



Master Service Agreement

This Master Service Agreement (“Agreement”), by and between The Texas A&M University System, an agency of the State of Texas (“A&M System”), and the College Consortium Inc. (“CC” or “Acadeum”), a Delaware Corporation, doing business as Acadeum, is effective as of April 28th, 2022 (the “Effective Date”). The A&M System and CC are each referred to herein as a “Party” and collectively as the “Parties.”

WHEREAS, the A&M System is a Texas State agency that desires to facilitate the sharing of online courses among the A&M Institutions (as defined below); and

WHEREAS, CC is a network of academic partners that share access to online courses via an online platform owned and operated by Acadeum known as Acadeum Course Sharing (“ACS”), for the purpose of improving student access, outcomes and affordability; and

WHEREAS, the A&M Institutions desire to use ACS and receive the benefits therefrom to administer their consortial agreements within the Texas A&M System Course Sharing Consortium (the “A&M Consortium”), so that each A&M Institution can offer courses to other institutions and network partners as a teaching school (“Teaching Institution”), utilize academic courses offered by other A&M Institutions within the A&M Consortium as a home school (“Home Institution”), utilize courses offered by other colleges and universities within ACS as a Home Institution, or all of the above; and

WHEREAS, CC desires to provide Client (as defined below) with access to and use of ACS; and

WHEREAS, CC and Client desire to detail the terms and conditions regarding the usage of ACS by Client in a written agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CC and Client agree as follows:

1. Client Obligations.
 - a. For purposes of this Agreement, “Client” shall mean (a) the A&M System or (b) any of the institutions of higher education listed on Exhibit A of this Agreement that execute a SOW (as defined below) with CC (collectively, the “A&M Institutions”). Each A&M Institution that executes a SOW will be understood to have entered into this Agreement separately with CC and agrees to comply with the terms and conditions imposed on Client in this Agreement and the SOW. For the avoidance of doubt, the A&M System and each A&M Institution is only responsible for its own compliance with this Agreement and each SOW that it signs.
 - b. The A&M System shall be responsible for promoting the consortium to A&M Institutions at conferences, events, webinars and other agreed upon opportunities, including the distribution of marketing and sales materials created by Acadeum with review and

- approval by the A&M System.
- c. Client will develop and maintain a partner landing page on its website for the A&M Consortium linking to a login page on ACS.
2. CC Obligations.
 - a. Upon the payment of all fees required under this Agreement and each SOW, CC hereby grants each of the A&M Institutions a non-exclusive, non-sublicenseable right and license to access and use ACS, and agrees to provide the other services listed in each SOW, attached hereto and incorporated herein.
 - b. CC will issue an unlimited number of user IDs to Client for it to allow its Authorized Users to access and use ACS. For purposes herein, "Authorized Users" refer to, collectively, all personnel of Client, including its administrative staff, faculty, and students that have been given authority to access and use ACS.
 - c. CC will develop and maintain a landing page and login pages that are specific to each A&M Institution participating in the A&M Consortium.
 - d. CC will provide A&M Institutions with access to reports detailing enrollments, course offerings, and other agreed upon aggregated data (i.e. non-student level data).
 - e. CC will charge the A&M System as detailed in (Exhibit B), attached hereto and incorporated herein, annually for platform access and course hosting fees for the A&M Institutions.
 - f. CC will make ACS available to Client in accordance with the Service Level Agreement attached hereto as Exhibit D.
 3. CC acknowledges and agrees that the A&M System does not guarantee that any or all A&M Institutions will choose to participate in the A&M Consortium pursuant to the terms set forth herein, and the A&M System shall not be obligated to make any affirmative efforts to induce any such participation. Payments due by any A&M Institution and fulfillment of any other obligations of any A&M Institution pursuant to any SOW entered into with CC shall be the sole responsibility of the A&M Institution, and the A&M System shall have no obligation or liability pursuant to any such SOW.
 4. A&M Institution Agreements. Each A&M Institution must execute a Statement of Work ("SOW") in the form attached hereto as Exhibit E to access ACS, as well as a consortium agreement to participate in the A&M Consortium or the Acadeum Consortium or both.
 5. Ownership and Restrictions.
 - a. For purposes of this Agreement, "Intellectual Property" shall mean all forms of intellectual property including, but not limited to, inventions, patents, patent applications, works of authorship, derivative works, trademarks, service marks, trade names, trade secrets, know-how, data or any other intellectual property rights in any part of the world, whether or not registered or registerable, and all divisionals, continuations, reissues, re-examinations, renewals, substitutions, and extensions.
 - b. Except as expressly set forth herein, nothing in this Agreement shall operate as a transfer of any Intellectual Property of one Party to the other Party.
 - c. Client retains all ownership and rights to its Intellectual Property, including without limitation, any Intellectual Property contained in any courses and materials it provides as a Teaching Institution.
 - d. Acadeum is the sole owner of ACS and all services, products, materials, data, content, APIs, enhancements, data collection, processing, analysis, review, and reporting tools relating thereto; and all data processing and management systems or processes, including all tangible and intangible items, trade secrets, know-how, and all copyrights

- and other intellectual property rights pertaining thereto (the "Acadeum IP").
- e. Client shall not market, parcel, distribute, sell or otherwise communicate the Acadeum IP without the express written consent of Acadeum.
 - f. Client shall not: (i) remove or modify any markings or any notice of Acadeum's or its licensors' proprietary rights in ACS; (ii) make ACS available in any manner to any third party outside of this Agreement; or (iii) cause or permit reverse engineering, disassembly or de-compilation of ACS or any Acadeum IP.
6. Representations and Warranties. As of the Effective Date, each Party represents and warrants to the other that:
- a. It is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and has all requisite authority to conduct its business in each jurisdiction in which its business is conducted.
 - b. The execution and delivery by each Party of this Agreement and the performance of its obligations hereunder have been duly authorized by proper organizational proceedings, and this Agreement constitutes the legal, valid and binding obligation of each Party enforceable against each Party in accordance with its terms.
 - c. To the best of its knowledge, neither the execution and delivery by each Party of this Agreement, nor the consummation of the transactions herein contemplated, nor compliance with the provisions hereof (i) will violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on such Party, (ii) will violate such Party's organizational documents or (iii) will violate materially the provisions of any indenture, instrument or agreement to which it is a party or is subject, or by which it, or its property, is bound, or conflict with or constitute a default thereunder. No order, consent, approval, license, authorization, or validation of, or filing, recording or registration with, or exemption by, any governmental or public body or authority, or any subdivision thereof, is required to authorize, or is required in connection with the execution, delivery and performance of, or the legality, validity, binding effect or enforceability of, this Agreement.
7. Term.
- a. This Agreement shall commence on the Effective Date and continue for a period of three (3) years ("Initial Term"). Thereafter, the Parties may renew for two (2) additional three-year terms (each, a "Renewal Term") upon mutual written agreement signed by authorized representatives of both Parties. The Initial Term and all Renewal Terms are referred to collectively as the "Term".
 - b. Either Party may terminate this Agreement at any time, for any reason, with 90-day written notice, provided that each A&M Institution may continue to access and use ACS through the end of the current academic semester even if such access and use will continue beyond the effective date of termination. Any SOW may be terminated at any time, for any reason, by CC or the applicable A&M Institution with 90-day written notice, provided that each A&M Institution may continue to access and use ACS through the end of the current academic semester even if such access and use will continue beyond the effective date of termination. In the event that the A&M System or an A&M Institution terminates this Agreement pursuant to this Section 7.b., the A&M System or A&M Institution shall not receive any pro-rata refund of any pre-paid fees.
 - c. Either Party may terminate this Agreement effective upon written notice to the other Party if the other Party materially breaches any term of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice of the breach. Any SOW may be terminated by CC or the applicable A&M Institution upon written notice to the other if the other materially breaches any term of this Agreement (including the SOW)

and fails to cure such breach within thirty (30) days after receiving written notice of the breach. In the event that the A&M System or an A&M Institution terminates this Agreement pursuant to this Section 7.C., the A&M System or A&M Institution shall receive a pro-rata refund of any pre-paid fees.

8. Confidential Information.

- a. "Confidential Information" means any information disclosed by one Party or an A&M Institution (the "Disclosing Party") to the other Party or an A&M Institution (the "Receiving Party") in any form that is marked as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure. Confidential Information shall be used by the Receiving Party only to perform its obligations under this Agreement. Such Confidential Information shall be kept confidential and shall not be disclosed, directly or indirectly, to any third party unless permitted by this Agreement. The Receiving Party shall use the same reasonable efforts to protect the Disclosing Party's Confidential Information as it uses to protect its own confidential information of a similar nature.
- b. Notwithstanding the provisions of this Section, the Receiving Party may disclose or otherwise make available Confidential Information: (i) as agreed to in writing by the Disclosing Party; (ii) as required by applicable law, regulation or court order or legal process, provided that the Receiving Party shall, to the extent allowed by law, promptly give the Disclosing Party a reasonable opportunity to pursue appropriate process to prevent or limit the disclosure; and (iii) to employees, contractors, or agents that have a need to know, such as auditors and attorneys, who shall be subject to the confidentiality requirements of this Section.
- c. Notwithstanding the foregoing, Confidential Information will not include: (i) information that is available or becomes available to the general public without restriction through no wrongful act or omission of the Receiving Party; (ii) information received from a third party having a right to transfer such information; and (iii) information that is independently developed by the Receiving Party without reference to Confidential Information.
- d. The Receiving Party shall, upon request of the Disclosing Party, promptly return or destroy all materials embodying Confidential Information, except that the Receiving Party may securely retain one copy in its files solely for record purposes.
- e. The provisions of this Section shall survive the termination or expiration of this Agreement.

9. Data Privacy and Security.

- a. Client shall retain all right, title, and interest in and to all information, data or other content, including without limitation, any Intellectual Property, that the Client or its users enter, submit or upload to ACS or otherwise provide to CC (collectively, "Client Data").
- b. CC shall hold Client Data, including without limitation, any education records (as such term is defined in FERPA (as defined below)), personally identifiable information (as such term is defined in FERPA) or other information that alone or in conjunction with other information identifies an individual, in confidence. CC shall only use or disclose Client Data for the purpose of fulfilling CC's obligations under this Agreement, as required by law, or as otherwise authorized in writing by Client. CC shall restrict disclosure of Client Data solely to those employees, subcontractors or agents of CC that have a need to access Client Data in order for CC to perform its obligations under this Agreement. CC shall require any such subcontractors or agents to comply with the same restrictions and obligations imposed on CC in this Agreement.
- c. CC shall comply with all federal, state, and local laws, regulations, and rules applicable

to the performance of its obligations under this Agreement and Client Data, including but not limited to, the Family Educational Rights and Privacy Act of 1974 ("FERPA").

- d. Client hereby designates CC as a school official with a legitimate educational interest in Client Data that is subject to FERPA to the extent that CC is required to create, access, receive or maintain such Client Data to fulfill its obligations under this Agreement.
 - e. Pursuant to Section 2054.138, *Texas Government Code*, CC shall implement and maintain appropriate administrative, technical, and physical security measures, including without limitation, security controls comparable to those available at <https://it.tamus.edu/cybersecurity/system-offices-security-control-standards/>, as may be amended from time to time (the "Security Controls"), to safeguard and preserve the confidentiality, integrity, and availability of Client Data. CC shall periodically provide Client with evidence of its compliance with the Security Controls within thirty (30) days of Client's request.
 - f. CC shall promptly notify Client of any legal request for Client Data from a third party and take (and use commercially reasonable efforts to assist Client in taking) appropriate steps not to disclose such Client Data.
 - g. CC shall, within two (2) business days of discovery, report to Client any use or disclosure of Client Data not authorized by this Agreement or in writing by Client. CC's report must identify: (a) the nature of the unauthorized use or disclosure, (b) the Client Data used or disclosed, (c) who made the unauthorized use or received the unauthorized disclosure (if known), (d) what CC has done or will do to mitigate any deleterious effect of the unauthorized use or disclosure, and (e) what corrective action CC has taken or will take to prevent future similar unauthorized use or disclosure. CC shall provide such other information, including a written report, as reasonably requested by Client.
 - h. Within thirty (30) days of the expiration or termination of this Agreement, CC, as directed by Client, shall return all Client Data to Client in its possession (or in the possession of any of its subcontractors or agents) or delete all such Client Data if return is not feasible. CC shall confirm such deletion in writing.
10. License and Publicity. CC and Client hereby grant the other a limited, revocable, royalty free, non-exclusive license to use its name, logo, trademarks and service marks solely for the purposes expressly authorized in this Agreement. This license shall begin on the Effective Date and terminate upon the termination or expiration of this Agreement. For purposes of clarity, Client's name and logo may be used within ACS to (a) promote ACS and (b) support Client and its Authorized Users in connection with the use of ACS.
11. Warranties and Disclaimers. EXCEPT AS PROVIDED OTHERWISE IN THIS AGREEMENT INCLUDING THE ADDENDUM ATTACHED HERETO AS EXHIBIT F, ACADEUM EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES AND CONDITIONS OF NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, INCLUDING EXHIBIT D (SERVICE LEVEL AGREEMENT), ACADEUM MAKES NO WARRANTY THAT ACCESS TO THE ACS WILL BE UNINTERRUPTED, TIMELY, ACCURATE, COMPLETE OR ERROR-FREE.

CLIENT ASSUMES ALL RISK AND RESPONSIBILITY FOR THE SELECTION OF COURSES PROVIDED UNDER THE ACS TO ACHIEVE CLIENT'S INTENDED RESULTS. CLIENT UNDERSTANDS THAT ACADEUM DOES NOT ENABLE, SUPPORT OR PROVIDE THE COURSES, EDUCATORS OR MATERIALS OR ENSURE ACCREDITATION THEREFOR,

AND ACADEUM SHALL HAVE NO LIABILITY OR RESPONSIBILITY WHATSOEVER IN CONNECTION THEREWITH OR ARISING THEREFROM.

CLIENT ACKNOWLEDGES THAT ACADEUM HAS THE SOLE RIGHT TO WITHDRAW ANY COURSE OR COURSE SECTION OFFERED ON ACS, AT ITS SOLE DISCRETION.

12. **Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE, WHETHER UNDER THEORIES OF CONTRACT, TORT, OR OTHERWISE, EVEN IF SUCH DAMAGES WERE FORESEEABLE. EACH PARTY'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY SOW (EXCLUSIVE OF FEES PAYABLE), WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE TOTAL FEES PAID OR PAYABLE TO ACADEUM BY CLIENT UNDER THIS AGREEMENT AND ANY SOW.
13. **Notice.** Each Party or A&M Institution giving or making any notice, request, demand or other communication pursuant to this Agreement ("Notice") must give the Notice in writing, using one of the following methods: (i) hand delivery; (ii) first-class registered or certified U.S. Mail, with postage prepaid and return receipt requested; (iii) nationally recognized overnight courier, with all fees prepaid; or (iv) email. Notices must be addressed to the Parties or A&M Institution in care of the individual signing this Agreement or the applicable SOW at the address listed on the signature page of this Agreement or SOW, or such other address as is designated by either Party or an A&M Institution pursuant to this Section. A Notice is only effective if the Party or A&M Institution giving the Notice has complied with this Section.
14. **Amendments.** This Agreement, the Addendum attached hereto as Exhibit F, the other exhibits attached hereto, and any accompanying SOWs and their respective exhibits or attachments, constitutes the entire and only agreement between the Parties and A&M Institutions with respect to the subject matter contained herein, and supersedes any prior understanding, written or oral agreements between the Parties and A&M Institutions. No amendment or modification to this Agreement shall be valid or binding on the Parties unless made in writing and signed on behalf of each of the Parties by their respective duly authorized representatives. Each SOW may be amended in a writing signed by authorized representatives of CC and the applicable A&M Institution.
15. **Severability and Waiver.** If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable, then: (i) that provision shall be deemed amended to achieve as nearly as possible the same effect as the original provision; and (ii) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby. Any delay or failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision.

SIGNATURE PAGE

In witness whereof, the Parties have caused this Agreement to be executed by their duly authorized representatives to be binding and effective as of the Effective Date.

The Texas A&M University System
Client

College Consortium Inc., d/b/a
Acadeum

By: Jeff Zimmermann

By: Joshua Pierce

Name: Jeff Zimmermann
Title: Director, Procurement & Business Services
Date: 04/28/2022

Name: Joshua Pierce
Title: CEO
Date: 04/28/2022

Exhibit A
A&M INSTITUTIONS

Texas A&M University
Prairie View A&M University
Texas A&M University- Commerce
Tarleton State University
West Texas A&M University
Texas A&M University- Kingsville
Texas A&M University- Corpus Christi
Texas A&M University International
Texas A&M University- Texarkana
Texas A&M Central Texas
Texas A&M University- San Antonio

**Exhibit B
Fee Schedule**

Pricing Statement

As of Effective Date

Institution Name	The Texas A&M University System
Address Line 1	301 Tarrow Street
City, State Zip	College Station, TX 77840
Type	Public
Modality	HI / TI
Institution FTE	Above 25,000
Billing	Annual on MSA Sign Date

J Z

Client Initials

	Annual Price
First Year - Annual Subscription Fee	\$55,000
Less Prepaid By A&M Institutions (2021 only)	-\$10,000
Total	\$45,000

Second Year - Annual Subscription Fee	\$55,000
Third Year - Annual Subscription Fee	\$55,000

EXHIBIT D

Service Level Agreement

Introduction

This Service Level Agreement (“SLA”) governs the service levels relating to ACS, which are utilized by Client pursuant to the Agreement. No other product, service or platform shall be governed by this SLA. All capitalized terms not defined herein shall have the meanings ascribed thereto in the Agreement.

System Availability

ACS will maintain an Availability level of 99%. The Availability will be calculated per calendar quarter using the following definitions.

- “**Availability**” percentage will be calculated per calendar quarter as the percentage of non-excluded time relative to the total time in the year.
- “**total**” constitutes the total number of minutes in the applicable calendar quarter.
- “**accessible**” - available to Client in such a manner that enables Client to utilize all material functionality and tools of ACS.
- “**non-excluded**” constitutes the total number of minutes during the applicable calendar quarter that is not attributable to Excluded Events (as defined below).

Availability Calculation

For any partial calendar quarter covered by the Agreement, the Availability for that quarter will be calculated based on Acadeum’s monitoring tools. Data from Acadeum’s monitoring tools shall be used to resolve any disputes between Acadeum and Client as to whether Acadeum has met or failed to meet the required Availability level.

Excluded Events

Occurrences of the following events are hereby excluded from the Availability level under this SLA (collectively, “Excluded Events”):

- **Planned downtime**, which shall be any period for which Acadeum gives at least 5 business days advance notice that ACS will or may be unavailable;
- **Emergency planned downtime**, which shall be any period for which Acadeum gives 4 or more hours advance notice (or less with the agreement of Client) that downtime is required to protect the security, integrity and performance of ACS;
- **Force Majeure events** (as defined in the Agreement), which includes the inability of a user to access ACS due to Internet, telecommunications, hardware, software, user error, or other issues outside the control of Acadeum, including acts or omissions of Client or its agents or any issues caused directly or indirectly, by Client’s or its agents systems, processes or technology.

Service Improvement

If Acadeum fails to meet the service Availability level for two consecutive calendar quarters, Acadeum will enter into a joint Service Improvement Program (SIP) with Client. The SIP will start no later than 30 days following (event here) and include a Quality Task force consisting of Acadeum and Client partners (roles: anyone Acadeum determines as essential personnel must include Client and business stakeholder) and focus on improving system performance to the agreed Availability targets. When System Availability is restored to the agreed service levels as indicated above, the SIP will be concluded.

EXHIBIT E

Statement of Work

This Statement of Work ("SOW") dated _____ (the "SOW Effective Date") is entered into by and between College Consortium, Inc., doing business as Acadeum ("Acadeum"), and the A&M Institution named in the signature page below ("Client"), for the use of Acadeum Course Sharing. This SOW is made pursuant to the Master Services Agreement (the "Agreement") dated as of 04/28/2022 by and between The Texas A&M University System (the "A&M System") and Acadeum, the terms of which are incorporated into this SOW. Any capitalized term used herein and not otherwise defined shall have the meaning ascribed to it in the Agreement.

In consideration of the mutual promises contained herein, Acadeum and Client agree as follows:

1. DEFINITIONS

- "Academic Partner" refers to Client, when Client acts as a Home Institution, Teaching Institution or a combination thereof.
- "Authorized Users" refer to, collectively, all personnel of Client, including its administrative staff, Educators and Students, that have been given authority to access and use the Platform.
- "Benefits" refers to Platform Access, Enrollment Management, and Course Hosting.
- "Course" refers to an online course made available through the Platform. Courses can be (i) credit-bearing courses provided as part of an educational program of a Home Institution or (ii) non-credit certificate courses.
- "Course Drop Date" refers to the date designated by a Teaching Institution by which a Student may withdraw from an Enrollment.
- "Course Hosting" refers to a Benefit provided by Acadeum that enables Teaching Institutions to post an inventory of Course Sections with available seats to prospective Students; and then approve and accept Enrollment Requests to these Course Sections, in each case via the Platform.
- "Course Section" refers to the specific instance of a Course in which an Enrollment can be purchased. Each Course Section will include a specific Course Section Number that corresponds to a Course and Course Number, Educator, class schedule and Registration Fee.
- "Educator" refers to an individual that a Teaching Institution has authorized to teach a Course.
- "Enrollment" means one Student enrolled in one Course Section following an Enrollment Request by a Home Institution, and the Enrollment Request's subsequent approval by the Teaching Institution.
- "Enrollment Management" refers to a Benefit provided by Acadeum that enables Home Institutions and their Authorized Users to review the inventory of Course Sections and make Enrollment Requests for Teaching Institutions to approve via Registration Approvals; monitor the status of Enrollment Requests to completion; and receive grades and/or final statuses for Students from Teaching Institutions, in each case via the Platform.
- "Enrollment Request" refers to a request for an Enrollment made by a Home Institution on behalf of a prospective Student to enroll in a Course Section. The Enrollment Request must be approved by the Teaching Institution via a Registration Approval prior to registering an Enrollment in a Course Section.

- “Fees” refers to Platform Access Fees, Course Hosting Fees, and Processing Fees, as more fully detailed in Section 6 of this SOW.
- “Home Institution” refers to Client, to the extent it (i) approves a Course to be offered under its curriculum, (ii) submits an Enrollment Request to the Teaching Institution to enable a prospective Student to enroll in a Course Section of such approved Course, and (iii) upon receipt of a Registration Approval, purchases the Enrollment on behalf of such prospective Student.
- “Materials” refers to the instructional materials provided by a Teaching Institution for its Courses.
- “Party” refers to each of Acadeum and Client individually, and collectively as the “Parties”.
- “Platform” refers to the Acadeum Course Share website located at <https://courseshare.acadeum.com/>, including the Application Programming Interfaces (APIs) that exchange data between Clients and other products developed to support Course sharing.
- “Platform Access” refers to a Benefit provided by Acadeum for an Academic Partner and its Authorized Users to access and utilize the Platform in accordance with the terms of the Agreement and this SOW.
- “Registration Approval” refers to the approval by a Teaching Institution to accept an Enrollment Request.
- “Registration Fee” refers to the price at which a Teaching Institution accepts for an Enrollment. The Registration Fee is set by the Teaching Institution in its sole discretion and is only available to Authorized Users via the Platform.
- “Student” refers to an individual who is currently enrolled at a Home Institution for whom the Home Institution creates a student profile on the Platform.
- “Student Request” refers to the request by a prospective Student to the administrators of its Home Institution to enroll in a Course Section.
- “Teaching Institution” refers to Client, to the extent it offers Course Sections to prospective Students and then approves and accepts Enrollment Requests to these Course Sections, in each case via the Platform.

2. ACADEUM’S RESPONSIBILITIES

Acadeum must meet all Acadeum responsibilities set forth in the Agreement and this SOW, including without limitation, the following:

- Provide the Benefits for use by Client and its Authorized Users, subject to the terms and conditions of the Agreement and this SOW; and
- Notify Client of any changes in the *Acadeum Registration Policy* attached hereto as Attachment 1 (the “Acadeum Registration Policy”).

3. CLIENT RESPONSIBILITIES

By executing this SOW, Client agrees to comply with the terms and conditions applicable to “Client” in the Agreement. In addition, Client must meet all Client responsibilities set forth in this SOW, including without limitation, the following:

- a. Enable its Students to access the Platform and submit a Student Request to enroll in a Course;
- b. Obtain all required consents of its Authorized Users to enable Acadeum to communicate with and support such Authorized Users in connection with their access and use of the Platform, including any Enrollment efforts;
- c. Notify Acadeum within five (5) business days of any change in its accreditation status;

- d. Comply with the terms and conditions of registration activity as outlined in the Acadeum Registration Policy;
- e. Comply with all terms and conditions as outlined in the *A&M Consortium* and *Acadeum Consortium Agreement*, as applicable, including all federal and state student aid eligibility guidelines for the recognition of credit with other Academic Partners; and
- f. Reasonably cooperate with Acadeum in order for Acadeum to provide the Benefits.

To the extent Client acts in the capacity of a Teaching Institution, Client shall meet the following additional obligations:

- a. Within ninety (90) days prior to offering a Course, disclose to Acadeum in writing (i) a list of U.S. States in which it is authorized to deliver online education, and (ii) the current Registration Fees and academic calendar applicable to its Courses;
- b. Ensure that the Registration Fees applicable to each Course is not greater than the tuition and fees charged for enrollment in the same Course Section outside the Platform;
- c. Respond to all Enrollment Requests in accordance with the Acadeum Registration Policy;
- d. For each Course, maintain the sole authority over core academic functions, including (i) appointment of the Educator, (ii) delivery of the Materials, (iii) admission of Students and continuing maintenance of enrollment requirements of Students, (iv) offering and delivery of the Course, and (v) evaluation of Student performance and awarding of grades (as applicable);
- e. Ensure that each Course satisfies its customary quality standards, and that the Materials are made available by Client to enable Students to complete the Course and obtain the applicable credits, certificate or comparable endorsement to be provided by such Teaching Institution and/or the Home Institution who purchased the Enrollment;
- f. Determine, obtain, and maintain all regulatory, accreditation and other approvals and licenses necessary or appropriate for the delivery of its Courses;
- g. Provide at least the same level of services and related support to Students as it provides to other students who matriculate at Client generally;
- h. Make reasonable efforts to monitor Student attendance using its normal measures and provide attendance status to Acadeum within three days of the start of each class for a seven week or longer Course Section, and on the date of the start for Course Sections running under seven weeks; and
- i. Provide a last day of attendance upon request by Acadeum or the Home Institution.

Client agrees that it will be responsible to ensure compliance with the Agreement and this SOW by all of its Authorized Users (other than Students) who are given access to the Platform.

4. RIGHTS GRANTED

Subject to the terms of the Agreement and this SOW, Client is granted a non-exclusive, non-transferable and non-sublicensable right and license to use the Platform for the purpose of receiving the Benefits.

5. FEES; PAYMENT TERMS; PAYMENT PROCESSING

Except to the extent paid by the A&M System as provided for in the Agreement, Client shall pay the following Fees:

- **Platform Access Fees** are annual fees payable by an Academic Partner for twelve-month access to the Platform. Platform Access Fees will be assessed and invoiced at the SOW Effective Date and on each subsequent anniversary.

- **Course Hosting Fees** are annual fees payable by an Academic Partner acting as a Teaching Institution for enabling it to offer Course Sections via the Platform. Course Hosting Fees will be assessed and invoiced annually, commencing on the SOW Effective Date and continuing for the duration in which such Teaching Institution offers any Course on the Platform.
- **Processing Fees** are fees payable by an Academic Partner acting as a Teaching Institution for the processing of Enrollments in its Course Sections via the Platform and are assessed and invoiced at the rate of twenty-five percent (25%) of the Registration Fee for each Enrollment. Processing Fees are due and payable as of the Course Drop Date.

Client's payment of Fees shall be made in accordance with Chapter 2251, *Texas Government Code* (the "**Texas Prompt Payment Act**"), which shall govern remittance of payment and remedies for late payment and non-payment. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment Act. Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment. As an agency of the State of Texas, Client is tax exempt. Tax exemption certification will be furnished to ACS upon request. Client authorizes Acadeum to facilitate the collection and payment for enrollments through electronic charging or posting of funds via automated clearing house ("ACH") transactions to or from the Client Bank Account.

6. TERM AND TERMINATION

- This SOW shall commence on the SOW Effective Date and continue for a period of three (3) years ("Initial Term"). Thereafter, the Parties may renew for two (2) additional three-year terms (each, a "Renewal Term") upon mutual written agreement signed by authorized representatives of both Parties. The Initial Term and all Renewal Terms are referred to collectively as the "Term".
- Either Party may terminate this SOW at any time, for any reason, with 90-day written notice, provided that Client may continue to access and use ACS through the end of the current academic semester even if such access and use will continue beyond the effective date of termination. In the event that Client terminates this SOW pursuant to this Section 6.b., Client shall not receive any pro-rata refund of any pre-paid Fees.
- Either Party may terminate this SOW effective upon written notice to the other Party if the other Party materially breaches any term of this SOW and fails to cure such breach within thirty (30) days after receiving written notice of the breach. In the event that Client terminates this SOW pursuant to this Section 6.C., Client shall receive a pro-rata refund of any pre-paid Fees.
- This SOW shall automatically terminate or expire upon the termination or expiration of the Agreement, provided that Client may continue to access and use ACS through the end of the current academic semester even if such access and use will continue beyond the effective date of termination or expiration, and provided further, that Client will be entitled to a pro-rata refund of any pre-paid Fees.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this SOW on the date below.

CLIENT

COLLEGE CONSORTIUM INC. D/B/A ACADEUM

By: _____

By: _____

Name:

Josh Pierce

Title:

CEO

Date:

Date:

ATTACHMENT 1
Acadeum Registration Policy

- A. A Home Institution will review all Courses offered via the Platform. To the extent a Home Institution is interested in a Course, the Home Institution will designate such Course as an “Approved Course” under one of its education programs.
- B. The Home Institution may then submit an Enrollment Request for one or more Course Sections in each Approved Course through the Platform at any time. In doing so, the Home Institution agrees to pay to the Teaching Institution the Registration Fee.
- C. A Teaching Institution will approve or deny each Enrollment Request in its sole discretion, but must abide by the posted Registration Fee applicable at the time of the Home Institution’s submission of the Enrollment Request. To the extent a Teaching Institution approves an Enrollment Request, it shall issue a Registration Approval via the Platform, which allows the Enrollment to be completed and the Registration Fee to be charged. Teaching Institutions shall respond to all Enrollment Requests as soon as practicable, and in no case more than five days.
- D. Seven days prior the Course Drop Date, Acadeum will issue an Invoice from the Teaching Institution to the Home Institution detailing the impending enrollment(s) and corresponding Registration Fee(s). Acadeum will process and distribute payments in accordance with the Agreement and the SOW, on behalf of the Home and Teaching Institution.
- E. The Home Institution will maintain responsibility for incorporating charges related to completed Enrollments in Course Sections for the purpose of issuing tuition statements, enrollment certifications and other required documentation where applicable.
- F. Refund Request Policy: If a Home Institution disputes a Registration Fee for any reason, the Home Institution may submit a refund request within thirty (30) days of the charge. If such dispute is validated under Acadeum’s Refund Policy, Acadeum will submit the refund to the Home Institution.

EXHIBIT F
AN ADDENDUM TO
MASTER SERVICE AGREEMENT
BY AND BETWEEN
THE TEXAS A&M UNIVERSITY SYSTEM
AND COLLEGE CONSORTIUM INC.

The following terms and conditions are incorporated into and form a part of the Master Service Agreement (the "Agreement") to which this addendum (this "Addendum") is attached as Exhibit F. "A&M System" means The Texas A&M University System, an agency of the State of Texas, and "CC" means College Consortium Inc., a Delaware corporation, doing business as Acadeum.

The A&M System requires the following additions to be made to the Agreement. In the event there is a conflict between the terms and conditions of the Agreement and this Addendum, this Addendum will control. Any capitalized terms used herein but not defined shall have the meanings ascribed to them in the Agreement.

1. PAYMENT TERMS

- A. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with Chapter 2251, *Texas Government Code* (the "Texas Prompt Payment Act"). Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment. The Texas Prompt Payment Act will govern the remittance of payment and remedies for late payment and non-payment under the Agreement.
- B. As an agency of the State of Texas, Client is tax exempt. Tax exempt certification will be furnished to CC upon request.
- C. Client authorizes Acadeum to facilitate the collection and payment for enrollments through electronic charging or posting of funds via automated clearing house ("ACH") transactions to or from the Client Bank Account.

2. PUBLIC INFORMATION

- A. CC acknowledges that Client is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to the Agreement, as well as any other disclosure of information required by applicable Texas law.
- B. Upon Client's written request, CC will promptly provide specified contracting information exchanged or created under the Agreement for or on behalf of Client.
- C. CC acknowledges that Client may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.
- D. The requirements of Subchapter J, Chapter 552, *Texas Government Code*, may apply to the Agreement and CC agrees that the Agreement can be terminated if CC knowingly or intentionally fails to comply with a requirement of that subchapter.

3. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by CC and Client to attempt to resolve any claim for breach of contract made by CC that cannot be resolved in the ordinary course of business. CC shall submit written notice of a claim of breach of contract under this Chapter to Client's designated official (which for the A&M System is Billy Hamilton, Deputy Chancellor and Chief Financial Officer), who shall examine CC's claim and any counterclaim and negotiate with CC in an effort to resolve the claim.

4. ACCESS BY INDIVIDUALS WITH DISABILITIES

CC represents and warrants that the electronic and information resources and all associated information, documentation, and support that it provides to Client under the Agreement (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the *Texas Administrative Code* and Title 1, Chapter 206 of the *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M of the Texas Government Code) (the "EIR Accessibility Warranty"). If CC becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, CC shall, at no cost to Client, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that CC fails or is unable to do so, Client may immediately terminate the Agreement or applicable SOW, and CC will refund to Client all amounts paid by Client under the Agreement or applicable SOW within thirty (30) days following the effective date of termination.

5. CC WARRANTIES

- A. CC warrants that ACS will perform substantially in accordance with the accompanying written materials, including without limitation, any documentation or marketing materials provided by CC to Client.
- B. CC represents and warrants that (1) it has the full right, power, and authority to grant the rights and licenses herein to Client, and (2) ACS does not infringe upon or violate any copyright, patent, trademark, or other proprietary or intellectual property rights of any third party.

6. INSURANCE

CC shall obtain and maintain, for the duration of the Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to Client. By requiring such minimum insurance, Client shall not be deemed or construed to have assessed the risk that may be applicable to CC under the Agreement. CC shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. CC is not relieved of any liability or other obligations assumed pursuant to the Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to Client at least ten days before the effective date of the cancellation.

<u>Coverage</u>	<u>Limit</u>
A. <u>Worker's Compensation</u>	
Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident \$1,000,000 Disease/Employee \$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for Client. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

B. **Automobile Liability**

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage. If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

C. **Commercial General Liability**

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures CC's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of the Agreement.

- D. Cyber and privacy liability insurance with minimum limits of coverage of \$1,000,000 per event, \$1,000,000 aggregate covering network security/privacy liability, privacy regulatory proceedings (including fines and penalties), privacy event expenses (mandatory/voluntary notification costs, credit monitoring, call center services, forensic, and any other fees, costs, or expenses necessary to comply with any security breach notification law that may be applicable), and cyber extortion payments. CC shall maintain such coverage for such length of time as necessary to cover any and all claims.

E. **Additional Endorsements**

The Auto and Commercial General Liability Policies shall name The Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System as additional insured's.

F. **Professional Liability (Errors & Omissions)**

Insurance with limits of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate. Such insurance will cover all professional services rendered by or on behalf of CC and its subcontractors under the Agreement. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of the Agreement. If coverage is written on a claims-made basis, CC agrees to purchase an Extended Reporting Period Endorsement, effective for two (2)

full years after the expiration or cancellation of the policy. No professional liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least three (2) years after the expiration of cancellation of the Agreement.

G. CC will deliver to Client:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of the Agreement and prior to the performance of any services by CC under the Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System, and each A&M Institution as Additional Insureds up to the actual liability limits of the policies maintained by CC. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System, and each A&M Institution. No policy will be canceled without unconditional written notice to Client at least ten days before the effective date of the cancellation. ***All insurance policies*** will be endorsed to require the insurance carrier providing coverage to send notice to Client ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section.

Any deductible or self-insured retention must be declared to and approved by Client prior to the performance of any services by CC under the Agreement. CC is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by the Agreement will be emailed to SOProurement@tamus.edu.

The insurance coverage required by the Agreement will be kept in force until all services have been fully performed and accepted by Client in writing, except as may be noted.

5. MISCELLANEOUS

- A. **Indemnification. CC agrees to indemnify and hold harmless Client from any third party claim and resulting damage, liability, expense or loss (each, a "Claim") to the extent arising out of (1) CC's gross negligence or willful misconduct pertaining to its activities or obligations under the Agreement or (2) ACS' alleged or actual infringement upon or violation of the intellectual property rights of a third party. If ACS becomes or is likely to become the subject of a Claim arising out of an allegation that ACS infringes upon or violates the intellectual property rights of a third party, then CC may, at its expense and option, either: (a) replace or modify ACS to make it non-infringing, while maintaining equivalent functionality; (b) procure for Client the right to continue using ACS pursuant to the Agreement and/or applicable SOW; or (c)**

terminate the Agreement or applicable SOW and refund to Client, on a pro-rata basis, the amount of any fees that CC has received from Client for the period between the effective date of termination of the Agreement or applicable SOW and the expiration of the period for which the fee has been paid.

- B. **Independent Contractor.** CC is an independent contractor, and neither CC nor any employee of CC shall be deemed to be an agent or employee of Client. Client will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. CC shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of Client relative to conduct on its premises.
- C. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "Under Section 231.006, *Texas Family Code*, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."
- D. **Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, *Texas Government Code*, CC agrees that any payments owing to CC under the Agreement may be applied directly toward certain debts or delinquencies that CC owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- E. **Previous Employment.** CC acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits Client from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If CC is an individual, by signing the Agreement, CC certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.
- F. **Not Eligible for Rehire.** CC is responsible for ensuring that its employees involved in any work being performed for Client under the Agreement have not been designated as "Not Eligible for Rehire" as defined in System policy 32.02, Discipline and Dismissal of Employees, Section 4 ("NEFR Employee"). In the event Client becomes aware that CC has a NEFR Employee involved in any work being performed under this Agreement, Client will have the sole right to demand removal of such NEFR Employee from work being performed under the Agreement. Non-conformance to this requirement may be grounds for termination of the Agreement or applicable SOW by Client.
- G. **Franchise Tax Certification.** If CC is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then CC certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that CC is exempt from the payment of franchise (margin) taxes.

- H. **State Auditor's Office.** CC understands that acceptance of funds under the Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. CC agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. CC will include this provision in all contracts with permitted subcontractors.
- I. **Headings.** Headings appear solely for convenience of reference. Such headings are not part of the Agreement and shall not be used to construe it.
- J. **Non-Assignment.** CC shall neither assign its rights nor delegate its duties under the Agreement without the prior written consent of Client.
- K. **Survivability.** CC's duties under the Agreement, which impose an obligation after expiration or termination of the Agreement, will survive unless otherwise stated within the Agreement.
- L. **HUB Subcontracting Plan.** If a subcontractor will be used to provide any commodity or service as part of the scope on a specific assignment, CC will be required to make a good faith effort and complete the state of Texas HSP found at <https://www.tamus.edu/business/hub-procurement/hub-programs-3/system-offices-hub-program/>. If there are pre-existing agreements in place with companies who will be hired as subcontractors, CC will show those companies as subcontractors on the HSP and provide an explanation as to why solicitations were not done, e.g. contractual requirements. If no pre-existing agreements with companies who will be hired as subcontractors exist, then CC will be expected to make a good faith effort according to the HSP instructions.

In the event that CC determines that it will be using a subcontractor, please contact Mr. Jeff Zimmermann from the A&M System's HUB Program at (979) 458-6410 or soprocurement@tamus.edu for assistance in determining available HUB subcontractors and proper completion of the HSP.

- M. **Force Majeure.** Neither Party nor A&M Institution will be in breach of its obligations under the Agreement or incur any liability to the other Party or A&M Institution for any losses or damages of any nature whatsoever incurred or suffered if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure event (as defined below), except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure event had not occurred. "Force Majeure event" is defined as: 1) acts of God; 2) war; 3) act(s) of terrorism; 4) fires; 5) explosions; 6) natural disasters, to include without limitation, hurricanes, floods, and tornadoes; 7) failure of transportation; 8) strike(s); 9) loss or shortage of transportation facilities; 10) lockout, or commandeering of materials, products, plants or facilities by the government or other order (both federal and state); 11) interruptions by government or court orders (both federal and state); 12) present and future orders of any regulatory body having proper jurisdiction; 13) civil disturbances, to include without limitation, riots, rebellions, and insurrections; 14) epidemic(s), pandemic(s), or other national, state, or regional emergency(ies); and 15) any other cause not enumerated in this provision, but which is beyond the reasonable control of the party whose performance is affected and which by the exercise of all reasonable due diligence, such party is unable to overcome. Such excuse from performance will be effective only to the extent and duration of the Force Majeure event(s) causing the failure or delay in performance and provided that the affected Party or A&M Institution has not caused such Force Majeure event(s) to occur and continues to use diligent, good faith efforts to avoid the effects of such

Force Majeure event(s) and to perform its obligation(s). Written notice of a Party's or A&M Institution's failure or delay in performance due to a Force Majeure event must be given within a reasonable time after its occurrence and must describe the Force Majeure event(s) and the actions taken to minimize the impact of such Force Majeure event(s). For the avoidance of doubt, the COVID-19 pandemic and any governmental changes or closures related thereto shall be deemed Force Majeure events, even to the extent reasonably foreseeable by either Party or A&M Institution as of the Effective Date.

- N. **Loss of Funding.** Performance by Client under the Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, Client will issue written notice to CC and Client may terminate the Agreement or applicable SOW without further duty or obligation hereunder. CC acknowledges that appropriation of funds is beyond the control of Client.
- O. **Governing Law.** The validity of the Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- P. **Venue.** Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against Client shall be in the county in which the primary office of the chief executive officer of Client is located (which for the A&M System is Brazos County, Texas).
- Q. **Non-Waiver.** CC expressly acknowledges that Client is an agency of the State of Texas and nothing in the Agreement will be construed as a waiver or relinquishment by Client of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- R. **Conflict of Interest.** By executing this Addendum, CC and each person signing on behalf of CC certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of the A&M System or the A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by the A&M System, has direct or indirect financial interest in the award of the Agreement, or in the services to which the Agreement relates, or in any of the profits, real or potential, thereof.
- S. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that *Texas Government Code*, Chapter 2271 applies to the Agreement, CC certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of the Agreement. CC acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
- T. **Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, *Texas Government Code*, CC certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. CC acknowledges the Agreement may be terminated if this certification is or becomes inaccurate.
- U. **Prohibition on Contracts Related to Persons Involved in Human Trafficking.** Under Section 2155.0061, *Texas Government Code*, CC certifies that the individual or business entity named in the Agreement is not ineligible to receive the specified contract and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.
- V. **Records Retention.** CC will preserve all contracting information, as defined under *Texas Government Code*, Section 552.003 (7), related to the Agreement for the duration of the Agreement and for seven years after the conclusion of the Agreement.

IN WITNESS WHEREOF, intending to be bound, the Parties have entered into this Addendum as of the Effective Date.

The Texas A&M University System

By *Jeff Zimmermann* 04/28/2022
Jeff Zimmermann Date
Director, Procurement and Business Services

College Consortium Inc. dba Acadeum

By *Joshua Pierce* 04/28/2022
Date