

EDUCATIONAL AND MANAGEMENT SERVICES AGREEMENT

This Educational and Management Services Agreement is entered into as of August 31, 2018 the “Effective Date”) between **The Learning House, Inc.**, a Kentucky corporation (“TLH”) and the **University of West Florida Board of Trustees**, a public body corporate of the state of Florida (“University” or “UWF”).

1. ACKNOWLEDGMENT

The University and TLH expressly acknowledge that nothing in this Agreement is intended to impair the authority of UWF respecting the academic attributes of the Online Programs, enrollment numbers, admission of students to the Program, the delivery of the Programs, the evaluation of student performance, financial aid and the decision to award course credit and academic credentials and to exercise customary oversight respecting faculty engaged in its offering.

2. SERVICES

During the Term as defined below in Section 14. and subject to the terms and conditions of this Agreement, UWF hereby retains TLH to provide to UWF the Bundled Services in Section 5. set forth herein, and TLH agrees to provide the Bundled Services to the University. TLH will provide the University with periodic summary reports indicating TLH’s progress with respect to the provision of the Services and the results therefrom.

3. DEFINITIONS

- a) “Agreement” means this Agreement.
- b) “TLH” means The Learning House, Inc.
- c) “University-Owned eContent” means any materials written by the University, University’s faculty members or other designated University employee or independent contractor and all content, data, materials, and Intellectual Property Rights in content, data, and materials that are developed or provided under this Agreement by the University.
- d) “TLH-Owned eContent” means TLH’s website and landing page.
- e) “Term” means the time periods defined in Section 2. of the Agreement.
- f) “University” or “UWF” means The University of West Florida Board of Trustees.
- g) “Party” or “Parties” singularly means either the University or TLH and collectively the University and TLH.
- h) “Online Program” means a defined set of curricula, classes and learning objectives and requirements for which UWF created and is executed online.
- i) “Bundled Services” or “Services” means the services described in Section 5.
- j) “Online Program Course” means the individual course offering designed to fulfill the curriculum and particular set of learning objectives and other University requirements necessary to complete the Online Program.

- k) “Faculty” means the individuals who are assigned or appointed by the University to provide Online Program Course instruction.

4. AGREEMENT STRUCTURE

As covered in Section 5., TLH shall launch the Online Programs to commence pursuant to this Agreement according to the following schedule:

ONLINE PROGRAMS

Program Name	Program Type	Program Launch
RN to BSN	Bachelor	February 2019
Nursing - Family Nurse Practitioner	Master	January 2019
Health Sciences	Bachelor	January 2019
Clinical Lab Sciences - MLT to MLS	Bachelor	January 2019
Information Technology - Cybersecurity	Master	January 2019
Information Technology - Database Management	Master	January 2019
Computer Science	Master	January 2019
Computer Science - Database Systems	Master	January 2019
Computer Science - Software Engineering	Master	January 2019
GIS Administration	Master	January 2019
Curriculum & Instruction - Specialization TBD	Master	January 2019
Educational Leadership	Master	January 2019
Cybersecurity	Master	August 2019
Data Science	Master	August 2019
Social Work - Traditional	Master	August 2019
Social Work - Advance Standing	Master	August 2019

5. RESPONSIBILITIES OF TLH

TLH shall be responsible for, and shall provide and perform at its sole cost and expense, the following roles and responsibilities (“Bundled Services”) as they relate to the Online Programs:

- a) Online Course Curriculum Development Consulting. Subject to University’s permission, annually, TLH will access University online courses for the purposes of

making recommendations and educational consulting to align with best practices in online instruction. Recommendations shall include the following:

- i) Course structure and navigation
- ii) Outcome/assessment alignment.
- iii) Strategies to increase student engagement.
- iv) Consistency in student experience.
- v) Best practices in meeting ADA requirements and copyright compliance.
- vi) Strategies to improve student outcomes.
- vii) Use of technology in the online classroom.
- viii) Integration of on-ground resources in the online platform.

b) Marketing/Advertising. TLH shall perform marketing and advertising activities to generate qualified prospective student interest to meet UWF's enrollment goals. Marketing includes working with the University to develop a marketing plan and branding for the Online Programs. TLH will work with University to develop all marketing and may not proceed with campaign-level messaging and marketing plans for advertisements and promotional materials without prior written approval from University. University shall make good faith efforts to complete and communicate written approvals of applicable materials within five (5) business days.

TLH will market the Programs including recruiting students, such recruiting subject to the prior review and approval of UWF, such approval not to be unreasonably delayed. TLH agrees that in the course of recruitment of students for enrollment it will not provide any commission, bonus or other incentive payments based directly or indirectly upon success in securing enrollments to any person or entity engaged in any student recruiting or admission activities, or any person directly supervising such person, except in accordance with the provisions of 34 C.F.R. 668.14(b)(22) and any subsequent amendment thereto, and Section 487 (a)(20) of the Higher Education Act (HEA) and/or any other requirement of the United States Department of Education, the Florida Department of Education, the Board of Governors of the State University System, the Board of Trustees of the University of West Florida, or The Higher learning Commission of the Southern Association of Colleges and Schools hereafter in effect, and all such activities will be carried out in accordance with the requirements and standards of all applicable state, or federal education regulatory authority.

TLH will also specifically perform the following marketing activities:

- i) TLH will create a microsite on a subdomain that TLH builds and hosts for the Online Programs listed in Section 4. that will be designed to match the Brand, look and feel of University's website. This will be a collaborative process between TLH and the University, whereby the University will be asked to provide requisite approvals for certain Line features. Should the University choose to change the Brand, look and feel of its website, the University will provide at least thirty (30) days notice to TLH so that TLH may review the potential website changes and work out a timeline for updates to the Online website, if necessary.

ii) TLH will coordinate and manage all marketing and advertising efforts for the Online Programs listed in Section 4., which includes the investment of marketing capital for marketing and advertising efforts on behalf of University's Online Brand that are performed in a collaboration between TLH and University.

iii) TLH will assign a Manager to oversee and supervise all Online Programs in Section 4, including the market research, marketing, advertising and execution of all.

iv) TLH will develop an annual marketing plan with University based upon the information obtained from market research. The marketing plan may consist of different forms of traditional marketing, online marketing and partnership marketing. Traditional marketing efforts may include direct mail, television, radio, print, billboards, public relations and marketing events. Online marketing efforts may include affiliate marketing, pay per click, display, organic search engine optimization, social media, and email. Partnership marketing may include developing relationships with employers, community colleges, high schools, military organizations and sponsorship of industry events.

v) TLH will assist University in developing, marketing, and implementing scholarship opportunities.

vi) TLH's marketing activities will be limited to broad information dissemination and advertising programs that disseminate information to groups of potential students.

vii) TLH shall execute and fund brand search campaigns in Google, Bing, and Yahoo in Florida, Alabama, Mississippi, Louisiana and Georgia, and other states mutually agreed upon by the Parties. These efforts will lead prospective students to a landing page that will be created by TLH with final authority for approval by the University. The parties will mutually agree on keywords, Online Program(s), brand, geographical area and timing and incorporate into a Standard Operating Procedure manual ("SOP").

viii) TLH shall provide high-level media performance/marketing updates on a monthly basis according to the terms in the SOP.

ix) TLH shall not make student enrollment or Title IV aid decisions, aid students in completing enrollment applications or complete financial aid applications on behalf of prospective students.

x) Financial projections to determine operational feasibility of program launch.

xi) TLH shall provide UWF the effectiveness of TLH's marketing and advertising campaigns upon request which shall include, but not be limited to the

amount of money TLH expended on the marketing/advertising campaign, yield, results, admissions.

c) Market Research/Advertising. The TLH market research group will perform a variety of analyses to contextualize and differentiate a client institution's program selection, both its current programs and potential programs to launch during the partner relationship. TLH will provide underlying details at University's request. In addition to continued research throughout the partner relationship. TLH offers the following types of market research:

- i) Scalable, research-based program and brand recommendations.
- ii) Scanning of local, regional, and national markets.
- iii) Analyzing program redundancies and opportunities within a competitive landscape.
- iv) Using National Center for Education Statistics Integrated Postsecondary Education Data System (IPEDS) database to analyze historical data and identify program opportunities.
- v) Researching and reviewing the field of study trends, labor outlook, competition, and University's past successes.
- vi) Review of relevant secondary data including industry trends.
- vii) Data review from the state department of labor that services the University, as well as from the Bureau of Labor Statistics and any other relevant market for a look into the employment landscape for program graduates.
- viii) Review of employment-listing aggregators to identify trending demand for skills relevant to program graduates.
- ix) Gap analysis based upon department stakeholder meetings and interviews, to identify gaps and to determine appropriate resources and policy changes that will best position the University for success.
- x) Financial projections to determine operational feasibility of program launch,.

d) Student Recruitment. TLH shall undertake student recruitment to bring forward qualified prospective students for the University to consider for admission. TLH shall promote, market and advertise the Online Programs; collect, respond to, manage inquiries that are related to the Online Programs; provide follow-up contact; provide guidance for application submission, and provide admission counseling. TLH will work with University to develop all messaging and will receive prior written approval from University for all campaign-level messaging for advertisements and marketing. Applications will be submitted through University's existing applications processes.

e) Enrollment Management.

- i) TLH will provide an appropriate number of Online Enrollment Counselors ("ECS") responsible for handling inbound and outbound contacts through the TLH call center (the "TLH Call Center"); unless specifically requested by the new lead to discontinue contacts, the ECS will make at least thirteen (13) attempts to contact every new lead with the first attempt commencing within twenty-four (24)

hours of the lead being produced and the last attempt occurring within ten (10) calendar days; the ECS will track and classify all inbound and outbound contacts for reporting purposes; the ECS will be employed by TLH and stationed at the TLH Call Center.

ii) The TLH Call Center will be staffed between the hours of 9:00 am and 8:00 pm Eastern Time Monday thru Thursday and between the hours of 9:00 am and 5:30 pm Eastern Time on Friday or such longer hours as TLH deems necessary and will be available to assist potential students with application questions, admissions procedures and program information.

iii) TLH will provide an appropriate number of ECS in the range of one (1) EC for every one hundred (100) active applicants, which may increase or decrease depending upon the business needs and process flow at TLH. ECs will research and become knowledgeable of Client's online programs. The ECs will be employed by TLH and stationed at the TLH Call Center.

iv) The ECS will disseminate to potential students information regarding the online programs offered by University, admissions procedures, tuition, the online modality description and University's policies.

v) The ECS will assist potential students with all document collection needed by University for rendering an admissions decision.

vi) The TLH team will submit all enrollment documents to University so that the University may review and provide student acceptance/denial decisions.

f) Student Retention, Academic Advising, Guidance, and Counseling. TLH shall undertake logistical and basic technical support to retain Students through completion of Online Programs. TLH shall use proactive communication and outreach programs to identify students who are at risk of discontinuing in Online Programs. This is done by identifying behavior that correlates to academic performance and attendance, using data provided by University. TLH shall use calling strategies customized for each student to increase the likelihood of retention and continuing academic engagement.

TLH will also specifically perform the following academic guidance and counseling services:

i) In consultation with University, TLH will develop a plan for student retention focused on the best practices for addressing issues with student satisfaction.

ii) TLH will offer support and advising to students through TLH Online Academic Advisors. The Online Academic Advisors shall have a bachelor's degree in an appropriate area of specialization. The Online Academic Advisor shall have strong problem solving skills, friendly demeanor, and strong communication skills. The Online Academic Advisors shall work with students

to facilitate successful and timely degree completion by monitoring student progress and providing information regarding curriculum policies, procedures, and guidelines for the degree programs that are advised. The advisor shall assess incoming students to determine their needs, goals, interests, and academic experience. The advisor will also identify students who are experiencing academic difficulty and develop strategies for success in partnership with the student. The advisor is responsible for assisting students with reviewing degree plans, course registration, maintaining advising records, and other duties related to student success. The advisor shall assist students with course registration and scheduling, maintain student records and processing applications for graduation.

The Online Academic Advisor shall ensure students are taking courses that meet the requirements of their programs, recommending solutions to resolve discrepancies in graduation requirements. The advisor shall provide students with information regarding curriculum, policies, procedures, and guidelines for their chosen major.

The Online Academic Advisor will use a learning-centered approach to advising that enhances students' decision-making skills and contributes to the development of students' intellectual and personal growth; will be knowledgeable of and provide students with the resources, support, and opportunities available to make informed decisions, enhance their educational experience, and promote student success; will provide students with accurate information about degree requirements and institutional and departmental policies and procedures; will encourage students to participate in learning opportunities outside of the classroom setting; will develop realistic educational plans that meet the needs, goals, and interests of individual students; will accurately and efficiently document interactions with students and students' progress toward meeting educational, personal, and professional goals using adopted software programs; will use multiple forms of media to communicate with students (e.g., email, telephone, fax, video calls, texting, social media, etc.); will demonstrate efficient and effective use of technology; will demonstrate excellent written and oral communication skills; and will maintain confidentiality and comply with FERPA and GDPR guidelines. Develop structured feedback for students by using university/college technology platforms.

iii) The TLH Team will ensure that each student is able to log into their online classroom on their first day of classes and has been made aware of how to find their syllabus, the online library and other resources offered by University.

iv) The TLH Team will create and collect periodic student satisfaction surveys and will provide University with a report based on such survey results.

v) The TLH Team may create, monitor and facilitate social networking sties dedicated to the online students enrolled by University (such as Facebook, LinkedIn, Snapchat, and Twitter or like platforms); and

vi) The TLH Team will provide auxiliary retention services by creating a twelve (12) month “retention outreach” program consisting of periodic voice-to-voice contact with each student in addition to surveys and social networking contacts.

g) TLH will cooperate with University and provide assistance as reasonably requested by University to support University in performance of its duties under this Agreement, and will work in good faith with University to identify and implement process improvements and other changes that reflect operational best practices.

h) Operational Support. TLH will provide University with a single point of contact for the day-to-day operations and support of TLH-Owned eContent.

i) TLH shall develop a SOP in collaboration with the University to execute all responsibilities under this Agreement.

6. RESPONSIBILITIES OF THE UNIVERSITY

The University shall provide the following services (the “University Services”) subject to any restrictions under applicable law, regulation, policy or collective bargaining agreement.

a) Curriculum and Content. University has sole control over the academic curriculum, and course content. The University shall develop and deliver content for each Online Program Course.

b) UWF has sole control over enrollment numbers and limitations on enrollment numbers and admissions and evaluation of student performance and the decision to award course credit and academic credentials. Thirty days (30) before the start date for marketing and advertising, UWF will define the limitations on enrollment for each Online Program in accordance with the mutually agreed upon Standard Operating Procedure (“SOP”) between UWF and TLH.

c) UWF has sole control over financial aid decisions. Financial aid awards will be processed and distributed through the UWF Financial Aid Office.

d) Faculty and Staff.

i) The University is solely responsible for review, selection, appointment, administration, evaluation, and coordination of program directors, faculty, and their staff.

ii) The University shall pay all expenses and compensation of the University personnel.

e) The University is solely responsible in its discretion for the following Student matters: (i) official and unofficial admission decisions; (ii) collection of fees; (iii) processing of student loans and grants; (iv) reporting and (v) enrollment numbers or limitations.

f) Granting Credits, Certificates, and Degrees. The University is also solely responsible for granting Online Program Course credits, certificates and degrees to Students who successfully complete each Online Program and who otherwise satisfy the necessary academic criteria established by the University for applicable college credits, certificates, and degrees. University is responsible for filing all necessary accreditation-related notices and obtaining all necessary accreditor approvals or consents under applicable standards and policies of accreditation agencies having jurisdiction over University relative to Online Programs. University is responsible for obtaining necessary education-related licensure and authorization in every applicable United States or foreign jurisdiction that may be relevant to the Online Programs. University shall take all reasonable actions necessary to comply with all applicable laws, regulations, and accrediting body standards, to maintain Title IV eligibility, and to comply with all terms of its program participation agreement with the United States Department of Education then in effect. Notwithstanding any terms to the contrary in this Agreement, University has discretion regarding the states in which it seeks authorization for th Online Programs.

g) Provide a University representative to be TLH's primary contact for questions or issues arising with respect to the Services.

h) Provide TLH access to University's current application and admissions materials. University further agrees to keep these materials updated and to continue to provide the updated materials to TLH as soon as practicable.

i) University will use reasonable efforts to establish six (6) entry start points for all fully Online Programs a year across campus divisions including, but not limited to admission, financial aid, and course scheduling and provide superior student support for mid-term starts.

j) Cultivate close collaboration with TLH in marketing, recruiting, and enrollment efforts.

k) Enrollment Management.

- i) Provide a University email address for respective Enrollment Counselors.
- ii) Provide account read-only access in University's student information system to facilitate communication regarding applications that are received, missing application documents, proposed acceptances, confirmation of course registration, and status of financial aid/payment processing.
- iii) Provide enrollment limitations within thirty (30) days before initiating the marketing and advertising campaign for a start date into a specific Online Program.

- iv) Provide admissions decisions within twelve (12) business days of the University receiving a completed application.

l) Establish a University representative for retention matters.

m) Provide documentation of and related forms for relevant university policies regarding attendance, withdrawal, and leaves of absence.

n) Provide an Online Student Enrollment Report, for current and future available terms, that contains student ID, student name, course ID, course name, credit hours, enrollment status, grade, start date, end date, and instructor name.

o) Marketing/Advertisement. The University shall:

- i) Execute institutional marketing plans and brand marketing initiatives at a level deemed appropriate by University to support non-online program recruitment. University and TLH will share marketing plan information to avoid redundancy or competition for paid initiatives.

- ii) Coordinate with TLH to establish and maintain cross links between University's main website and TLH's Online microsite pages and landing pages.

- iii) Provide TLH with "Print Quality" logos and photos as well as a style guide.

- iv) Provide TLH with copies of University's current online program marketing materials, course catalog and student handbook each in a format reasonably acceptable to TLH.

- v) Provide feedback and approval to TLH within a reasonable amount of time, but no longer than five (5) business days.

- vi) Provide TLH read-only access to UWF's main website Google Analytics account.

- vii) Establish a TLH Google Analytics user account.

7. **LICENSES**

a) License

- i) **University Provided Material.** The University hereby grants to TLH for the Term of the online programs, a world-wide, royalty-free, non-exclusive right and license to access, copy, display, and use the University provided material solely as necessary for TLH to perform all of its obligations under this Agreement. The University shall obtain all third party consents, authorizations, permissions, approvals and licenses concerning University Provided Material, including, any licenses or rights in Intellectual Property Rights of third parties that are necessary to enable TLH to perform its obligations under this Agreement. It is understood and agreed that, as between the Parties, the University retains all right, title, and interest in its Intellectual Property Rights in the University Provided Material.

- ii) **TLH Provided Material.** TLH hereby grants to the University for the Term of the online programs, a world-wide, royalty-free, non-exclusive right and license to access, copy, display, and use the TLH provided material solely as necessary for University to obtain the benefits under this Agreement. TLH shall obtain all third party consents, authorizations, permissions, approvals and licenses concerning TLH Provided Material, including, any licenses or rights in Intellectual Property Rights of third parties that are necessary to enable the University to obtain the benefits of TLH Services. It is understood and agreed that, as between the Parties, TLH retains all right, title, and interest in its Intellectual Property Rights in the TLH Provided Material.

- iii) **TLH Commercial Products.** For TLH Commercial Products, TLH hereby authorizes University to access and use TLH and provide access to TLH Commercial Products to University's faculty, Students and administrative staff (collectively, "Authorized Users") solely for educational and instructional use with in the applicable Online Program, and solely during the term of the online program. Authorized Users may access and use TLH Commercial Products only in accordance with the terms set forth in this Agreement and in any applicable end-user license agreement or terms of use (each a "EULA") that may be contained in or with the TLH Commercial Products. In the event of any conflict between this Agreement and a EULA associated with a specific TLH Commercial product, the terms and conditions of the applicable EULA prevail with respect to the use of that specific TLH Commercial Product.

- iv) **Trademarks, Logos and Publicity.** TLH may not use the name, logos, trade names and trademarks of the University (the "University Trademarks") without the prior written approval of the University. TLH agrees that the University Trademarks and logos are subject to the standards and specifications of the University. The University will make good faith efforts to consider TLH's request for permission to use the University's name, logos, trade names and trademarks and communicate written approval within five (5) business days of the request. TLH may not advertise or publish information concerning the Agreement without the prior written consent of the University. University and TLH, upon the execution of this Agreement, shall jointly develop the text and timing of a public announcement relating to the Agreement if mutually agreed upon. However, the parties acknowledge that the University is a public institution and is subject to public records requests.

b) **Necessary Acts; Further Assurances.** Each Party agrees to execute and deliver any additional documents and take any other actions that are reasonably required to evidence or carry out the purposes of this Section 7. Upon termination or expiration of this Agreement for any reason, each Party shall immediately discontinue all access, display, and/or use of the University Provided Material or TLH Provided Material (as applicable).

Within sixty (60) days after termination or expiration of this Agreement for any reason and upon receipt of written notice, each Party shall return or destroy the University Provided Material or TLH Provided Material (as directly by the applicable Party), and an officer of each Party shall certify that all such materials have been returned or destroyed, except that a party may retain one (1) copy for the purpose of complying with its records retention policy.

- c) University Online Brand and Marketing. The Parties shall mutually develop the University's brand and marketing strategy for distance learning.

8. PAYMENT TERMS

a) UWF shall collect all tuition and technology fees from the students admitted and enrolled in the Online Programs. As compensation for the Bundles Services rendered by TLH under this Agreement with respect to the RN-BSN Online Program identified in Section 4., TLH will be paid 30% of published tuition and technology fees actually received by the University per enrollment period for all new students enrolled in the RN-BSN Online Program. For all other Online Programs identified in Section 4., and as compensation for the Bundles Services rendered by TLH under this Agreement, TLH will be paid 38% of published tuition and technology fees actually received by University, per enrollment period for all new students enrolled in the Online Programs. The actual fees received for the students that enroll in the 30% and 38% revenue share for Bundles Services will be payable to TLH for the duration of the student's enrollment in an Online Program(s) under this Agreement.

b) It is TLH's responsibility to provide UWF with a list of enrolled students no later than ten (10) business days after the published drop/add deadline for each Online Course. UWF will reconcile the list to determine whether the University has actually received payment of tuition and technology fees from the student. UWF shall pay TLH the percentages agreed upon within thirty (30) days of the receipt of the list of enrolled students. UWF shall also provide to TLH a written report containing all information used to calculate the amounts owed, including a confirmed list of the students who paid in full, and the courses in which they are enrolled with UWF. Notwithstanding the terms herein, the University does not have the obligation to pay TLH the full amount of fees for students from whom UWF does not receive fees or full payment. For partial fee payments, the University will pay TLH 30% or 38% of the fees received.

c) Sales and Use Tax. TLH shall comply with and require all of its subcontractors to comply with the provisions of applicable law. TLH further agrees to indemnify and hold harmless the University from any and all claims and demands made against it by virtue of the failure of TLH or any subcontractors to comply with the provisions of any and all applicable laws, including sales and use tax laws. The University is exempt from state sales and use tax.

9. **AUDIT**

a) Either party at that party's sole expense, may have an independent certified public accountant (the "Auditor"), reasonably acceptable to the party requesting the audit to perform an audit of the other parties records for the purposes of and relating to calculating and verifying the financial terms of this Agreement, the marketing and advertising efforts, and security certifications, including, but not limited to payments received from the enrolled students, results of recent security penetration tests and marketing/advertising yields. Written notice must be served by the party requesting the audit on the other party at least thirty (30) days prior to the audit. The parties shall reasonably cooperate with the audit and provide reasonable access to the financial books, records, and materials regarding enrollment, payments and efforts for marketing/advertising. The audit will be conducted by the auditor during the party's normal business hours, at the place where the records are maintained and in such a manner so as not to unreasonably disrupt University's business operations, unless other terms and conditions for the audit are mutually agreed upon, set forth in writing and signed by both parties.

b) The parties shall maintain complete and accurate accounts and records, in accordance with commercially reasonable industry standards, of all enrollees, revenues, cost of goods, salaries and benefits, tuition and all other expenses, all marketing and advertising efforts, security certifications/results of recent penetration tests and all academic counseling records in connection with the Agreement and must promptly deliver these to the University upon request or demand. All such accounts and records shall be retained by the parties for at least the life term of the Agreement and may be inspected, reviewed or audited by a staff member from each respective party, or the party's independent auditor, during regular working hours with at least thirty (30) days written notice prior to the audit and pursuant to Section 9.a). The parties shall reasonably cooperate with the audit and provide reasonable access to the other's books, records, and supporting documentation for the audit. TLH acknowledges that the University is subject to the Florida Public Records Act and shall maintain all records with respect to this Agreement in accordance with Florida Law.

10. **CONFIDENTIAL INFORMATION**

a) Confidentiality. Subject to Florida law, each Party shall maintain the confidentiality of the Confidential Information of the other Party in the same manner that it maintains its own confidential information, but in no event less than a commercially reasonable manner. The Parties may only disclose the other Party's Confidential Information to its officers, employees, consultants, contractors, or agents who need to know the Confidential Information to carry out their rights and responsibilities under this Agreement. In the case of consultants, contractors and agents, the Parties may only disclose the other party's Confidential Information to persons who are bound by obligations not less restrictive than those set forth in this Agreement. Confidential information does not include information that (I) is publicly known; (ii) is already known or independently developed or discovered without use of the Confidential information as

shown by written records; (iii) is disclosed by a third party having no known obligation of confidentiality with respect to the Confidential Information; or (iv) is required to be disclosed to comply with applicable laws or regulations or with a court or administrative order as long as the disclosing Party receives prior written notice of the disclosure.

11. PROTECTED HEALTH INFORMATION

Before the University shares or provides access to protected health information to TLH pursuant to this Agreement, the Parties shall enter into a separate business associate agreement to govern the confidentiality and non-use of that information.

12. FERPA

In the course of providing services during the term of the Contract, TLH may have access to student education records that are subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, et seq. And Florida Statute § 1002.22 and the regulations promulgated thereunder. Such information is considered confidential and must therefore be protected. To the extent that TLH has access to “education records” under this contract, it is deemed a “school official,” as each of these terms are defined under FERPA. TLH agrees that it shall not use education records for any purpose other than in the performance of this contract. Except as required by law, TLH shall not disclose or share education records with any third party, and it must take such measures as are reasonable and prudent to protect such information from inadvertent disclosure. Further, TLH shall indemnify and otherwise hold harmless UWF for any TLH unlawful disclosure or failure of notification as required by FERPA or by Section 1002.22, Florida Statutes. Any unlawful disclosure of such information to third parties by TLH shall constitute a material breach of this agreement.

13. EUROPEAN UNION GENERAL DATA PROTECTION ACT (REGULATION)

The University may be subject to applicable provisions of the European Union’s General Data Privacy Regulation [Regulation (EU) 2016/679] (the “GDPR”) when the University is acting as a “controller” or “processor” of “personal data” from an individual “data subject” located in the European Union, as those terms are defined in the GDPR. TLH acknowledges and agrees that it is acting as a “processor” of “personal data” for the University under the Agreement and that all applicable requirements of the GDPR are incorporated by reference as material terms and made a part of the Agreement. TLH represents and warrants that (1) it is aware of and understands its compliance obligations as a “processor” under GDPR; (2) it has adopted a GDPR compliance policy/program, a copy of which will be provided to the University upon request; (3) it will process “personal data” only in accordance with the GDPR and University’s instructions; and (4) with regard to its obligations under the Agreement, it shall comply with all applicable requirements of the GDPR to the same extent as required for the University. Additionally, TLH shall indemnify, defend and hold the University, its trustees, officers, and employees harmless from and against any claims, demands, suits, damages, penalties, fines, attorney fees or costs arising from any violation of GDPR by TLH. TLH shall

comply with the requirements of all privacy laws applicable to information obtained as a result of participation in the Agreement, including, the Family Educational Rights and Privacy Act (known as “FERPA”) and the General Data Protection Regulation (known as “GDPR”).

14. TERM AND TERMINATION

- a) Term. This Agreement takes effect as of the Effective Date and continues for five (5) years, unless sooner terminated in accordance with the provisions of this Agreement (the “Initial Term”). Each of the following time periods being referred to as a “Calendar Year” for purposes of this Agreement.
- Effective Date through December 31, 2019
 - January 1, 2010 through December 31, 2020
 - January 1, 2021 through December 31, 2021
 - January 1, 2022 through December 31, 2022
 - January 1, 2023 through December 31, 2023
- b) Renewal. This agreement may be extended for two additional three (3) year terms on the condition that the extension is mutually agreed to in writing and signed by both parties at least 90 days prior to the expiration of the term.
- c) Online Program Term. The term of each Online Program in Section 4. will expire upon the expiration of this Agreement as defined herein unless otherwise terminated in accordance with this Agreement or extended pursuant to Section 14.b).
- d) Termination; Expiration.
- i. Agreement Termination. This Agreement and all Online Programs or individual Online Programs may be terminated for cause in any one or more of the following ways: (1) by mutual consent of the Parties; (2) upon sixty (60) days’ advance written notice by one Party in the event of any material breach of this Agreement by the other Party, and the breach Party has not cured the material breach during the sixty-day period; or (3) by one Party upon written notice if (A) the other Party dissolves, ceases active business operations or liquidate, or (B) bankruptcy or insolvency proceedings, including any proceeding under Title 11 of the United States Code, have been brought by or against the other Party and remains undismissed for sixty (60) days; (4) any communications from the University’s accrediting agency cites one or more deficiencies in the Online Program(s) and the Parties are unable to agree on a modification of this Agreement to correct the cited deficiency; (5) if the Parties mutually agree that there is insufficient enrollment in the Online Program(s) to justify its continuation; (6) if any of the terms or provision of this Agreement are found to be in violation of Florida law, Florida Board of

Governors' Regulation, University Regulation, Policy or any other applicable laws including, but not limited to Title IV; (5) if an Online Program(s) is not self-supporting in violation of Florida Board of Governors' Regulation 8.002; (6) failure of TLH to acquire and maintain all required insurance policies under Section 16.d), bonds, licenses, and permits.

Notwithstanding anything to the contrary herein, UWF's obligation to continue to participate in this Agreement is contingent upon receipt from the Legislature of the State of Florida of funds sufficient to continue the activities herein described. In the event of non-availability of funds for this purpose, UWF shall have the option to terminate this contract at the end of any fiscal year during the term of this Agreement. UWF shall give notice to TLH when the University has knowledge thereof. The determination of whether funds are available shall be made in the sole discretion of the University.

ii. Survival.

(1) Effect. Any provisions which by their nature are intended to be applicable after any expiration or termination of this Agreement remain in effect.

iii. Legislative Changes. If the United States Department of Education or other governmental authorities or entities (whether governmental or otherwise) that have jurisdiction over the Parties, this Agreement, or the programs that are governed by this Agreement impose rules, regulations, policies, or guidance that could (i) materially and adversely affect the ability of the Parties to perform their obligations under the Agreement or (ii) affect the method of payment provided in the Agreement, the Parties agree to negotiate in good faith a mutually agreed and appropriate adjustment to the Agreement, up to and including amendment or termination of this Agreement. The Parties agree to work together to address any requirements imposed by the United States Department of Education on the Online Programs, including, those included in Title IV of the Higher Education Act. However, if those requirements make further participation in this Agreement impossible or impractical by either party, and the parties cannot develop a mutually agreeable solution within sixty (60) days after one Party notified the other of the offending requirements, that party may terminate this upon 90 days' notice to the other party. Notwithstanding anything to the contrary in this Agreement, University is not required to make any payments to TLH that are prohibited by state or federal regulation, but in all such events, University will use best efforts to work with TLH to develop and implement an alternative payment method or arrangement that complies with state and federal regulations and

satisfies University's pre-existing and ongoing payment obligations under this Agreement.

- iv. The University may by written notice to TLH immediately terminate the Agreement if the University determines that TLH has been debarred, suspended, or otherwise lawfully prohibited from participating as a subcontractor for any public agency or other governmental body.
- v. TLH shall continue to perform in a reasonable manner in accordance with the requirements of this Agreement, up to the date of termination, as directed in the termination notice.

15. REPRESENTATION AND WARRANTIES

a) TLH Warranties and Covenants.

- i) Organization. TLH represents and warrants that it is duly organized, validly existing and in good standing, has all requisite power and authority, corporate or otherwise, to conduct its business as now being conducted and to execute, deliver and perform this Agreement, and it holds the required registrations to perform its obligations under this Agreement.
- ii) No Conflict. TLH warrants that no officer, director, or agent of TLH is also an employee of the University and that no University employee owns, directly or indirectly, an interest of five percent (5%) or more in TLH or any of its affiliates.
- iii) Right to Use. TLH represents and warrants that it has during the Term of this Agreement permission to use (and for the University to use) any TLH provided material as set forth in this Agreement.
- iv) Infringement. TLH represents and warrants that it has no actual knowledge after due inquiry that the TLH material infringes upon, misappropriates, or otherwise violates the Intellectual Property Rights of any third party.
- v. Resources. TLH covenants that it will devote the capabilities, resources, and personnel to the Bundles Services more fully described in Section 5 in order to meet their obligations under this Agreement.
- vi. Services Commitment. TLH covenants to use diligent efforts to deliver the services contemplated in this Agreement in compliance with industry standards, using proven state-of-the-mind technologies and skilled resources trained according to the highest professional standards in compliance with applicable regulatory and accreditation standards.
- vii. Compliance with Laws. TLH further represents and covenants that it is in compliance with all applicable laws and regulations, including, without limitation

the Americans with Disabilities Act and applicable regulations and maintains a "Drug Free Workplace Policy" (including inserting that obligation in any subcontracts executed in relation to the services that are provided pursuant to this Agreement) and agrees to be bound by applicable state and federal rules governing equal opportunity and non-discrimination.

viii. Liens. TLH covenants that it will keep the University free and clear from all liens asserted by any person or entity for any reason arising out of the furnishing of services or materials by or to TLH.

ix. Certification. TLH warrants that entering into this Agreement did not involve collusion or anti-competitive practices and warrants and covenants that it has not given, offered to give, nor intends to give at any time economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with any submitted proposal. TLH further certifies that:

- (1) No employee of the University and no employee's relative has a substantial interest in any agreement subsequent to this Agreement or Program Term Sheet;
- (2) Neither TLH nor any of its employees have been debated or suspended by any federal entity; and
- (3) TLH understands that any material false statements with regard to the warrants, covenants, and certifications set forth in this Section 14. a. are material breach of this Agreement; this Agreement is subject to legal remedies provided by law; and TLH agrees to promote and offer to the University under this Agreement only those services and materials as stated in this Agreement.

b) University Warranties.

i) Organization. The University represents and warrants that it is duly organized, validly existing and in good standing, and has all requisite power and authority, corporate or otherwise, to conduct its business as now being conducted, and to execute, deliver and perform this Agreement.

ii) Right to Use. The University represents and warrants that it has or will have during the Term of this Agreement permission to use (and for TLH to access, display, and use) any University provided material as set forth in this Agreement.

iii) Infringement. The University represents and warrants that it has no actual knowledge that the University provided material infringes upon, misappropriates, or otherwise violates the Intellectual Property Rights of any third party.

iv) Compliance with Laws. The University represents and warrants that it is in material compliance with all applicable laws, regulations, and accrediting body standards, possesses all required educational approvals and accreditations, and has

no actual knowledge of any basis for the revocation or material limitation of any of its educational approvals or accreditations.

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

16. **INFRINGING MATERIAL; INDEMNIFICATION; INSURANCE**

a) University Provided Material. If any University provided material is held by a court of competent jurisdiction to constitute an infringement or other violation of any third party's Intellectual Property Rights, or if in the TLH's reasonable opinion any of the University provided material is, or is likely to infringe or otherwise violate a third party's Intellectual Property Rights, the University shall at its own expense and option:

(i) Procure the right for the TLH to continue using the University provided material;

(ii) Replace the University provided material with non-infringing equivalent material conforming to the applicable specifications required by this Agreement; or modify the University provided material to make it non-infringing while conforming to the applicable specifications required by this Agreement. If none of the foregoing options is economically feasible, the University shall so notify the TLH and the TLH shall be entitled to terminate the Online Program or Course, as applicable, impacted by the infringement.

b) TLH Provided Material. If any TLH provided material is held by a court of competent jurisdiction to constitute an infringement or other violation of any third party's Intellectual Property Rights, or if in the University's reasonable opinion any of the TLH provided material is, or is likely to infringe or otherwise violate a third party's Intellectual Property Rights, the TLH shall at its own expense and option: (1) procure the right for the University to continue using the TLH provided material; (2) replace the TLH provided material with non-infringing equivalent material conforming to the applicable specifications required by this Agreement; or (3) modify the TLH provided material to make it non-infringing while conforming to the applicable specifications required by this Agreement. If none of the foregoing options is economically feasible, the TLH shall so notify the University and the University shall be entitled to terminate the Online Program or Course, as applicable, impacted by the infringement.

c) TLH Indemnification. The TLH shall, to the extent permitted by law, defend, indemnify and hold harmless the University of West Florida Board of Trustees, the University of West Florida, the State of Florida, and the Florida Board of Governors,

their employees, agents, officers and directors with respect to any and all claims, demands, suits, actions, proceedings, loss, cost, and damage of every kind and description, including reasonable attorneys' fees and/or reasonable litigation expenses, which may be brought or made against or incurred on account of loss of or damage to any property or for injuries or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reasons of any act, omission, professional error, fault, security breach, mistake or negligence of TLH, its employees, agents, representatives, or subcontractors, their employees, agents or representatives, in connection with or incident to the performance of this Agreement. Notwithstanding the foregoing, the TLH's obligation under this provision will not extend to any liability caused by the sole negligence of the University, or its officers, agents and employees. The University shall, upon becoming aware of a claim which may be subject to this provision, notify the TLH as soon as practicable. Failure to provide notice as soon as practicable is not a waiver of the University's rights under this Section, but the amount of reimbursement to which the University is entitled is reduced by the amount, if any, by which the claims would have been reduced had notice been delivered as soon as practicable. In the event a court of competent jurisdiction determines that the claims arose as a result of the negligence, intentional misconduct or breach of this Agreement by the University of West Florida Board of Trustees, the University of West Florida, the State of Florida, or the Florida Board of Governors, the foregoing indemnification obligation shall be proportionately reduced based on the extent to which the court determines the claims resulted from such negligence, intentional misconduct, or breach. Nothing in this Agreement (1) denies the TLH any remedy or defense available under the laws of the State of Florida; (2) constitutes consent by the State of Florida or its agents and agencies to be sued; or (3) constitutes a waiver of sovereign immunity of the State of Florida beyond the waiver provided in section 768.28 Florida Statutes and related case law.

d) Insurance. TLH shall obtain and maintain at its own expense the following insurance coverage purchased from a company or companies rated A:VII or better by A.M. Best and licensed to do business in the state of Florida:

- i) Commercial general liability per occurrence including premises and operations general aggregate;
- ii) workers' compensation (statutory) insurance that satisfies all statutory requirements and limits in the state where TLH's employees are engaging in work;
- iii) employer's liability with limits of at least five hundred thousand dollars (\$500,000) per occurrence;
- iv) professional liability/errors & omissions insurance with limits of at least two million dollars (\$1,000,000) per occurrence;
- v) cyber risk/security privacy insurance with limits of at least two million dollars (\$2,000,000) per occurrence;
- vi) umbrella coverage of \$1,000,000 per occurrence.

TLH shall name the University of West Florida Board of Trustees, and its directors, officers, employees, and agents as an additional insured in the commercial general

liability policy, to the extent of contractual liability assumed by TLH in this Agreement. TLH will also name the University of West Florida Board of Trustees, and its directors, officers, employees, and agents as an additional insured under the professional liability/errors and omissions insurance and the cyber risk/security privacy insurance.

For the professional liability/errors and omissions coverage and the cyber risk/security privacy coverage (1) any "insured vs. insured" exclusions will be modified accordingly to allow University additional insured status without prejudicing the University's rights under the policies; (2) there shall be severability of the intentional conduct exclusions for the additional insureds; and (3) there shall be an exception to any "breach of contract" exclusions for hold harmless agreements. Both policies will have a retroactive coverage date no later than the Effective Date and coverage shall be maintained for an additional period of three years following termination of the contract.

The cyber risk/security privacy policy shall provide coverage for (1) liability incurred from alleged or actual theft, dissemination, and/or use of personal or confidential information and any related forensic costs, crisis management costs, investigation costs; (2) network security liability arising from the unauthorized access to, use of, or tampering with computer systems, including hacker attacks or inability of an authorized third party to gain access to services, including denial of service, unless caused by a mechanical or electrical failure; (3) liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon; (4) any government investigations resulting from the alleged or actual disclosure of personal or confidential information or network security liability event; and (5) nonphysical business interruption.

Within ten (10) days after the effective date of the Agreement and thereafter upon the University's request, TLH will furnish the University with endorsements and policies evidencing the foregoing coverage. The endorsements and policies will provide that the insurer waives its rights of subrogation against University, and the insurer will provide notice to the University in writing at least thirty (30) days prior to any cancellation, material change in coverage or intent not to renew such insurance coverage. All policies maintained by TLH to satisfy requirements in this must also serve as primary and non-contributing coverage with any similar insurance maintained by University. If any of the policies in this section must be renewed during the Term of the Agreement, then TLH shall provide evidence of renewal to University a minimum of thirty (30) days prior to expiration of the policy.

17. During the term of this Agreement, TLH may have Contracts with no more than three (3) of the universities or colleges listed below. A "Contract" is defined as a contractual relationship under which TLH agrees to provide substantially all marketing and student recruitment services for all of a university's online undergraduate programs.

University of South Alabama
Pensacola State College

Northwest Florida Community College
Tallahassee Community College
Florida State University
Gulf Coast State College
Chipola College
Florida A&M
University of West Georgia
Valdosta State
University of North Florida
Troy University
University of Southern Mississippi
Florida Institute of Technology

18. SYSTEM SECURITY

- a. UWF is prohibited from utilizing TLH Owned eContent and the Bundles Services to compromise the security of system resources or accounts on TLH's servers or at any other site. Use or distribution of tools designed for compromising security or containing viruses or Trojans are prohibited. Examples of these tools include, but are not limited to, password guessing programs, cracking tools or network probing tools.
- b. If the University is involved in violations of system security, TLH reserves the right to release all usernames of users involved in such violations to system administrators at other sites in order to assist them in resolving security incidents. TLH will also fully cooperate with law enforcement authorities in investigating suspected lawbreakers.
- c. **Data Breaches.** TLH shall notify the University as soon as is practicable of any data or security breach of TLH systems, and the extent of such breach, including the persons and data affected. If TLH experiences a security breach related to this information, TLH shall immediately notify the University and shall fully cooperate with the University in fulfilling applicable legal requirements regarding such breaches.
- d. **TLH Security Policies.** TLH shall not substantially alter their current security policies. Upon request, TLH shall confirm that TLH has kept their information security standards up to date.

19. ADDITIONAL TERMS AND CONDITIONS

- a) **Notices.** The Parties shall give any notice under the terms of this Agreement in writing and delivered by nationally recognized overnight delivery service (e.g., Federal Express) or by registered or certified mail, postage prepaid, and addressed to as follows.

If to TLH: Office of the President & CEO
 The Learning House, Inc.
 27 South Fourth Street, Suite 300

Louisville, KY 40202

If to UWF: Office of the Provost
11000 University Parkway, Bldg. 10
Pensacola, FL 32514

Copy to: Office of the General Counsel
11000 University Parkway, Bldg. 10
Pensacola, FL 32514

Either Party may hereafter notify the other in writing of any change in address. Any notice shall be deemed duly given: one (1) day after deposit with nationally recognized overnight delivery service or five (5) days after it is mailed by registered or certified mail, postage prepaid.

b) Further Actions. The Parties agree to execute any documents or perform any acts as may be reasonably necessary in order to give effect to the intentions expressed in this Agreement.

c) Interpretation; Severability. The Parties may use the captions in this Agreement only for convenience and not for interpreting this Agreement. If any portion of this Agreement is held illegal, invalid or inoperative by a court of competent jurisdiction, then so far as is reasonable and possible (i) the remainder of this Agreement is valid and operative; and (ii) to the extent legally possible, the Parties shall give effect to the intent manifested by the portion held invalid or inoperative.

d) Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if both Parties have signed the same document. All counterparts constitute one Agreement.

e) Assignment. Neither Party may assign, transfer or delegate any or all of its rights or obligations under this Agreement without the prior written consent of the other party; provided, that, upon prior written notice to the other party, either party may assign the Agreement to an affiliate of such party or to a successor of such party by way of merger, reorganization, consolidation or acquisition of all or substantially all of the first party's assets. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. The Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

f) Relationship. The relationship between the TLH and the University is limited solely to that of independent contractor. Nothing in this Agreement creates or implies a partnership, agency, employer/employee, or other legal relationship between the Parties. Either Party may utilize the products and/or services of third party contractors in connection with the performance of the services under this Agreement without the consent of the other Party.

g) **Entire Contract.** This Agreement constitutes the complete understanding of the Parties with respect to their subject matter and supersede any prior contracts, arrangements, communications, whether oral or written, with respect to the subject matter.

h) **Modifications and Waiver.** The Parties may only modify or rescind this Agreement by a writing signed by both Parties or their duly authorized agents. The waiver by either Party of any default under this Agreement is not a waiver of any other or subsequent default and is not effective unless it is set forth in a document signed by the Party against which the waiver is asserted.

i) **Interpretation of Conflicting Terms.** If there is a conflict between the documents that make up this Agreement, the documents will control in the following order: first this Agreement, then the Standard Operating Procedures.

j) **Force Majeure.** In the event compliance with any obligation under this Agreement is impractical or impossible due to any Event of Force Majeure, then the time for performance of such obligation shall be extended for a period equivalent to the duration of the Event of Force Majeure. The provisions of this section shall not operate to excuse either party's inability to perform its obligations hereunder because of inadequate finances. "Event of Force Majeure" means any strike, lockout, labor dispute, embargo, flood, earthquake, storm, dust storm, lightning, fire, epidemic, act of God, war, national emergency, civil disturbance or disobedience, riot, sabotage, terrorism, restraint by governmental order or any other occurrence beyond the reasonable control of the party in question.

k) **Governing Law.** This Agreement and all related disputes between the Parties are governed and construed in accordance with the laws of the State of Florida and the rules, regulations and policies of the Florida Board of Governors and the University. The University and TLH have all remedies afforded each by Florida law. The venue in any action or litigation commenced to enforce the Agreement is Pensacola, Florida. In the event of any dispute arising between the Parties in connection with this Agreement, the Parties shall attempt to resolve the dispute amicably, including through escalation of the matter to a senior representative of each Party. If the dispute is not resolved through amicable resolution attempts, the Parties shall refer the matter to non-binding mediation, with the mediator to be chosen by the Parties upon mutual agreement. The Parties shall equally share the costs of the mediator and the process for mediation (provided that each Party will be responsible for its own costs of preparing for an appearing before the mediator).

l) The University is under no obligation whatsoever to be bound by the actions of TLH with respect to third parties. The TLH is not a division or agent of the University

m) The TLH agrees that in the performance of the Agreement, neither the TLH nor any employee of the TLH shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered by the Agreement. The University reserves the right to request a copy of the TLH's Drug Free

Workplace Policy. The TLH further agrees to insert a provision similar to this statement in all subcontracts for services required.

n) TLH represents that it has established equal opportunity practices which conform to both the spirit and the letter of all laws against discrimination and prohibit discrimination based on race, creed, color, sex, age, national origin, marital status, or religion.

o) TLH is solely responsible for complying with all laws, ordinances, and regulations including but not limited to, those relating to taxes, licenses, and permits, as they may apply to any matter under this Agreement. The TLH must demonstrate that it is duly licensed by applicable regulatory bodies during the performance of the Agreement. Prior to the commencement of this Agreement, the TLH shall provide evidence of such licensing as may be requested by the University. TLH shall, at no expense to the University, procure and keep in force during the entire period of the Agreement all such permits and licenses.

p) Federal law and the policies of the University prohibit sexual harassment of University employees or students. Sexual harassment includes any unwelcome sexual advance toward a University employee or student, any request for a sexual favor from a University employee or student, or any other verbal or physical conduct of a sexual nature that is so pervasive as to create a hostile or offensive working environment for University employees, or a hostile or offensive academic environment for University students. TLH and TLH's subcontractors and suppliers for this project are required to exercise control over their employees so as to prohibit acts of sexual harassment of University employees and students. The employer of any person who the University, in its reasonable judgment, determines has committed an act of sexual harassment agrees as a term and condition of the Agreement to cause such person to be removed from the project site and from University premises and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

q) All facilities of the University of West Florida are smoke free. Smoking is not permitted on the University campus, inside or outside of buildings. The TLH covenants that it will respect and fully comply with the University's tobacco free policy.

r) TLH is solely responsible for keeping itself fully informed of and faithfully observing all laws, ordinances, and regulations, including Title IV of the Higher Education Act and its accompanying regulations. TLH represents and covenants that compensation of its employees, consultants, and any other persons who perform any student recruitment activities for the University under this Agreement is and will continue to be in accordance with 20 U.S.C. § 1094(a)(20), or any successor provision, and the regulations promulgated thereunder by the United States Department of Education, currently located at 34 C.F.R. § 668.14(b)(22). TLH agrees to maintain, during the term of this Agreement and for a period of at least three years after the expiration or termination of this Agreement, complete and accurate books and records relating to its compensation of its employees and other persons who perform any student recruitment activities for the University under this Agreement.

s) Every tender of goods must fully comply with all provisions of the Agreement as to time of delivery, quantity, and the like. If a tender is made which does not fully conform, this shall constitute a breach, and TLH shall not have the right to substitute a conforming tender.

t) The State of Florida's and the University's performance and obligation under this contract is contingent upon an annual appropriation by the Florida Legislature.

u) Price changes will normally only be considered at the end of one Agreement period and the beginning of another. Price change requests shall be in writing, submitted at least sixty (60) days prior to the end of the current Agreement period, and shall be supported by written evidence of increased costs to the TLH. The University will not approve unsupported price increases that will merely increase the gross profitability of the TLH at the expense of the University. Price change requests shall be a factor in the Agreement extension review process. The University shall, in its sole opinion, determine whether the requested price increase or an alternate option is in the best interest of the University.

v) No trade usage, prior course of dealings, or course of performance under other agreements shall be used in the interpretation or construction of this Agreement.

w) PUBLIC RECORDS PROVISIONS.

i) The parties acknowledge that the University is subject to Florida's Public Records law, Chapter 119, Florida Statutes, which requires it to provide access to its records, subject to certain limitations. TLH agrees to allow public access to all records, documents, papers, letters or other material subject to the provision of the Florida Public Records law and made or received in conjunction with the Agreement. Refusal by TLH to allow such public access will be grounds for immediate cancellation of the Agreement by the University.

ii) To the extent that TLH meets the definition of "contractor" under Section 119.0701, Florida Statutes, and in addition to other contract requirements provided by law, TLH agrees that it is acting as a contractor on behalf of the University as provided under s. 119.0701(a) and as such it will comply with Florida's Public Records Law. Specifically, TLH agrees that it will:

- Keep and maintain public records that ordinarily and necessarily would be required by the University in order to perform the services performed by TLH under the Agreements;
- Provide the public with access to such public records on the same terms and conditions the University would provide the records and at a cost that

does not exceed that provided in chapter 119, Fla. Stat., or as otherwise provided by law;

- Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
- Meet all requirements for retaining public records and transfer to the University, at no cost, all public records in possession of TLH upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the University in a format that is compatible with the information technology systems of the University.

- **IF TLH HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO TLH's DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF RECORDS AT:**

The Office of General Counsel: (850) 474-3420, gcfrontdesk@uwf.edu, Building 10, 11000 University Parkway, Pensacola, FL 32514.

- x) TLH warrants that their product and services are and will remain in compliance during the term of this Agreement with Section 504 of the 1973 Rehabilitation Act (Section 504), the Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008 (ADAAA), and all applicable federal and state disabilities laws and regulations.

The University may request a timely response, resolution, or remediation to accessibility concerns at no cost to the University. TLH agrees to promptly respond to UWF's requests and resolve complaints within a reasonable period of time, but no more than 60 days. Where TLH is unable to resolve a UWF accessibility request or complaint within a reasonable period of time, and where UWF provides TLH with 60 days notice, UWF and TLH agree to terminate the Agreement and discharge all claims, actions, and costs subsequent to the cancellation date.

The Parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

THE LEARNING HOUSE, INC.

UNIVERSITY OF WEST FLORIDA
BOARD OF TRUSTEES

By: 
DocuSigned by:
DEF97BB9A9984C2...

By: 

Print Name: Todd Zipper

Print Name: MARTHA SAUNDERS

Title: CEO

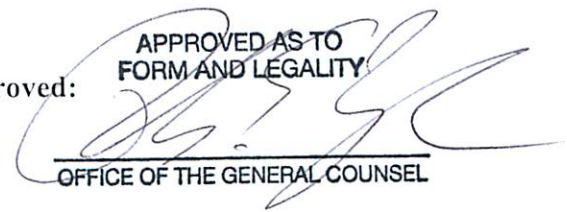
Title: PRESIDENT

Date: 8/31/2018

Date: 9/5/2018

Approved:

APPROVED AS TO
FORM AND LEGALITY


OFFICE OF THE GENERAL COUNSEL

By: _____

Print Name: Pamela E. Langham

Title: General Counsel

Date: 9/5/2018



THE LEARNING HOUSE, INC.

MASTER SERVICES AGREEMENT

Client Information:					
Name:	The University of West Florida, acting for and on behalf of the University of West Florida Board of Trustees, a public body corporate (" Client ")				
Address:	11000 University Pkwy, Pensacola, FL 32514				
Attention:	Dr. Rodger Krull, Director, Continuing Education				
Telephone:	(850)473-7230	Fax:	(850)474-2134	Email:	rkrull@uwf.edu
TLH Information:					
Name:	The Learning House, Inc., a Kentucky corporation (" TLH ")				
Address:	427 South Fourth Street, Suite 300, Louisville, KY 40202				
Attention:	Todd R. Zipper, President & Chief Executive Officer				
Telephone:	(502)589-9878	Fax:	(502)589-9825	Email:	tzipper@learninghouse.com
Summary of Major Agreement Terms:					
Fee(s):	<ul style="list-style-type: none">80% of published tuition and fees per enrollment for all students enrolled in The Software Guild at The University of West Florida fully online coding bootcamp.				
Term:	Two (2) years				

This MASTER SERVICES AGREEMENT (the "**Agreement**") is made and entered into as of this 24th day of April, 2017 (the "**Effective Date**"), by and between Client and TLH.

WHEREAS, TLH has the expertise, capacity, experience and desire to provide the Services (as defined below) to Client, and

WHEREAS, Client desires to utilize and engage TLH to provide the Services to Client.

NOW, THEREFORE, in consideration of the premises, the mutual promises, covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

I. **SERVICES.** During the Term (as defined below) and subject to the terms and conditions of this Agreement, Client hereby retains TLH to provide to Client the services set forth in **Exhibit A** attached hereto and incorporated herein by reference (collectively, the "**Services**"), and TLH agrees to provide the Services to Client.

II. **CLIENT OBLIGATIONS.** In order to facilitate the provision of the Services, Client will perform all obligations set forth in **Exhibit B**. Client will implement this Agreement in accordance with all rules and regulations of all of its applicable education regulatory authorities including accrediting agency requirements.



III. FEES.

A. As consideration for the Services, TLH will collect tuition from student and receive the fees set forth on the first page of the Agreement under "Summary of Major Agreement Terms/Fee(s)" (hereinafter the "**Fees**") with respect to each student enrolled in the coding bootcamp certificate program(s) and each such student being a "**Fee Student**". Fee Student is defined as any student that is enrolled in the session ten (10) days following the first day of the session.

B. TLH will send an active student report to Client ten (10) days following the first day of each session. Client, upon review and acceptance of active student report, will invoice TLH for Client's twenty percent (20%) revenue share. TLH will dispense Client's revenue share no more than thirty (30) days after receipt of invoice.

C. The Fees for Fee Students that enroll in the coding bootcamp certificate programs will be payable to TLH for the duration of each student's enrollment with Client, regardless of the expiration or termination of this Agreement.

IV. TERM; TERMINATION.

A. The term of this Agreement will begin on the Effective Date and end after the number of years set forth under Summary of Major Agreement Terms/Term above (the "**Term**"), unless sooner terminated pursuant to this Section IV. This Agreement may be terminated (a) by either party immediately if the other party fails to cure a material breach of this Agreement by such other party within thirty (30) days of being notified of such breach in writing, (b) by mutual agreement of the parties, or (c) by either party without notice and the opportunity to cure upon the happening of any of the following: [1] the bankruptcy or insolvency of the other party; [2] the assignment of the other party's assets for the benefit of creditors. In addition, the performance of the Client of any of its obligations under this Agreement shall be subject to and contingent upon the availability of funds appropriated by the Florida Legislature or otherwise lawfully expendable for the purpose of the Agreement or the current and future periods. The parties acknowledge that this Agreement has been entered into after arm's length negotiations. If at any time, it is reasonably determined by a party or its legal counsel that any provision of this Agreement could be deemed by the U.S. Department of Education or other federal or state agency regulating the activities of or having jurisdiction over a party to violate or be inconsistent with the requirements or provisions of applicable laws, regulations and/or rules, the party may seek to modify such provision of this Agreement in a manner designed to eliminate such risk. Such modification shall be made after notice thereof has been provided by the party to the other party and other party has been given an opportunity to discuss the modification with the party seeking such modification. If the parties cannot agree on such modification, either party shall have the option to terminate this Agreement without any penalties upon written notice to the other party. Upon termination, and upon written request by Client, TLH shall completely destroy all copies of Client's data held by TLH, including backup and archival copies, and shall certify such destruction to Client's satisfaction. These responsibilities survive the termination of this Agreement.

V. CONTENT OWNERSHIP.

A. TLH shall have and retain exclusive ownership of all Content provided by TLH (the "**TLH-Owned Content**").

B. Client hereby acknowledges TLH's exclusive right, title and interest in and to each TLH-Owned Content and disclaims any interest or right therein. Client agrees not to, at any time, do or cause to be done any act or thing contesting or in any way impairing or attempting to impair



any part of such right, title and interest. Client agrees not to lease, sell or in any way transfer any TLH-Owned Content to any other natural person or entity without the prior written consent of TLH. Client further agrees not to re-write or in any way modify any TLH-Owned Content without the prior written consent of TLH.

VI. **INFRINGEMENT.** TLH warrants that the TLH-Owned Content does not and will not infringe on the intellectual property rights of any natural person or entity. Client warrants that the Client-Owned Content does not and will not infringe on the intellectual property rights of any natural person or entity. Each party will give the other party timely notice of any known infringement and the party that owns the applicable Content will have the option to undertake and participate in the defense of any claim, demand, action, suit or proceeding (to the extent permitted by law) in connection with any such infringement. Without limiting a party's right to indemnification under this Agreement, if Content or a part thereof becomes the subject of an infringement claim, the party that owns such Content, at its option, may (a) modify or replace such Content to make it non-infringing, or (b) procure the right to permit the continued usage of such Content.

VII. **CONFIDENTIALITY.**

A. **Definition.** For purposes of this Agreement, "**Confidential Information**" means all technical, business, customer, marketing, financial, and other confidential, proprietary or non-public information relating to the business of a party which is identified in writing as confidential and disclosed by such party (the "**Disclosing Party**") to the other party (the "**Receiving Party**"). Notwithstanding the foregoing, Confidential Information shall not include information which (a) is or becomes generally available to the public other than as a result of a disclosure by Receiving Party, (b) was available to the Receiving Party on a non-confidential basis prior to its disclosure by the Disclosing Party or (c) becomes available to the Receiving Party on a non-confidential basis from a person other than the Disclosing Party who is not otherwise bound by a confidentiality agreement with the Disclosing Party.

B. **Protection.** The Receiving Party will not, without the Disclosing Party's prior written consent, disclose any Confidential Information to any natural person or entity. If Receiving Party is required by legal process or by operation of law to disclose any of the Confidential Information, Receiving Party will provide the Disclosing Party with prompt notice of such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. Whether a protective order or other remedy is obtained or the Disclosing Party waives compliance with the provisions of this Agreement, Receiving Party will disclose only that portion of the Confidential Information which Receiving Party is legally required to disclose.

C. **Use.** The Receiving Party covenants and agrees to use the Confidential Information solely for purposes of this Agreement and its obligations under this Agreement and will not use the Confidential Information for any other purpose.

D. **Compliance with FERPA by TLH.** TLH warrants and covenants that it will comply with all state and federal laws and regulations including with respect to protection and non-disclosure of legally confidential information including, but not limited to, "personally identifiable information" and "education records" as defined in the Family Educational Rights and Privacy Act of 1974, and "personal information" as defined in O.R.C. 1349.19. TLH hereby agrees that its personnel will use such information only in furtherance of the education program for the student, and that the information will not be disclosed to any other party without written notice to the Client and with the applicable student's prior written consent.



E. Notwithstanding this section or any information labeled as “Confidential” or “Proprietary”, the Client is a public body corporate of the state Florida and certain information, including this Agreement, may be subject to Chapter 119, Florida Statutes and would require disclosure as a “public record” upon request. The Client retains the right to make interpretations of its duties and obligations under the law and any disclosure of information by the Client pursuant to the Florida Public Records Act shall not be considered a breach of this Agreement.

VIII. NON-SOLICITATION.

A. During the Term and for twelve (12) months thereafter, Client agrees that it will not, directly or indirectly, including through any one or more of Client’s affiliates or otherwise,

1) entice, induce, solicit or attempt to cause any officer or employee of TLH to terminate his or her employment with TLH, or hire or employ any such officer or employee; or

2) entice, induce, solicit or encourage any individual or entity that is a Client, supplier, or contractor of TLH, or has another business relation with TLH, to cease doing business with TLH, or in any way to interfere with the relationship between such individual or entity and TLH.

IX. INDEMNIFICATION.

A. **By Client.** To the extent permitted by Florida law, Client shall hold TLH harmless from any claims, demands, liabilities, actions, suits or proceedings asserted or claimed by any third party (collectively, “**Liabilities**”) arising out of or relating to any claims of intellectual property infringement by the Client-Owned Content OR Client’s failure to comply with all applicable laws and regulations regarding the processing, awarding or disbursing or administration of student financial aid as required under Section II, including without limitation, those applicable to Title IV of the Higher Education Act. Nothing contained in this Agreement shall be construed or interpreted as denying the Client any remedy or defense available under the laws of the State of Florida; the consent of the Client to be sued; or a waiver of sovereign immunity of the Client beyond the waiver provided in section 768.28 (effective 2017) of the Florida Statutes.

B. **By TLH.** TLH shall indemnify and hold Client harmless from any Liabilities arising out of or relating to [1] any claims of intellectual property infringement by the TLH-Owned Content, or [2] TLH’s breach of this Agreement (including any investigation thereof).

X. **NOTICE.** All notices, correspondence and other communications required by this Agreement will be in writing and will be deemed given when received and may be sent by U.S. mail, courier, or fax (in each case with proof of delivery), to the appropriate party at the address for such party set forth under Client Information or TLH Information above, as applicable.

XI. **DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE SET FORTH HEREIN, THE SERVICES ARE PROVIDED TO CLIENT “AS IS.” CLIENT EXPRESSLY WAIVES ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE SERVICES PROVIDED BY TLH. NEITHER PARTY SHALL HAVE ANY LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT, OR OTHERWISE, FOR INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL EITHER PARTIES’ LIABILITY UNDER THIS AGREEMENT EXCEED THE FEES PAID BY THE CLIENT UNDER THIS AGREEMENT OR THE LIMITS OF INSURANCE, WHICHEVER IS GREATER. TLH



AGREES THAT IT WILL RETAIN THE MINIMUM INSURANCE DURING THE TERM OF THE AGREEMENT AS FOLLOWS: GENERAL LIABILITY OF \$1,000,000 PER OCCURRENCE, \$2,000,000 AGGREGATE, PROFESSIONAL LIABILITY OF \$1,000,000 PER OCCURRENCE, \$1,000,000 AGGREGATE, AND UMBRELLA COVERAGE OF \$1,000,000 PER OCCURRENCE, \$1,000,000 AGGREGATE.

XII. RESTRICTION OF SERVICES.

A. Restrictions.

1) In connection with the Services, TLH may provide for Client's use certain tools and software, including, but not limited to, certain specialty scripting software, custom development scripts, and/or certain programming language software for designing websites. To the extent that such tools are provided to Client, Client is granted a nonexclusive, nontransferable license to use the tools for Client's internal use, solely in connection with the Services provided under this Agreement. All custom work remains the property of TLH, including, but not limited to themes, scripts, modules, blocks, etc. (excluding Client-Owned Content).

2) TLH reserves the right to monitor its systems electronically and to access and disclose any information as permitted or required by any law, regulation or other governmental request to operate its systems properly, to protect itself or its Clients for any other reason it in good faith deems necessary. TLH will fully cooperate with law enforcement authorities in investigating suspected lawbreakers and reserves the right to report to law enforcement any suspected illegal activity of which it becomes aware. It is not TLH's intention that the Services or facilities be used in contravention of the Communications Decency Act of 1996 (the "CDA") or any other applicable law.

3) Client agrees to comply with the requirements of the CDA and the Digital Millennium Copyright Act (the "DMCA") . Consistent with the DMCA, TLH will accommodate standard technical measures used to identify and protect copyrighted works, and, as further described herein; TLH has a policy that may ultimately eliminate Content with copyright infringement.

B. Use and Misuse of Services.

1) Client will promptly investigate all complaints of abuse, violation and misuse of the Services, whether described in this Section or otherwise. Client will promptly notify TLH of any such abuse, violation or misuse of the services. If Client is not sure if actions constitute abuse, violation or misuse, Client will consult with TLH first.

2) Client is responsible for all use of its website.

3) Client will use the Services only for lawful purposes, in compliance with all applicable laws. Illegality includes, but is not limited to, drug dealing; attempting without authorization to access a computer system; pirating (distributing copyrighted material in violation of copyright law, specifically MP3s, MPEGs, ROMs, and ROM emulators); gambling; schemes to defraud; trafficking in obscene material; sending a message or having content that is obscene, lewd, lascivious, filthy, or indecent with intent to annoy, abuse, threaten, or harass another person; threatening bodily harm or damage to individuals or groups; violating U.S. export restrictions; stalking; or violating other state or federal law, such as the Electronic Communications Privacy Act, the Computer Fraud

and Abuse Act, or the Economic Espionage Act. Linking to illegal material is also prohibited.

4) When TLH becomes aware of possible violations of this Agreement, TLH may initiate an investigation that may include gathering information from Client and the complaining party, if any, and examination of material on TLH's servers. TLH, in its sole discretion, will determine what action will be taken in response to a violation on a case-by-case basis. Violations of this Agreement may subject Client to civil or criminal liability.

C. **Use and Misuse of Materials.**

1) Materials in the public domain (e.g., programs, text and images) may be uploaded or downloaded using the Services. Client may also re-distribute materials in the public domain. Client assumes all risks regarding the determination of whether the material is in the public domain.

2) Client is prohibited from storing, distributing or transmitting any unlawful material through the Services. Examples of unlawful material include, but are not limited to, threats of physical harm, child pornography, and copyrighted, trademarked and other proprietary material used without proper authorization. Pornography and sex-related merchandising, or links to such material, even if legal, are not acceptable uses of TLH's servers. Client may not post, upload or otherwise distribute copyrighted material on TLH's servers without the consent of the copyright holder.

3) Unacceptable uses of website content also include the presence of the following programs or the activities associated with them, regardless of whether or not any actual intrusion results in the corruption or loss of data: server broadcast messages or any message sent on an intrusive basis to any directly or indirectly attached network; attempts to circumvent any user authentication or security of host, network, or account; accessing data not intended for user; probing the security of any network; or any other action deemed to be outside the scope of reasonable LMS use. Additional examples of unacceptable activities include posting private information about a person without his or her consent, defaming a person or business, and knowingly making available code that will have a deleterious effect on third-party computers.

D. **System Security.**

1) Client is prohibited from utilizing the Services to compromise the security of system resources or accounts on TLH's servers or at any other site. Use or distribution of tools designed for compromising security or containing viruses or Trojans are prohibited. Examples of these tools include, but are not limited to, password guessing programs, cracking tools or network probing tools.

2) If Client is involved in violations of system security, TLH reserves the right to release all usernames of users involved in such violations to system administrators at other sites in order to assist them in resolving security incidents. TLH will also fully cooperate with law enforcement authorities in investigating suspected lawbreakers.

3) **Data Breaches.** TLH shall notify Client as soon as is practicable of any data or security breach of TLH systems, and the extent of such breach, including the persons and data affected. If TLH experiences a security breach related to this information, TLH shall immediately notify the Client and shall fully cooperate with Client in fulfilling applicable legal requirements regarding such breaches. NOTWITHSTANDING ANY

OTHER PROVISIONS OF THIS AGREEMENT, TLH SHALL BE RESPONSIBLE FOR ALL DAMAGES AND FINES, NOT TO EXCEED THE LIMITS OF INSURANCE. TLH AGREES THAT IT WILL RETAIN THE MINIMUM INSURANCE DURING THE TERM OF THE AGREEMENT AS FOLLOWS: GENERAL LIABILITY OF \$1,000,000 PER OCCURRENCE, \$2,000,000 AGGREGATE, PROFESSIONAL LIABILITY OF \$1,000,000 PER OCCURRENCE, \$1,000,000 AGGREGATE, AND UMBRELLA COVERAGE OF \$1,000,000 PER OCCURRENCE, \$1,000,000 AGGREGATE.

E. **Additional Guidelines.**

1) **Commercial Advertising - Email.** Spamming, or the sending of unsolicited email, from TLH's server or using an email address or domain that is maintained on TLH's machine as reference is strictly prohibited. TLH will be the sole arbiter as to what constitutes a violation of this provision.

2) **Chat Rooms.** TLH does not allow Client to install its own chat applications without TLH's prior written approval.

3) **Additional Software.** TLH does not allow any additional software to be loaded onto the LMS without TLH's prior written approval.

4) **Domain Pointing.** Domain pointers are to be used for the purpose of having more than one way to find the same site, not for the purposes of sharing an account among multiple sites. A domain pointer may not be set up to reference a subdirectory within an existing web hosting account served by us or any other provider.

5) **Refusal of Service.**

a. TLH reserves the right to refuse, cancel or suspend service at its sole discretion in the event of system threats from Client's campus or related emergency. Any suspension of service will be communicated to Client contact immediately and, if at all possible, prior to the suspension.

b. All Sub-Networks, distributive hosting sites and dedicated servers TLH operates must adhere to the above policies.

c. Failure to follow any term or condition of this Agreement will be grounds for course termination.

XIII. **MISCELLANEOUS.**

A. **Relationship of the Parties.** Client's relationship with TLH with respect to and for the purposes of this Agreement will be that of an independent contractor. With respect to and for the purposes of this Agreement, Client and TLH are not partners or joint venturers and nothing herein will be construed so as to make them partners or joint venturers or impose any liability as such on either of them.

B. **Governing Law; Jurisdiction; Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Florida, without regard to its choice of law principles. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement shall be brought against any of the parties in the courts of the State of Florida, and each of the parties consents to the jurisdiction of such court (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein.



Prior to bringing any such action or proceeding, the parties agree that if they are unable to resolve a dispute or controversy related to this Agreement, they will submit the dispute or controversy to non-binding mediation. The parties will select a mutually agreeable mediator. All discussions with the mediator will be treated as compromise and settlement negotiations. Nothing said or disclosed during the mediation that is not otherwise independently discoverable, will be offered or received as evidence or used for impeachment or any other purpose in any litigation. Each party shall pay its own costs in connection with such mediation, provided, however, that the fee of the mediator will be shared equally by the parties.

C. **Entire Agreement.** This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and replaces and supersedes all prior agreements or understandings between the parties, including any proposals which may have been submitted by TLH to Client.

D. **Amendments.** No amendments or modifications of this Agreement will be made or deemed to have been made unless in writing and executed by each of the parties to this Agreement.

E. **Waiver.** No provision of this Agreement will be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by the parties hereto. No waiver by either party hereto of any breach of, or of compliance with, any condition or provision of this Agreement by the other party will be considered a waiver of any other condition or provision or of the same condition or provision at another time.

F. **Assignment.** This Agreement may be assigned by a party upon providing prior written notice to the other party and upon the written agreement of the assignee to be bound by all of the provisions of this Agreement. This Agreement will be binding on each party's successors and assigns.

G. **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision(s) will be excluded from this Agreement and the balance of the Agreement will be interpreted as if such provision were so excluded and will be enforceable in accordance with its terms.

H. **Headings; Construction.** The headings contained in this Agreement are for convenience only and will not be deemed a part of this Agreement in construing or interpreting the provisions hereof. All words used in this Agreement will be construed to be of such gender or number, as the circumstances require. Unless otherwise expressly provided, the word "including" does not limit the preceding words or terms.

I. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same document. The exchange of copies of this Agreement and of signature pages by facsimile transmission or other electronic means will constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or other electronic means will be deemed to be their original signatures for any purpose whatsoever.

J. **Definitions.** All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Exhibits hereto.

K. **ADA Compliance.** TLH agrees to comply with the Americans with Disabilities Act by providing supporting assistive software and access to content in a manner consistent with



the Web Content Accessibility Guidelines published by the World Wide Web Consortium's Web Accessibility Initiative. In the event that the Licensed Materials are not Accessibility compliant, the Client may demand that TLH promptly make modifications that will make the licensed materials accessibility compliant.

[END OF TEXT; SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Effective Date.

"Client"

UNIVERSITY OF WEST FLORIDA

By: _____

Dr. George Ellenberg

Interim Provost/Vice President, Academic
Affairs

By: _____

Dr. Rodger Krull

Director of Operations
UWF Distance and Continuing Education

"TLH"

THE LEARNING HOUSE, INC.

By: _____

Todd R. Zipper

President & Chief Executive Officer

**APPROVED AS TO
FORM AND LEGALITY**

OFFICE OF THE GENERAL COUNSEL



**Exhibit A
to
Master Services Agreement**

SERVICES TO BE PROVIDED BY TLH

TLH will provide Client with the following services with respect to the coding bootcamp certificate programs:

I. **COURSE AND CURRICULUM DEVELOPMENT SERVICES.** TLH will provide the option for Client's students to take a customized coding bootcamp program (between 720-960 hours) in an instructor-led, fully online format. TLH will also provide Client with access to the course and course curriculum for review and ongoing monitoring as needed. Client and students will be provided a course syllabus with instructor and teaching assistants' hours of availability each day and means of contacting them clearly listed.

II. **FULLY ONLINE EDUCATION INFRASTRUCTURE DEVELOPMENT AND MANAGEMENT.** Students enrolled in the twelve (12) month fully-online coding bootcamp, which includes two (2) free months of pre-work and ten (10) months of paid coursework, will have daily access to Software Guild instructors and teaching assistants. This access includes Slack channel synchronous components from 9:00 a.m. ET to 6:00 p.m. ET, and email access to instructors and teaching assistants with an expected turnaround of one (1) business day. TLH will provide students and Client with a complete list of hardware, software, and application requirements necessary to complete customized coding bootcamp certificate.

III. **LEARNING MANAGEMENT SYSTEM (LMS).** Client and Students enrolled in the fully online program will be given access to the courses through the TLH LMS. The Client will be provided attendance data, grades and other student performance reports for the purpose of awarding course certificates.

- A. **Features and Services:** The following are services and features of the LMS:
- 1) Provides a secure environment through the use of standard authentication methods
 - 2) Delivers content and multimedia from servers that are managed and hosted by TLH
 - 3) Provides attendance data and reports on each student enrolled in courses
 - 4) Enables students to direct questions to an instructor via embedded messaging features
 - 5) Enables faculty to send messages to one or all students
 - 6) Enables faculty and students to post questions and responses on a discussion forum
 - 7) Enables faculty and students to communicate via text-based chat rooms
 - 8) Enables students to take quizzes, pre-tests and post-test exams
 - 9) Enables faculty to post announcements and calendar for the course
 - 10) Enables faculty to offer web links, FAQs and other references within the LMS
 - 11) Enables faculty to organize students into groups
 - 12) Enables faculty to organize student work through the group's function

- 13) Maintains a grade book for tracking student progress through quizzes, exams, and assessments for the instructor
- 14) Enables faculty with editing rights to update and change content within a course
- 15) Enables faculty to provide links to recorded presentations or upload presentation files
- 16) Enables faculty to grade essay exams within the LMS
- 17) Enables faculty to deliver and record instruction via a Live Virtual Classroom

B. **Live Virtual Classroom:** The following features are provided as part of the Live Virtual Classroom: Instructor and student audio and video, public and private text chat, flexible content area, electronic whiteboard, application sharing and presentation archiving.

C. **Hosting Services:**

1) **Server Operations.** The servers are physically located in a facility protected with 24/7/365 security that includes key code and biometric access. All personnel are monitored by Closed Circuit Television. TLH also guarantees that all IT systems and processes are FERPA compliant.

2) **Server Performance.** Server performance is monitored 24/7/365 by TLH's managing host provider. Additionally, TLH monitors all production systems by two (2) independent monitoring services. TLH monitors a variety of criteria including CPU utilization, disk usage, bandwidth and web traffic. Website performance measured in response time is analyzed weekly to ensure performance meets or exceeds industry standards. TLH uses a third-party application to consistently measure website performance and uptime. TLH systems are guaranteed to maintain 99.9% uptime excluding scheduled maintenance.

3) **Network Connectivity and Architecture.** The production of the LMS infrastructure is designed to provide a safe and secure environment for Client data. The infrastructure is designed to meet industry standard. TLH performs periodic security scans and promptly makes adjustments if any vulnerability is discovered. All access to Client data is restricted to TLH staff and contractors. All web traffic (HTTP and HTTPS, FTP, SFTP, VPN, SSL, SSH) is routed through a firewall, and is monitored 24/7/365. All customer-facing TLH systems are protected at the network level by a market leader intrusion detection system that blocks suspicious or harmful traffic before it reaches TLH owned file systems, databases, and web servers. The network consists of multiple, redundant network components and has safeguards in place in the event of hardware failure or connectivity loss. TLH ensures that all production systems are current with the latest OS patches and updates.

4) **Disaster Recovery.** TLH has processes and procedures for recovery of essential systems as a result of natural disasters and catastrophic events. Regular simulation testing of disaster recovery procedures, critical systems and backup services, such as generator power, are performed.

5) **Backup and Recovery.** 24/7/365 backup and recovery services are maintained for course content. Backups are performed daily (daily incremental and weekly full). Weekly backups are encrypted (256 advanced encryption standard) and stored off-site. Backups are stored for no less than fourteen (14) days.

6) **Data Storage.** Course content and student data is archived for seven (7) years.

7) **Personnel.** All systems are monitored by TLH's managing host provider and are administered by dedicated TLH personnel. Background checks are conducted on all employees in accordance with applicable laws and/or company policies.

IV. **24/7 TECHNOLOGY SUPPORT.** Students enrolled in the program will receive 24/7 LMS technology support, delivered in four methods - phone, e-mail, chat and the TLH online knowledge center.

A. **Student Support:** TLH provides technical support to students related to their ability to access courses in the LMS and participate in course activities.

B. **Faculty Support:** TLH provides technical support to faculty related to their ability to deliver courses in the LMS and participate in course activities.

C. **Delivery Modes:**

- 1) Phone: 24/7, 365 days per year
- 2) Email and Text-based live chat: 6:00 a.m.-midnight EST, Monday-Sunday, excluding TLH recognized holidays
- 3) Searchable Knowledgebase: 24/7, 365 days per year

D. **Target Service Level:**

- 1) Support issues resolved within 24 hours: >90%
- 2) First-contact resolution rate: >85%
- 3) Response times for inbound contact:
 - a. Phone/Text-chat: Average 60 seconds
 - b. Email: Average 60 minutes

V. **MARKETING.**

A. TLH will create a microsite or a landing page(s) that will be designed to match the look and feel of the Client's website. This will be a collaborative process between TLH and Client, whereby Client will be asked to provide requisite approvals for certain features. Should Client choose to change the look and feel of its website, Client will provide advance notice to TLH so that TLH may review the potential website changes and work out a timeline for updates, if necessary, to the microsite or landing page(s).

B. TLH will conduct outreach campaigns when appropriate and applicable to non-converted leads and applications collected by Client (lead recycling campaigns).

C. TLH may consult with Client on best practices in online marketing, social media marketing, and other paid marketing channels.

VI. **ENROLLMENT MANAGEMENT.**

A. TLH will provide an appropriate number of contact agents ("**CA(s)**") in order to work any leads and/or lead lists that Client provides. CA(s) will be responsible for handling inbound and outbound contacts through the TLH call center (the "**TLH Call Center**"); unless specifically requested by the new lead to discontinue contacts, the CA(s) will make at least thirteen (13) attempts to contact every new lead with the first attempt commencing within twenty-four (24) hours of the lead being produced and the last attempt occurring within ten (10) calendar days; the



CA(s) will track and classify all inbound and outbound contacts for reporting purposes; the CA(s) will be employed by TLH and stationed at the TLH Call Center.

B. The TLH Call Center will be staffed between the hours of 9:00 a.m. and 8:00 p.m. Eastern Time Monday thru Thursday and between the hours of 9:00 a.m. and 5:30 p.m. Eastern Time on Friday or such longer hours as TLH deems necessary and will be available to assist potential students with application questions, admissions procedures and program information.

C. TLH will provide an appropriate number of online enrollment counselors ("EC(s)") in the range of one (1) EC for every one hundred (100) active applicants, which may increase or decrease depending upon the business needs and process flow at TLH. EC(s) will research and become knowledgeable of Client's online programs. The EC(s) will be employed by TLH and stationed at the TLH Call Center.

D. The EC(s) will disseminate to potential students information regarding the coding bootcamp certificate programs offered by Client, admissions procedure, tuition, and the online modality description and Client's policies.

E. The EC(s) will assist potential students with all document collection needed by Client for rendering an admissions decision.

F. TLH agrees that it will not compensate its employees and consultants for their work under this Agreement in any way that violates the prohibition on incentive compensation under the federal "Program Integrity" rules issued under Title IV of the Higher Education Act.

VII. EMPLOYER NETWORK. TLH will provide Client's coding bootcamp students support services including TLH's local and national Employer Network in order to assist student in locating job opportunities in the field. TLH may also leverage Client's employer network in order to increase student employment opportunities.



**Exhibit B
to
Master Services Agreement**

CLIENT RESPONSIBILITIES

In order to facilitate the provision of the Services, Client will provide (and keep updated as needed):

I. ADMINISTRATIVE BEST PRACTICES AND POLICIES.

- A. Client will advertise and promote its coding bootcamp to alumni, businesses, and friends.
- B. Client maintains the sole responsibility of ensuring the arrangement is acceptable with the applicable accrediting agencies.
- C. Client will maintain the sole responsibility of ensuring the arrangement is acceptable with all state agencies controlling state authorization of online students.
- D. Provide a Client representative to be TLH's primary contact for questions or issues arising with respect to the Services.
- E. Client will maintain all student data, including, but not limited to, enrollment applications, completion data, and job placement data.
- F. Client will grant a certificate of completion to its students who meet all designated requirements.

II. MARKETING.

- A. Provide a list of non-converted leads and applications for continuing education, applicable alumni, and bootcamp-type programs from the preceding three (3) years in a format reasonably acceptable to TLH.
- B. Implement linking requests to the bootcamp microsite from the Client's main website.
- C. Allow TLH to contribute to Client's social media sites and create new sites in accordance with all Client policies and procedures that are provided to TLH by Client.
- D. Provide TLH with "Print Quality" logos and photos as well as a style guide.

III. ENROLLMENT MANAGEMENT.

- A. Transfer all online program inquiries and/or applications to TLH.
- B. Change admissions contact information on Client's website for the coding bootcamp certificate programs to TLH enrollment staff.
- C. Provide a Client email address for respective Enrollment Counselors and Contact Agents