or other taxes, however designated, except for taxes based on Pearson’s income. Customer shall pay a monthly charge of 1.5% (18% annually) on all amounts not paid when due, or, if a lower maximum rate is established by law, then such lower maximum rate.
 - ii. Customer will incur charges under this Statement of Work by notifying Pearson in writing of its desire to purchase Educational Products and Services (such as a signed quote or purchase order) or otherwise, including

through Customer's usage of the EMS (such as, but not limited to, Customer enrolling a Student under an enrollment license), the less Minimum Purchase. Upon Pearson's determination of any charges incurred by Customer, Pearson shall invoice Customer for any such charges.

- iii. In no event shall failure by Pearson to invoice the Customer for a given product, service or usage constitute a waiver of the Customer's obligation to make payment to Pearson under this Statement of Work. Further, Customer acknowledges that should Pearson fail to list a new enrollment license, for example, on the invoice following such license's utilization or a new enrollment entered by Customer, Customer will nevertheless remain financially responsible for such license and will be invoiced accordingly, and failure to pay shall be deemed a breach of the Agreement. No refund or credit shall be due to Customer in the event that an Educational Product or Service is not utilized.

Exhibit C Terms and Conditions

These Terms and Conditions are applicable to the academic, teaching and ancillary products and/or services to be provided to a private or public school, school district or other educational institution or organization (collectively “Customer”) by Pearson Virtual Schools USA (sometimes referred to in customer agreements as “Connections Learning,” “Connections Education LLC,” “Connections” or “Pearson”) (Pearson and Customer are sometimes referred to individually as a “Party” or collectively as the “Parties”), pursuant to an Agreement in which Customer has contracted to receive certain Educational Products and Services from Pearson. Pearson reserves the right to change these Terms and Conditions from time to time. Such changes will become effective when Pearson posts the revised Terms and Conditions on Pearson’s Website (as defined below) at <https://www.pearson.com/obl-terms-conditions> or such other URL as Pearson may later designate. Pearson agrees to notify Customer prior to any material changes to these Terms and Conditions.

1. DEFINED TERMS. Capitalized terms within the Agreement or these Terms and Conditions, and not otherwise defined therein or herein, shall have the meanings ascribed to them in the Index of Defined Terms, attached hereto and incorporated herein by reference.

2. GRANT OF RIGHTS AND RESTRICTIONS.

a. *License.* Pursuant to the Agreement and these Terms and Conditions, Pearson hereby grants to Customer a non-exclusive, nontransferable, royalty-free, limited license during the applicable term of the Agreement for Authorized Users to access and use the EMS and the Content contained therein, in connection with the receipt of Educational Products and Services under the Agreement, subject to compliance by the Authorized Users with the Agreement (including these Terms and Conditions) and the Terms of Use. Pearson may update the features and functions of the EMS from time to time. Any right to use Content shall be solely for the applicable Courses for which a Student is enrolled. If specified in the Agreement, Pearson will also provide Pearson Teachers to teach the Courses. If Pearson Teachers are not specified in the Agreement, then Customer shall have sole responsibility to teach the Courses and to provide any other necessary support to the Students; provided, however, that Pearson may in some cases provide Tutors if tutoring services are so specified in the Agreement. Pearson may also provide training and/or other services as may be specified in the Agreement.

b. *Permitted and Prohibited Uses.* All rights not expressly granted to Customer and Authorized Users pursuant to the Agreement and these Terms and Conditions are reserved to Pearson, and any uses of the EMS or any Content by Customer and Authorized Users not expressly permitted in the Agreement and these Terms and Conditions are strictly prohibited.

Specifically, Customer will not, and will not permit Authorized Users, Customer’s employees or agents or any third party to: (i) access the EMS or Content except in connection with Courses for which a Student is enrolled; (ii) use Content except in strict compliance with the Agreement and the Terms of Use; (iii) copy, reproduce, modify, alter, transfer, transmit, perform, publish, display, sub-license, distribute, circulate, provide access to, rent, or create Derivative Works from the Content or any portion thereof, except as specifically permitted by the Agreement and



the Terms of Use; (iv) decompile, reverse engineer, disassemble, or otherwise determine or attempt to determine the source code (or the underlying ideas, algorithms, structure or organization) of the Content or the EMS; (v) upload files that contain viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs that may damage the operation of the EMS or the Content; (vi) take any actions, whether intentional or unintentional, that may circumvent, disable, damage or impair the control or security systems of the EMS or the Content, nor allow or assist a third party to do so; (vii) use the Content in a manner that disparages the EMS, the Content, Pearson or its content providers, or in any manner that Pearson may, in its sole discretion, deem inappropriate; or (viii) disclose Log-In Information (as defined in Section 2.d. below) or permit access to the EMS and/or the Content by unauthorized persons using an Authorized User's Log-In Information.

c. Usage Guidelines and Rules of Conduct. Customer (including its employees and agents) and Authorized Users may use the EMS and the Content for bona fide educational and other contracted-for purposes only. Customer will comply and assure compliance by its employees, agents and the Authorized Users with the Agreement (including these Terms and Conditions), Terms of Use, Privacy Policy, Acceptable Use Policy, and other applicable Pearson policies, as updated from time to time by Pearson in its sole discretion. Customer acknowledges that Pearson may also institute basic rules for academic and personal conduct for Authorized Users' use of the Content and the EMS, and that Pearson will enforce those rules in its sole discretion, including recommending to Customer the termination of access for Authorized Users in the event of their failure to adhere to those rules. Included in the rules of conduct shall be prohibitions against any Authorized User's attempt to make inappropriate communication or contact with any other Authorized Users through the EMS, as well as, hacking, viral infection, or other technical attempts to gain unauthorized access to or cause damage to the EMS. Customer shall immediately provide Pearson with written notice of any unauthorized use or distribution of the Content of which Customer becomes aware and shall take all necessary steps to ensure that such unauthorized use or distribution is terminated.

d. Security and Use of Passwords. Each Authorized User will have a username and password for the purpose of accessing the EMS and the Content (the "Log-In Information"). Customer and its Authorized Users must keep all Log-In Information strictly confidential, and all Log-In Information may be used only by the assigned Authorized User. Customer and its Authorized Users are responsible for maintaining the security and confidentiality of all Log-In Information, and for preventing access to the EMS and/or the Content by unauthorized persons using an Authorized User's Log-In Information. Unauthorized access to or use of the EMS and/or the Content by someone using an Authorized User's Log-In information may be attributed to such Authorized User.

e. Availability and Support. Pearson does not guarantee availability of the EMS 24 hours per day, 7 days per week. Unless other support terms are specified by Pearson from time to time, Pearson agrees to provide EMS Student Technical Support (9am-9pm ET) and Teacher Help Desk Support (8am-6pm ET) Monday – Friday. Pearson will respond to general support issues within one (1) business day, after which they will be escalated as may be specified by Pearson from time to time. The contact for escalation of support issues will be as designated by Pearson.



f. *Communications from Pearson.* Customer acknowledges and agrees that Pearson may periodically contact Authorized Users in relation to Pearson carrying out its obligations set forth in this Agreement, as well as to inform Caretakers and Students of educational opportunities related to such Students' academic pursuits such as summer school programs, dual credit opportunities, teacher directed extended learning activities, nationally facilitated clubs and non-School directed extracurricular activities, including sports program opportunities, as well as educational or professional post-graduate opportunities, in compliance with state and federal law. Unless prohibited by law, the Customer specifically consents to such communications being delivered to Caretakers and Students via the EMS WebMail portal and message boards, personal email or cell phone via text messaging to the extent such information is available, and direct mail. Except as identified herein Pearson will not deliver communications to Students that constitute targeted advertising based on personally identifiable information from Student Records. Telephonic communications shall be limited to School related communications of an immediate nature that impact a Student's access to the Education Program or are related to the Students' academic participation and/or academic achievement. By accessing the Licensed Collateral, the Customer and Authorized Users will be deemed to have consented to receive such communications.

3. CUSTOMER RESPONSIBILITIES.

a. *Fees and Taxes.* Customer will pay all fees incurred under the Agreement within thirty (30) days after the date of invoice or pursuant to such other payment terms as may be specified in the applicable Agreement. Any payments made past their due date shall bear interest at the lesser of one and one-half percent (1.5%) per month or the maximum amount allowed by applicable law. Customer will be responsible for all forms of tax in connection with the Educational Products and Services provided by Pearson under the Agreement, other than taxes on Pearson's income. If Customer claims tax exempt status, Customer agrees to provide Pearson with evidence of such tax exemption upon Pearson's request. To the extent that such tax exemption cannot be properly claimed or does not extend to certain taxes or transactions, Customer shall be responsible for any and all taxes that arise from the Agreement and related transactions (excluding taxes on Pearson's income). All pricing set forth in any quotation, Agreement, or invoice is in United States dollars unless otherwise specified.

b. *Compliance with Laws.* In using the EMS, Customer agrees to comply with federal and state privacy laws, including, but not limited to, FERPA and the regulations promulgated under FERPA, and other similar federal or state laws, administrative rules and regulations restricting commercial use of, or otherwise regulating, Student information. Customer further agrees to limit access by its employees and agents to educational records containing personally identifiable information to solely those of its employees and agents who have a legitimate educational interest for such information. By designating an individual as authorized to have EMS access to educational records and other student related information, Customer represents such access is in compliance with all such federal and state privacy laws.

c. *Hold Harmless.* To the extent permitted by applicable law, Customer agrees that it shall defend, indemnify and hold Pearson and its Affiliates and their respective agents and employees harmless against and from all costs, expenses, damages, injury or loss (including reasonable

attorneys' fees and expenses) to which Pearson, its Affiliates and their respective agents and employees may be subject due to any causes of action, disputes, demands, lawsuits, and/or judgments (together "Claims") arising out of or relating to: (i) any wrongdoing, misconduct, negligence, or default by Customer, its agents, employees, or assigns in the execution or performance of this Agreement; (ii) noncompliance with any privacy or other laws applicable to Student Records or personally identifiable information; and (iii) any activities unrelated to the Educational Products and Services provided by Pearson, including, but not limited to, any sports, intramural, club, or outreach activities sponsored or approved by Customer, regardless of whether such sponsorship or approval was direct, indirect, express, or tacit.

4. AUDIT. Pearson will have the right, with ten (10) days prior notice, to audit Customer's use of the EMS and the Content at Customer's location(s). If any audit determines that the Customer has not complied with the terms of the applicable Agreement, Customer will promptly pay Pearson any amount that is due. Customer will also reimburse Pearson for its cost in conducting the audit, in the event the audit determines a shortfall over five percent (5%), in the amount paid to Pearson.

6. TERMINATION.

a. *Term.* The term of the Agreement (including any potential renewal periods) will be as specified in the Agreement.

b. *Terminations for Cause.* Except as otherwise provided in the Agreement, either Pearson or Customer may terminate the Agreement at any time for cause upon thirty (30) days' notice, unless the circumstances constituting the basis for the for-cause termination have been cured (if capable of being cured) by the other Party within such notice period. For purposes of the preceding sentence, a termination by one Party will be deemed for "cause" if: (i) the other Party materially breaches any provision of the Agreement; or (ii) the other Party violates any law or regulation material to the Agreement. In the event objectively ascertainable reasonable efforts have been made to effect such cure, and the breach at issue does not objectively lend itself to cure within such thirty (30) day period, then such additional time as necessary to complete said cure, but in no event longer than sixty (60) days following written notification of such breach. Notwithstanding the foregoing, Pearson may terminate the Agreement immediately upon written notice to Customer in the event of a breach by Customer of confidentiality or a violation by Customer of Intellectual Property rights. Such remedy shall not be deemed to be the exclusive remedy for a breach of the Agreement but shall be in addition to all other remedies available at law or in equity.

c. *Termination for Financial Reasons.* Either Party may terminate the Agreement upon written notice if the other Party: (i) files a petition for bankruptcy; (ii) is adjudicated bankrupt by any court; (iii) makes an assignment for the benefit of creditors; (iv) takes the benefit of any bankruptcy or insolvency act; or (v) generally becomes unable to pay its debts when due. Such termination shall be effective as of the date of filing of such petition, adjudication, appointment, assignment, declaration or commencement of reorganization or liquidation proceeding or said Party's inability to pay its debt.

d. *Termination or Suspension For Failure to Make Timely Payment.* Pearson may, at its option, immediately terminate, or suspend its performance of, the Agreement with Customer any time



Customer is more than thirty (30) days in arrears on its payment obligations to Pearson. In the event of termination or suspension by Pearson under this Section 6.d., Customer's access to the EMS (including all Authorized Users whose right of access to the EMS is derived from Pearson's contractual relationship with Customer) shall be discontinued without further notice. In the event of a suspension of access to the EMS, access may, at the sole discretion of Pearson, be restored when Customer's payment obligations are brought current and Pearson has received adequate assurances that Customer's payment obligations to Pearson shall remain current for the remainder of the term of the Agreement.

e. *Termination due to Change in the Law.* Either Party may terminate the Agreement in the event any new legal obligation is imposed upon such Party during the Agreement term and as a result of such new legal obligation, there is a material change to such Party's responsibilities under the terms of the Agreement or in the case of Pearson, there is an increase in the cost of providing the contracted for Educational Product and Services, as determined by Pearson. The Parties agree that they will negotiate in good faith during the notice period regarding possible alternatives to termination; provided, however, that if the Parties are unable to agree on a mutually acceptable alternative, the termination notice shall remain in full force and effect.

f. *Termination due to Material Conduct.* Either Party reserves the right to terminate the Agreement if there are unresolvable differences between the Parties relating to what such Party considers to be conduct that reflects materially and unfavorably upon its reputation with respect to the manner in which the other Party carries out its responsibilities under the terms of the Agreement and such Party provides the other Party with thirty (30) days written notice of its intent to terminate during which time the Parties shall work in good faith to alleviate to such Party's satisfaction the circumstances giving rise to such unresolvable differences. Termination under this provision may only take effect at the end of the Academic Year in which such notice is given.

g. *Obligations on Termination.* In the event the Agreement is terminated by either Pearson or Customer for any reason: (i) each Party shall promptly (not later than ten (10) days after the effective date of termination) return to the other Party all Confidential Information, Intellectual Property and material of any type belonging to the other Party, including but not limited to, electronic versions, hard copies and reproductions and shall not retain copies of any such Intellectual Property or material except as may be expressly permitted in the Agreement, and all electronic copies shall be permanently removed from all electronic data storage devices; (ii) all access to the EMS, Content, and Courses by Customer and its Authorized Users shall be discontinued; (iii) each Party shall cease the use of the other Party's trade name, trademarks, copyrights and any other form of Intellectual Property rights; and (iv) Customer shall pay Pearson all amounts due under the Agreement upon the earlier of their due dates or thirty (30) days after the effective date of termination. Termination of the Agreement shall not relieve the Parties of any applicable obligation or liability under the Agreement, nor shall it affect or impair the rights of a Party arising prior to such termination.

7. CONFIDENTIALITY.

a. *Confidential Information.* The receiving Party shall use the Confidential Information only in connection with the furtherance of the business relationship between the Parties, and the



receiving Party shall make no further use, in whole or in part, of any such Confidential Information. The receiving Party agrees not to disclose, deliver or provide access to all or any portion of the Confidential Information to a third party or to permit a third party to inspect, copy, or duplicate the same; provided that the receiving Party may disclose Confidential Information to its employees, agents and subcontractors who need access to such Confidential Information in connection with the performance of the Agreement or the applicable subcontract and who are under a written obligation to protect the confidentiality of such Confidential Information. The receiving Party will treat the Confidential Information with the same degree of care and confidentiality that the receiving Party provides for similar information belonging to the receiving Party that the receiving Party does not wish disclosed to the public, but not less than holding it in strict confidence.

b. *Student Records.* Pearson and Customer acknowledge and agree that under FERPA and any regulations promulgated thereunder, the Parties have certain obligations with regard to maintaining the security, integrity and confidentiality of “education records,” as that term is defined by FERPA. The Parties acknowledge that each Party must perform its obligations under the Agreement in compliance with FERPA and any regulations promulgated thereunder. Pearson and Customer each designate the staff, employees, agents, subcontractors and volunteers who are providing educational and/or administrative services to the Students as agents of Customer having a legitimate educational interest and thus entitled to access to educational records under FERPA.

c. *Data Privacy.* Pearson and Customer shall maintain personally identifiable information in accordance with applicable laws and regulations. Use of Pearson products and services and any information provide on Pearson products and services are subject to the Privacy Policy, which is incorporated into these Terms and Conditions.

d. *Exceptions.* The foregoing shall not prevent the receiving Party from disclosing Confidential Information that must be disclosed by operation of law, provided (i) the receiving Party shall promptly notify the disclosing Party of any such request for disclosure in order to allow the disclosing Party full opportunity to seek the appropriate protective orders, and (ii) the receiving Party complies with any protective order (or equivalent) imposed on such disclosure. It is understood and agreed that this Section 7.c. is not intended to permit the disclosure of education records referenced in Section 7.b. unless permitted by applicable law.

e. *Return of Confidential Information.* The receiving Party agrees that it will, within ten (10) days after written request by the disclosing Party, return to the disclosing Party, or at the option of the disclosing Party, destroy and certify in writing the destruction of, all Confidential Information received from the disclosing Party, including copies, reproductions, electronic files or any other materials containing Confidential Information. This provision shall not apply to the extent that the receiving Party is required to retain any such Confidential Information by any applicable law, rule or regulation, or by any internal record retention policy, or by any competent judicial, governmental, supervisory or regulatory body or by any backup computer systems that cannot be reasonably deleted, as determined by Pearson.

8. INTELLECTUAL PROPERTY

a. *Ownership of Intellectual Property.* Customer acknowledges and agrees that Pearson or its



Affiliates and/or their third party vendors are the sole owners of the EMS, the Content and Courses, and any other content or materials contained in or delivered to Customer through the EMS or otherwise in connection with the Agreement (collectively the “Pearson IP”). Except for the limited rights granted in the Agreement, neither the Agreement, nor these Terms and Conditions, constitutes a license or other transfer by Pearson to Customer of any Intellectual Property rights in Pearson IP. All right, title, and interest in and to the Pearson IP, including, but not limited to, copyright, patent, trade secret, and trademark rights will remain with Pearson and its third party vendors, and Customer will use the Pearson IP only as authorized under the Agreement and will not otherwise violate any copyrights or other Intellectual Property rights of Pearson. Any attempted sublicense, assignment or transfer by Customer of any rights hereunder or in the Agreement without Pearson’s prior written consent shall be void. Customer shall not remove any copyright, patent, trademark, or any other proprietary rights legends from the Pearson IP. The placement of a copyright notice on any portion of Confidential Information does not mean that such portion has been published and will not derogate any claim of trade secret or confidentiality protection for the same.

b. *Jointly Developed Courses.* The Parties may jointly develop one or more Courses if agreed upon in the applicable Agreement. Unless otherwise agreed by Pearson and Customer, any courses jointly developed by Pearson and Customer and all Intellectual Property rights thereto will be jointly owned by Pearson and Customer (“Joint Courses”). Either Party shall be entitled to modify and create Derivative Works of the Joint Courses. Customer agrees that any Joint Courses and their Derivative Works may be used by Customer solely in connection with the receipt of services under an applicable Agreement or as part of the curriculum provided to Customer’s Students. Customer agrees that Pearson shall be entitled to copy, use, install, license, display, perform, transmit, execute, resell, print, host, distribute and otherwise commercialize the Joint Courses and their Derivative Works. Neither Party shall be required to account to the other Party for a share of the profits in connection with the authorized use of the Joint Courses and Derivative Works hereunder.

c. *Trademarks.* Subject to and in accordance with Section 1.i.iii. in the Agreement, Pearson and Customer each grants to the other Party during the Term a non-exclusive, nontransferable license to use the logos, trademarks, service marks and/or trade names of such Party, as specified in the Agreement (the “Licensed Marks”), but solely in connection with the receipt of services under an applicable Agreement or for purposes of marketing the use of the Educational Products and Services to Customer’s Students and prospective Students in accordance with the requirements of these Terms and Conditions and the related Agreement, and subject to any pre-approval rights set forth in these Terms and Conditions and the related Agreement. All use of the other Party’s Licensed Marks shall be in accordance with any trademark usage guidelines provided by the other Party. Pearson’s current Trademark Usage Guidelines can be found at: <http://www.connectionsacademy.com/terms-of-use/trademark-guidelines.aspx>. Each Party retains all right, title and interest in and to its Licensed Marks and any related proprietary rights not expressly granted to the other Party hereunder. All goodwill attributable to the Licensed Marks will inure exclusively to the benefit of the owner of such Licensed Marks. A Party may revoke the other Party’s license to the Licensed Marks upon written notice in the event the other

Party breaches any of the terms of this paragraph.

d. *Customer Funds.* No Customer funds shall be used in the development or procurement of any tangible or intangible materials, or any aspect of the Courses, curriculum or educational materials used in connection with the Education Products and Services Pearson provides in furtherance of its obligations set forth in the Agreement. Customer funds paid to Pearson for products delivered and/or services rendered in accordance with the terms of this Agreement shall not be deemed Customer funds once such payment is received by Pearson.

e. *Student Data.* Student specific data, including corresponding Caretaker data, is the property of the Customer and the Student and/or Caretaker, unless and to the extent that Pearson obtains such data from a source other than Customer, including directly from Student (if an emancipated minor or over the age of minority) or such Student's Caretaker. Pearson will not use any such Customer owned Student specific data for any non-Customer related purpose without obtaining the written permission of such Student or Student's Caretaker (as the case may be). Use for Customer related purposes shall include any use associated with Pearson's or its subcontractor's responsibility to provide the Educational Products and Services under this Agreement and for the purposes specified in the Privacy Policy. Pearson may freely aggregate Customer owned Student (including Caretaker) specific data for its own purposes so long as such aggregated use does not reveal identifying characteristics that would enable a third party to determine the identity of any individual Student or Caretaker. All such aggregated data shall be the property of Pearson. Pearson may freely use all such aggregated data without the consent of Customer.

9. REPRESENTATIONS AND WARRANTIES. Customer represents and warrants that: (i) it has full power and authority to enter into the Agreement, and to agree to all the terms and conditions contained therein and in these Terms and Conditions, and has received all parental and other permissions required to permit Pearson to obtain and retain information (including personal information) from Authorized Users; (ii) only Authorized Users will access the EMS and the Content; (iii) Customer and its Authorized Users will at all times use the EMS and the Content only as expressly permitted by the Agreement and these Terms and Conditions; (iv) in the event that Customer requests that Pearson customize the interface with Customer's trade name, trademarks or logos, and/or digitize and/or encode and/or host any of Customer's content on the EMS and Pearson agrees to do so, Customer warrants that it has the full right and authority to so use and exploit any and all such trade names, trademarks, logos and content, including without limitation any and all underlying elements (the "Customer IP"); and (v) the Customer IP, any content, materials and/or information contributed by Authorized Users, and any revisions to the Content by Authorized Users, do not and will not contain any libelous, unlawful or infringing materials or content, will not infringe upon any party's proprietary rights, including, without limitation, statutory or common-law copyright, trademark and right of privacy, and will not violate any law, regulation or right of any kind whatsoever or give rise to any actionable claim or liability.

10. INDEMNIFICATION.

a. To the extent permitted by applicable law, Customer will defend, indemnify and hold Pearson, its Affiliates, agents and content providers, and the directors, officers, shareholders, employees, agents and representatives of each of the foregoing, harmless against and from any and all



liabilities, claims, suits, losses, damages, costs, fees and expenses (including reasonable attorneys' fees) brought against or incurred by Pearson that arise from or relate to: (i) any violation by Customer and/or its Authorized Users of the Agreement or these Terms and Conditions; (ii) any downloading of the Content except as authorized in the Agreement or these Terms and Conditions; (iii) any modification or editing made to any portion of the Content; (iv) the use of any portion of the Content with products or services not supplied by Pearson; (v) any breach of Customer's obligations or warranties under the Agreement or these Terms and Conditions; or (vi) the negligence or intentional misconduct of Customer, its employees or contractors, agents or the Authorized Users.

b. Subject to Section 12, Pearson will defend, indemnify and hold Customer, its officers, directors, employees and agents harmless from and against any and all liabilities, claims, suits, losses, damages, costs, fees and expenses (including reasonable attorneys' fees) brought against or incurred by Customer that solely arise from or solely relate to: (i) a material breach by Pearson of its obligations or warranties (subject to the disclaimer provided for in Section 11) under the Agreement or these Terms and Conditions, or (ii) the negligence or intentional misconduct of Pearson or any of its employees, contractors and agents.

11. WARRANTY DISCLAIMER. CUSTOMER CANNOT ASSUME THE PERFORMANCE OF THE EMS OR OTHER SUCH TECHNOLOGY WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY PROBLEMS RELATED THERETO WILL BE CORRECTED, DESPITE PEARSON'S REASONABLE EFFORTS. ACCORDINGLY, EXCEPT FOR ANY EXPRESS WARRANTIES GIVEN IN THE AGREEMENT: (a) THE EMS AND THE CONTENT PROVIDED UNDER THE AGREEMENT ARE PROVIDED "AS IS" TO THE MAXIMUM EXTENT PERMITTED BY LAW; AND (b) PEARSON AND ITS LICENSORS DISCLAIM ANY AND ALL WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SECURITY, TITLE, NONINFRINGEMENT, COURSE OF DEALING, OR COURSE OF TRADE. EXCEPT AS SPECIFICALLY PROVIDED IN THE AGREEMENT, NEITHER PEARSON NOR ITS LICENSORS WARRANT THAT THE FUNCTIONS OR INFORMATION CONTAINED IN THE EMS AND THE CONTENT PROVIDED UNDER THE AGREEMENT WILL MEET ANY REQUIREMENTS OR NEEDS THAT CUSTOMER OR THE AUTHORIZED USERS MAY HAVE, OR THAT THE EMS AND THE CONTENT WILL OPERATE ERROR FREE, OR IN AN UNINTERRUPTED FASHION, OR THAT ANY DEFECTS OR ERRORS IN THE EMS AND THE CONTENT WILL BE CORRECTED, OR THAT THE EMS AND THE CONTENT ARE COMPATIBLE WITH ANY PARTICULAR OPERATING SYSTEM. FURTHER, EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, PEARSON MAKES NO GUARANTEE OF ACCESS TO OR ACCURACY OF THE CONTENT ACCESSED THROUGH THE EMS. IN NO EVENT WILL PEARSON BE LIABLE FOR ANY UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF INFORMATION DISTRIBUTED OR MADE AVAILABLE FOR DISTRIBUTION VIA THE EMS.

12. LIMITATION OF LIABILITY. FOR ANY BREACH OR DEFAULT BY PEARSON OF



ANY OF THE PROVISIONS OF THE AGREEMENT OR THESE TERMS AND CONDITIONS, OR WITH RESPECT TO ANY CLAIM ARISING THEREFROM OR RELATED THERETO, PEARSON'S ENTIRE LIABILITY, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE INCLUDING NEGLIGENCE, WILL IN NO EVENT EXCEED THE LESSER OF: (a) THE AMOUNT PAID BY CUSTOMER FOR THE SPECIFIC COURSES OR PRODUCTS AND SERVICES THAT ARE THE SUBJECT OF THE CLAIM; OR (b) IN THE AGGREGATE WITH RESPECT TO ALL CLAIMS UNDER OR RELATED TO THE AGREEMENT OR THESE TERMS AND CONDITIONS, THE AMOUNT PAID BY CUSTOMER UNDER THE AGREEMENT. IN NO EVENT WILL PEARSON BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL LOSS OR DAMAGE, LOST BUSINESS REVENUE, LOSS OF PROFITS, LOSS OF DATA, FAILURE TO REALIZE EXPECTED PROFITS OR SAVINGS OR ANY CLAIM AGAINST CUSTOMER OR THE AUTHORIZED USERS BY ANOTHER PERSON, EVEN IF PEARSON, ITS AFFILIATES, OR ITS THIRD PARTY VENDORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE OTHERWISE FORESEEABLE. PEARSON WILL BE LIABLE TO CUSTOMER AS EXPRESSLY PROVIDED IN THE AGREEMENT OR THESE TERMS AND CONDITIONS, BUT WILL HAVE NO OTHER OBLIGATION, DUTY, OR LIABILITY WHATSOEVER IN CONTRACT, TORT OR OTHERWISE TO CUSTOMER INCLUDING ANY LIABILITY FOR NEGLIGENCE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT OR ELSEWHERE, THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THE AGREEMENT WILL APPLY IRRESPECTIVE OF THE NATURE OF THE CAUSE OF ACTION, DEMAND, OR ACTION, BY CUSTOMER, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER LEGAL THEORY, AND WILL SURVIVE A FUNDAMENTAL BREACH OR BREACHES OR THE FAILURE OF THE ESSENTIAL PURPOSE OF THE AGREEMENT OR THESE TERMS AND CONDITIONS OR OF ANY REMEDY CONTAINED THEREIN. THE AUTHORIZED USERS WILL NOT BE CONSIDERED A THIRD-PARTY BENEFICIARY OF ANY OBLIGATION OF PEARSON TO CUSTOMER.

13. RELEASE. Customer releases and waives all claims against Pearson, its Affiliates, agents or content providers, and the directors, trustees, officers, shareholders, employees, agents and representatives of each of the foregoing, from any and all claims, damages, liabilities, costs and expenses arising out of Customer's use of the EMS and Content. California residents waive any rights they may have under §1542 of the California Civil Code, which reads: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." Customer agrees to release unknown claims and waive all available rights under California Civil Code §1542 or under any other statute or common law principle of similar effect.

14. INSURANCE. Each Party will maintain and keep in force no less than the amounts of insurance as are reasonable to cover insurable risks associated with operations under the Agreement in minimum amounts required by law or customary for that Party's business.

15. PRODUCTS WITH TEACHING SERVICES. If the Customer desires a substantial increase in Student enrollments at any one time, or if there is an event of a national or regional scale that causes a sudden surge in enrollments, including Customer's enrollments, Customer acknowledges that it may take up to two weeks to provide full access to the EMS to such Students for the purpose of utilizing the Products and Services, or the Students may not experience all aspects of the Products and Services immediately, until such time as adequate staffing is in place.

16. SPECIAL POPULATIONS PRODUCT. At all times during and after Pearson's provision of any services related to special education, the Customer shall continue to serve as the Local Education Agency (LEA) and remain responsible for the provision of Special Education Services, including but not limited to satisfying the requirements of state and federal law, and the provision of a Free and Appropriate Public Education (FAPE) to its students under the Individuals with Disabilities Education Act ("IDEA"). Pearson does not assume any liability and specifically disclaims any and all liability with respect to the Customer's provision of Special Education Services to its students.

17. GENERAL PROVISIONS.

a. *Independent Contractors.* The Parties to the Agreement are independent contractors, and no agency, partnership, joint venture, franchise, or employee-employer relationship is intended or created by the Agreement and neither Party shall have a right to bind the other Party.

b. *Successors or Assigns.* The rights granted herein shall be non-transferable and non-assignable and the obligations may not be delegated by Customer except with the prior written consent of Pearson and any attempted transfer, assignment or delegation without the required consent shall be void. The Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

c. *Complete Agreement; Modifications.* The Agreement, together with these Terms and Conditions, constitutes the entire agreement among the Parties with respect to the transactions contemplated hereby and supersedes all prior agreements and understandings, written or oral, with respect to the subject matter hereof. The Agreement may not be amended or modified in any way, nor may noncompliance with its terms be waived, except pursuant to a written instrument signed by the affected Party.

d. *Severability.* If any provision of the Agreement, together with these Terms and Conditions, is held to be invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of the Agreement.

e. *No Third Party Rights.* The Agreement is made for the sole benefit of the Parties. Except as otherwise expressly provided, nothing in the Agreement shall create or be deemed to create a relationship among the Parties or any of them, and any third party, including a relationship in the nature of a third-party beneficiary or fiduciary.

f. *Waiver.* Any waiver by a Party of any default or breach hereunder shall not constitute a waiver of any provision of the Agreement or of any subsequent default or breach of the same or a different kind.

g. *Venue and Applicable Law.* The Agreement shall be governed by the laws of the State of

Texas, without regard to conflict of laws principles. Any legal actions prosecuted or instituted by any Party under the Agreement shall be brought in a court of competent jurisdiction located in Texas and Customer hereby consents to the jurisdiction and venue of any such courts for such purposes.

h. *Surviving Obligations.* All accrued payment obligations under the Agreement, any remedies for breach of the Agreement, and the following Sections will survive any expiration or termination of the Agreement: Section 3.a. (Fees and Taxes), Section 4 (Audit), Section 6.e. (Obligations on Termination), Section 7 (Confidentiality), Section 8 (Intellectual Property), Section 9 (Representations and Warranties), Section 10 (Indemnification), Section 11 (Warranty Disclaimer), Section 12 (Limitation of Liability), Section 13 (Release) and Section 17 (General Provisions).

i. *Force Majeure.* If any circumstance should occur that is not anticipated or is beyond the control of a party or that delays or renders impossible or impracticable performance as to the obligations of such party (except the making of payments and compliance with Intellectual Property rights of a Party), the party's obligation to perform such services shall be postponed for a period equal to the time during which such circumstance shall extend, or, if such performance has been rendered impossible by such circumstance, shall be cancelled. Such circumstances shall include, but are not limited to, disasters, acts of God, national emergencies, government regulations, pandemic, epidemic and/or disease or other acts beyond the control of the parties, including downstream effects or consequences of such events (any of them, a "Force Majeure Event"). Upon a Force Majeure Event, the non-performing Party will: (i) immediately notify the Party affected; (ii) take reasonable steps to resume performance as soon as possible; and (iii) not be considered in breach during the duration of the Force Majeure Event. In the event a Force Majeure Event continues for a period of ninety (90) calendar days, Customer or Pearson may elect to terminate the Agreement upon notice to the other Party.

j. *Headings.* All captions and headings in the Agreement or herein are for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

k. *Electronic Signatures.* The Agreement and related documents (including these Terms and Conditions) may be accepted in electronic form (e.g., by scanned copy of the signed document, an electronic or digital signature or other means of demonstrating assent) and each Party's acceptance will be deemed binding on the Parties. Each Party acknowledges and agrees it will not contest the validity or enforceability of the Agreement and related documents, including under any applicable statute of frauds, because they were accepted and/or signed in electronic form. Each Party further acknowledges and agrees that it will not contest the validity or enforceability of a signed facsimile copy of the Agreement and related documents on the basis that it lacks an original handwritten signature. Facsimile signatures shall be considered valid signatures as of the date hereof. Computer maintained records of the Agreement and related documents when produced in hard copy form shall constitute business records and shall have the same validity as any other generally recognized business records.

l. *Publicity.* Neither Party will issue any press releases or other public information about the existence of or specific details regarding the Agreement without the prior written consent of the other Party. However, Customer agrees that Pearson may make reference to its business



relationship with Customer in Pearson's marketing or sales materials.

m. *Remedies*. The Parties acknowledge and agree monetary damages may not be a sufficient remedy for a breach of Sections 2 (Grant of Rights and Restrictions), 7 (Confidentiality) or 8 (Intellectual Property) and that in the event of a breach or threatened breach of Sections 2, 7 and/or 8, the non-breaching Party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court or administrative institution of competent jurisdiction. The Parties hereby waive the posting of a bond or other security in connection with any such action. Such remedy shall not be deemed to be the exclusive remedy for a breach of the Agreement but shall be in addition to all other remedies available at law or in equity.

n. *Attorneys' Fees*. If, for any reason, a successful Party incurs costs of collection and/or attorneys' fees in otherwise enforcing the Agreement, the unsuccessful Party shall be responsible for and shall pay all attorneys' fees, costs of collection and all other expenses associated with such collection or enforcement efforts.

Index of Defined Terms

Definitions

"Academic Year" shall mean the school year as defined by the School Calendar under which Customer operates, not including any portion of the year allocated to "summer school" or any similar period, however designated, unless stated otherwise in the Agreement.

"Acceptable Use Policy" means that certain policy governing the use of Pearson electronic resources, including software, hardware devices and network systems, the most current version of which can be found at the [following URL](#), or such other URL as Pearson or its Affiliates may designate from time to time.

"Administrative Staff" means any and all individuals employed by or otherwise providing services for or on behalf of Pearson or Customer.

"Affiliate" means any entity controlling, controlled by or under common control with another entity. With respect to Pearson, Affiliates shall also include Pearson plc and its Affiliates. For the purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct the management and policies of an entity whether through the ownership of voting securities, registered capital, contract or otherwise.

"Agreement" shall mean these Terms and Conditions together with any Statement of Work, Educational Services Quote, or any other agreement or price quotation agreed to by the Parties to which these Terms and Conditions are attached and/or into which these Terms and Conditions are incorporated into by reference, together with any amendments, modifications, or renewals of such Statement of Work, Educational Services Quote, or other agreement or price quotation.

"Authorized Users" shall mean the Students, Caretakers, Learning Coaches, Teachers, Instructional Aides, Administrative Staff, and Mentors who are authorized to access the EMS, the Content and Courses pursuant to these Terms and Conditions and the related Agreement.

"Caretaker" shall mean a parent or legal guardian of the Student or another adult specifically designated by the Student's parent or legal guardian, or the Student where over the age of 18 or otherwise legally emancipated.

"Certified" when used with respect to Pearson Teachers, shall mean that such teachers are



certified in one of the fifty United States, but not necessarily certified in Customer's State. "Confidential Information" shall mean proprietary business, technical and financial information of each of the Parties, including for example and without limitation, each Party's respective information concerning: (a) business strategy and operations such as business plans, methods, marketing strategies, outreach plans and sales information, pricing information and customer and prospect lists, the identities and locations of vendors and consultants providing services or materials to or on behalf of the disclosing Party; (b) product development such as product designs and concepts; (c) financial information such as budget and expense information, economic models, pricing, cost and sales data, operating and other financial reports and analysis; (d) human resource information such as compensation policies and schedules, employee recruiting and retention plans, organization charts and personnel data; (e) educational content, curricula, teaching outlines, lesson plans, testing processes and procedures; (f) Student Records and other Student-related or Caretaker-related personal information; (g) the terms of the Agreement; (h) login and password information for the EMS; (i) technical information such as development methods, computer software, research, inventions, the design and operation of the EMS; and (j) other similar non-public information that is furnished, disclosed or transmitted to the receiving Party or to which the receiving Party is otherwise given access by the disclosing Party, orally, in written form, in any type of storage medium, or otherwise. Confidential Information, in whatever form provided, shall remain the exclusive property of the disclosing Party at all times, and the Parties hereby acknowledge and agree that all such Confidential Information of a Party are its trade secrets. Except as specifically provided for herein, nothing contained in the Agreement or herein shall be construed as granting or conferring any rights in any Confidential Information disclosed to the receiving Party, by license or otherwise.

"Content" means the components of a Course and/or SDR licensed, designed, developed, owned or provided by Pearson and its third party content partners and delivered in an online format through the EMS or in an offline format (textbooks and other materials) to teach Students in various subjects in grades K–12 and/or to deliver resources in connection with the Services. Content may include courseware, data, documentation, text, audio, video, graphics, animation, drawings, programming, icons, images, pictures, charts, and, in the case of Courses delivered via the EMS, Teachlet® tutorials and LiveLesson® sessions. Pearson reserves the right to add Content, withdraw Content, modify and/or offer substitute Content, in its sole discretion.

"Course" means a program of instruction provided by Pearson, which includes Content accessed through the EMS and may include support from Pearson Teachers and/or Instructional Aides, as specified in the applicable Agreement.

"Derivative Works" include any translation, editorial revision, annotation, elaboration, or other modification, correction, addition, enhancement, extension, condensation, upgrade, improvement, compilation, abridgement or other form in which the Content may be recast, transformed or adapted, including but not limited to all forms in which such Derivative Works may or may not infringe any of the copyrights in the Content.

"Educational Products and Services" shall mean the educational products and/or services to be provided by Pearson to Customer pursuant to the Agreement to which these Terms and Conditions are attached and/or into which these Terms and Conditions are incorporated by



reference.

“Enrollment Leads” shall mean the Caretaker names, contact information, demographic and other information developed and collected through Pearson marketing efforts (including but not limited to Public Information Campaigns defined herein) at any time before, during or after the initial or any renewal term of this Agreement, including leads, developed and collected through radio, online and television advertisements, online and in person information sessions, the Website, surveys and petition gathering efforts, and other marketing activities performed on behalf of Pearson and/or the Customer

“Educational Services Quote” shall mean that certain document identified as an Educational Services Quote, provided by Pearson to Customer and accepted by Customer, setting forth certain Educational Products and Services being obtained by Customer from Pearson as well as such other business terms to which the Parties agree to be bound.

“EMS” means the website or Education Management System (also sometimes referred to as “Pearson Connexus®” or “Connexus®”) with the URL <http://www.connexus.com>, or such other URL as Pearson or its Affiliates may designate from time to time, through which Authorized Users access Pearson Content via a secure, password protected website. The features and functions of the EMS may be modified and/or updated from time to time by Pearson. Access to the EMS is governed by the Terms of Use located at <https://support.ems.connexus.com/hc/en-us/articles/115004881953-Terms-of-Use> and defined herein.

“FERPA” means the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232 (g), as amended from time to time.

“Instructional Aides” means any and all individuals who are involved in supporting, facilitating or assisting in the provision of instruction, assessment and/or other Services to Students. Instructional Aides may include Tutors if Pearson is providing tutoring services under the applicable Agreement.

“Instructional Services” means the provision of all Teachers or other professionals necessary to fully deliver the Education Program to Students. Teachers shall be subject-matter credentialed and licensed under the laws of any state (including the District of Columbia) that comprises the United States, but need not be licensed under the laws of the Customer’s state. Teacher responsibilities shall include integrating state-of-the-art instructional tools and the Content to engage and instruct Students; creating individualized lesson plans and instruction; providing engaging real-time instruction and one-on-one support via LiveLesson® sessions, phone and e-Mail; and tracking Student progress.

“Intellectual Property” means collectively, rights under patent, trademark, copyright and trade secret laws, and any other intellectual property or proprietary rights recognized in any country or jurisdiction worldwide, now or in the future, including but not limited to, moral rights, industrial design rights and similar rights, and shall in all cases include Enrollment Leads, data and materials and other related collateral developed by Pearson, regardless of whether such data, materials and collateral are developed specifically for the Customer.

“Learning Coach” shall mean a Caretaker of the Student or another adult specifically designated by the Student’s Caretaker, or the Student where over the age of 18 or otherwise legally



emancipated, who will be responsible for all of the non-instructional aspects of the Student's virtual learning program that contribute to a Student's success, including but not limited to monitoring Student attendance, monitoring Student progress, encouraging Students to complete assignments and turn in work, communicating with Caretakers in situations where the Learning Coach and Caretaker are not one and the same person, and notifying Teachers when Students are struggling or experience academic or personal issues that might inhibit academic achievement. Additionally, Learning Coaches may be responsible for receiving materials from Pearson and distributing them to their Students.

"POA" means the Pearson Online Academy, an accredited online private school operated by Pearson.

"Privacy Policy" means that certain statement of Pearson's practices for handling personally identifiable and non-personally identifiable information gathered by Pearson through the EMS or any website maintained by Pearson from time to time. Pearson's Privacy Policy is accessible from the log-in page of the EMS.

"Related Services" shall mean services related to the provision of speech therapy, occupational therapy, physical therapy, counseling, social skill development, psych-educational evaluations, closed captioning, sign language interpreting, transition and job coaching, academic support for the vision and hearing impaired, adapted physical education, assistive technology, and other services of a similar nature.

"School Calendar" shall be the days when Services under this Agreement will be delivered to Students. Pearson will provide Services on those days established to be the School Calendar for the Academic Year, except that Students may continue to report attendance during scheduled school holidays to the extent permitted under State law. The School Calendar for each Academic Year shall be as approved by Customer and Pearson taking into account all reasonable comments and suggestion by Pearson and shall meet any regulatory requirements for days and hours of instruction required by law or regulation.

"School Handbook" shall mean the set of policies, rules and guidelines that are to be followed by Students, Instructional Aides and Mentors.

"SDR" means Service Delivery Resource and relates to any tools, instructions, assessments or other support materials used in the delivery of Services, either through the EMS or otherwise.

"Services" means any service provided by Pearson to Students, including therapeutic or educational services, under the terms of the Agreement between Customer and Pearson.

"Statement of Work" shall mean that certain document identified as a Statement of Work, executed by Customer and Pearson, setting forth certain Educational Products and Services being obtained by Customer from Pearson as well as such other business terms to which the Parties agree to be bound.

"Student" means any person who is enrolled in one or more Courses offered by Pearson under the terms of the Agreement.

"Student Records" shall mean those "educational records," as defined in subsection (a)(4)(A) of FERPA (as defined above), which Customer or Pearson is required to retain in accordance with state law.

"Special Education Services" shall mean all necessary special education programs and services,



including the development and implementation of IEPs and Section 504 plans, ELL plans, Gifted education plans, handling administrative proceedings and specialized services, submitting state or federal reports, applying for and administering supplemental funding, providing other Related Services and all other administrative services associated with the delivery of services to Special Needs Students.

“Special Needs Students” shall mean Students (as hereinafter defined) with a disability who require specially designed instruction, accommodations and/or modifications to meet such Student’s unique needs under the Federal Individuals with Disabilities Education Improvement Act, as amended (“IDEIA”) or Section 504 of the Federal Rehabilitation Act of 1973.

“Teacher” means any and all educators (including Pearson Teachers) involved in providing instruction, assessment and/or other educational support of Students pursuant to the terms of the Agreement.

“Terms of Use” means certain rules governing how Authorized Users may and may not use the EMS and any Content accessible through such EMS. The Terms of Use are accessible from the log-in page for the EMS.

“Tutors” means individuals employed or contracted by Pearson to provide tutoring services with respect to one or more Courses. Tutors may or may not hold teaching credentials.

“Website” means the Pearson website with the URL <https://www.pearson.com/us/prek-12/products-services-teaching/online-blended-learning-solutions/connections-learning.html> and any subpages connected thereto.