

**Nevada Office of the Western Interstate Commission for Higher Education
(Nevada WICHE Commission)**

Nevada System of Higher Education
System Administration Building
2601 Enterprise Road
Reno, NV 89512
Room 114

Video or Telephone Conference Connection from the Meeting Site to:

Nevada System of Higher Education
System Administration Building
4300 S. Maryland Parkway
Las Vegas, NV 89119
Room 105

Friday, January 20, 2023, 10:00 am

A video conference connection will be made between the meeting sites to the Las Vegas System Administration Office. In the event the video conference connection is not functioning, a teleconference connection will be made available. Members of the public may attend the meeting and provide testimony or public comment at these locations.

Below is an agenda of all items scheduled to be considered. Notification is hereby provided that items on the agenda may be taken out of the order presented, including moving an item to a different day if the meeting is noticed for more than one day, two or more agenda items may be combined for consideration, and an agenda item may be removed from the agenda or discussion relating to an item on the agenda may be delayed at any time.

Some agenda items are noted as having accompanying reference material. The agenda and associated reference material may also be accessed on the Internet by visiting the Nevada Office of WICHE website at: <https://nvwiche.nevada.edu/>. To request a copy of the supporting materials for this meeting, contact Director Patty Porter at nvwiche@nevada.edu or call 775-784-4901.

The Commission is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements are necessary, please notify us via email at nvwiche@nevada.edu or call 775-784-4901 as far in advance as possible.

ROLL CALL: Mr. Fred Lokken, Executive Commissioner _____
Ms. Cathy Dinauer, Commissioner _____
Mr. Dale Erquiaga, Commissioner _____

Public comment will be taken during this agenda item. No action may be taken on a matter raised under this item until the matter is included on an agenda as an item on which action may be taken. Comments will be limited to three minutes per person. Persons making comment will be asked to begin by stating their name for the record and to spell their last name. The Executive Commissioner may elect to allow additional public comment on a specific agenda item when that agenda item is being considered.

In accordance with Attorney General Opinion No. 00-047, as restated in the Attorney General's Open Meeting Law Manual, the Chair may prohibit comment if the content of that comment is a topic that is not relevant to, or within the authority of, the Nevada Office of the Western Interstate Commission of Higher Education, or if the content is willfully disruptive of the meeting by being irrelevant, repetitious, slanderous, offensive, inflammatory, irrational or amounting to personal attacks or interfering with the rights of other speakers.

2. MINUTES

FOR POSSIBLE ACTION

The Commission will consider approval of the minutes from the November 18, 2022, meeting.

(Ref. 2-WICHE Commission Meeting Minutes, November 18, 2022)

ESTIMATED TIME: 5 minutes

3. COMMISSIONER UPDATES

INFORMATION ONLY

The WICHE Commissioners will provide updates on their activities as commissioners.

ESTIMATED TIME: 15 minutes

4. DIRECTOR UPDATE

INFORMATION ONLY

Director Patty Porter will provide the Commissioners with an update on the Nevada Office of WICHE activities.

ESTIMATED TIME: 10 minutes

5. ECSI HEARTLAND LOAN SERVICER FY 23-25 CONTRACT

FOR POSSIBLE ACTION

The Commission may consider approval of the ECSI Heartland Loan Servicer FY 23-25 Contract and may authorize Director Patty Porter to execute the contract on behalf of the Commission subject to any State contract authorization requirements.

ESTIMATED TIME: 5 minutes

(Ref. 5-ECSI Independent Contractor Form, ECSI Master Services Agreement, Selecting Select Service Order Form)

**6. APPOINTMENT REGIONAL WICHE LEGISLATIVE FOR POSSIBLE ACTION
ADVISORY COMMITTEE**

The Commission may take action to appoint Nevada State Senator Melanie Scheible to the regional WICHE Legislative Advisory Committee.

ESTIMATED TIME: 5 minutes

**7. APPROVAL OF PERFORMANCE INDICATORS FOR FOR POSSIBLE ACTION
AGENCY**

The Commission may take action to approve the following performance indicators for the Nevada Office of WICHE for FY 22-FY 25:

- 1) Number of WICHE Professional Student Exchange Program (PSEP) and Nevada Health Profession Education Program (HPEP) filled slots.
- 2) Number of WICHE PSEP and Nevada HPEP participants practicing in Nevada.

ESTIMATED TIME: 10 minutes

8. 2023 NEVADA LEGISLATIVE SESSION INFORMATION ONLY

Director Patty Porter will provide an update and facilitate discussion on the upcoming 2023 Nevada Legislative session and possible bills impacting the Nevada Office of WICHE.

ESTIMATED TIME: 30 minutes

9. NEW BUSINESS INFORMATION ONLY

Items for consideration at future meetings may be suggested. Any discussion of an item under “New Business” is limited to description and clarification of the subject matter of the item, which may include the reasons for the request, and no substantive discussion may occur at this meeting on new business items in accordance with the Nevada Open Meeting Law (NRS 241.010 et seq.).

10. PUBLIC COMMENT**INFORMATION ONLY**

Public comment will be taken during this agenda item. No action may be taken on a matter raised under this item until the matter is included on an agenda as an item on which action may be taken. Comments will be limited to three minutes per person. Persons making comment will be asked to begin by stating their name for the record and to spell their last name. The Committee Chair may elect to allow additional public comment on a specific agenda item when that agenda item is being considered.

In accordance with Attorney General Opinion No. 00-047, as restated in the Attorney General's Open Meeting Law Manual, the Chair may prohibit comment if the content of that comment is a topic that is not relevant to, or within the authority of, the Nevada Office of the Western Interstate Commission of Higher Education, or if the content is willfully disruptive of the meeting by being irrelevant, repetitious, slanderous, offensive, inflammatory, irrational or amounting to personal attacks or interfering with the rights of other speakers.

This Agenda has been posted at the following locations:

- Nevada WICHE's website: <https://nvwiche.nevada.edu/>
- Nevada System of Higher Education: 2601 Enterprise Road, Reno, NV 89512
- Nevada System of Higher Education: 4300 S. Maryland Pkwy, Las Vegas, NV 89119
- The Nevada Legislature's website: leg.state.nv.us/App/Notice/A
- Nevada Public Notice Website: notice.nv.gov

**Nevada Office of the Western Interstate Commission for Higher Education
(Nevada WICHE Commission) Minutes**

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2601 Enterprise Road
Reno, NV 89512
Room 114

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System Administration Building
4300 S. Maryland Parkway
Las Vegas, NV 89119
Room 105

Friday, November 18, 2022, 10:00 am

Members Present: Mr. Fred Lokken, Executive Commissioner
Ms. Cathy Dinauer, Commissioner

Others Present: Ms. Patty Porter, Director, Nevada Office of WICHE
Ms. Renee Davis, Interim Vice Chancellor, Academic and Student
Affairs and Community College
Ms. Tina Russom, Esq., Deputy General Counsel

Executive Commissioner Fred Lokken called the meeting to order at 10:02 am.

1. Information Only: Public Comment

- There was no public comment.

2. October 21, 2022, Minutes Approval (*Ref. 2-WICHE Commission Meeting Minutes, October 21, 2022*)

Commissioner Dinauer moved to approve the minutes from October 21, 2022. Executive Commissioner Lokken seconded. Motion carried.

3. Information Only: WICHE Commissioner Updates

- Commissioner Dinauer shared that she recently attended the regional WICHE Commission meeting in Portland, Oregon; it was incredibly informative.
 - She also noted that she has participated in a discussion with Director Porter regarding funding through the American Rescue Plan Act (ARPA) that may be available for APRN studies.
- Executive Commissioner Lokken stated that he also attended the regional WICHE Commission meeting and noted that it was devoted primarily to strategic planning.

- Conversations occurred regarding where WICHE wants to be in terms of programs, activities, and relevance; they also discussed their fit and level of service/effectiveness to member states. Shared copy of the WICHE Commission Meeting Program with Director and NSHE Chancellor since they act as ambassadors for WICHE.
- Regional WICHE budget is in great shape.
- In Colorado, regional WICHE's home state, an initiative recently passed regarding extending the family leave period; WICHE has been reviewing the topic for approximately six months.
 - The recommendation at the conference was to not participate.
 - WICHE is seen as a government entity under Colorado law, but because of the nature of their 501C status, they chose to waive it for their 80 employees, many of whom work in other states and would not be eligible for the extended leave.
 - They will work to find ways to extend family leave time within the consistency of the Colorado law for all their employees.
- He held many conversations with Kevin Carman, new WICHE Commissioner, former Executive Vice President and Provost at the University of Nevada, Reno and currently the Executive Vice President and Provost at the University of Wyoming.
- A PowerPoint presentation explained the "westernness" of WICHE and identified why this compact arrangement makes sense.
 - We are the most urbanized of all the United States regions; with all the assumptions that are made about the west, we share so much together.
- Commissioner Dinauer is a member of the Research Committee and Executive Commissioner Lokken is a member of the Policy Committee. When the new Commissioner comes on board there will be a committee assignment for them.
- Executive Commissioner Lokken noted that he has been designated as the liaison for the executive WICHE committee regarding grant funded WICHE programs.

4. Information Only: Patty Porter, WICHE Director, Update on the Nevada Office of WICHE response to the Governor's Finance Office (GFO) and Legislative Counsel Bureau (LCB) questions regarding the 2023-25 (FY 24-25) Budget

(Ref. 4a-2023-2025 Nevada Office of WICHE Slot Matrix)

- Director Porter noted that the budget was submitted the Governor's office last August and shared some information regarding the Governor's office response:
 - Director Porter expressed appreciation to NSHE staff who were instrumental in preparing the WICHE response included Tammy Johnson, Assistant Budget Director, and Julia Teska, Budget Director.
 - The budget must balance to the cap; a reduction was made because not all stipend funding was spent, there were some unfilled support positions, and money that was not spent prior to May 15 was reverted to the state.
 - When constructing the budget, a few errors were corrected, including some small penalty adjustments.
 - The LCB wanted to know how the calculations were made; Director Porter noted that she contacted ECSI, the loan servicer, which gave her a month-by-month projection report, broken down by principal and interest.
 - The LCB also requested information regarding the slot matrix; Director Porter updated the format as requested, including the 2023-25 numbers.

- The administration account also had a base reduction due to an unfilled position and less (than estimated) travel incurred.
- Since prior year budgets are used as templates for the upcoming year, adjustments were made for monies unspent in the past and added back into the upcoming year budget.
- Some accounts were “collapsed” into an operating account due to making the budget items transfer properly into NSHE’s financial system, Workday.
- The WICHE director salary and title were incorrectly submitted in the amended biennium budget; they have since been changed to reflect the correct salary and title in Workday.
 - The director job description and salary range were approved by the WICHE Commission on January 4, 2022. The director was hired at \$85,000 and currently \$85,850 due to COLA and merit increases.
 - In 2021 NRS 223.700 statute that lists state unclassified positions removed the Director of the Nevada Office of WICHE as an unclassified position. In addition, recently codified NRS 397 that governs the Western Regional Compact does not list the Director of the Nevada Office of WICHE as unclassified.
- Director Porter noted that on August 5 and October 21, 2022, the director shared with the WICHE Commission the Account Technician position being changed from classified to shared professional between NSHE and Nevada Office of WICHE to improve the search and increase higher level responsibilities. The request was incorrect process to pursue. Later in this meeting for possible action the director will make a request to the Commission to approve moving the Account Technician position salary and fringe to the contract category, so that higher level services can be provided by NSHE Administration to the Nevada Office of WICHE.
- Interim Vice Chancellor Davis noted that NSHE will try to make this hire as a shared position to meet Nevada Office of WICHE needs.
- Executive Commissioner Fred Lokken stated that this is a creative solution and helps with increasing the salary of the position.
- Director Porter stated that by contracting with NSHE to provide higher level services for the Nevada Office of WICHE it would be more efficient than sharing a position. It would also add to the support in the areas of accounting and legal services NSHE administration already gives the Nevada Office of WICHE and makes sense since physical location of the agency resides at NSHE.
- Executive Commissioner Lokken stated that in the MOU discussion we recognized in one sense the Commission could have requested the legislature to dissolve our agency status which certainly would have made it easier. There were a variety of reasons why it was left in place but that still an issue to follow up.
- Director Porter explained that WICHE employees are not participating in the state employee bond indicator because contracted services with NSHE employees are covered under a separate fidelity policy.
- Interim Vice Chancellor Davis stated that it helpful that WICHE does not have to pay additional charges now that they are receiving NSHE administrative services. Director Porter pointed out that Nevada Office of WICHE does not pay rent due to being housed at NSHE. Now that WICHE is a hybrid organization,

some items are challenging since some things apply because of the agency status and other due to NSHE; it will take time for everyone to understand the structure.

- Director Porter also shared that there were additional questions regarding travel, WICHE membership fee and contracted items such as ECSI Loan Servicer.

5. Approved: Addition of Slots for 2024-25 Slot Matrix

Director Porter requested the addition of three Professional Student Exchange Program (PSEP) slots for Physician Assistant and three additional Health Profession Education Program (HPEP) slots for Social Work for Fiscal Year 2025.

Commissioner Dinauer moved to approve the additional slots as requested. Executive Commissioner Lokken seconded. Motion carried.

Discussion:

Commissioner Dinauer asked how the numbers for this request were determined.

- Director Porter stated that there was \$76,363 to work with within a window of time; she looked at the programs and did the calculations, trying to stay away from programs that were most costly.

6. Approved: Reallocation of 2023-25 (FY 24-25) Administration Budget to Contract Services

Director Porter requested reallocation within the administration account of salary and fringe for the Program Coordinator (formerly Account Technician I) position to the contract services category for 2023-2025 (FY 24-25).

- This change will enable the Nevada Office to operate more efficiently and to access expertise and services at a higher level of support by contracting with the Nevada System of Higher Education for the duties that would otherwise be performed by the Account Technician.

Commissioner Dinauer moved to approve the reallocation of funds as requested. Executive Commissioner Lokken seconded. Motion carried.

7. Information Only: New Business

- Executive Commissioner Lokken noted that since Demarée Michelau took the role of regional WICHE CEO there has been a major effort for President Michelau to reach all the states have not visited since started position; for the next meeting, it would be good if we can confirm details of a February 2023 visit.
- Executive Commissioner Lokken mentioned need to follow up with State Senator Goicoechea regarding inclusion of Veterinary Medicine stipend slots in the state budget (and not require a separate bill draft).
- Executive Commissioner Lokken stated that the Executive WICHE Commissioner is supposed to be a two-year term and reviewed by the Commission. Waiting for appointment of the third WICHE Commissioner.

- Commissioner Dinauer asked if a possibility of the commission receiving a legislative update regarding items related to WICHE.
 - Tina Russom, Esq., Deputy General Counsel, noted that commissioners may request those types of updates.
 - Director Porter noted that she will provide an update at the next meeting.

8. Information Only: Public Comment.

- There was no public comment

Meeting adjourned at 10:58 am

Prepared and submitted by:

Patty A. Porter

Director, Nevada Office of WICHE

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CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR

A Contract Between the State of Nevada
Acting by and Through its

Agency Name:	Office of the Western Regional Education Compact, Nevada Western Interstate Commission for Higher education (“WICHE”)
Address:	2601 Enterprise Road
City, State, Zip Code:	Reno, NV 89512
Contact:	Patty Porter
Phone:	775-784-3448
Email:	pporter@nshe.nevada.edu

Contractor Name:	Educational Computer Services, Inc.
Address:	1200 Cherrington Parkway, Suite 200
City, State, Zip Code:	Moon Twp, PA 15108
Contact:	Eric Ives
Phone:	412-788-3900 x 86074
Email:	Eric.Ives@e-hps.com

WHEREAS, NRS 333.700 authorizes officers, departments, institutions, boards, commissions, and other agencies in the Executive Department of the State Government which derive their support from public money in whole or in part to engage, subject to the approval of the Board of Examiners (BOEHW), services of persons as independent contractors; and

WHEREAS, it is deemed that the service of Contractor is both necessary and in the best interests of the State of Nevada.

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by the Nevada State Board of Examiners.
2. **DEFINITIONS.**
 - A. “State” – means the State of Nevada and any State agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
 - B. “Contracting Agency” – means the State agency identified above.
 - C. “Contractor” – means the person or entity identified above that performs services and/or provides goods for the State under the terms and conditions set forth in this Contract.
 - D. “Fiscal Year” – means the period beginning July 1st and ending June 30th of the following year.
 - E. “Contract” – Unless the context otherwise requires, “Contract” means this document entitled Contract for Services of Independent Contractor and all Attachments or Incorporated Documents.
 - F. “Contract for Independent Contractor” – means this document entitled Contract for Services of Independent Contractor exclusive of any Attachments or Incorporated Documents.

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3. **CONTRACT TERM.** This Contract shall be effective as noted below, unless sooner terminated by either party as specified in *Section 10, Contract Termination*. Contract is subject to Board of Examiners' approval.

Effective from:	Date: July 1, 2022	To:	July 1, 2025
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4. **NOTICE.** All communications, including notices, required or permitted to be given under this Contract shall be in writing and directed to the parties at the addresses stated above. Notices may be given: (i) by delivery in person; (ii) by a nationally recognized next day courier service, return receipt requested; or (iii) by certified mail, return receipt requested. If specifically requested by the party to be notified, valid notice may be given by facsimile transmission or electronic mail to the address(es) such party has specified in writing.
5. **INCORPORATED DOCUMENTS.** The parties agree that this Contract, inclusive of the following attachments, specifically describes the scope of work. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A:	EDUCATIONAL COMPUTER SYSTEMS, INC. MASTER SERVICES AGREEMENT
	SERVICINGSELECT SERVICE ORDER FORM NUMBER: 1

Any provision, term or condition of an Attachment that contradicts the terms of this Contract for Independent Contractor, or that would change the obligations of the State under this Contract for Independent Contractor, shall be void and unenforceable. In the event of any inconsistency between the provisions of any Master Services Agreement or Service Order Form, the provisions of this Contract will prevail.

6. **CONSIDERATION.** The parties agree that Contractor will provide the services specified in *Section 5, Incorporated Documents* at a cost as noted below:

Up to \$690.00	per	month
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Total Contract or installments payable at:	WICHE will initiate payment upon approval form the program and an itemized invoice.
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The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

7. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.
8. **BILLING SUBMISSION: TIMELINESS.** The parties agree that timeliness of billing is of the essence to the Contract and recognize that the State is on a Fiscal Year. All billings for dates of service prior to July 1 must be submitted to the state no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject Contractor to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the state of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to Contractor.

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9. **INSPECTION & AUDIT.**

- A. Books and Records. Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all State and federal regulations and statutes.
- B. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the State Auditor, the relevant State agency or its contracted examiners, the department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the state Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this Section.
- C. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the state, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. **CONTRACT TERMINATION.**

- A. Termination Without Cause. Regardless of any terms to the contrary, this Contract may be terminated upon written notice by mutual consent of both parties. The State unilaterally may terminate this contract without cause by giving not less than thirty (30) days' notice in the manner specified in *Section 4, Notice*. If this Contract is unilaterally terminated by the State, Contractor shall use its best efforts to minimize cost to the State and Contractor will not be paid for any cost that Contractor could have avoided.
- B. State Termination for Non-Appropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Contractor waives any and all claims(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.
- C. Termination with Cause for Breach. A breach may be declared with or without termination. A notice of breach and termination shall specify the date of termination of the Contract, which shall not be sooner than the expiration of the Time to Correct, if applicable, allowed under subsection 10D. This Contract may be terminated by either party upon written notice of breach to the other party on the following grounds:
 - 1) If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
 - 2) If any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
 - 3) If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the Bankruptcy Court; or

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- 4) If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or
- 5) If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
- 6) If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.

D. Time to Correct. Unless the breach is not curable, or unless circumstances do not permit an opportunity to cure, termination upon declared breach may be exercised only after service of formal written notice as specified in *Section 4, Notice*, and the subsequent failure of the breaching party within fifteen (15) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared breach has been corrected. Upon a notice of breach, the time to correct and the time for termination of the contract upon breach under subsection 10C, above, shall run concurrently, unless the notice expressly states otherwise.

E. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this Section survive termination:

- 1) The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- 2) Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency;
- 3) Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the Contracting Agency;
- 4) Contractor shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with *Section 21, State Ownership of Proprietary Information*.

11. **REMEDIES.** Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. For purposes of an award of attorneys' fees to either party, the parties stipulate and agree that a reasonable hourly rate of attorneys' fees shall be one hundred and fifty dollars (\$150.00) per hour. The State may set off consideration against any unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190. In the event that Contractor voluntarily or involuntarily becomes subject to the jurisdiction of the Bankruptcy Court, the State may set off consideration against any unpaid obligation of Contractor to the State or its agencies, to the extent allowed by bankruptcy law, without regard to whether the procedures of NRS 353C.190 have been utilized.

12. **LIMITED LIABILITY.** The State will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the Fiscal Year budget in existence at the time of the breach. Contractor's tort liability shall not be limited.

13. **FORCE MAJEURE.** Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

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14. **INDEMNIFICATION AND DEFENSE.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any breach of the obligations of Contractor under this contract, or any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents. Contractor's obligation to indemnify the State shall apply in all cases except for claims arising solely from the State's own negligence or willful misconduct. Contractor waives any rights of subrogation against the State. Contractor's duty to defend begins when the State requests defense of any claim arising from this Contract.
15. **REPRESENTATIONS REGARDING INDEPENDENT CONTRACTOR STATUS.** Contractor represents that it is an independent contractor, as defined in NRS 333.700(2) and 616A.255, warrants that it will perform all work under this contract as an independent contractor, and warrants that the State of Nevada will not incur any employment liability by reason of this Contract or the work to be performed under this Contract. To the extent the State incurs any employment liability for the work under this Contract; Contractor will reimburse the State for that liability.
16. **INSURANCE SCHEDULE.** Unless expressly waived in writing by the State, Contractor must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in *Attachment BB*, incorporated hereto by attachment. The State shall have no liability except as specifically provided in the Contract.

Contractor shall not commence work before Contractor has provided the required evidence of insurance to the Contracting Agency. The State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent to this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

A. Insurance Coverage. Contractor shall, at Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in *Attachment BB*, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by Contractor and shall continue in force as appropriate until:

- 1) Final acceptance by the State of the completion of this Contract; or
- 2) Such time as the insurance is no longer required by the State under the terms of this Contract; whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Contractor shall provide the State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

B. General Requirements.

- 1) Additional Insured: By endorsement to the general liability insurance policy, the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the Contract.
- 2) Waiver of Subrogation: Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of Contractor.
- 3) Cross Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

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- 4) Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars (\$50,000.00) per occurrence, unless otherwise approved by the Risk Management Division.
- 5) Policy Cancellation: Except for ten (10) days notice for non-payment of premiums, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the State of Nevada, c/o Contracting Agency, the policy shall not be canceled, non-renewed or coverage and/or limits reduced or materially altered, and shall provide that notices required by this Section shall be sent by certified mail to the address shown on page one (1) of this contract.
- 6) Approved Insurer: Each insurance policy shall be:
 - a) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and
 - b) Currently rated by A.M. Best as “A-VII” or better.

C. Evidence of Insurance.

Prior to the start of any work, Contractor must provide the following documents to the contracting State agency:

- 1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized by the insurer to bind coverage on its behalf. The State project/Contract number; description and Contract effective dates shall be noted on the certificate, and upon renewal of the policies listed, Contractor shall furnish the State with replacement certificates as described within *Section 16A, Insurance Coverage*.

Mail all required insurance documents to the State Contracting Agency identified on Page one of the Contract.

- 2) Additional Insured Endorsement: An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per *Section 16B, General Requirements*.
- 3) Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the underlying Schedule from the Umbrella or Excess insurance policy may be required.
- 4) Review and Approval: Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Contractor. Neither approval by the State nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor’s full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its subcontractors, employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise. The State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

- 17. **COMPLIANCE WITH LEGAL OBLIGATIONS.** Contractor shall procure and maintain for the duration of this Contract any state, county, city or federal license, authorization, waiver, permit qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor shall provide proof of its compliance upon request of the Contracting Agency. Contractor will be responsible

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to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

18. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.
19. **SEVERABILITY.** If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
20. **ASSIGNMENT/DELEGATION.** To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations nor duties under this Contract without the prior written consent of the State.
21. **STATE OWNERSHIP OF PROPRIETARY INFORMATION.** Any data or information provided by the State to Contractor and any documents or materials provided by the State to Contractor in the course of this Contract (“State Materials”) shall be and remain the exclusive property of the State and all such State Materials shall be delivered into State possession by Contractor upon completion, termination, or cancellation of this Contract.
22. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a “trade secret” or “confidential” in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.
23. **CONFIDENTIALITY.** Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract.
24. **FEDERAL FUNDING.** In the event federal funds are used for payment of all or part of this Contract, Contractor agrees to comply with all applicable federal laws, regulations and executive orders, including, without limitation the following:
 - A. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to Executive Orders 12549 and 12689 and Federal Acquisition Regulation subpart 9.4, and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
 - B. Contractor and its subcontracts shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder, including 28 C.F.R. Section 35, inclusive, and any relevant program-specific regulations.
 - C. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964 (P.L. 88-352), as amended, the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)
25. **LOBBYING.** The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

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- A. Any federal, state, county or local agency, legislature, commission, council or board;
 - B. Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or
 - C. Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.
26. **GENERAL WARRANTY.** Contractor warrants that all services, deliverables, and/or work products under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.
27. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the State Board of Examiners and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.
28. **DISCLOSURES REGARDING CURRENT OR FORMER STATE EMPLOYEES.** For the purpose of State compliance with NRS 333.705, Contractor represents and warrants that if Contractor, or any employee of Contractor who will be performing services under this Contract, is a current employee of the State or was employed by the State within the preceding 24 months, Contractor has disclosed the identity of such persons, and the services that each such person will perform, to the Contracting Agency.
29. **ASSIGNMENT OF ANTITRUST CLAIMS.** Contractor irrevocably assigns to the State any claim for relief or cause of action which Contractor now has or which may accrue to Contractor in the future by reason of any violation of State of Nevada or federal antitrust laws in connection with any goods or services provided under this Contract.
30. **GOVERNING LAW: JURISDICTION.** This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The parties consent to the exclusive jurisdiction of and venue in the First Judicial District Court, Carson City, Nevada for enforcement of this Contract, and consent to personal jurisdiction in such court for any action or proceeding arising out of this Contract.
31. **ENTIRE CONTRACT AND MODIFICATION.** This Contract and its integrated attachment(s) constitute the entire agreement of the parties and as such are intended to be the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Office of the Attorney General and the State Board of Examiners. This Contract, and any amendments, may be executed in counterparts.

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IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

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 Independent Contractor's Signature Date

 Independent Contractor's Title

 State of Nevada Authorized Signature Date

 Title

 State of Nevada Authorized Signature Date

 Title

 State of Nevada Authorized Signature Date

 Title

APPROVED BY BOARD OF EXAMINERS

 Signature – Board of Examiners

On: _____
 Date

Approved as to form by:

On: _____
 Date

 Deputy Attorney General for Attorney General

Approved as to form by:

On: _____
 Date

 NSHE System Counsel

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Attachment A

**EDUCATIONAL COMPUTER SYSTEMS, INC.
MASTER SERVICES AGREEMENT**

This Master Services Agreement including all attachments (the “Agreement”), effective the date of the last signature below (the “Effective Date”), is made by and between Educational Computer Systems, Inc. a Pennsylvania corporation, with an office at 1200 Cherrington Parkway, Suite 200, Moon Twp, PA 15108 (“ECSI”), and the Nevada Office of the Western Interstate Commission for Higher Education (“WICHE”), a member of the Western Regional Education Compact, with an office at 2601 Enterprise Road, Reno, Nevada 89512. WICHE hereinafter shall be referred to as “Customer.” ECSI and Customer may individually be referred to herein as “Party” or collectively as “Parties”.

1. DEFINITIONS

- 1.1 **Account Holder** means a student, borrower, or other third party that owes a debt to Customer.
- 1.2 **Customer Data** means all information, files, content, figures, images, text, files or other data, including Personally Identifiable Information, provided to ECSI by Customer for ECSI’s use in connection with the Services.
- 1.3 **ECSI Data** means all ECSI-created information, files, content, figures, images, text, files or other data provided by ECSI to Customer in connection with Customer’s or its Users’ use of the Hosted Platform or Services.
- 1.4 **Hosted Platform** means ECSI’s proprietary loan servicing and third-party billing service networks and systems.
- 1.5 **Personally Identifiable Information** means (a) student names; (b) students’ parent and family members’ names; (c) students and students’ families’ address; (d) personal identifiers, such as social security numbers, student number, or biometric record; (e) indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name; or (f) other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty, as defined by the regulations governing the Family Educational Rights and Privacy Act (“FERPA”), 34 C.F.R. § 99.3. For purposes of performing the work agreed to under this Agreement and any Service Order Forms, ECSI is deemed a “school official” as defined in FERPA and the Nevada System of Higher Education’s Board of Regents’ *Handbook*, Title 4, Chapter 1, Section 28.
- 1.6 **Services** means ECSI’s loan servicing and related fulfillment services, third-party billing services, tuition payment plan services, refund disbursement services, tax document services, call center services operating on the Hosted Platform and other services as may be defined in the Service Order Form.
- 1.7 **Service Order Form** or **SOF** means each ECSI ordering document signed by the Parties identifying the specific Services ECSI will provide Customer, setting forth the prices for such Services and specific terms and conditions for the Services ordered.
- 1.8 **Customer User** means any Customer employee, consultant, or agent who Customer authorizes to access the Services.
- 1.9 **Terms of Use** means the terms and conditions governing Account Holders’ and Customer Users’ use of the Hosted Platform, found at https://www.ecsi.net/terms_of_use.html, and attached hereto as Exhibit A. The Terms of Use are incorporated into this Agreement as if expressly set forth herein.
- 1.10 **Work Product** means any deliverables, programs, interfaces, modifications, configurations, reports, analyses or documentation developed by ECSI on behalf of Customer and delivered to Customer in the performance of Services.

2. SERVICES

- 2.1 **Services.** Subject to these terms and conditions and those in the applicable SOF, ECSI will provide the Services specified on each Service Order Form to Customer. In the event of a conflict between the terms and conditions set forth in any SOF, and this Agreement, the terms and conditions in the SOF shall control.
- 2.2 **Implementation.** ECSI will appoint a team member to assist with implementing Customer's Services. ECSI will notify Customer when the Services are ready for testing, Customer will promptly conduct its testing and notify ECSI of the results, including any requested changes, which ECSI shall promptly address. ECSI will deem the Services to be accepted by Customer upon the earlier of (1) the date Customer executes ECSI's Acceptance Form (which acceptance shall not be unreasonably delayed) or (2) sixty (60) calendar days from the date of ECSI's notice that the Services are ready for testing. Nothing in this section shall be construed to change the Term of this Agreement set forth in Section 4 below, or the Term of any Service Order Form.
- 2.3 **Customization.** Customer acknowledges and agrees that customization of Customer's systems may be required in order to implement the Services to Customer's specifications. Any customization services provided by ECSI will be memorialized in writing, as provided in Section 2.4.
- 2.4 **Professional Services.** At Customer's request, ECSI will provide resources to perform additional services such as software development and testing for customization, modifications, additional training, creating custom reports, and other custom support related to the Services (collectively, "Professional Services"). Professional Services will be provided pursuant to a written agreement signed by both parties. As of the Effective Date, ECSI's rate for Professional Services is \$150.00 per hour, plus reasonable travel expenses, if any. ECSI shall not be obligated to undertake any Professional Services until Customer and ECSI agree to them in writing.
- 2.5 **Support Services.**
- 2.5.1. **Customer Support.** ECSI will resolve Customer inquiries regarding question, errors, or issues with the Services ("Customer Support"). Customer Support is available between 7:30 AM and 8:00 PM EST, Monday – Friday (excluding holidays), by telephone at (800) 437-6931, and/or by email at clientsupport@ecsi.net. Customer shall appoint a primary point of contact for Customer Support.
- 2.5.2. **Account Holder Support.** ECSI will work directly with Account Holders to take payments, answer questions, manage deferment requests, and resolve or respond to other issues raised by Account Holders ("Account Holder Support"). Account Holder Support is available 7:30am – 8:00pm EST, Monday–Friday by online chat at <https://heartland.ecsi.net/> or telephone at 888.549.3274 (for loan servicing), 866.927.1438 (for tuition payment plans), 855.250.3230 (for financial aid refunds), and 866.428.1098 (for tax documents), by online chat on Saturdays, 8:30am – 5:00pm EST (excluding holidays), and by email at cservice@ecsi.net.
- 2.6 **Input.** Customer is responsible for all data within ECSI systems; ECSI will only add information and data per Customer's request. Any information or data Customer submits to ECSI will be in a reasonable and customary format, as approved by ECSI. Customer is responsible for the authenticity and accuracy of all information and data submitted to ECSI.
- 2.7 **Customer Review; Error Correction.** Customer will review all reports and files furnished by ECSI for accuracy and compliance with applicable federal and state laws and regulations, and will cooperate with ECSI to reconcile any discrepancies. Customer acknowledges that certain reports and files may or may not include principal, interest, late fees, other fees, fines, and/or collection fees. Customer warrants that both the Account Holder's principal obligation, and any additional amount is supported by a written agreement between the Account Holder and Customer, or is specifically allowed by applicable law. Customer, and not ECSI, determines the Account Holders' obligation amounts. Any communication with an Account Holder by Customer shall correctly and accurately inform Account Holder how Customer calculated all obligations and inform Account Holder that Customer, and not ECSI, assesses all amounts that an Account Holder owes. Customer will not communicate in writing or otherwise to Account Holders that any

obligation is assessed or charged by ECSI. If applicable, Customer will balance its accounts each month and immediately notify ECSI of any errors after Customer's receipt of the work containing the error. If Customer so notifies ECSI and if the error was caused by ECSI, then ECSI shall correct such error or provide for another mutually agreeable resolution at no additional charge to Customer. If Customer so notifies ECSI and the error was not caused by ECSI, then ECSI will use commercially reasonable efforts to correct the errors, but may charge Customer for any work ECSI performs due to errors caused by Customer Users, or Customer's agents at ECSI's then current Professional Services rates.

- 2.8 **Subcontracting.** To the extent ECSI subcontracts a portion of the Services to a subcontractor, ECSI shall ensure that such subcontractor complies with the material terms and conditions of this Agreement, including Confidentiality and Security, and will be responsible for all subcontractors' performance. ECSI's use of subcontractors will not relieve it of any of its liabilities or obligations to Customer under this Agreement.

3. **FEES; PAYMENT TERMS**

- 3.1 **Fees.** Customer agrees to pay ECSI for Services it provides to Customer and Account Holder, as well as any third party expenses ECSI incurs on Customer's behalf, as agreed to in the Service Order Form(s). In addition to any fee increase terms contained in a Service Order Form, ECSI reserves the right, upon at least ninety (90) days' prior written notice to Customer, to increase the fees and expenses set forth in any Service Order Form; provided that fees will remain fixed for the first year of the Agreement, fees will not be increased more than once annually, and fees will not be increased by more than five percent (5%) over the prior year's fees. If Customer does not wish to accept a fee increase, Customer may terminate this Agreement, pursuant to its terms, without termination charges.
- 3.2 **Taxes.** Customer is solely and exclusively responsible for the payment of any required federal, state and local taxes arising from or relating to the Services, except for taxes related to the net income of ECSI and any taxes or obligations imposed upon ECSI under federal, state and local wage laws.
- 3.3 **Other ECSI Remedies.** Any late payment by Customer of applicable fees is subject to a late charge equal to the lesser of eighteen percent (18%) per year or the highest rate permitted by applicable law. If Customer is more than thirty (30) days late on any payment due hereunder, ECSI reserves the right, in its sole and absolute discretion, to suspend the Services. Upon suspension, Customer must pay all charges incurred prior to the date of suspension, and ECSI will not restore the Services until Customer has brought its account current. If Customer continues to refuse to pay for Services already received, ECSI may terminate the Agreement for cause, and recover all fees due through the Term of the Agreement or SOF, whichever is longer.

4. **TERM**

- 4.1 **Term.** This Agreement will commence on July 1, 2022 and will continue for a term of three (3) years.
- 4.2 **Termination for Cause.** In the event of a material breach of this Agreement that is not cured within 30 days after receipt of written notice by the non-breaching Party, the non-breaching Party may immediately terminate this Agreement or the SOF forming the contractual basis for the breach.
- 4.3 **Effect of Termination.**
- 4.3.1. Termination of an SOF will not be deemed a termination of this Agreement. Termination of this Agreement will terminate all SOFs.
- 4.3.2. All rights and obligations of the Parties which by their nature are reasonably intended to survive such termination or expiration will survive termination or expiration of this Agreement and each Service Order Form, including, but not limited to, the rights and obligations contained in Sections 3.3, 4.3, 5, 6, 7, 8, 9, and 10 of this Agreement.
- 4.3.3. Upon termination or expiration of this Agreement or SOF, ECSI will cease providing the applicable Services to Customer and Account Holders. Customer must cause Customer Users and Account Holders to cease using the terminated Services. Upon ECSI's termination of this Agreement or

any SOF due to Customer's uncured breach, and in addition to any and all other remedies ECSI may have for such breach at law or in equity, Customer shall pay all fees and expenses that accrued prior to the termination date.

5. **DATA OWNERSHIP; USE OF DATA**

5.1 **Customer Data.** Customer retains ownership of all right, title and interest in and to all Customer Data and all reports generated by Customer's use of the Services. During the term of this Agreement, Customer hereby grants to ECSI a limited, worldwide, non-exclusive, non-transferable (except as set forth in Section 10.12), royalty-free right to use, display, modify, transmit, and distribute Customer Data solely in connection with providing or improving the Services to Customer and providing Account Holder Support.

5.2 **ECSI Data.** ECSI retains ownership of all right, title and interest in and to all ECSI Data. During the term of this Agreement, ECSI grants to Customer a limited, worldwide, non-exclusive, non-transferable (except as set forth in Section 10.12), royalty-free right to use, display, transmit, and distribute the ECSI Data solely in connection with Customer's permitted use of the Services, including providing and improving the Services.

5.3 **Work Product.** Customer will have a non-exclusive, non-transferable license to use any Work Product developed by ECSI in the performance of the Services and delivered to Customer, upon Customer's payment in full of all amounts due hereunder, solely for Customer's internal use. ECSI retains ownership of all information, software, and other property owned by it prior to this Agreement, or that ECSI develops independently of this Agreement, and all Work Product compiled or developed by ECSI in the performance of this Agreement. ECSI may utilize any and all methods, computer software, know-how or techniques related to programming and processing of data, developed by it while providing the Services and may incorporate the Work Product in future releases of any of its products or services.

5.4 **ECSI Obligations**

5.4.1. **Data Privacy.** ECSI holds all Customer Data in its secure network. ECSI maintains compliance with industry standard information security and privacy standards, and complies with all applicable data privacy laws. ECSI's security controls are substantially in compliance with NIST Cybersecurity Framework, and are reviewed by independent third parties for compliance with the Title IV Perkins Loan Servicing Programs and SSAE 18. ECSI has also implemented security controls, including using firewall technology, encrypting data, regularly updating antivirus software, restricting access to data based on business need, identifying and authenticating access to system components, restricting physical access to data, testing security systems and processes, and maintaining internal policies that addresses information security.

5.4.2. **Security Report.** No more than once annually, Customer may request ECSI's SSAE 18 Report, as well as ECSI's Information Security Program Overview (collectively "Security Documents"), subject to the confidentiality requirements in Section 6. To the extent ECSI provides Customer a copy of its SSAE 18 Report in Customer's capacity as a "User Entity", Customer may only disclose the SSAE 18 Report to its financial auditors who are bound to an obligation of confidentiality similar to those set forth herein, for the exclusive purpose of evaluating the effect of Customer's controls on a User Entity's internal control system. Notwithstanding any other provisions herein, Customer may not share ECSI's SSAE 18 Report with any other third-party, contractor, advisor, consultant, or service provider.

5.5 **Customer Obligations.**

5.5.1. Customer shall promptly notify ECSI of any account changes impacting Account Holders, including address changes, payment plan changes, bankruptcy petitions, or any other change that impacts the Account Holder's account.

- 5.5.2. ECSI, at its own discretion, may immediately disable Customer's access to the Services or remove all or a portion of Customer Data, if ECSI reasonably believes that the services are being used by Customer for fraud or other criminal activity.
- 5.5.3. Customer will only provide ECSI with information related to verified, accurate debt, which is collectable under applicable law. Customer warrants that to the best of its knowledge, all outstanding amounts are legitimate debts under applicable law.

6. CONFIDENTIALITY

- 6.1 **Confidential Information.** "Confidential Information" means all information provided to a Party (the "Receiving Party") by the other Party (the "Disclosing Party") that is designated in writing as proprietary or confidential or which a reasonable person familiar with the Disclosing Party's business and the industry in which it operates ought to know is of a confidential or proprietary nature. Confidential Information includes, but is not limited to, the terms and pricing of this Agreement, any internal processes, and all personal information of any Users, including, but not limited to, names, addresses, telephone numbers, email addresses, account numbers, personal data, and demographic, financial, and transaction information.
- 6.2 **Non-Disclosure of Confidential Information.** During the term of this Agreement and following termination or expiration of this Agreement, and except as otherwise set forth in Sections 6.3 and 6.4, the Receiving Party shall only use the Disclosing Party's Confidential Information for the purpose for which it was disclosed and shall not disclose such Confidential Information to any third party, except as required to perform under this Agreement or Service Order Form. The Receiving Party shall protect the Disclosing Party's Confidential Information in the same manner it protects its own confidential information, but in no event shall it protect the Disclosing Party's Confidential Information with less than commercially reasonable care. The Receiving Party shall only provide Confidential Information of the Disclosing Party to those of the Disclosing Party's employees, agents or business partners who have a need to know such Confidential Information in the course of the performance of their job duties and who are bound by a contractual duty of confidentiality no less protective than the Receiving Party's duties of confidentiality hereunder.
- 6.3 Notwithstanding the foregoing, this Agreement may be subject to the provisions of the State of Nevada Public Records Law, Nevada Revised Statutes (NRS) Chapter 239, such that this Agreement and other information or documents may be open to public inspection and copying.
- 6.4 **Exclusions.** Notwithstanding the foregoing, Confidential Information will not include information that (i) was previously known free of any obligation to keep it confidential as evidenced by competent proof thereof; (ii) is or becomes publicly available, by other than unauthorized disclosure; (iii) is rightfully received by the Receiving Party from a third party without restriction and without breach of this Agreement; (iv) is approved for release by prior written approval of the Disclosing Party; or (v) is otherwise required by law, legal process or government regulation, provided that it gives the Disclosing Party reasonable prior written notice to permit the Disclosing Party to contest such disclosure, and such disclosure is otherwise limited to the required disclosure.
- 6.5 **Return and Retention of Confidential Information.** Upon termination of this Agreement, Customer shall promptly return or destroy all Confidential Information of ECSI in its possession. Upon termination of this Agreement, ECSI shall retain all Customer Data and other documents relative to this Agreement for the current fiscal year, plus seven (7) years after final payment for purposes of governmental audit.
- 6.6 **No Adequate Remedy at Law.** The Parties acknowledge and agree that due to the unique nature of the Confidential Information, there may be no adequate remedy at law for any breach of the obligations of confidentiality in this Section 6. The Parties further acknowledge that any such breach may result in irreparable harm, and therefore, that upon any such breach or any threat thereof, a Party shall be entitled to seek appropriate equitable relief, including but not limited to injunction, in addition to whatever remedies it may have at law. In the event a Party should seek an injunction or other equitable relief, the other Party

hereby waives any requirement for the submission of proof of the economic value of any Confidential Information or the posting of a bond or any other security.

7. **LIMITED WARRANTY**

- 7.1 **Warranty and Remedy.** ECSI warrants that the Services will be performed by in a timely and professional manner. ECSI further warrants that the Services will be performed in all material respects in compliance with the functions described in Service Order Form. If Customer notifies ECSI within fifteen (15) days of Customer's discovery the performance of the Services that the Services are not functioning as intended, ECSI will use its good faith efforts to make the Services function as intended at no additional cost to Customer. ECSI does not warrant that it will be able to correct all defects in the Services reported by Customer. However, Customer shall have the right to terminate the contract for cause if the uncorrected defects render the ECSI's Services to Customer unworkable. ECSI makes no warranty regarding features or services provided by third parties. The remedies set out in this subsection shall only apply if the applicable Services have been utilized by Customer in accordance with the Service Order Form(s), the Terms of Use, this Agreement and applicable law.
- 7.2 **NO OTHER WARRANTY.** ECSI DOES NOT REPRESENT THAT THE SERVICES OR USE OF THE HOSTED PLATFORM WILL BE UNINTERRUPTED OR ERROR-FREE, OR WILL MEET CUSTOMER'S OR ANY USER'S REQUIREMENTS. ECSI DOES NOT REPRESENT THAT THE OVERALL SYSTEM THAT MAKES THE HOSTED PLATFORM OR THE SERVICES AVAILABLE (INCLUDING, BUT NOT LIMITED TO, THE INTERNET, OTHER TRANSMISSION NETWORKS, AND CUSTOMER'S LOCAL NETWORK AND EQUIPMENT) WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE WARRANTIES STATED IN SECTION 7.1 ABOVE ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES OFFERED BY ECSI. THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE HOSTED PLATFORM AND SERVICES ARE ACCURATE OR SUFFICIENT FOR CUSTOMER'S PURPOSES.

8. **INDEMNIFICATION**

8.1 **ECSI Indemnification.**

- 8.1.1. Subject to Section 8.3 below, ECSI will indemnify, defend and hold Customer harmless from and against all claims for damages, losses, liabilities or expenses, including reasonable attorneys' fees, brought against the indemnified party by a third party (collectively, "Losses"), incurred arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against Customer alleging that the use of the Services as permitted hereunder infringes any United States copyright or trademark, or constitutes a misappropriation of a trade secret of a third party. Excluded from the above indemnification obligations are claims to the extent arising from (i) use of the Services in violation of this Agreement or applicable law, (ii) use of the Services after ECSI notifies Customer to discontinue use because of an infringement claim, (iii) any claim relating to any third party content or Customer Data or (iv) modifications to the Services made other than by ECSI. If the Services are held to infringe, ECSI will, at its own expense, in its sole discretion use commercially reasonable efforts either (a) to procure a license that will protect Customer against such claim without cost to Customer; (b) to replace the Services with non-infringing Services; or (c) if (a) and (b) are not commercially feasible, terminate the Agreement or the applicable Service Order Form and refund any prepaid unused fees Customer paid ECSI for the infringing Services. The rights and remedies granted Customer under this Section 8.1 state ECSI's entire liability, and Customer's exclusive remedy, with respect to any claim of infringement of the intellectual property rights of a third party, whether arising under statutory or common law or otherwise.
- 8.1.2. ECSI agrees to comply with the requirements of all applicable laws that require the notification of individuals in the event of unauthorized release of Personally Identifiable Information, or other

security event requiring notification, to the extent such laws expressly apply to ECSI. In the event of a breach of any of ECSI's security obligations or other event requiring notification under applicable law, ECSI agrees to notify Customer promptly and in accordance with applicable law, if legally permitted to do so, and assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend Customer and its employees from and against any and all claims, damages, or causes of action directly related to the unauthorized release.

- 8.2 **Customer Indemnification.** To the extent limited in accordance with NRS 41.0305 to NRS 41.039, , and subject to Section 8.3 below, Customer shall indemnify, defend, and hold ECSI harmless from and against any and all Losses relating to ECSI's provision of access to Personally Identifiable Information or educational records (as that phrase is defined by the Family Educational Rights and Privacy Act of 1974) to any third party, including to collection agencies, at Customer's request and which may occur during or which may arise out of the performance of this Agreement. WICHIE will assert the defense of sovereign immunity as appropriate in all cases, including malpractice and indemnity actions. WICHE's indemnity obligation for actions sounding in tort is limited in accordance with the provisions of NRS 41.035.
- 8.3 **Indemnification Procedure.** The indemnified party shall (i) promptly notify the indemnifying party in writing of any claim, suit or proceeding for which indemnity is claimed, provided that failure to so notify will not remove the indemnifying party's obligation except to the extent it is prejudiced thereby, and (ii) allow the indemnifying party to solely control the defense of any claim, suit or proceeding and all negotiations for settlement. The indemnified party shall also provide the indemnifying party with reasonable cooperation and assistance in defending such claim (at the indemnifying party's cost).

9. **LIMITATION OF LIABILITY.**

- 9.1 **Consequential Damage Waiver.** NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR LOSS OF PROFITS, OR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS AND COSTS, IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES, OR THE PERFORMANCE OF ANY OTHER OBLIGATIONS UNDER THIS AGREEMENT, EVEN IF IT IS AWARE OF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES.
- 9.2 **Limitation of Liability.** THE TOTAL CUMULATIVE LIABILITY OF EITHER PARTY TO THE OTHER FOR ANY AND ALL CLAIMS, DAMAGES OR LOSSES ("LOSS") ARISING FROM OR RELATED TO THE SERVICES OR THIS AGREEMENT, WHETHER ARISING BY STATUTE, CONTRACT, TORT, OR OTHERWISE, WILL NOT EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO ECSI FOR THE SERVICES DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE LOSS. THE PROVISIONS OF THIS SECTION ALLOCATE RISKS BETWEEN THE PARTIES AND THE PRICING OFFERED TO CUSTOMER FOR THE SERVICES REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN. ECSI SHALL NOT BE LIABLE TO CUSTOMER FOR ANY CLAIM MADE BY ANY BORROWER(S) ALLEGING ANY VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT.

10. **GENERAL PROVISIONS**

- 10.1 **Piggyback Provision.** Customer may permit other state institutions to contract with ECSI under the same terms and conditions as this Agreement, provided that each such institution seeking to exercise this right shall separately agree in writing to the terms and conditions of this Agreement.
- 10.2 **Use of Name and Logo.** In the event that it is required to fulfill the Services obligations, Customer grants ECSI a non-exclusive license during the term of this Agreement to list Customer's name and display Customer's logo in the customer section of ECSI's website and as may otherwise be necessary to provide the Services as requested by Customer.

- 10.3 **Governing Law.** This Agreement shall be construed and governed by the laws of the state of in which Customer is located without regard to legal principles related to conflict of laws.
- 10.4 **Jurisdiction & Venue.** Any suit, action or proceeding (collectively “Action”) arising out of or relating to this Agreement shall be brought only in the state or federal courts of the state in which Customer is located. The Parties hereto agree and consent to the personal and exclusive jurisdiction of said courts over them as to all such Actions, and further waive any claim that such Action is brought in an improper or inconvenient forum.
- 10.5 **Entire Agreement.** This Agreement and its attachments, along with the Service Order Form(s), Terms of Use, and Public Education ACH Processing Terms and Conditions, constitute the entire agreement and understanding of the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral.
- 10.6 **Amendments.** This Agreement and any Service Order Form(s) shall not be modified except by written amendment signed by each of the Parties.
- 10.7 **Severability.** If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such terms or provisions shall be deemed modified to the extent necessary in the court’s opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.
- 10.8 **No Waiver of Rights.** Any failure of either Party to enforce any of the terms, conditions or covenants of this Agreement shall not constitute a waiver of any rights under this Agreement.
- 10.9 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement. A facsimile or scanned version of an original signature transmitted to the other Party is effective as if the original was sent to the other Party.
- 10.10 **Assignment.** This Agreement shall be binding upon and for the benefit of ECSI, Customer and their permitted successors and assigns. Neither Party may assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of the other Party, except that ECSI may assign this Agreement as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets. Any attempted assignment or delegation in violation of this section will be void.
- 10.11 **Relationship of the Parties.** ECSI and Customer are independent contractors, and nothing in this Agreement shall be construed as making them partners or creating the relationships of employer and employee, master and servant, or principal and agent between them, for any purpose whatsoever. Neither Party shall make any contracts, warranties or representations or assume or create any obligations, express or implied, in the other Party’s name or on its behalf.
- 10.12 **Publicity.** ECSI may identify Customer by name, without use of any mark or logo, and solely as a matter of fact, as a customer of ECSI Services in the customer section of ECSI’s website, in its customer lists, and as necessary to white-label any ECSI Services as requested by Customer, provided that ECSI shall not express or imply any endorsement by Customer of ECSI or the Services.
- 10.13 **Section Headings; Interpretation.** All section headings contained herein are for descriptive purposes only, and the language of such section shall control. All references to the plural herein shall also mean the singular and the singular shall also mean the plural unless the context otherwise requires.
- 10.14 **Force Majeure.** Other than with respect to any payment or confidentiality obligation, neither Party will be liable to the other Party for any delay, error, failure in performance or interruption of performance resulting from causes beyond its reasonable control, including, but not limited to, work stoppages, fires, civil disobedience, earthquakes, floods, acts of God and similar occurrences. If a force majeure condition

occurs, the Party delayed or unable to perform shall give immediate notice to the other Party and its expected duration and use its best efforts to mitigate its effects and perform hereunder.

- 10.15 **Higher Education Act.** ECSI and Customer agree to comply with the applicable statutory provisions of or applicable to Title IV of the Higher Education Act as set forth in 34 CFR 668.25, including those set forth expressly in the ServicingSelect SOF.
- 10.16 **Non-Discrimination.** In its performance of this Agreement, ECSI warrants that it will not discriminate against any employee, or other person, on account of race, color, sex, religious creed, ancestry, age, marital status or national origin.
- 10.17 **Notices.** Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes (i) on the delivery date if delivered personally to the party to whom the same is directed; (ii) one (1) business day after deposit with a nationally recognized overnight carrier, with written verification of receipt, or (iii) five (5) business days after the mailing date whether or not actually received, if sent by U.S. certified mail, return receipt requested, postage and charges pre-paid or any other means of rapid mail delivery for which a receipt is available, to the address of the Party set forth in the first sentence of this Agreement . Either Party may change its address by giving written notice of such change to the other Party.
- 10.18 **Non-Solicitation.** Each Party acknowledges that the other Party’s employees are valuable business assets, and each Party agrees that during the Term of this Agreement and for a period of twelve months after termination, it shall not (for itself or for any third party) solicit any employee of such Party (each, a “Protected Individual”) to terminate his or her employment with the other Party. Notwithstanding the foregoing, the provisions of this paragraph shall not restrict or preclude a Party from making generalized searches for employees by the use of advertisements in the media or by engaging search firms to engage in searches that are not targeted or focused on the Protected Individuals, or from employing any Protected Individual whose employment was terminated by a Party, or voluntarily terminated by such employee at least six month prior to the hiring of such Protected Individual.
- 10.19 **No Third Party Beneficiaries.** Nothing contained in this Agreement is intended or shall be construed to confer upon any person any rights, benefits or remedies of any kind or character whatsoever, or to create any obligation of a Party to any such person.

IN WITNESS WHEREOF, ECSI and Customer have caused this Master Services Agreement to be signed and delivered by their duly authorized representatives.

**The Western Interstate Commission for Higher Educational Computer Systems, Inc.
Education**

By : _____

By : _____

Name : _____

Name : _____

Title : _____

Title : _____

Date: _____

Date: _____

**Attachment 1
34 CFR, Part 668.25 Compliance**

Pursuant to Federal Regulation 34 CFR, Part 668.25, ECSI agrees to:

- (A) Comply with all statutory provisions of or applicable to Title IV of the Higher Education Act, all regulatory provisions prescribed under that statutory authority, all special arrangements, agreements, limitations, suspensions, and terminations entered into under the authority of statutes Title IV of the Higher Education Act;
- (B) Refer to the Office of Inspector General of the Department of Education for investigation any information indicating there is a reasonable cause to believe that the University might have engaged in fraud or other criminal misconduct in connection with University administration of any Title IV, Higher Education Act program or applicant for Title IV, Higher Education Act program assistance might have engaged in fraud or other criminal misconduct in connection with his application. Examples of other types of information that must be referred are: (a) false claims by the University for Title IV, Higher Education Act program assistance; (b) false claims of independent student status; (c) false claims of citizenship; (d) use of false identity; (e) forgery of signatures or certification; and (f) false statements of income;
- (C) Be jointly and severally liable with Customer to the Secretary of the Department of Education for any violation by ECSI of any statutory provision of or applicable Title IV of the Higher Education Act, any regulatory provision prescribed under the statutory authority, and any applicable special arrangements, agreement or limitation entered into under the authority of statutes applicable to the Title IV of the Higher Education Act; and
- (D) If ECSI or Customer terminates the contract, or if ECSI stops providing services for the administration of a Title IV, Higher Education Act program, goes out of business, or files a petition under the bankruptcy code, return to Customer all records in ECSI's possession pertaining to Customer's participation in the program or programs for which services are no longer provided; and funds, including Title IV, Higher Education Act program funds, received from or on behalf of Customer or Customer's students, for the purpose of the program or programs for which services are no longer provided.

Pursuant to Federal Regulation 34 CFR, Part 668.25, if Customer participates in a Title IV Higher Education Act program, Customer agrees to notify the Secretary of the Department of Education within 10 days of the date that:

- (A) Customer enters into a new contract or significantly modifies an existing contract with ECSI to administer any aspect of that program;
- (B) Customer or ECSI terminates all or any portion of the agreement to administer any portion of that program; or
- (C) if ECSI stops providing services for the administration of that program, goes out of business, or files a petition under the Bankruptcy Code. Customer's notification must include the name and address of ECSI.

If Customer contracts with ECSI to administer any aspect of Customer's participation in a Title IV Higher Education Act program, it shall provide to the Secretary of the Department of Education, upon request, a copy of the agreement for the administration of that program, including any modifications, and provide information pertaining to the contract or to ECSI's administration of Customer's participation in any Title IV, HEA program. ECSI's primary physical address is 1200 Cherrington Parkway, Suite 200, Moon Twp., PA 15108. Eric Ives is the Senior Vice President and General Manager, Eric.Ives@e-hps.com, 412.788.3900 x86074.

Attachment 2
Terms of Use for the ECSI Hosted Platform
Last Updated June 28, 2019

These Terms of Use (“Terms of Use”) establish the terms and conditions under which Educational Computer Systems, Inc. (“ECSI”) will provide access to the Hosted Platform (as defined below) to those customers (each a “Customer”) who have executed a Master Hosted Platform and Services Agreement (the “Agreement”). Provision of the Hosted Platform shall constitute one of the Services provided by ECSI under the Agreement. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Agreement. ECSI reserves the right to amend these Terms of Use by providing a revised set of Terms of Use to Customer. These Terms of Use were last revised on the date set forth above. If Customer uses the Hosted Platform after an amended Terms of Use has been provided to Customer, Customer will be deemed to have agreed to such amended Terms of Use.

1. Hosted Platform. Subject to the terms and conditions of these Terms of Use and the Agreement, ECSI or its subcontractors will provide Customer with access to its proprietary loan and billing servicing network and system (the “Hosted Platform”). DSL, cable or another high speed Internet connection is required for Customer to properly access the Hosted Platform. Customer and its Users are responsible for procuring and maintaining the network connections that connect the Customer network or User to the Hosted Platform, including, but not limited to, “browser” software that supports protocol used by ECSI, including Secure Socket Layer protocol or other protocols accepted by ECSI, and for following logon procedures for services that support such protocols. ECSI assumes no responsibility for the reliability or performance of any connections as described in this Section. Customer shall not attempt to access any other of ECSI’s systems, programs or data that are not made available for public use in connection with the Hosted Platform.

2. ECSI Technology and Hosted Materials. “ECSI Technology” means all of ECSI’s proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer or its Users by ECSI in providing the Hosted Platform. “Hosted Materials” means the documentation and all other information developed or provided by ECSI or its suppliers under the Agreement to Customer or its Users or made available by ECSI to Customer or its Users in the course of using the Hosted Platform.

3. Provision of ECSI Technology and Hosted Materials. As part of its provision of the Services to Customer, ECSI shall operate and support the Hosted Platform and hosted environment, including, without limitation, the ECSI Technology, all applicable server hardware, disk storage, server operating systems, management programs, web server programs, and Hosted Materials.

4. Downtime. Subject to these Terms of Use and the Agreement, ECSI shall use commercially reasonable efforts to provide the Hosted Platform twenty-four (24) hours a day, seven (7) days a week throughout the term of the applicable Service Order Form for the Services. Customer agrees that from time to time the Hosted Platform may be inaccessible or inoperable for various reasons, including (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which ECSI may undertake from time to time; or (iii) causes beyond the control of ECSI or which are not reasonably foreseeable by ECSI, including interruption or failure of telecommunication or digital transmission links, hostile network attacks or network congestion or other failures (collectively “Downtime”). ECSI shall use commercially reasonable efforts to provide twenty-four (24) hour advance notice to Customer in the event of any scheduled Downtime. ECSI shall have no obligation during performance of such operations to mirror Customer Data on any other server or to transfer Customer Data to any other server. ECSI shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the Hosted Platform in connection with Downtime, whether scheduled or not.

5. License Grant/Restrictions. Customer and its Users shall have a non-exclusive license to access the Hosted Platform solely for use of the Services. Customer and its Users are solely responsible for all activities conducted under Customer’s User logins and passwords and for its Users’ compliance with this Agreement and all applicable laws. Unauthorized use, resale or commercial exploitation of the Hosted Platform in any way is expressly prohibited. Without ECSI’s express prior written consent in each instance, Customer shall not (and shall not allow any third party to): reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code form or structure of the Hosted Materials, including the ECSI Technology, or access the Hosted Platform in order to build a competitive product or service or copy

any ideas, features, functions or graphics of the Hosted Platform. Except as expressly permitted in this Agreement, Customer shall not copy, license, sell, transfer, make available, lease, time-share, distribute, or assign this license, the Hosted Platform or the Hosted Materials to any third-party. Customer shall not use or knowingly permit the use of any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Hosted Platform. Customer also agrees to be bound by any further restrictions set forth on the Service Order Form. All rights not expressly granted to Customer are reserved by ECSI and its licensors. There are no implied rights. In addition to ECSI's other remedies hereunder, ECSI reserves the right upon notice to Customer to terminate any User's right to access the Hosted Platform if such User has violated any of the restrictions contained in these Terms of Use or the Agreement.

6. Ownership. Customer acknowledges and agrees that (i) as between ECSI and Customer, all right, title and interest in and to the Hosted Platform, the Hosted Materials, including the ECSI Technology and all derivatives thereof (including any and all patents, copyrights, trade secret rights, trademarks, trade names and other proprietary rights embodied therein or associated therewith) are and shall remain ECSI's or its licensors', and ECSI in no way conveys any right or interest in the Hosted Materials, the ECSI Technology or the Hosted Platform other than a limited license to use them in accordance herewith, and (ii) the Hosted Materials, the ECSI Technology and the Hosted Platform are works protected by copyright, trade secret, and other proprietary rights and laws. The ECSI name, the ECSI logo, and the product names associated with the Hosted Platform are trademarks of ECSI or third parties, and no right or license is granted to use them. Customer shall not remove any ECSI or ECSI trademark or logo from the Hosted Platform (without ECSI's consent and only upon the payment of additional fees to ECSI).

7. Privacy Policy. ECSI's privacy policy, found at https://www.ecsi.net/privacy_notice.html, explains how ECSI collects and uses (i) Customer Data submitted by Customer, Customer's employees or agents, and Users; and (2) about Customer or Customer's employees or agents submitted through technological means. Access or use of the Hosted Platform is subject to ECSI's privacy policy.

8. Handling of Customer Data upon Termination. Customer acknowledges and agrees that (i) as between ECSI and Customer, all right, title and interest in and to the Hosted Platform, the Hosted Materials, including the ECSI Technology and all derivatives thereof (including any and all patents, copyrights, trade secret rights, trademarks, trade names and other proprietary rights embodied therein or associated therewith) are and shall remain ECSI's or its licensors', and ECSI in no way conveys any right or interest in the Hosted Materials, the ECSI Technology or the Hosted Platform other than a limited license to use them in accordance herewith, and (ii) the Hosted Materials, the ECSI Technology and the Hosted Platform are works protected by copyright, trade secret, and other proprietary rights and laws. The ECSI name, the ECSI logo, and the product names associated with the Hosted Platform are trademarks of ECSI or third parties, and no right or license is granted to use them. Customer shall not remove any ECSI or ECSI trademark or logo from the Hosted Platform (without ECSI's consent and only upon the payment of additional fees to ECSI).

9. Users: Passwords, Access and Notification. Customer agrees that following termination of the Agreement or the Service Order Form(s), ECSI may immediately deactivate Customer's and its Users' access to the Hosted Platform and that following a reasonable period of not less than thirty (30) days, shall be entitled to delete Customer's account from ECSI's "live" site. ECSI agrees to retain Customer Data and other documents relative to this Agreement for the current fiscal year, plus seven (7) years after final payment.

10. Transmission of Data. Customer understands that the technical processing and transmission of Customer's electronic communications is fundamentally necessary to Customer's use of the Hosted Platform. Customer expressly consents to ECSI's interception and storage of electronic communications and/or Customer Data, and Customer acknowledges and understands that Customer's electronic communications will involve transmission over the Internet, and over various networks, only part of which may be owned and/or operated by ECSI. Customer acknowledges and understands that changes to Customer's electronic communications may occur (including but not limited to encryption and compression) in order to conform and adapt such data to the technical requirements of connecting networks or devices. Customer further acknowledges and understands that electronic communications may be accessed by unauthorized parties when communicated across the Internet, network communications facilities, telephone or other electronic means. Customer agrees that ECSI is not responsible for any electronic communications and/or Customer Data which are delayed, lost, altered, intercepted or stored during the transmission of any data whatsoever across networks including, but not limited to, the Internet and Customer's local network. Customer acknowledges and agrees that all email messages sent through use of the Hosted Platform may not be received by their intended recipients.

11. Modifications to Hosted Platform. ECSI may make modifications to the Hosted Platform or particular components of the Hosted Platform from time to time provided that such modifications do not materially degrade any functionality or features of the Hosted Platform. ECSI will use commercially reasonable efforts to notify Customer of any material modifications.

12. Suspension for Ongoing Harm. Customer agrees that, upon reasonably contemporaneous notice (which may be made by email or telephone), ECSI may suspend Customer's access to the Hosted Platform if ECSI reasonably concludes that the Hosted Platform is being used to engage in denial of service attacks, spamming, or illegal activity, and/or use of the Hosted Platform is causing immediate, material and ongoing harm to ECSI or others. In the extraordinary event that ECSI suspends Customer's access to the Hosted Platform, ECSI will use commercially reasonable efforts to limit the suspension to the offending portion of the Hosted Platform and resolve the issues causing the suspension of Hosted Platform. Customer agrees that ECSI shall not be liable to Customer, Customer's Users, or to any third party for any suspension of access to the Hosted Platform under such circumstances as described in this Section 12.

Attachment 3
PUBLIC EDUCATION ACH PROCESSING TERMS AND CONDITIONS

These Public Education ACH Processing Terms and Conditions (“ACH Ts&Cs”) are an addendum to your Master Services Agreement or other ECSI Service Agreement (“ECSI Agreement”). To the extent there is a conflict between these ACH Ts&Cs and your ECSI Agreement, the ECSI Agreement will control.

1. **Definitions.** Unless otherwise defined herein, capitalized terms shall have the meanings provided in the rules of the National Automated Clearinghouse Association, and any amendments that may be adopted from time to time. The following definitions shall apply for the purposes of this Agreement:
 - 1.1. **“ACH”** means the Federal Reserve Bank’s Automated Clearing House, a funds transfer system, governed by the NACHA operating rules, that provides for the inter-bank clearing of electronic entries for participating financial institutions.
 - 1.2. **“ACH Network”** means the parties involved in processing an ACH Entry.
 - 1.3. **“ACH Operator”** means an organization serving as a central clearing facility that receives entries from the ODFIs and distributes the entries to the appropriate RDFI.
 - 1.4. **“ACH Transaction”** means an Entry or Entries under the NACHA Rules.
 - 1.5. **“Customer”** means the ECSI business customer that initiates ACH entries into the payment system according to an arrangement with a Receiver.
 - 1.6. **“Customer Account”** means the demand deposit account designated by Customer for deposit of Customer ACH funds received and collected by ECSI.
 - 1.7. **“EFT”** means Electronic Funds Transfer, electronic debits and credits processed through the ACH Network.
 - 1.8. **“Entry” or “Entries”** shall have the meaning provided in the Rules and shall also mean the data received from Customer hereunder from which ECSI prepares Entries, as defined by NACHA Rules.
 - 1.9. **“Initiation”** means the initial presentation by ECSI of a transaction to Settlement.
 - 1.10. **“NACHA”** means the National Automated Clearing House Association.
 - 1.11. **“NACHA Rules”** means the rules of the National Automated Clearinghouse Association (NACHA), and any amendments that may be adopted from time to time hereafter. Please refer to the following website for the NACHA Rules: <https://www.nacha.org/rules>
 - 1.12. **“ODFI”** means the bank acting as the Originating Depository Financial Institution as defined by NACHA Rules.
 - 1.13. **“RDFI”** means the Receiving Depository Financial Institution that receives ACH entries from the ACH Network and posts the entries to the Receiver’s account as defined by NACHA Rules.
 - 1.14. **“Receiver”** means the student/borrower, person, or organization that has authorized a Customer or ECSI to initiate an ACH entry to the Receiver’s account with the RDFI, as defined by NACHA Rules.
 - 1.15. **“Re-initiation” or “Re-presentation”** means the second or third attempt at Settlement by ECSI of a previously Returned ACH transaction as defined by NACHA Rules.
 - 1.16. **“Return”** means a Receiver transaction that is returned unpaid by either the Receiver’s bank or the ACH Network, as defined by NACHA Rules.
 - 1.17. **“Returned Item Service Charge”** means the fee charged to Receiver as allowed by applicable law for a transaction that is returned unpaid by the Receiver’s bank or ACH Network.

- 1.18. **“Settlement”** means the movement of electronic information into the ACH Network under the ODFI sponsorship which results in the debiting or crediting of funds to designated bank accounts, as defined by NACHA Rules.
- 1.19. **“Standard Entry Class Code”** means a valid payment methods as under the NACHA Rules, which define the type of transaction, type of account, and any information specific to the format.
- 1.20. **“Submit”, “Submitted” and “Submission”** mean the Customer’s action of utilizing ECSI’s ACH Services for the purpose of processing a transaction.
2. **Entries and Related Warranties.** Customer shall transmit only those types of Entries that originate as a result of the ECSI agreement between ECSI and Customer. With respect to each Standard Entry Class Code indicated by Customer, Customer shall comply with all requirements and warranties set forth in the Rules with respect to such Standard Entry Class Code.
3. **Recording and Use of Communications.** Customer and ECSI agree that all telephone conversations or data transmissions between them or their agents made in connection with these ACH Ts&Cs may be electronically recorded and retained by either party for any reasonable use which is in compliance with these ACH Ts&Cs.
4. **Processing Deadlines.** Customer acknowledges that ECSI has specific processing deadlines imposed by its ODFI and the ACH Operator for ACH Transactions and that ECSI will process Customer’s ACH transactions within the constraints placed upon ECSI.
5. **Rejection of Entries.** ECSI may reject any Entry which does not comply with the requirements of these ACH Ts&Cs.
6. **Cancellation or Amendment by Customer.** Customer shall have no right to cancel or amend any Entry after its receipt by ECSI. ECSI shall use reasonable efforts to act on a request by Customer for cancellation of a file prior to transmitting such file to the ODFI, but ECSI shall have no liability if such cancellation is not effected. Customer shall reimburse ECSI for any expenses, losses, or damages ECSI may incur in effecting or attempting to affect Customer’s request.
7. **Customer Account.** Customer agrees to immediately reimburse ECSI for any shortfalls that occur due to non-sufficient funds in Customer Account that are covered by ECSI. Customer also agrees to authorize ECSI to suspend Settlement of all funds to Customer Account, without prior notice to Customer, if Customer should breach or fail to comply with any terms of these ACH Ts&Cs, or if ECSI or ODFI in its sole opinion deems itself at risk relative to any services performed under these ACH Ts&Cs.
8. **Returns.** Customer agrees to be liable for all EFT items that are returned, dishonored, reversed or that cannot be collected through Receiver’s account and that are not subsequently covered by debit against Customer Account. In the event that funds in Customer Account are not sufficient to cover Returns, Customer shall immediately upon request from ECSI, deposit sufficient funds in Customer Account to cover such Returns. ECSI may deduct or offset Returns against amounts to be paid Customer for current or future ACH transactions.
9. **Returned Item Service Charges.** Returned Item Service Charges will be assessed as allowed by the NACHA Rules and applicable law.
10. **Customer Representations.**
 - 10.1. With respect to each and every Entry initiated by Customer, Customer represents and warrants to ECSI and agrees that Customer shall initiate Entries only in compliance with the provisions of Rules,
 - 10.2. each person shown as the Receiver on an Entry received by ECSI from Customer has authorized the initiation of such Entry and the debiting or crediting of its account in the amount and on the Effective Entry Date shown on such Entry,
 - 10.3. such authorization is operative at the time of transmittal or at the time of debiting or crediting by ECSI as provided herein,

- 10.4. Entries transmitted to ECSI by Customer are limited to those types of Entries agreed to by ECSI and Customer as a direct result of the services set forth in the MSA or other ECSI Services Agreement,
 - 10.5. Customer shall perform its obligations under these ACH Ts&Cs in accordance with all applicable federal and state laws and regulations, including the sanctions laws administered by the Office of Foreign Assets Control (“OFAC”), and
 - 10.6. Customer shall be bound by and comply with the Rules as in effect from time to time, including, without limitation, the provision making payment of a credit Entry by the Receiving Depository Financial Institution to the Receiver provisional until receipt by the Receiving Depository Financial Institution of final settlement for such Entry.
 - 10.7. Customer accepts responsibility for compliance with the Rules and will reimburse ECSI for any fees or penalties caused by Customer.
 - 10.8. Customer specifically acknowledges that it has received notice of the Rules regarding provisional payment and of the fact that, if such settlement is not received, the Receiving Depository Financial Institution shall be entitled to a refund from the Receiver of the amount credited and Customer shall not be deemed to have paid the Receiver the amount of the Entry. Customer specifically acknowledges that it has received notice of the Rules regarding provisional payment and of the fact that, if such settlement is not received, the Receiving Depository Financial Institution shall be entitled to a refund from the Receiver of the amount credited and Customer shall not be deemed to have paid the Receiver the amount of the Entry.
11. **Responsibilities.** In the performance of the services required by these ACH Ts&Cs, ECSI shall be entitled to rely solely on the information, representations, and warranties provided by Customer pursuant to these ACH Ts&Cs, and shall not be responsible for the accuracy or completeness thereof. ECSI shall be responsible only for performing the services expressly provided for in these ACH Ts&Cs and, subject to the disclaimers and limits on ECSI’s liability set forth herein. ECSI shall not be responsible for Customer’s acts or omissions, including without limitation the amount, accuracy, timeliness of transmittal or authorization of any Entry received from Customer or for the return of an Entry by such Receiver or Receiving Depository Financial Institution, and no such person shall be deemed ECSI’s agent.
 12. **LIMITATION OF LIABILITY.** NEITHER PARTY SHALL BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR INDIRECT LOSS OR DAMAGE THAT THE OTHER PARTY MAY INCUR OR SUFFER IN CONNECTION WITH THESE ACH TS&CS, WHETHER OR NOT THE LIKELIHOOD OF SUCH DAMAGES WAS KNOWN OR CONTEMPLATED BY THE OTHER PARTY AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY OF LIABILITY THAT THE OTHER PARTY MAY ASSERT, INCLUDING, WITHOUT LIMITATION, LOSS OR DAMAGE FROM LOSS OF BUSINESS, PROFITS, OR SUBSEQUENT WRONGFUL DISHONOR RESULTING FROM THE OTHER PARTY’S ACTS OR OMISSIONS PURSUANT TO THESE ACH TS&CS. IN ADDITION TO THE FOREGOING, ECSI’S LIABILITY UNDER THESE ACH TS&CS FOR PROVEN AND DIRECT DAMAGES SHALL NOT EXCEED THE AMOUNT OF FEES PAID OR TO BE PAID BY CUSTOMER TO ECSI UNDER THESE ACH TS&CS FOR SIX (6) MONTHS PRIOR TO THE DATE ON WHICH THE CLAIM AROSE.
 13. **Interruption of Services.** Customer acknowledges and agrees that ECSI’s provision of ACH services hereunder may be interrupted from time to time and that ECSI shall have no liability whatsoever as a result of such an interruption or delay. Without limiting the generality of the foregoing provisions, ECSI shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, loss of power, equipment or software error or malfunction, war, terrorist actions, pandemic, acts of God, earthquakes, flood, embargo, riot, sabotage, labor shortage or dispute, emergency conditions or circumstances beyond ECSI’s control. From time to time ECSI may need to temporarily suspend processing of a transaction for greater scrutiny or verification, including, but not limited to, suspending processing to review for OFAC compliance in accordance with applicable OFAC guidance, and ECSI shall be excused if this action causes delay in the settlement and/or availability of the transaction while review is in process. In addition, ECSI shall be excused, while review is in process, from failing to transmit or delay in transmitting an Entry if

such transmittal would result, in ECSI's reasonable judgment, in violation of any rule or regulation of any U.S. governmental regulatory authority or NACHA Rule.

14. **Risk Mitigation.** In order to reduce the risk of loss to which ECSI is subject under these ACH Ts&Cs, ECSI may in its sole discretion establish such risk mitigation procedures as ECSI deems necessary, including without limitation, requiring prefunding of credit Entries, delayed availability of funds to Customer to cover returned debit Entries, and submission of unbalanced files (submission of a credit file for which ECSI shall then create the offsetting debit file.).
15. **Inconsistent Name and Account Number.** Customer acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, posting of the Entry transmitted by ECSI to the RDFI may be made by the RDFI on the basis of the account number supplied by Customer, even if such account number identifies a person different from the named Receiver, and that Customer's obligation to settle the amount of the Entry to ECSI is not excused in such circumstances.
16. **Payment for Services.** Customer shall pay ECSI the charges for the services provided in connection with these ACH Ts&Cs, as set forth in Customer's Service Order Form. ECSI may debit the Customer Account, or if necessary, the Customer Reserve Account, for the amount of any such charges. All fees and services are subject to change upon sixty (60) days' prior written notice from ECSI to Customer. In the event ECSI changes the fees and services pursuant to this section, Customer shall have the right to terminate these ACH Ts&Cs upon thirty days' notice anytime thereafter without penalty.
17. **Right to Audit.** Upon ten (10) business days' notice, Customer shall permit ECSI, and any regulatory authority having jurisdiction over ECSI, to review Customer's operations as they relate to compliance with these ACH Ts&Cs and the Rules, and to examine and copy any books, records, and source documents related thereto.
18. **Changes to ACH Ts&Cs.** As required by the Rules or applicable law, ECSI may change the terms of or add new terms to this Agreement at any time and any such changes or new terms shall be effective when notice thereof is given by ECSI. Notwithstanding anything herein to the contrary, all fees, charges and/or discounts charged to Customer hereunder may be changed immediately and without prior written notice to Customer, provided that ECSI will notify Customer of any such changes. In the event performance of the services provided herein in accordance with the terms of these ACH Ts&Cs would result in a violation of any present or future statute, regulation or government policy to which ECSI is subject, and that governs or affects the transactions contemplated by these ACH Ts&Cs, then these ACH Ts&Cs shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and ECSI shall incur no liability to Customer as a result of such violation or amendment. No course of dealing between ECSI and Customer shall constitute a modification of these ACH Ts&Cs or the Rules regardless of whatever practices and procedures ECSI and Customer may use.
19. **Tapes and Records.** All diskettes, Entries, security procedures and related records used by ECSI for transactions contemplated by these ACH Ts&Cs shall be and remain ECSI's property. ECSI may, at its sole discretion, make available such information upon Customer's request. Any expenses incurred by ECSI in making such information available to Customer shall be paid by Customer.
20. **Evidence of Authorization/Provision of Information.** Customer shall obtain, or shall ensure that all applicable consents and authorizations required under the Rules are obtained and shall retain, or shall ensure that all applicable consents and authorizations are retained for two (2) years after they terminate. Within five (5) banking days of a request by, Customer shall provide ECSI with any information requested pursuant to these ACH Ts&Cs or required to comply with the Rules.
21. **Term and Termination.** These ACH Ts&Cs shall run simultaneously with any initial or renewal term of the Service Order Form. Thereafter, these ACH Ts&Cs will apply to all ACH transactions made on Customer's account. Either party may terminate these ACH Ts&Cs by providing to the other written notice of termination at least thirty (30) days prior to the end of the then current term. ECSI may terminate the ACH Ts&Cs immediately as required by the ODFI or as may otherwise be required by the Rules.

ServicingSelect Service Order Form Number: 1

THIS SERVICE ORDER FORM NUMBER 1, effective the date of the last signature below, is made as an addendum to the Educational Computer Systems, Inc. Master Hosted Platform and Services Agreement, dated _____, by and between Educational Computer Systems, Inc. (“ECSI”), and the Nevada Office of the Western Interstate Commission for Higher Education (“WICHE”), a member of the Western Regional Education Compact, with an office at 2601 Enterprise Road, Reno, Nevada 89512. WICHE hereinafter shall be referred to as “Customer”. ECSI and Customer may individually be referred to herein as “Party” or collectively as “Parties”.

1. Services. ECSI shall render the Services set forth in either Exhibit 1 or Cost Proposal to Customer (check all that apply):

Full Service

Modified Service

Additional Services

2. Fees. As noted in attached Exhibit 1 or Cost Proposal.

3. Term. The term of Services under this Service Order Form, shall be for an initial period of three years (“Initial Period”).

4. Implementation. The implementation project will begin within 15 calendar days after execution of this Service Order Form. The parties will meet and confer about the implementation of the Services, and will thereafter agree to an implementation project “go live date” (the date that the specified software functionality is available for regular commercial use on the hosted platform by the Customer, students and/or ECSI.)

Customer accepts the responsibility for providing the required information for implementation in a format useable by ECSI. In some instances, customization may be required to implement the Services. If customization is required, ECSI will provide, for Customer’s written approval, the details of the customization, its associated costs, the completion date for the customization, and a new go live date for the services.

5. Customer warrants that Customer (initial appropriately) _____ HAS or HAS NOT, at the time of the transaction that lead to the obligation, obtained express consent from students/borrowers to contact the borrowers’ cellular telephone numbers via automated telephone dialing equipment and/or to leave an automated and/or pre-recorded voice or text message. Customer will immediately notify ECSI if there is a change in the consent status noted above.

IN WITNESS WHEREOF, ECSI and Customer have caused this Service Order Form to be signed and delivered by their duly authorized representatives to be effective as of the date of the last signature below.

**The Western Interstate Commission for Higher
Western Interstate Commission WICHE**

Educational Computer Systems, Inc

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT 1

Service Rates	Billed Per:	Cost	YES	NO
<i>In-School Rate</i>	<i>Loan</i>	<i>0.05</i>		
<i>In-Grace Rate</i>	<i>Loan</i>	<i>0.67</i>		
<i>Monthly Repayment Rate</i>	<i>Loan</i>	<i>1.40</i>		
<i>Quarterly Repayment Rate</i>	<i>Loan</i>	<i>1.30</i>		
<i>SAL-NET Connectivity Fee</i>	<i>Month</i>	<i>200.00</i>		
<i>Credit Bureau Reporting</i>	<i>Month</i>	<i>100.00</i>		
<i>Minimum Flat Fee</i>	<i>Month</i>	<i>463.05</i>	X	
<i>Upgrade to Modified Service</i>	<i>Month</i>	<i>50.00</i>	X	

Optional Services	Bill Per	Cost	YES	NO
1098-E Tax Processing Service	1098-E	1.13	X	
1098-T Tax Processing Service	1098-T	Paper 1.50 Electronic 0.60		
90-Day Due Diligence Calls	Phone Call	1.50	X	
Bankruptcy Monitoring	Month	28.94	X	
Electronic Disclosure Service	In-School Loan	0.05		
E-OSCAR Services for Credit Disputes	AUD / ACDV	25.00		
Government Assignment Packet Generation Standard	Packet	35.00		
Government Assignment Packet Generation Enhanced	Packet	60.00		
Loan Verification Form (LVC) Generation	Month	100.00		
Mailed Exit Interview Service for Unsigned Online Exits after 30-Days	Mailed Exit	2.00		
National Student Clearinghouse Interface for Timely Separations / Exit Interview Purposes	In-School Loan	0.05		
Online Entrance Counseling & eSignatures on Prom Note Service	In-School Loan	0.45		

Online Exit Counseling Service	In-Grace Loan	0.15		
Web Exit Loaded	Web Exit	0.00	X	
Paid-In-Full Letter Service	Letter	1.55	X	
Premium Red Flag Regulation Service	Month	28.94	X	
Refund Service for Student Loans	ACH Paper Check	1.95 2.95		
Regulation Z Service	Set-Up Fee Per Award or Monthly Min.	500.00 5.00 50.00		
Skip Trace Service - Home Phone	Skip Trace	1.37	X	
Skip Trace Service - Address	Skip Trace	1.37	X	
State Tax-Offset Letter Service	Letter	1.25		
30-Day Past Due Phone Call Service	Phone Call	1.50	X	
30-Day Past Due Letter Service	Letter	1.55	X	
60-Day Past Due Phone Call Service	Phone Call	1.50	X	
60-Day Past Due Letter Service	Letter	1.55	X	
90-Day Past Due Phone Call Service	Phone Call	1.50	X	
90-Day Past Due Letter Service	Letter	1.55	X	
120-Day Past Due Phone Call Service	Phone Call	1.50	X	
120-Day Past Due Letter Service	Letter	1.55	X	
150-Day Past Due Phone Call Service	Phone Call	1.50	X	
150-Day Past Due Letter Service	Letter	1.55		
180-Day Past Due Phone Call Service	Phone Call	1.50	X	
180-Day Past Due Letter Service	Letter	1.55		
Cohort Letter Service for Perkins Loans	Letter	1.55		

Cancellation Confirmation Letter Service	Letter	1.55		
Grace Ending Phone Calls 30 Days	Phone Call	1.50	X	
Grace Ending Phone Calls 60 Days	Phone Call	1.50	X	
Deferment Confirmation Letter Service	Letter	1.55		
Non-Sufficient Fund Letter Service	Letter	1.55	X	
Automated Emergency Loan Application & eSignature Services	Application	10.00		
Award Email Services for ePromissory Notes	Email	0.28		
Award Letter Services for ePromissory Notes	Letter	1.55		
Co-Signer Authentication for ePromissory Notes, if applicable	Award (1 Attempt) Award (2 Attempts) Award (3 Attempts)	3.50 4.50 5.50		
Dear Borrower / Conversion Letters	Letter	1.55		
Default Reduction Assistance Project (DRAP) Reporting for Perkins Loans Only	Month	25.00		
Exit Interview Notification Emails	Email	0.28		
Exit Interview Notification Letters	Letter	1.55		
Foreign Air Mail Postage	Mailing	1.04		
General Ledger / Accounting Feed Service	Month	100.00		
Perpetual Billing Services for Perkins Loans Only	Past Due Bill	(Cost of Postage)	X	

Customer's payment to ECSI for the Services shall be due within thirty (30) days of the date of ECSI's invoice to Customer for the Services.