

**Letter of Agreement between
University of North Dakota and Public Consulting Group, Inc.**

This Agreement (the "Agreement") is made and entered into this July 1, 2018 (the "Effective Date") by and between University of North Dakota ("University") having an office at Gustafson Hall Room 103, 3264 Campus Road Stop 9021, Grand Forks, ND 58202-9021, and Public Consulting Group, Inc. ("PCG") having an office at 148 State Street, 10th Floor, Boston, MA 02109.

WHEREAS, University offers college-level education courses to many, including teachers and educational leaders, with varying objectives, degree and non-degree;

WHEREAS, PCG provides professional development training to educators and school leaders for the purpose of enhancing the educational growth of teachers and school administrators;

THEREFORE, in consideration of the promises set forth herein, the parties agree as follows:

PUBLIC CONSULTING GROUP, INC. PROFESSIONAL DEVELOPMENT GRADUATE CREDIT COURSES

University and PCG propose to collaborate and partner to deliver online courses to teachers for professional development graduate credit (2900-level). University recognizes the quality of PCG professional development online courses and agrees to award professional development graduate credit for such online courses once the student has successfully completed his or her required PCG coursework and successfully completed University's supplemental requirements, if any.

University will provide to fully paid students one professional development graduate credit (15-hour course) or three professional development graduate credits (45-hour course) for completion of each approved PCG course (4 months in duration – no extensions granted). University and PCG will have the option to alter this credit/course-hour structure, upon mutual agreement of both parties. PCG will provide instructors of record to facilitate and grade coursework using the satisfactory/unsatisfactory or letter grade option.

PCG will determine the appropriate content, subject matter, and materials and periodically update the course as needed. PCG will provide a summary of course evaluations and comments to University twice each year. PCG will facilitate and grade coursework using a Letter Grade or S/U.

University will enroll students, maintain records and databases, track lessons and grades and provide other customer service as needed. University will market the course using the standard marketing activities (web, printed summer brochure, email blasts, etc.).

TUITION AND FEE STRUCTURE

PCG will post and charge pricing for the PCG courses, including PCG fee and University fee. UND will post all PCG courses on their website at <http://educators.und.edu/onlinecourses/>. PCG will collect the total fee at the appropriate company website and will pay University their share on a monthly basis. These professional development graduate credits are subject to change by University and any updated pricing will be appended to this agreement. Courses will be priced as follows:

One (1) Professional Development Graduate Credit:

University:	\$ 60
PCG:	\$295
TOTAL:	\$355

Three (3) Professional Development Graduate Credits:

University:	\$150
PCG:	\$349
TOTAL:	\$499

REVENUE DISTRIBUTION

- i. PCG will collect and retain all payments received for the delivery of PCG courses
- ii. PCG will issue a check to University on a monthly basis for all payments received from UND students registered in PCG courses
- iii. Refund requests for courses purchased will follow University policy

MARKETING

The courses will be marketed simultaneously by both University and PCG.

- i. University, as part of its customary marketing initiatives including, at University's own cost
 - a. Reference in direct marketing materials, including flyers distributed to local schools and districts
 - b. Emails to educator and administrator alumni (both graduate and undergraduate) at least once a year
 - i. For new PCG courses, an email specific to the new course(s) will be sent to educator and administrator alumni
 - c. Online course campaigns (Once a year)
 - d. Website presence
- ii. PCG, as part of its customary marketing projects at PCG's own cost

Both parties agree to allow the counterparty to use corporate logos and other branding materials subject to and exclusively for the purposes of this Agreement. The University logo to be used by PCG pursuant to this clause is the UND "Flame" logo.

Both parties reserve the right to review and/or reject the marketing materials and activities offered under the terms of this Agreement.

COURSE EVALUATION

PCG will provide compiled course evaluation results to University on a semiannual basis for courses that have had University enrollments.

DURATION AND TERMINATION

- i. The term of this Agreement shall commence on the Effective Date and, unless sooner terminated, shall continue until June 30, 2020 (the "Term").
- ii. Either party may terminate this Agreement for convenience by giving written notice to the other party at least thirty (30) calendar days prior to the effective date of termination as stated in the notice, or such other period as is mutually agreed in advance by the parties.
- iii. Either party may terminate the Agreement immediately if the other party materially breaches its

terms. This provision applies only if the non-breaching party provides written notice to the breaching party, and allows at least seven (7) calendar days to cure the breach before the effective date of termination stated in the notice.

Upon termination, University students then currently enrolled in a PCG course will be permitted to complete the course for which they have registered and paid.

LIABILITY AND DEFAULT

Each party shall be responsible for claims, losses, damages, and expenses proximately caused by the negligent or wrongful acts or omissions of its employees acting within the scope of their employment. The tort liability of the University shall be determined pursuant to chapter 32-12.2 of the North Dakota Century Code and is subject to the conditions and limitations contained therein. Neither party shall be liable or deemed to be in default for any delay or failure to perform its obligations hereunder if such failure results directly or indirectly from any cause beyond its reasonable control, including but not limited to acts of God, acts of civil or military authority, terrorism, fire, flood, strikes, war, epidemics, pandemics, or shortage of power. PCG shall indemnify University against any and all third-party claims for infringement of copyright, trademark, or trade dress arising out of University's use of PCG's materials hereunder.

COPYRIGHTS

PCG will maintain all of the appropriate licenses, contracts, and copyrights from participating educational experts in order to use their materials in PCG courses.

WARRANTY OF ORIGINALITY, NON-INFRINGEMENT

PCG represents and warrants that any and all content and/or presentations supplied, performed, and/or displayed by PCG hereunder, inclusive of PowerPoints, handouts, and all other audiovisual and media elements, shall be (a) original to PCG; (b) appropriately licensed from one or more third-parties holding exclusive rights therein; or (c) used subject to a bona fide and good faith belief that an exception to third-party exclusive rights (e.g., fair use) applies, provided that such belief shall not negate any indemnification obligation imposed upon PCG herein.

PROPRIETARY OR CONFIDENTIAL INFORMATION

For purposes of fulfilling its obligations under this Agreement, one party ("Disclosing Party") may convey to the other party ("Receiving Party") information that is considered proprietary and confidential to the Disclosing Party.

i. "Proprietary or Confidential Information" is defined as information – including but not limited to trade secrets, strategies, financial information, sales information, pricing information, operational techniques, software, and intellectual property -- that (i) has not previously been published or otherwise disclosed by the Disclosing Party to the general public, (ii) has not previously been available to the Receiving Party or others without confidentiality restrictions, or (iii) is not normally furnished to others without compensation, and which the Disclosing Party wishes to protect against unrestricted disclosure or competitive use. Proprietary or Confidential Information does not include information that, without a breach of this Agreement, is developed independently by the Receiving Party, that is lawfully known by the Receiving Party and received from a source that was entitled to have the information and was not bound to the Disclosing Party by any confidentiality requirement, or that fails to qualify for at least one exception to North Dakota's open records laws.

ii. The Receiving Party shall hold Proprietary or Confidential Information in strict confidence, in perpetuity, and shall use and disclose such information to its employees only for purposes of this Agreement and the Contracted Services.

iii. The Receiving Party shall not divulge any such Proprietary or Confidential Information to any employee who is not working on matters relating to this Agreement and the Contracted Services, without the prior written consent of the Disclosing Party.

iv. The Receiving Party shall use at least the same standard of care for protecting Proprietary or Confidential Information that it uses to prevent disclosure of its own proprietary or confidential information, but in no case less than reasonable care. Upon the request of CLIENT, PCG shall execute any confidentiality agreement required by the CLIENT or by applicable law (e.g., a HIPAA Business Associate agreement), and shall require its employees who may receive Proprietary or Confidential Information to execute appropriate confidentiality agreements.

v. Nothing in this Agreement prohibits the Receiving Party from disclosing Proprietary or Confidential Information pursuant to a lawful order of a court or government agency, but only to the extent of such order, and only if the Receiving Party gives immediate notice of such order to the Disclosing Party in order that the Disclosing Party may seek a protective order or take other action to protect the information that was ordered to be disclosed.

vi. Rights and obligations under this Agreement shall take precedence over specific legends or statements that may be associated with Proprietary or Confidential Information when received.

vii. The parties agree that the Disclosing Party would suffer irreparable harm hereunder if Proprietary or Confidential Information were improperly released, conveyed, or transferred by a Receiving Party, and that in such situation the Disclosing Party shall be entitled to, in addition of any other remedies, pursue injunctive relief and specific performance.

viii. Upon termination of this Agreement, each party shall cease use of Proprietary or Confidential Information received from the other party. At the request of the Disclosing Party, the Receiving Party shall promptly destroy all physical copies of such information in its possession, custody, or control and shall furnish the Disclosing Party with written certification of such destruction within thirty (30) days of such request. Alternatively, if the Disclosing Party fails to provide such a written request to the Receiving Party within ten (10) days of the termination of this Agreement, the Receiving Party shall return all such shall return all such physical copies of such information to the Disclosing Party. If return is not practicable, the Receiving Party shall so notify the Disclosing Party and shall keep such information secure and confidential in perpetuity.

ix. The termination of this Agreement for any reason shall not discharge the obligations of the Parties with respect to the protection of Proprietary or Confidential information set forth in this section.

INSURANCE

Each party will maintain an amount of insurance, including general liability and worker's compensation insurance that it determines to be adequate to cover any liabilities that may arise out of its performance of this Agreement. Upon request, each party shall provide a certificate of insurance. For its part, University's participation in the North Dakota risk management fund shall be deemed sufficient to comply with this paragraph.

ASSIGNMENTS AND SUBCONTRACTS

Neither party may assign nor further subcontract its obligations under this Agreement to any other entity without the prior written consent of the other party, unless such assignment or subcontract is a party's affiliate or subsidiary.

WAIVER

The failure of a party to enforce a provision of this Agreement shall not constitute a waiver with respect to that provision or any other provision of this Agreement.

ENTIRE AGREEMENT

This Agreement (including the attachments) constitutes the entire agreement between the parties with respect to the subject matter of the Contracted Services, and supersedes all prior agreements and understandings, both written and oral. Notwithstanding the foregoing, any separate written agreement between the parties regarding the confidentiality and security of information exchanged or used by the parties for purposes of this Agreement shall be effective unless and until it is specifically terminated.

AMENDMENT

This Agreement may be amended only by written agreement of the parties, signed by authorized representatives and referencing this Agreement.

SEVERABILITY

If any provision in this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions in this Agreement shall continue in full force and effect.

MISCELLANEOUS

- i. The parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either party by reason of authorship.
- ii. The captions and headings in this Agreement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Agreement. nor the meaning of any provisions hereof.
- iii. Each party represents that: (1) it has the authority to enter into this Agreement; and (2) that the individual signing this Agreement on its behalf is authorized to do so.

NOTICES

Any notices, requests, consents and other communications hereunder shall be in writing and shall be effective either when delivered personally to the party for whom intended, e-mailed with an acknowledgment of receipt, or five days following deposit of the same into the United States mail (certified mail, return receipt requested, or first class postage prepaid), addressed to such party at the address set forth below, who shall serve as Contact Persons unless replaced by a party by written notice to the other party:

UNIVERSITY

Lynette Krenelka
Director
Office of Extended Learning
University of North Dakota
3264 Campus Road, Stop 9021
Grand Forks, ND 58202-9021
Fax: 701-777-4282
Phone: 701-777-4883
Email: lynette.krenelka@UND.edu

PCG

Sophia Thwaites
Implementation Manager, Education
Public Consulting Group, Inc.
80 Maiden Lane, Suite 1106
New York, NY 10038
Phone: [REDACTED]
Email: [REDACTED]

