



## PROFESSIONAL SERVICES AGREEMENT

**THIS PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) by and between **Pierpont Community and Technical College** (“Institution”) and **Nelnet Business Solutions, Inc.** (*dba* Nelnet Campus Commerce) (“Company”) is entered into as of the last signature date affixed hereto (“Effective Date”) and shall be as follows:

1. **SERVICES AND SCOPE**: This Agreement sets forth general provisions under which the Company will provide services to the Institution pursuant to Order Forms and all terms and conditions, attachments (each, an “Attachment”) hereto, which are incorporated into this Agreement by this reference (each, a “Service”, collectively, the “Services”). The Services represent an integrated and unique suite of business solutions that may be implemented individually but were designed to work in combination as a comprehensive business solution.
2. **ORDERING SERVICES**: Operational, transactional and other fees for Services contracted as of the date of this Agreement are outlined on the applicable Attachment. At any time, a completed Order Form for a Service will be sufficient to incorporate that Service into this Agreement under the Service’s most current Terms and Conditions. An Order Form must be accepted by the Institution in writing by signing and returning the Order Form. In the event there is any conflict between the terms of this Agreement and the terms of any Attachment, the terms of the applicable Attachment shall control.
3. **COOPERATIVE PURCHASING AGREEMENT**: Other public or private bodies, specifically any campus(es) or institution(s) of education, or any Institution related foundation and affiliated corporation(s), may wish to also participate under the same terms and conditions contained in this agreement. Cooperative purchasing participation is strictly voluntary. If the Agreement does not specifically list additional entities, each entity wishing to participate (“Participating Entity”) must have prior authorization from the Company. If authorized by the Company, the resultant contract will be extended to the Participating Entity to purchase goods and services in accordance with Agreement terms, and its obligations will be between the Participating Entity and the Company, with the Institution incurring no obligation as a result thereof. The Institution will not be held liable for any costs or damages incurred by any other Participating Entity as a result of any authorization by the Company to extend the contract. It is understood and agreed that the Institution is not responsible for the acts or omissions of any Participating Entity.

As a separate contractual relationship, the Participating Entity will place its own orders directly with the Company and will fully and independently administer its use of the contract to include contractual disputes, invoicing, and payments without direct administration from the Institution. The Institution will not be held responsible for any orders placed, deliveries made, or payment for services ordered by the Participating Entity. Pursuant to the provisions above, a completed Order Form will be sufficient to incorporate services for Participating Entities under the terms and conditions of this Agreement. No modification of this Agreement or execution of a separate agreement is required to participate; however, the Participating Entity and the Company may elect to modify the terms and conditions of the Agreement to accommodate specific governing laws, regulations, policies, and business goals required by the Participating Entity. Any such modification will apply solely between the Participating Entity and the Company. Pricing for products and services to be contracted will be negotiated directly between the Company and the Participating Entity, independent of the Institution-specific pricing outlined in this Agreement.

4. **PAYMENT PROCESSING TERMS**: The following terms are applicable if Institution is receiving any form of payment processing services from Company.
  - a. **Institution Banking Information**: The Institution must provide bank account information for the ACH (*i.e.*, Automated Clearing House) deposit of its funds (and ACH withdrawal, if applicable). The Company may require a bank reference letter written on bank letterhead that includes the account holder name, the routing number, account number, and type of account (checking or savings). Additional procedures for debit block clearance may be appropriate and required for certain Services.
  - b. **ACH Authorization**: The Institution hereby authorizes the Company to initiate credit or debit entries to the account provided. The Institution acknowledges that the origination of ACH transactions for its account must comply with applicable U.S. laws and regulations. This authorization is to remain in full force and effect until the Company has received a written notice of termination or a change in banking from the Institution in such time and in such manner as to afford the Company a reasonable opportunity to act on it. As an Originator, the Institution is responsible for adhering to applicable rules as prescribed by the National Automated Clearing House Association (“NACHA”). As applicable, the Institution shall establish and maintain

procedures for secure online authentication to identify End Users (as the term is defined in the NACHA rules and regulations) and make reasonable efforts to prevent fraudulent use by End Users and unauthorized users. The Company may monitor and audit Institution and End User ACH activity, conduct risk assessments, set exposure limits, provide education, monitor return activity, make change requests, evaluate staff-initiated entries, and reject certain entries (e.g., physical check conversions). If necessary to comply with applicable laws, rules, or regulations, Company may revoke the Institution's privilege to originate ACH transactions. The Company assumes the responsibilities of a third-party sender under NACHA Rules. The Institution is liable for all returns and reversals, including but not limited to untimely non-administrative returns.

- c. **Card Payment Processing:** The Company will at all times maintain compliance with the most current applicable Payment Card Industry Data Security Standards ("PCI DSS"). Company acknowledges responsibility for the security of cardholder data under its control as defined within the PCI DSS. Company acknowledges and agrees that cardholder data may only be used for providing services as provided in this Agreement, or as required by the PCI DSS, or as required by applicable law. As the merchant or submerchant, the Institution also has obligations under PCI DSS. On an annual basis, the Institution may be required to complete a PCI DSS Self-Assessment Questionnaire ("SAQ") and Attestation of Compliance ("AOC") to validate compliance with PCI DSS, even if such validation is simply to confirm that all cardholder data functions related to or performed under this Agreement have been fully outsourced to the Company. When SAQs are required, the Company will provide an online process for the Institution to complete the applicable documentation. Failure to complete an SAQ when required may result in cessation of card processing or non-compliance fees assessed to the Institution until such SAQ has been completed. Excluding payment-plan transactions and certain billing transactions, the Institution is liable for fees associated with all card authorizations, including fraudulent authorizations that do not settle.
5. **CHANGES TO SERVICES:** The functionality, availability, or any other component of the Services and any other related products provided under this Agreement may change from time to time in Company's sole discretion and all changes shall be effective as of the date determined by Company; provided, however, Company shall endeavor to provide written notification to Institution of any material changes ("Change Notice"), and shall use commercially reasonable efforts to provide each Change Notice prior to the effectiveness of any such material change. In any event, if Company makes a material change to any aspect of any Service, within ten (10) days of Institution's receipt of a Change Notice, Institution may notify Company in writing of its good faith objection to such material change(s) and the reasons therefor (such written notification, a "Change Objection Notice"). Upon Company's receipt of a Change Objection Notice, the parties shall engage in good faith discussions for a period not longer than ten (10) calendar days from the date on which Company received the applicable Change Objection Notice (the "Change Negotiation Period"), for the purpose of endeavoring to reach a reasonable solution agreeable to both parties. If the parties are unable to reach a reasonable, mutually agreeable solution, Institution may terminate this Agreement without penalty upon written notice to Company, delivered in accordance with this Agreement, no later than ten (10) calendar days following the final day of the Change Negotiation Period. Institution acknowledges and agrees that if it fails to provide Company with a Change Objection Notice within ten calendar (10) days of its receipt of a Change Notice, Institution shall be deemed to have accepted the changes set forth therein, and shall no longer have any right to terminate this Agreement.
6. **DATA RETENTION:** Institution acknowledges that Company does not retain information in perpetuity. Company may occasionally purge old and outdated information from its systems, especially sensitive information, according to its then-current policies and in compliance with industry best practices. This is necessary to reduce risk, improve system performance, and comply with audit requirements. Purging shall occur only after the commercially reasonable and generally accepted business need for such information has passed. Purging shall not interfere with Institution's normal business operations and data access.
7. **TERM, RENEWAL, AND TERMINATION:** This Agreement will be effective as of the Effective Date. Unless terminated sooner pursuant to the terms of this Agreement, the termination date of this Agreement will be three (3) years from the Effective Date ("Initial Term"). The Agreement may be renewed for one (1) year Renewal Terms thereafter upon mutual written agreement of the parties. Either party may cancel the Agreement with thirty (30) days' written notice. To avoid confusion and to ensure the Services operate as intended, the Institution agrees not to contract with any other provider of similar services that the Institution has requested from the Company pursuant to an Order Form.
8. **DEFAULT:**
  - a. **Payment:** If the Institution fails to pay for services within thirty (30) days of an original invoice date (if applicable), the Company may, at its option, deduct overdue funds from the Institution's remittances. In the event that the Institution becomes thirty (30) days past due, the Company may also, at its option, terminate this Agreement.
  - b. **Material Breach:** If either party refuses or fails to perform any obligation under this Agreement (a "Breach"), and fails or refuses to correct the Breach within thirty (30) days after receipt of written notice of the Breach from the nonbreaching party,

the nonbreaching party may terminate this Agreement by sending an additional written notice stating the effective date of termination.

9. **CONFIDENTIAL BUSINESS INFORMATION**: During the term of this Agreement and for three (3) years after termination or expiration, each party agrees not to disclose Confidential Information obtained from the other party to any person or entity. As used herein, "Confidential Information" means information that is identified (orally or in writing) as confidential or is of such a nature that a reasonable person would understand such information to be confidential. Confidential Information shall not include information 1) generally known to the public, 2) already known, through legal means, to the party receiving the information, or 3) legally obtained from a third party; or 4) independent developed by a party without use of the other party's Confidential Information. In the event that either party is required to disclose confidential information about the other party pursuant to a judicial or government order, such party will, to the extent permitted by law or the applicable order, promptly notify the other party to allow intervention in response to such order.
10. **CONFIDENTIAL CONSUMER INFORMATION AND SYSTEM ACCESS**:
- a. Nonpublic Personal Information and Personally Identifiable Information, as defined in the Company's privacy policy (collectively, "Consumer Information") shall be used in accordance with Company's privacy policy in effect from time to time. Institution acknowledges and agrees (i) Company and its affiliates may use Consumer Information to send Institution and its customers information about other products and services offered by Company and its affiliates; and (ii) Company may also share Consumer Information with our affiliates to market financial products and services to Institution and its customers. Company shall not sell Consumer Information to third parties.
  - b. Company will remain in compliance with security and privacy obligations imposed by the Gramm-Leach-Bliley Act, Family Educational Rights and Privacy Act and other applicable laws or regulations; however, the Institution's sole remedy for noncompliance with this Section 10.b shall be termination of this Agreement pursuant to Section 8.b of this Agreement.
  - c. In addition, it is understood that the Institution will interact with the Company's systems and access information through password-protected websites. The Institution agrees not to disclose user IDs and passwords to unauthorized personnel and will notify the Company immediately if an unauthorized person obtains access to them. The Institution will also notify the Company if a user ID and password is no longer needed by a representative of the Institution.
11. **REVENUE-SHARING RELATIONSHIPS**: The Institution is strongly encouraged to disclose to its customers any revenue-sharing relationship it has with the Company, if applicable. If such a relationship exists and the Institution chooses not to disclose such relationship, the Institution will provide the Company with a written explanation of its policy.
12. **ACTS AND OMISSIONS**: Except as provided for herein, and to the extent permitted by applicable law, each party to this Agreement will be responsible for any liability, claim, loss, damage or expenses, including without limitation, reasonable attorneys' fees, arising from its negligent acts or omissions or intentional misconduct in connection with its performance of this Agreement, or its failure to comply with the terms of this Agreement, as determined by a court of competent jurisdiction.
13. **LIMITATION OF LIABILITY; LIMITATION ON ACTIONS**: TO THE FULLEST EXTENT PERMITTED BY LAW, BUT IN NO WAY LIMITING THE COMPANY'S OBLIGATION TO REMIT ALL FUNDS COLLECTED AND DUE TO THE INSTITUTION OR INSTITUTION'S OBLIGATION TO PAY FEES TO COMPANY, THE AGGREGATE LIABILITY OF A PARTY WILL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE COMPANY'S NET REVENUE UNDER THIS AGREEMENT FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR LOSS OF DATA, LOST PROFITS, BUSINESS INTERRUPTION, OR OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, INDIRECT, OR SPECULATIVE DAMAGES ARISING FROM ANY CLAIM OR ACTION HEREUNDER WHETHER BASED IN CONTRACT, TORT, OR OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. No action against a party will be commenced more than one (1) year after the accrual of the cause of action or a party's knowledge that such cause of action exists, whichever occurs later.
14. **WARRANTY**: THE COMPANY WARRANTS THAT SERVICES WILL BE PROVIDED IN A PROFESSIONAL MANNER IN ACCORDANCE WITH GENERALLY ACCEPTED INDUSTRY STANDARDS; OTHERWISE, ALL SERVICES RENDERED BY THE COMPANY UNDER THIS AGREEMENT ARE PROVIDED "AS IS" WITH NO EXPRESS OR IMPLIED WARRANTY. THE COMPANY SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

15. **FORCE MAJEURE**: Company shall not be liable or responsible to Institution nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond Company's reasonable control, including, without limitation: (i) acts of God; (ii) flood, fire, earthquake or explosion; (iii) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (iii) changes in applicable law; (iv) actions, embargoes or blockades in effect on or after the date of this Agreement; (v) action by any governmental authority; (vi) national or regional emergency; (vii) strikes, labor stoppages, or slowdowns or other industrial disturbances; (viii) shortage of adequate power or transportation facilities; or (ix) pandemics.
16. **COMPLIANCE WITH LAW; INDEMNIFICATION**: Each party will comply with the federal, state and local laws, rules, and regulations ("Laws"), including but not limited to laws governing consumer protection. By way of example, but in no way limiting the preceding, some states prohibit surcharges on credit and debit card transactions. To the extent that the Institution chooses to accept cards and elects to impose a convenience fee, the Institution assumes all liability for that choice. Absent legal advice provided to the Institution that such Laws do not apply to the Institution, the Company's general recommendation is that Institutions in these states should not impose a convenience fee or surcharge (*i.e.*, such Institutions should choose the discount fee option or not offer cards as a payment type). The Institution will indemnify and hold the Company harmless from and against any and all claims, liabilities, losses, damages, costs, and expenses, including reasonable attorney's fees, asserted against or incurred by the Company under federal, state or local laws as a result of the Company complying with any instruction or directive by the Institution.
17. **BRANDING AND INTELLECTUAL PROPERTY**: Each party will retain its ownership and intellectual property rights with regard to its copyrights, trademarks, service marks, registered marks, patents, pending patents, trade secrets, and any other forms of intellectual property. Neither party will have any ownership interest in the intellectual property of the other party. In no way limiting the foregoing, Company grants Institution permission to display its logo during the term of this Agreement provided that the Institution agrees to use the most current logo supplied by the Company and to display such logo on its website in a position where users will reasonably be able to find it and use it to link to the Company's website.
18. **RELATIONSHIP**: Nothing contained herein is intended to create the relationship of a partnership, joint venture, or employer-employee. In performing this Agreement, the Company and its subcontractors will act as independent contractors and not as employees or representatives of the Institution. The Company will be solely responsible for and will promptly pay all federal, state, and municipal taxes, chargeable or assessed with respect to its employees and subcontractors, including but not limited to social security, unemployment, federal and state income tax withholding and other taxes and will hold the Institution harmless on account thereof.
19. **SEVERABILITY**: If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions will nevertheless remain in full force and effect. The parties agree to negotiate in good faith a valid and enforceable substitute provision.
20. **HEADINGS**: The paragraph headings of this Agreement are for reference only and are not to be construed as terms.
21. **WAIVER**: Neither party's failure to exercise its rights hereunder will constitute or be deemed a waiver or forfeiture of such rights.
22. **ENTIRE AGREEMENT**: This Agreement, together with all attachments, including but not limited to service-specific Terms and Conditions, addenda, if any, and Order Forms, represents the entire agreement between the parties as to the matters set forth and supersedes all prior discussions or understandings between them. This Agreement may only be modified or amended in writing signed by authorized representatives of each party.
23. **ASSIGNMENT**: This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. No party shall have the right to assign this Agreement or any of its rights or obligations hereunder, in whole or in part, without the prior written consent of the other party, provided that such consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either party may, without the prior consent of the other party, assign its rights and obligations hereunder (i) to any Affiliate of the assigning party or (ii) in connection with the sale or transfer of all or substantially all of the assigning party's assets, the acquisition in one or a series of transactions by a person or group of fifty percent (50%) or more of the beneficial ownership of the assigning party, or a consolidation, business combination, merger, or similar transaction. "Affiliate" shall mean any entity, individual, firm, or corporation, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with Nelnet, Inc.

**[SIGNATURE PAGE FOLLOWS]**

**INSTITUTION INFORMATION**

500 Galliher Drive  
Mailing Address

32-0260490  
Federal Tax ID

Fairmont, WV 26554  
City, State, ZIP

1,912 (NCES)  
Enrollment

**AUTHORIZED SIGNATURES**

**Pierpont Community and Technical College**

**Nelnet Business Solutions, Inc.**

47-0751402

*Dale Bradley* 05/24/2021

*Jacqueline Strohbenn* 05/21/2021

SignNow e-signature ID: 3db3f1136c...  
05/23/2021 15:30:56 UTC  
Signature  
Date  
Dale Bradley

SignNow e-signature ID: 6212cddb9e...  
05/21/2021 18:01:20 UTC  
Signature  
Date  
Jacqueline Strohbenn

Print Name  
VP for Finance and Administration

Print Name  
President, Nelnet Campus Commerce

Title

Title

**Corporate Headquarters:**

Nelnet Business Solutions, Inc.  
121 South 13<sup>th</sup> Street, Suite 201  
Lincoln, NE 68508  
866.315.1263

DeeAnn K. Wenger, President  
[DeeAnn.Wenger@nelnet.net](mailto:DeeAnn.Wenger@nelnet.net)  
402.325.7241

## ATTACHMENT A

### HOSTED BUSINESS SERVICES TERMS AND CONDITIONS

#### 1. DEFINITIONS:

- a. **“Agreement”** means the Professional Services Agreement executed between the Institution and the Company (collectively, **“the Parties”**) which incorporates applicable Order Forms and Terms and Conditions.
- b. **“Cashiering”** means a secure, integrated solution for processing student and non-student payments (e.g., departmental deposits, donations, tickets) in real time. The Company’s cashiering application validates general ledger accounts, provides audit controls and robust receipting, integrates easily with an institution’s ERP, and has a flexible front end to allow the institution to configure multiple transaction types.
- c. **“Change Requests”** are requests by the Institution to modify existing system features or their output. To meet Change Requests, Company provides Professional Services at an hourly rate as quoted on the Change Request form.
- d. **“Commencement Date”** means the date of the first transaction processed by the Company on behalf of the Institution for a given service.
- e. **“Confidential Information”** has the same meaning as set forth in the Agreement as well as all trade secrets, business and financial information, computer software, machine and operator instructions, business methods, procedures, know-how, and other information that relates to the business or technology of either party and is marked or identified as confidential, or disclosed in circumstances that would lead a reasonable person to believe such information is confidential. The Company’s hosted system, applications, and all Documentation will be considered the Company’s Confidential Information, notwithstanding any failure to mark or identify it as such.
- f. **“Documentation”** means user’s manuals and other documentation made available to the Institution by the Company with respect to the system, but excludes any marketing or promotional materials.
- g. **“e-Bill”** means an attempt to make available a billing statement in electronic form to a potential payer.
- h. **“End User”** means each Institution employee, student, or an authorized third party who is permitted to access and/or use the Company’s system and applications under the terms of this Agreement.
- i. **“Enterprise”** means the Company’s proprietary system, based on the .NET platform, through which it delivers Company’s Enterprise-specific campus commerce software.
- j. **“e-Pay”** means an attempt to process an electronic payment (via ACH or credit/debit card) through the System software.
- k. **“ERP”** means an Institution’s Student Information System (Enterprise Resource Planning software).
- l. **“Implementation Services”** means the standard initial services provided by the Company to set up and configure the system as specified in each fully executed Order Form in accordance with the Company’s policies and procedures.
- m. **“Integration Connector”** means a series of instructions to post information to and/or from the Company’s system and the ERP system.
- n. **“Intellectual Property Rights”** means any and all existing or future worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights, and other proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing.
- o. **“Institution Content”** means any data or content that is submitted by the Institution and collected and stored by the Company’s system.
- p. **“Merchant Acquirer”** means an organization affiliated with a bank licensed by card associations to enroll merchants and arrange for the necessary authorization and settlement of credit and debit card transactions.
- q. **“New Feature”** means a major enhancement or service with significant new functionality, as determined by Company in its sole discretion and as listed on an Order Form. New Features may be “turned on” for an additional charge as agreed to by executing an additional Order Form.
- r. **“Order Form”** means that list of hosted business services and pricing, completed and executed by the Institution, which accompanies these Terms and Conditions and is incorporated into the Agreement between the Parties.
- s. **“Past Due Payment Plan (PDPP)”** means an actively managed payment plan solution for (i) outstanding balance(s) older than the four (4) most recent prior terms and/or (ii) a single consolidated balance of past due amounts for payment.
- t. **“Payment Forms”** means a hosted web-based forms solution that allows the Institution to collect or pass data to an online form in conjunction with the ability to collect a secure credit or debit card payment or one-time ACH payment without capturing or storing card information.
- u. **“Payment Plan”** means an installment payment plan that allows an individual to pay money (tuition and fees) owed to the Institution according to a monthly installment schedule defined by the Institution.
- v. **“Point-to-Point Encryption (P2PE)”** means a certified solution that allows the Institution to swipe or key-enter payment card data into a P2PE device that encrypts the data from the point of entry, through transmission, and to the payment gateway.

- w. **“Professional Services”** means services provided to the Institution by the Company which include, but are not limited to, analysis; Implementation Services; software modifications; coding, implementation, installation, project management, system testing, acceptance testing support, or Institution training; and any other hourly services requested by the Institution.
- x. **“Refunds”** means a service for students and authorized third-parties (parents/guardians) to sign up online to have primarily financial aid refunds electronically deposited directly into students’ or authorized third parties’ checking or savings accounts, or loaded to an existing re-loadable prepaid debit card or disbursed via paper check.
- y. **“Returned Item”** means any payment remitted to Institution that is returned by the payer’s bank or financial institution or any reversal of credit/debit payments.
- z. **“Staff”** means those Institutional employees designated by the Institution to work with the Company in deploying and managing the system and hosted services.
- aa. **“Storefront”** means a self-service web store which allows an institution to sell physical goods, process event registrations, and solicit donations. Consumers can add multiple items to a shopping cart and pay for these items using a credit or debit card or eCheck in a single transaction. Institutions can set up multiple stores, create and manage products, view orders, track inventory, and record order fulfillment.
- bb. **“System”** means collectively the Company’s campus commerce software and system, whether delivered via the J2EE, .NET, or other applicable platform, and such hosting, support, maintenance, installation, and Implementation Services requested by the Institution pursuant to an executed Order Form and provided by the Company pursuant to the Agreement between the Parties and these Terms and Conditions. The System includes, without limitation, 1) any materials of the Company’s licensors or contractors, 2) any modified, Upgraded, or enhanced versions of all code, and 3) all modifications and Upgrades that may become part of the System pursuant to this Agreement.
- cc. **“System Site”** means the website provided by the Company to the Institution, accessed through the Institution’s website, where End Users may access and use the System.
- dd. **“Upgrade”** means a modified version of the system that contains patches, bug fixes, error corrections, enhancements, New Features, and other maintenance items. New Features may be “turned on” for an additional charge as agreed to by executing an additional Order Form.

## 2. **SERVICES:**

- a. **Provision of Services by Company:** Subject to the terms and conditions of the Agreement and these Terms and Conditions, Company will use commercially reasonable efforts to provide the system to the Institution. In addition, Company will use commercially reasonable efforts to ensure that the system is accessible through the System Site over normal network connections, with the exception of downtime due to necessary maintenance and troubleshooting.
- b. **Support and Maintenance:** Subject to the Institution’s timely payment of all applicable fees, Company will make Upgrades available for the system when and if made available for general release in Company’s sole discretion. Company will provide telephone support services to Institution Staff for system related questions during Company’s regular business hours (866.315.1263; 8:00 a.m. to 5:00 p.m. Central, Monday through Friday, excluding Company-designated holidays). If Institution desires additional services, including, without limitation, training or customization services, Company may provide such services pursuant to its standard rates and terms for Professional Services. Provision of support and maintenance does NOT include major enhancements with significant new functionality or additional services, as determined by Company in its sole discretion (“New Features”). New Features must be purchased through a validly executed Order Form.

## 3. **SUBSCRIPTION AND RESTRICTIONS:**

- a. **Subscription:** Subject to the terms and conditions of this Agreement (including, without limitation, the Institution’s obligation to pay all applicable fees) and during the term of this Agreement, Company will provide to the Institution a non-exclusive, non-transferable subscription that enables End Users to access and use the system as made available to the Institution and such End Users through the System Site solely for the Institution’s internal business purposes and solely in accordance with the Documentation.
- b. **Restrictions:** Institution will not, and will not permit any End User or third party to: (i) modify, adapt, alter, translate, or create derivative works from the system, Integration Connector or the Documentation; (ii) merge the system with other software; (iii) allow any third party access to or use of the system; (iv) reverse engineer, decompile, disassemble, or otherwise attempt to alter or derive the source code for the system; (v) knowingly infringe on any of the Company’s Intellectual Property Rights; or (vi) otherwise use or copy the system, Integration Connector or the Documentation except as expressly permitted under this Section 3 and including mutually agreed upon data integration efforts.
- c. **Appropriate Use:** Institution acknowledges that End Users must abide by the terms of the System Site, and Company reserves the right to deny access to the system to any End User who does not abide by such terms. End Users may use the system only for the purposes of viewing bills, submitting payments, and performing commerce-related activities for the sole benefit of the Institution. Use will be subject to any and all posted terms that are not inconsistent with terms herein. The Institution will ensure



that the Institution, Staff, and End Users who use the system comply with all applicable laws and regulations and any written or electronic instructions for use.

- d. **Scans:** If Institution deems it necessary to perform security scans or other similar tests, the Institution must comply with the following mandatory requirements: (i) provide one week's notice of intent to test; (ii) coordinate testing with Company staff; (iii) perform testing only during non-peak non-daytime hours; and (iv) compensate Company the greater of \$2,500 or the Company's then-current Professional Services rate per staff hour for Company staff participation required, if any.

#### 4. **PAYMENT TERMS:**

- a. **Operational Fees:** Operational fees for the system (which may include hosting, maintenance, and transactional charges) will be invoiced on a monthly basis. The first applicable billing date for Operational Fees for a given service will be the Commencement Date.
- b. **Implementation Services:** Fifty percent (50%) of the Implementation Services fee for the initial deployment or subsequent enhancements (if applicable) will be invoiced and presented with each Order Form. If an Institution delays deployment of any feature, it is responsible for the fixed flat pricing stated on the Order Form for all features, if applicable. The Institution must pay the Implementation invoice in order to engage a system Project Manager. All other invoices are due within thirty (30) days of receipt.
- c. **Professional Services:** Professional Services will be provided to the Institution only pursuant to the terms of an executed Order Form or Change Request form. Professional Services will be provided by the Company's at its then-current hourly rate.
- d. **Taxes:** The Institution is responsible for all taxes associated with the services described herein, excluding taxes for the Company's income.
- e. **Third-Party Changes:** The Company may adjust its fees or procedures as a result of changes in pricing or procedures by any third-party provider or regulator of a product or service used by the Institution. Such new prices or procedures will be applicable to the Institution as of the effective date established by the third-party provider or regulator, or as of any later date specified in the Company's notice to the Institution. (*Example:* The merchant discount fee or convenience fee is subject to change by the Company upon thirty (30) days' advance notice if the Company's bank merchant rate increases due to changes made by Visa, MasterCard, Discover, or American Express.) The Company reserves the right to increase fees at any time in an amount necessary to offset the cost of rising postal rates associated with the refunds process, if applicable. Notwithstanding the foregoing, the Company reserves the right to periodically adjust its prices to address changing market conditions and other business realities. These increases will be infrequent, well-communicated, and cause for immediate termination by the Institution if deemed unreasonable by the Institution in its sole discretion.
- f. **Company Pricing Changes:** Operational, transaction and other fees are stated in an Order Form. They may be adjusted annually, on July 1, by no more than 5% per year. Fee increases, if any, will only apply to Institution-purchased products/services that have been implemented ("live", "in production") a minimum of twelve (12) months as of July 1 of any given year.
- g. **Early Termination:** If the Institution terminates this Agreement, the Institution will be liable for payments for products provided or services performed through the effective date of such termination. Compensation for such work will be based on the contracted price(s), with certain fees (*i.e.*, implementation, monthly, or hourly) prorated accordingly based on the date of termination and/or full or partial progress toward completion. These fees will be charged to the Institution as a lump sum payable in thirty (30) days from the effective date of termination.

#### 5. **INSTITUTION RESPONSIBILITIES:**

- a. **Staff Participation:** Timely Staff participation is required for requirements gathering, system configuration, deployment, testing and training in accordance with the scheduled timeline for delivery.
- b. **Marketing:** The Institution will communicate the availability of the system, without limitation, through the Institution's website to the Institution's End Users.
- c. **Commencement:** The Institution will make the system available to End Users through the Institution's website beginning on the Commencement Date.
- d. **Acceptance Testing:** The Institution will, with the Company's assistance, have the right to verify the operation of the system in accordance with Company documentation. The Acceptance Testing Period will be a time period not to exceed ten (10) business days from the date of delivery to determine whether the system materially conforms to the Company documentation. Notwithstanding the foregoing, if the system materially conforms to the Company documentation, based upon the reasonable judgment of pass or fail, or if no notification is given to the Company during the ten (10) business day Acceptance Testing Period or subsequent Acceptance Testing Periods, the system will be deemed accepted. The Acceptance Date will be the date that the Institution determines that the system satisfactorily complies with the Documentation, or the date acceptance occurs, whichever comes first. If the system fails to materially conform to Company documentation, the Institution will notify the Company of such failure in writing within the ten (10) business day Acceptance Testing Period. The Company will have

twenty (20) business days after receipt of such notice to use its reasonable commercial efforts to correct, modify, or improve the system to conform to the Company documentation. Thereafter, the Institution will have a subsequent Acceptance Testing Period of five (5) business days from the date of redelivery in which to re-conduct its Acceptance Testing. This process will be repeated as necessary until the system is deemed to be accepted hereunder.

- e. **Technical Support:** The Institution will provide adequate technical support to the Company, its licensors, and contractors for the deployment of the system into the Institution website and assist the Company, its licensors, and contractors in the identification and resolution of service problems. In some circumstances, the Institution may have to program its ERP to work properly with the Company's Integration Connector.
  - f. **Dependencies:** The Institution will provide all necessary information and assistance to the Company to provide the system and Professional Services. The Institution understands and acknowledges that the Company's ability to provide the system and Professional Services will depend on various assumptions, dependencies, and prerequisites, as well as the completion of certain tasks or schedules by the Institution, the Institution's agents, or third parties that are outside of the Company's control; therefore, the Company's inability to perform, due to such matters, will not be deemed a breach of this Agreement by the Company and its duties hereunder will be mitigated to such extent.
  - g. **Backups:** The Institution agrees that it will be the Institution's responsibility to maintain duplicate copies of all original data and information and agrees that the Company will not be responsible or liable for any loss or destruction thereof during the course of rendering system services, unless loss or destruction of any such data is caused by the intentional misconduct of the Company. The Company may archive data (or cause its agents or contractors to archive data), if and to the extent that the Company, in its sole discretion, deems appropriate in connection with this Agreement.
  - h. **Termination and Integration Connectors:** The Institution will maintain as Confidential Information any system integration technology developed and deployed pursuant to this Agreement.
6. **OWNERSHIP:** All rights, title, and interest in and to the system (and its related software, tools, Integration Connectors, Institution modifications through Professional Services, and other technology, or portions thereof) and the copyright, patent, trademark, trade secret, and all other proprietary rights therein, and any derivative works created from them, will inure to the sole and exclusive benefit of the Company, its licensors, and contractors (as designated by the Company) from the date of conception, creation or fixation of any of the foregoing in a tangible medium of expression. The Institution expressly acknowledges that it will acquire no rights or interest therein. The Institution hereby assigns, and will assign, to the Company, its licensors, and contractors (as designated by the Company) all rights, title, and interest of the Institution, if any, in and to all of the foregoing. All rights not expressly granted under this Agreement are reserved by the Company. The Institution acknowledges that it may develop and disclose to the Company certain ideas, know-how, and forms of expression concerning or related to the system provided hereunder including derivative works (collectively "Developments"). To the extent that the Institution has any ownership interest in such Developments, the Institution hereby grants to the Company a perpetual, nonexclusive, royalty-free license to use such Developments in connection with the system and generally in connection with the operation of the Company's business.
7. **CONTENT WARRANTY:** Institution will be solely responsible for providing all Institution Content. Institution will be solely responsible for ensuring the appropriateness of any data provided by End Users at the request of the Institution (for example, on a form created by the Institution, if applicable). Institution grants to Company all necessary proprietary rights and licenses in and to Institution Content solely as necessary for Company to provide the Services for Institution. Institution will not provide content that: (a) infringes or violates any intellectual property rights, publicity/privacy rights, law or regulation; (b) contains any viruses or programming routines intended to damage, surreptitiously intercept or expropriate any system, data or personal information; or (c) is materially false, misleading or inaccurate. Institution will not request data from End Users: (a) the storage of which would violate applicable laws and regulations; (b) that exposes the Company to risk of breach and/or breach notification; or (c) that Institution would not readily store unencrypted on its own servers. Company may take remedial action if content violates this Section 7; however, Company is under no obligation to review content or data for accuracy or potential liability. Institution will defend, indemnify and hold harmless Company from any and all losses, costs, damages, liabilities or expenses (including without limitation reasonable attorneys' fees) incurred or arising from any claim by a third party arising out of the Institution Content.
8. **RISK:** The Institution understands that the system will not be uninterrupted or error free. The Institution agrees that it will be responsible for notifying its End Users of the need for End Users to maintain the confidentiality of user identifications and passwords, if applicable, as well as the risks inherent in using the Internet as a medium for the transport of information, including personal or confidential information. The Institution will utilize procedures to minimize any consequences of the failure of or errors resulting from the use of the system, including without limitation, maintaining a current backup of all related file data that has been delivered to the Institution.
9. **DISCLAIMER:** THE INSTITUTION ACKNOWLEDGES THAT PERIODIC UNAVAILABILITY OF THE SYSTEM DUE TO MAINTENANCE, BACKUP, AND UNAVAILABILITY OF HOSTING FACILITIES, TELECOMMUNICATIONS FAILURES OR OTHER CAUSES BEYOND ITS CONTROL WILL NOT CONSTITUTE A BREACH OF THIS AGREEMENT.

10. **ACH PROCESSING**: The Institution must designate a demand deposit account (“Account”) at a bank located in the United States (“Bank”) that participates in the ACH network. The Institution must also provide the Company the required information about the Account and the Bank, and must notify the Bank that the Company may have access to the Account to reimburse itself for returned transactions. See the Refund Process below, if applicable, for additional information about debit blocks and ACH processing. Please be aware that ACH may not be an appropriate payment method for the sale of goods and services requiring immediate fulfillment. The ACH network lacks real-time authorization and transaction returns can take up to two (2) business days; this creates risk of loss if goods have already been shipped.

- a. **Enterprise**: The Company will automatically deposit the Institution’s funds into the Institution’s bank account according to the schedule selected by the Institution; however, in no event will Company remit funds less than four (4) banking days after such funds were collected.

11. **CREDIT AND DEBIT CARD PROCESSING**:

- a. **Merchant Services**: The Company may introduce to the Institution a preferred Merchant Acquirer for processing credit and debit card transactions. There will be additional contractual terms and conditions between the Institution and Merchant Acquirer and its affiliated merchant bank. The Company does not warrant Institution-selected merchant card services and is not liable for any interruptions of service or other breach arising from agreement between the Institution and other Merchant Acquirers. The Institution is responsible for adhering to all applicable card association rules and regulations with any Merchant Acquirer.
- b. **Company Obligations**: The Company agrees to:
- i. Obtain authorization for all credit and debit card transactions;
  - ii. Warrant that all credit and debit card transactions transmitted to Merchant Acquirers are secure;
  - iii. Remain in compliance with the most current and appropriate representations, warranties, and covenants contained in the Operating Manual, the Operating Regulations, and applicable laws, rules of the preferred Merchant Acquirer, and the applicable card associations;
  - iv. Comply with Payment Card Industry (PCI) Data Security Standard (PCI-DSS) and undergo Level 1 PCI audits as necessary;
  - v. Keep data confidential and not copy, publish, sell, exchange, disclose or provide to others or use any information, documents or data, provided or disclosed to the Company or any account information related to credit and debit cards or cardholders for any purpose other than performing the Company’s obligations under the Agreement, as required by the PCI DSS, or as required by applicable law; and
  - vi. Ensure that all system interfaces are compatible with the requirements of the processing systems and networks established and used by a Merchant Acquirer.

12. **SERVICE FEE PROGRAM (“SFP”) (if applicable)**:

- a. **Description**: The decision to charge service fees is entirely the decision of the Institution. The Institution assumes all liability for conducting business in compliance with federal, state and local laws, rules, and regulations (“Laws”), including but not limited to laws governing consumer protection. The Institution will indemnify and hold the Company harmless from and against any and all claims, liabilities, losses, damages, costs, and expenses, including reasonable attorney’s fees, asserted against or incurred by the Company under federal, state or local laws as a result of the Company complying with any instruction or directive by the Institution. The Institution designates the Company to act as its third-party service provider to accept credit and debit cards and process transactions under the SFP. The Company will accept credit and debit card payments if the End User agrees to pay a Service Fee. The Institution will receive a deposit for 100% of the amount paid for tuition and related educational fees. The Service Fee is computed by applying a flat percentage rate to the tuition or related educational fee amount and may be adjusted with a thirty (30) day written notice to compensate for a change in cost as published by various card associations.
- b. **Separate Transactions**: Two (2) separate transactions will appear on the payer’s personal card statement: one (1) for the tuition or related educational fee and one (1) for the Service Fee.
- c. **Merchant Acquirer for SFP**: The Company uses a preferred Merchant Acquirer for its Service Fee Program to process these credit and debit card transactions. There are contractual terms and conditions between the Institution and this Merchant Acquirer, its affiliated merchant bank, and potentially with other desired card associations. The Institution is responsible for adhering to all applicable card association rules and regulations with any Merchant Acquirer. The Institution and the Company will set up a merchant account with this Merchant Acquirer and any other desired card association to receive funds. No merchant discount fees will be deducted from the amount due to the Institution under the SFP. However, if an Institution permits a refund or accepts a chargeback, the amount will be debited to the Institution’s account.
- d. **Company Obligations**: The Company agrees to: (i) obtain authorization for all credit and debit card transactions; (ii) warrant that all credit and debit card transactions transmitted to Merchant Acquirers are secure; (iii) remain in compliance with the

most current and appropriate representations, warranties, and covenants contained in the Operating Manual, the Operating Regulations, and applicable laws, rules of the preferred Merchant Acquirer, and the applicable card associations; (iv) comply with PCI DSS and undergo Level 1 PCI audits as necessary; (v) keep data confidential and not copy, publish, sell, exchange, disclose or provide to others or use any information, documents or data, provided or disclosed to the Company or any account information related to credit or debit cards or cardholders for any purpose other than performing the Company's obligations under the Agreement, as required by the PCI DSS, or as required by applicable law; (vi) maintain the security and confidentiality of card transactions processed through the system (while the information is stored within the system); and (vii) ensure that all system interfaces are compatible with the requirements of the processing systems and networks established and used by a Merchant Acquirer.

13. **PAYMENT PLAN (if applicable)**: The Company agrees to provide the Institution with payment-processing services for payment of tuition and/or other fees owed to the Institution by the Institution's clients (hereinafter "Responsible Parties") as set forth in the Agreement and these Terms and Conditions. Services provided include information management tools for the Institution and Responsible Parties. The Company will also provide the Institution with training opportunities to help the Institution effectively implement the program.

a. **Credit and Debit Card Option**: If the Institution elects to offer a credit and debit card payment option to Responsible Parties, the credit and debit card transactions will be processed by the Company or its third-party service provider. If processed by a third-party service provider, the Company, by agreement with that provider, will act as the provider's customer-service agent. Any chargebacks received will be passed through to the Institution. The Institution will be required to complete a merchant application and comply with applicable card association rules. The merchant discount fee or convenience fee is subject to change by the Company upon thirty (30) days' advance notice if the Company's bank merchant rate increases.

b. **Credit Card Reversals, Refunds**:

i. **Individual, One-Time Credit Card Reversals**: The Institution will be assessed a per transaction fee for each one-time credit card reversal and/or refund, if applicable.

ii. **Batch Credit Card Refunds (if applicable)**: If the Institution elects to use the Batch Credit Card Refunds feature, the Institution will be assessed a per transaction fee for each credit card reversal and/or refund. If the Institution uses an aggregate settlement process, reversals will be debited from the Institution's bank account. The Institution will be required to whitelist the appropriate Company routing number(s) and ID(s) to allow Company-initiated debits to the Institution's bank account. Prior to the Company enabling the Batch Credit Card Refunds feature, the Institution will be required to submit a bank letter to the Company granting debit authority if such a letter is not already on file for the Institution. Credit card Service Fee transactions are non-reversible.

c. **Pending Aid (if applicable)**: Pending Aid is an additional payment plan option available to the Institution at no charge. Under this option, selected payment plans have an initial payment date after the date by which financial aid awards are usually made. If the student still has a remaining balance due as of that date, scheduled payments will begin thereafter. There is no charge to the student to set up the agreement; an enrollment fee is charged only if, and when, payment processing begins. In order to use the Pending Aid program, the Institution is required to have electronic file upload capability for the Company application software. With the appropriate integration functionality, Pending Aid may be added as an option upon request by the Institution.

d. **Changes to Payer Agreements**: Changes made to the budgeted amount will be made through the Institution, which is responsible for obtaining written or similarly authenticated authorization from Responsible Parties at least two (2) business days prior to the next payment date. In the absence of written authorization, the Institution may change a budgeted amount by notifying Responsible Parties at least ten (10) calendar days prior to the next payment date.

e. **Custodial Accounts**: The Institution appoints the Company to collect payments owed to the Institution as set forth herein, to process and hold these funds, and to transfer and disburse collected funds to the Institution. It is understood that the Company is acting only as a custodian for collection and disbursement of these funds, and does not guarantee payments or provide for the collection of payments upon default by Responsible Parties. All successfully collected payments will be deposited into a custodial account (for ACH) or a settlement account (for credit and debit card). Each successfully collected payment is guaranteed by the U.S. Government, some agency thereof, or the Company's depository bank. These funds are held in custody with the Company for the Responsible Parties and, upon remittance by the Company to the Institution's bank account, will become the property of the corresponding Institution, less applicable fees. Any interest earned on funds in the custodial account is payable to the Company.

f. **Fees**:

i. **Enrollment Fee**: A nonrefundable enrollment fee is charged for each payment plan agreement period ("agreement period") and is based upon the number of payments selected for the agreement period. It is understood that the Company is not obligated to process payments unless the enrollment fee has been paid. The enrollment fee is fixed for the initial agreement period.

ii. **Returned Payment Fee**: A thirty dollar (\$30) returned payment fee will be assessed to the Responsible Party if a scheduled payment attempt fails. The returned payment fee will be due and payable by the Responsible Party to the Company; the

Institution will have no liability for returned payment fees. Returned payment fees are subject to change in future agreement periods with thirty (30) days' notice to the Institution.

iii. **Fee Returns:** If any fees are returned, they will be rescheduled, as applicable.

g. **Information Access:** The Institution will have access to current payer and payment information via the system.

h. **Remittance:** The Company will automatically deposit the Institution's funds into the Institution's bank account according to the schedule selected by the Institution; however, in no event will Company remit funds less than four (4) banking days after such funds were collected. In addition, remittance schedules are subject to change if any processing bank changes its settlement procedures or guidelines.

14. **REFUNDS (if applicable):** The Institution can select from three refund options, individually or in any combination:

- ACH Direct Deposit
- Paper Check
- ACH Direct Deposit to a Re-loadable Prepaid Debit Card

The Institution may elect to have existing payee disbursement candidate ("Candidate") ACH payment profiles moved from Institution's current refunds management solution to the Company's system, if applicable. Institution's existing Candidate ACH payment profiles may only be uploaded to Company's system once. The Company will assess the Institution a fee for this service, as stated in an Order Form, if applicable.

The Institution and the Company agree to comply with all applicable regulations, including Title IV program requirements, as well as the procedures below. The Institution acknowledges that the Company has no control over the actual availability of funds, which is determined by the payee's bank or prepaid debit card provider:

a. **Institution Obligations:** The Institution will:

- i. Establish and manage a process whereby Candidates can opt out of the transfer of their ACH payment profile to the Company's system, if applicable;
- ii. Collect and maintain appropriate documentation of the opt-out process for seven (7) years, making the information readily available in the event of an audit review request, if applicable;
- iii. Ensure the accuracy of Candidate ACH payment profile information, if applicable;
- iv. Format Candidate ACH payment profile data and the file for transmission according to Company specifications, if applicable;
- v. Establish the capacity to encrypt and transmit Candidate ACH payment profiles via Secure FTP (SFTP) or other supported secure transport protocol, if applicable;
- vi. Forward a single file of Candidate ACH payment profiles to the Company for upload to the System, if applicable;
- vii. Ensure Candidates will receive credit balance monies ("Refund") by an alternate method if not enrolled to receive a refund through the contracted product;
- viii. Establish and follow procedures for (1) identifying and determining a credit balance on a student account; (2) verifying eligibility prior to disbursement; (3) drawing down Title IV funds; and (4) notating the disbursement on student ledger accounts;
- ix. Ensure the accuracy of all refund data provided to the Company, including but not limited to ensuring the accuracy of any refunds file and preventing any duplicate refund data from being submitted to the Company (including duplicate files);
- x. Forward Candidate files to the Company with sufficient lead time so as to meet Title IV deadlines, where applicable; the Institution is solely responsible for timely delivery of Candidate files:
  1. For ACH direct deposit refund disbursements, Candidate files must be uploaded to the Company system no later than ten (10) business days following credit balance determination;
  2. For paper check refund disbursements, Candidate files must be uploaded to the Company system no later than eight (8) business days following credit balance determination;
- xi. Create messaging content for enrollment and disbursement notifications to Candidates;
- xii. Ensure an alternate system is in place to provide the refund disbursement if undeliverable via the primary method of choice (*i.e.*, invalid account message from NACHA);
- xiii. Educate students regarding the various refunds method(s) offered by the Institution;
- xiv. Make available sufficient funds to process the refunds by debit-block-free ACH transaction to Institution's bank account;
  1. If an ACH debit transaction is rejected by Institution's bank for any reason, the Institution agrees to wire said funds to the Company by noon Central time on the date notified by the Company; if the Institution fails to wire the necessary funds by noon Central time, the Company may recall the original refund transaction file(s).

2. In no way limiting the above, if an ACH debit transaction fails due to a debit block, hourly fees at the then-current Professional Services rate will apply as the Company makes adjustments and reconciles funds due to such failure.
  3. If the Institution fails to remove the debit block within 48 hours, in addition to recalling the original refund transaction file(s), the Company may suspend all further refund activity until the debit block is removed.
  4. As a condition precedent to Company processing any transaction file that exceeds \$500,000.00 (a “Major Transaction”), Institution shall wire funds to Company in an amount equal to the Major Transaction at least two (2) banking days prior to the date the Major Transaction is to be processed. In the event Institution fails to timely wire such funds, then Company shall have the right, without notice to Institution, to immediately recall the original refund transaction file(s) and suspend all further refund activity until such funds are wired to Company. In addition, at any time and for any reason, Company shall have the right to modify the Major Transaction amount by providing no fewer than five (5) calendar days’ written notice to Institution.
- xv. Establish the capacity to encrypt and transmit disbursement candidate files via Secure FTP (SFTP) or other supported secure transport protocol;
  - xvi. Develop appropriate and applicable customer service scripts (*e.g.*, FAQs) to deliver customer service as necessary based on program offerings;
  - xvii. Provide Staff as required to develop desired integration functionality;
  - xviii. For paper checks, cooperate with Company to promptly process aged outstanding checks;
  - xix. Establish and follow procedures to return undeliverable and non-negotiated Title IV funds to the Department and prevent escheatment to the state;
  - xx. Issue any stop payments on refund checks and agree not to re-submit any refund request for the affected payee disbursement candidate until the day following the stop payment request (to ensure the stop payment has time to become effective and avoid having two “live” checks in process);
  - xxi. Indemnify and hold the Company harmless for any and all liabilities, damages, expenses, or losses incurred by the Company because of any act or omission of the Institution, its officers, employees, or End Users in connection with or relating to: (1) a provision of inaccurate payee information, (2) a violation of any applicable laws, rules, or regulations, and (3) any fraudulent refund activities; and
  - xxii. Submit to annual Company review of Title IV policies and procedures, per Department directive. Institution will be required to complete the review process prior to going live with Company’s refunds management services.
- b. **Company Obligations:** The Company will:
- i. Perform Department-required review of Institution’s Title IV policies and procedures based on the Institution’s Commencement Date for the Company refunds product (See xxii. above);
  - ii. Submit review report to Institution, and if required, the Department;
  - iii. Maintain payee authorization to perform electronic funds transfer (EFT);
  - iv. Obtain payee refunds disbursement preference based on option(s) selected by Institution;
  - v. Upload Institution-provided Candidate ACH payment profiles to the System, if applicable;
  - vi. Securely process the credit balance file uploaded by the Institution once funds have been received by the Company;
  - vii. Notify payee that a refund has processed;
  - viii. Deposit funds to payee-nominated domestic checking or savings account or existing re-loadable prepaid debit card within three (3) business days of receipt of disbursement candidate file;
  - ix. For paper checks, mail checks within six (6) business days of receipt of disbursement candidate file;
  - x. Within three (3) business days of being notified by bank, notify Institution of any transactions known to have rejected;
  - xi. Return rejected EFT transaction funds to Institution for disbursement, unless contract allows for an alternate method of disbursement;
  - xii. Return disbursement information to the Institution via SFTP or other supported secure transport protocol;
  - xiii. Provide applicable support to deliver customer service, as necessary, based on program offerings;
  - xiv. Adhere to all applicable laws, rules, or regulations;
  - xv. Maintain Professional Liability and Employee Dishonesty insurance at sufficient levels to reasonably offset the risk of loss;
  - xvi. Return non-negotiated funds back to Institution after the applicable period (currently 90 days); and
  - xvii. Undergo and submit an annual Title IV compliance audit.

15. **TITLE IV COMPLIANCE (if applicable):** The Company will comply with all statutory provisions of or applicable to Title IV of the Higher Education Act (HEA), all regulatory provisions prescribed under that statutory authority, and all special arrangements, agreements, limitations, suspensions, and terminations entered into under the authority of statutes applicable to Title IV of the HEA.

- a. **Notification:** The Company will notify the U.S. Department of Education (“the Department”) of its status as a third-party servicer on behalf of the Institution, as it relates to Title IV program funds, within ten (10) calendar days of a fully executed agreement or Order Form for said service. The Institution will be responsible for notifying the Department of its decision to

contract the Company as a third-party servicer within the timeframe necessary to ensure the Institution's compliance with Title IV statutes.

- b. **Use of Funds:** The Company will use any funds that the Company administers under any Title IV program solely for the purposes specified and in accordance with that program.
- c. **Report of Misconduct:** The Company will refer any information to the Office of Inspector General of the Department of Education for investigation if there is reasonable cause to believe that the Institution might have engaged in fraud or other criminal misconduct in connection with the Institution's administration of any Title IV program.
- d. **Liability:** Notwithstanding any indemnification provisions of this Agreement, both parties are jointly and severally liable to the U.S. Secretary of Education for any violation by the Company of any statutory provision of or applicable to Title IV of the HEA.
- e. **Audit:** The Company will undergo and submit an annual Title IV compliance audit.
- f. **Return of Records, Funds:** The Company will return to the Institution all records and Title IV funds in the Company's possession pertaining to the Institution's participation in the program(s) if the Company or Institution terminates the contract, if the Company stops providing services for the administration of a Title IV program, or the Company files a petition under the Bankruptcy code (34 C.F.R. § 668.25(c)(5)).

16. **COMPLIANCE REVIEW (if applicable):** The Institution shall, from time to time during regular business hours and upon reasonable prior written notice, permit Company representatives to review Institution's applicable policies and procedures or other records necessary to ensure Institution's and its subcontractors' compliance with the terms and conditions of this Agreement, as well as applicable law or additional requirements imposed by the Department related to the services provided under the Agreement. Institution agrees to reasonably cooperate with Company's review. In the event Institution fails to cooperate with Company, such failure will be deemed a material breach of the Agreement. Institution understands and agrees that the results of any such review will be shared only with the Institution, authorized Company associates, and governmental entities charged with enforcing applicable laws, including the Department.

17. **CASHIERING (if applicable):**

- a. **Institution Obligations:** The Institution will:
  - i. Continue to safeguard payee information in accordance with FERPA, GLBA, and other confidential requirements;
  - ii. Comply with any applicable rules and regulations as prescribed by NACHA, Check for the 21<sup>st</sup> Century Act (Check 21), and abide by any applicable Payment Card Industry standards as outlined by the PCI Security Standards Council;
  - iii. Hold the Company harmless for any and all liabilities, damages, expenses, or losses incurred by the Company because of any act or omission of the Institution, its officers, employees, or End Users in connection with or relating to inaccurate payee information, third-party theft, and detection of fraudulent activities;
  - iv. Purchase only Company-certified cashiering equipment. Institution is responsible for hardware maintenance and support;
  - v. Make Staff available for cashiering and administrative systems training;
  - vi. Permit access to the ERP system and support to properly install and maintain cashiering operations.
- b. **Company Obligations:** The Company will:
  - i. Continue to safeguard payee information in accordance with FERPA, GLBA, and other confidential requirements;
  - ii. Comply with any applicable rules and regulations as prescribed by NACHA, Check 21, and abide by any applicable Payment Card Industry data security standards as outlined by the PCI Security Standards Council, as applicable;
  - iii. Provide a hosted cashiering and departmental deposit solution;
  - iv. Work with Institution Staff to integrate to the Institution's ERP system;
  - v. Provide in-person payment processing for cash, check, credit card, and/or debit card transactions;
  - vi. Provide configuration and operations expertise as well as critical connection support;
  - vii. Provide limited offline cash receipting capabilities when Company host system is unavailable, if applicable; and
  - viii. Offer on-site assistance as necessary with proper notice and cost.

18. **STOREFRONT (if applicable):**

- a. **Institution Obligations:** The Institution will:
  - i. Continue to safeguard payee information in accordance with FERPA, GLBA, and other confidential requirements;
  - ii. Comply with any applicable rules and regulations as prescribed by NACHA and abide by any applicable Payment Card Industry standards as outlined by the PCI Security Standards Council;
  - iii. Hold the Company harmless for any and all liabilities, damages, expenses, or losses incurred by the Company because of any act or omission of the Institution, its officers, employees, or End Users in connection with or relating to inaccurate payee information, third-party theft, and detection of fraudulent activities;
  - iv. Make Staff available for product and administrative systems training; and

- v. Permit access to the general ledger system and support to properly install and maintain product operations, if applicable.
- b. **Company Obligations:** The Company will:
  - i. Continue to safeguard payee information in accordance with FERPA, GLBA, and other confidential requirements per the Agreement;
  - ii. Comply with any applicable rules and regulations as prescribed by NACHA and abide by any applicable Payment Card Industry data security standards as outlined by the PCI Security Standards Council, as applicable;
  - iii. Work with Institution Staff to integrate the Institution's general ledger system, if applicable;
  - iv. Encrypt data to the highest industry standards to ensure the security of payment data on campus processed by Company;
  - v. Provide configuration and operations expertise as well as critical connection support; and
  - vi. Offer on-site assistance as necessary with proper notice and cost.



19. **POINT-TO-POINT ENCRYPTION (“P2PE”) (if applicable):**

- a. The Company is authorized by Bluefin Payment Systems LLC (“Bluefin”) to offer Bluefin’s point-to-point encryption service (the “P2PE Service”) to its customers on the Company’s various platforms. The P2PE Service contains one or more of the following features:
  - i. Credit/debit card track data decryption and response service;
  - ii. Credit/debit card Primary Account Number decryption and response service;
  - iii. Device key injection at Bluefin’s designated PCI-approved key injection facility;
  - iv. Provision of real-time chain of custody and monitoring of each device through the Bluefin P2PE POI Manager web application; and
  - v. Personalized guidance and support with the P2PE POI Manager reports necessary to attest compliance on the PCI SAQ P2PE-HW.
- b. Institution wishes to utilize the P2PE Service and shall pay the fees for the P2PE Service set forth on an Order Form, no later than thirty (30) days after the receipt of an invoice from Company.
- c. In order to utilize the P2PE Service, Institution will obtain point-to-point encryption devices (“P2PE Devices”) issued by Bluefin. Company will order from Bluefin, on behalf of the Institution, the number of devices indicated by Institution on an Order Form. The P2PE Device purchase will be subject to pricing and payment terms set by CDE Services, Bluefin’s PCI P2PE Key Injection Facility (“KIF”). Bluefin will submit the device order to the KIF; the KIF will invoice the Institution directly for the device costs, and Institution will pay such device costs directly to the KIF to initiate shipment.

**Corporate Headquarters:**

Nelnet Business Solutions, Inc.  
121 South 13<sup>th</sup> Street, Suite 201  
Lincoln, NE 68508  
866.315.1263

DeeAnn K. Wenger, President  
[DeeAnn.Wenger@nelnet.net](mailto:DeeAnn.Wenger@nelnet.net)  
402.325.7241



ATTACHMENT B

ORDER FORM  
Hosted Business Service

Pierpont Community and Technical College

Product/Service	Implementation Fee	Monthly Fee	Transaction Fee
<b>Refunds</b> (✓ box(es) to elect refund method[s], options.)	\$2,000	\$ 400	
<input checked="" type="checkbox"/> Single Sign-On (optional)	\$ 500		
<input type="checkbox"/> Import existing ACH profiles (optional)	\$1,500		
<input checked="" type="checkbox"/> ACH Direct Deposit			\$0.35
<input type="checkbox"/> ACH Direct Deposit to Debit Card			\$0.35
<input checked="" type="checkbox"/> Check			\$2.50
xACH Return (Based on refund method[s] elected.)			\$1.00
<b>Other Refunds Fees</b>			
Void Check			\$10.00
Stop Payment			\$25.00
Copy of Cashed Check			\$15.00

1. **Institution Contacts:** Company will direct the following information to the Institution-designated contact(s) indicated:

**Accounts Payable** and billing/invoicing:

Name: David Williams Email: dwilliams29@pierpont.edu  
 Title: Director of Procurement Phone: 304-333-3717

2. **Order Form Terms:**

- a. This Order Form reflects the Institution’s Service elections and associated pricing as of the last date of signature. This Order Form and the Service(s) outlined herein are subject to the terms and conditions of the Agreement, including all amendments and addenda, if any.
- b. Any mutually agreeable modification or addition of Service(s) must be on a written and executed Order Form. Any subsequently executed Order Form will be subject to the terms and conditions of the Agreement, and any conflict between Order Forms will be controlled by the later executed Order Form.
- c. Pricing outlined in this Order Form is applicable to the Service(s) and/or feature(s) indicated as of their respective Commencement Date(s).
- d. For the avoidance of doubt, nothing in this Order Form will relieve the Institution’s obligation to pay for payment processing (i.e., merchant fees, credit card assessments, or ACH fees) or installation, maintenance, and transaction fees for any other Company-delivered products/services or features the Institution is currently contracting to use or may elect to implement in the future, until such time as those Services are terminated. Company will continue to assess fees and invoice Institution for delivered Service(s) through the effective termination date for each respective Service.

[Order Form continued on following page.]

**3. Other Terms:****a. Fees:**

- i. **Implementation Fee:** Fifty percent (50%) of the Implementation Fee will be invoiced and presented with the Order Form. Institution must pay the Implementation invoice in order to engage an Implementation Manager.
- ii. **Monthly Fee:** Monthly Fee includes hosting, maintenance, technical support, and release upgrade services.
- iii. **Transaction Fee:** Per transaction fees assessed for any Company-initiated/processed transaction, including but not limited to payments (both ACH and credit/debit card), credit card refunds/reversals (individual and/or batch), merchant processing fees, disbursements, and in-person payments, if applicable.
- iv. Each hosted service is configured to Institution specifications without source code customization. Any post-deployment change requests will be billed at the then-current Professional Services rate.

**b. Refunds:**

- i. **ACH Direct Deposit to Debit Card:** Refers to ACH disbursement to an existing reloadable prepaid debit card.
- ii. **ACH Return:** ACH Return charge assessed only in the event Institution elects ACH-only refunds; the ACH Return fee is waived if Paper Check refunds option is available to students.
- iii. **Other Fees:** Requests for these activities will be initiated by the Institution. Fees will be assessed to the school; these fees are separate from Refunds transaction fees listed above and any additional banking costs associated with these activities. Additional fees will apply for special requests, if any (e.g., paper check overnight fee).

## ATTACHMENT C

### PRIVACY ADDENDUM

**THIS PRIVACY ADDENDUM** (“Addendum”) by and between **Pierpont Community and Technical College** (“Client” or “Institution”) and **Nelnet Business Solutions, Inc.** (“NBS” or “Company”) is entered into and effective as of the last signature date affixed hereto (“Effective Date”). The Addendum is supplemental to the Professional Services Agreement (“Agreement”) and sets out the terms that apply when personal data is processed by NBS under the Agreement.

- I. **Obligations of NBS:** NBS will only process the personal data in accordance with the European Union General Data Protection Regulation (“GDPR”), Gramm-Leach-Bliley Act (“GLBA”), Family Educational Rights and Privacy Act (“FERPA”) and applicable United States data privacy laws. Processing will be limited to (a) the purpose of fulfilling NBS obligations under the Agreement, (b) authorized uses under the Agreement, or (c) compliance with an order of a court, governmental agency, or law enforcement agency.
- II. **Data Subject Rights:** NBS will provide commercially reasonable assistance, including by appropriate technical and organizational measures, to enable Client to respond to any inquiry, communication, or request from a data subject seeking to exercise their rights under the applicable privacy laws, including access, correction, restriction, and erasure of personal data, as applicable. In the event of such an inquiry, communication, or request Client will promptly inform NBS by providing the full details of the request. For the avoidance of doubt, Client is responsible for responding to data subjects requests for access, correction, restriction, objection, erasure, or data portability of the data subjects personal data.
- III. **Data Transfer:** NBS will not transfer the personal data to a third country outside the European Economic Area (“EEA”) without Client’s prior written consent.
- IV. **Deletion or Return of Data:** NBS will process and store personal data only for the period necessary to achieve the purpose of the storage, or as permitted by law. In the event that NBS is required by law to retain some or all of the personal data, the protection of the Agreement and this Addendum will extend to such personal data and limit any further processing of such data to only those limited purposes that require the retention for as long as NBS maintains the personal data.
- V. **Data Retention:** Client acknowledges that NBS will not retain information in perpetuity. NBS will purge data according to its then current policies and in compliance with applicable laws.
- VI. **Security:** NBS will implement appropriate technical and organizational measures designed to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure, access or use and in accordance with NBS’ security standards set forth in the Agreement.
- VII. **Incident Reporting:** Upon becoming aware of an incident involving the unauthorized disclosure of personal data of an applicable data subject, NBS will notify Client without unreasonable delay and assist Client with fulfilling any data breach reporting obligations under applicable laws. NBS will take steps to identify and remediate the cause of such security incident.
- VIII. **Confidentiality:** NBS will ensure that any person that it authorizes to process the personal data (including its staff, agents, and subcontractors) will be subject to a duty of confidentiality that will survive the termination of their employment and/or contractual relationship.
- IX. **Data Integrity:** NBS has policies and procedures to ensure the confidentiality, integrity, and availability of personal data and to protect it from disclosure, improper alteration, or destruction.
- X. **Confidential User Data:** Nonpublic Personal Information and Personally Identifiable Information, as defined in NBS’s privacy policy (collectively, “Consumer Information”) will be used in accordance with NBS’s privacy policy.
  - a. **Data Security Compliance:** NBS will remain in compliance with security and privacy obligations imposed by the GDPR, GLBA, FERPA, and other applicable laws or regulations. Any instance of non-compliance with these laws, will be addressed in the manner stated in the Agreement. NBS agrees to provide reasonable assistance to the Client with any data protection assessment and prior consultations with supervisory authorities or other competent data privacy authorities that Client reasonably considers to be required by Article 35 or 36 of the GDPR. NBS further agrees, upon reasonable request, to make available to Client information and assistance needed to show compliance with applicable

laws or regulations. This includes contributing information to audits, and inspections, when requested with reasonable notice and scope, and during regular business hours.

b. Data Safeguards: NBS will ensure that access to Nonpublic Personal Information and Personally Identifiable Information received through Client is restricted to those NBS employees that need to know that information to provide services. NBS will train employees on privacy, information security, and their obligation to protect Client information. NBS will maintain reasonable and appropriate physical, electronic, and procedural safeguards to guard Client Nonpublic Personal Information and Personally Identifiable Information and regularly test those safeguards to maintain the appropriate levels of protection.

XI. Legal Requests: NBS will notify the Client within 2 business days about (i) any legal requests for disclosure by a law enforcement authority, unless otherwise prohibited by law; (ii) any communications between NBS and supervisory authority concerning the Client; and (iii) any request received directly from a data subject, without responding to that request, unless it has been otherwise authorized to do so by the Client.

XII. Vendor Management: NBS will not subcontract any of its processing duties under the Agreement without Client's consent. Where Client has consented, NBS will subcontract such processing only by way of a written agreement with the sub-processor that imposes the same obligations on the sub-processor as are imposed under the Addendum. NBS will keep a list of such sub-processing agreements, which it will make available to Client and the appropriate supervisory authority when so requested or required by any applicable law. Where the sub-processor fails to fulfill its data protection obligations under such written agreement, Client may exercise the rights granted to them in the Agreement.

XIII. Termination: This Addendum will remain in full force and effect for so long as the Agreement remains in effect, unless the Agreement is terminated earlier.

XIV. Miscellaneous: Except as amended by this Addendum, the Agreement will remain in full effect. If there is a conflict between the Agreement and this Addendum, the terms of the Agreement will control.

**Pierpont Community and Technical College**

*Dale Bradley* 05/24/2021

SignNow e-signature ID: 5d755582ef...  
05/23/2021 15:30:56 UTC  
Dale Bradley Date

Print Name  
VP for Finance and Administration

Title

**Nelnet Business Solutions, Inc.**

*Jacqueline Strohhenn* 05/21/2021

SignNow e-signature ID: 73706ff69e...  
05/21/2021 18:01:20 UTC  
Jacqueline Strohhenn Date

Print Name  
President, Nelnet Campus Commerce

Title

**Corporate Headquarters:**  
121 South 13<sup>th</sup> Street, Suite 201  
Lincoln, NE 68508  
866.315.1263

**STATE OF WEST VIRGINIA  
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"): Pierpont Community and Technical College

Vendor: Nelnet Business Solutions, Inc. d/b/a Nelnet Campus Commerce

Contract/Lease Number ("Contract"): Vendor Professional Services Agreement for "Student Refund Management" (RFP NO. 2020-001)

Commodity/Service: Student refund process management (student refunds distribution/disbursement)

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**

2. **PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

Any language imposing any interest or charges due to late payment is deleted.

3. **FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

4. **RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.

5. **DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.

7. **GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.

8. **RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.

9. **LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.

10. **TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.

11. **NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

- 12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
- 13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State’s prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
- 14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
- 15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor’s benefit is deleted.
- 16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
- 17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
- 18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act (“FOIA”) (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State’s sole discretion.

Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.

- 19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software’s terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
- 20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~strike through~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General’s authorized representative expressly agree to and knowingly approve those alterations.

State: Pierpont Community and Technical College

By: 

SignNow e-signature ID: 5d9e0c929f...

Printed Name: David Williams

Title: Director of Procurement

Date: 05/21/2021

Vendor: Nelnet Business Solutions, Inc. d/b/a Nelnet Campus Commerce

By: 

SignNow e-signature ID: 1ac0e1a6687b...

Printed Name: Jacqueline Strobehn

Title: President, Nelnet Campus Commerce

Date: 05/21/2021