



LICENSE EXCHANGE AND ENHANCEMENT AMENDMENT

ELLUCIAN COMPANY L.P.

2003 Edmund Halley Dr., Suite 500, Reston, VA 20191

EMAIL: Contract-Management@ellucian.com

("Ellucian")

And

CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT

7600 Dublin Blvd., 3rd Flr., Dublin, California 94568

("Client")

Ellucian and Client are parties to the Software License and Services Agreement dated November 26, 1991, as thereafter amended (the "**Agreement**"). Under the Agreement, Ellucian granted Client a perpetual right of use for certain systems of software identified in Table A of attached Exhibit 1 ("**Terminated Perpetual Software**"). Client and Ellucian now agree that, pursuant to this Amendment, Client is terminating its license for the Terminated Perpetual Software in consideration for a license to use certain Software identified in Table B.1 of attached Exhibit 1 on a term-of-years basis ("**Subscription Software**") and/or certain other Software identified in Table B.2 of attached Exhibit 1 on a term-of-years, Ellucian cloud-provided basis ("**Cloud Software**"), all subject to the terms and conditions of the Agreement as modified by this Amendment.

Accordingly, Ellucian and Client, intending to be legally bound, agree as follows:

1. Defined Terms. Except as otherwise set forth below, each defined term in the Agreement has the meaning ascribed to that term in the Agreement when the term is used in this Amendment. Further, for purposes of this Amendment and each subsequent amendment to the Agreement:

- (a) "Baseline" means the general release version of the Software as updated through Ellucian's provision of both warranty services and Software Support Services, but without any other modification.
- (b) "Client Data" means all electronic data or information submitted by Client to the Cloud Software or Cloud Services.
- (c) "Continuing Perpetual Software" means the Software identified in Table C of attached Exhibit 1, for which Continuing Perpetual Software Client will have an ongoing license for use subject to the terms of the Agreement, notwithstanding the termination of Client's license to use the Terminated Perpetual Software as otherwise provided for in this Amendment.
- (d) "Defect" means a material deviation between the Baseline Software and its Documentation, for which Client has provided Ellucian with reasonably detailed information such that Ellucian can replicate the deviation.
- (e) "Delivery Address" means the Client shipping address identified in Exhibit 1.
- (f) "Delivery Date" means the date on which Ellucian ships or otherwise makes the Software available to the Delivery Address F.O.B. Ellucian's place of shipment.
- (g) "Documentation" means the on-line and hard copy functional and technical specifications that Ellucian provides for the Baseline Software and that describes the functional and technical capabilities of the Baseline Software.

- (h) "Execution Date" means the latest date shown on the signature page of this Amendment.
- (i) "Full Time Equivalent" or "FTE" is determined based on the U.S. Department of Education Institute of Education Sciences National Center for Education Statistics Integrated Postsecondary Education Data System ("IPEDS") client-reported Fall Total Full-time and Part-time Student Enrollment headcounts. The calculation of FTE students uses a fall student headcount model defined by IPEDS to derive a single value.
- (j) "License Year" means a one (1) year period identified in Exhibit 1 as a "License Year."
- (k) "Maintenance" means providing Client with avoidance procedures or corrections for Defects. The details and procedures relating to the provision of Maintenance for the Software (collectively, the "Maintenance Standards") may be specified in an Order Form.
- (l) "New Releases" means new editions (i.e., major and minor releases) of the Baseline Software.
- (m) "Software" means any of the software products identified in Exhibit 1.
- (n) "Software Supplement" means those additional terms and conditions attached as **Exhibit 2** that specifically apply to the use of particular Software.
- (o) "Software Support Services" means additional terms and conditions applying to particular Software, as specified in an Order Form. If any terms of a Software Supplement conflict with any other terms of an Order Form or these Master Terms and Conditions, the terms of the Software Supplement will control.
- (o) "Software Term" means the period (if any) identified in Exhibit 1 as the "Software Term" that is applicable to any particular Software.

Additionally, each of the terms defined in the introductory paragraph or elsewhere of this Amendment have the meaning so ascribed to those terms.

2. Amendment to and Modification of Agreement.

(a) Termination of License for Terminated Perpetual Software. Thirty (30) days following the end of the month in which the Execution Date occurs, Client's license to use the Terminated Perpetual Software identified in **Table A** of attached Exhibit 1 is terminated.

(b) Grant of License for Subscription Software. Ellucian grants Client a non-exclusive, non-transferable license to use the Subscription Software (if any) identified in **Table B.1** of attached Exhibit 1, on Client-provided Equipment, for Client's internal use, only during the Software Term specified in Table B of Exhibit 1, for the fees specified in Exhibit 1. This license is further subject to the usage parameters identified in each instance in Exhibit 1. Third party owners of Software licensed or provided for use by Ellucian are third party beneficiaries of this Amendment with regard to each such owner's respective products.

(c) Grant of License for Cloud Software. Ellucian grants Client a non-exclusive, non-transferable license to use the Cloud Software (if any) identified in **Table B.2** of attached Exhibit 1, on a remote basis by accessing the Software from Ellucian-provided Equipment, for Client's internal use, only during the Software Term specified in Table B of Exhibit 1, for the fees specified in Exhibit 1. This license is further subject to the usage parameters identified in each instance in Exhibit 1. Third party owners of Software licensed or provided for use by Ellucian are third party beneficiaries of this Amendment with regard to each such owner's respective products.

(CONTINUED ON FOLLOWING PAGE)

(d) Continuation of Certain Software Support Services Fees.

- (i) Termination of Software Support Services for Terminated Perpetual Software and Proration of Software Support Services Fees for Terminated Perpetual Software. Prior to the Execution Date, Client paid Ellucian certain fees as Software Support Services for the Terminated Perpetual Software, either under the Agreement or under a separate maintenance agreement ("Maintenance Agreement"). Client's obligation to pay Ellucian Software Support Services fees for the Terminated Perpetual Software is terminated as of June 30, 2019. Client will receive a credit for any prepaid Software Support Services for the Terminated Perpetual Software for the period subsequent to June 30, 2019, or (if such Software Support Services fees were payable in arrears), will be billed for the Software Support Services for the Terminated Perpetual Software through June 30, 2019.
- (ii) Ongoing Software Support Services for Continuing Perpetual Licensed Software. Client will continue to pay Ellucian Software Support Services fees for the Continuing Perpetual Licensed Software under the parties' existing underlying Maintenance Agreement through June 30, 2019. Effective on the Beginning Date (defined in Table B of Exhibit 1), the parties hereby agree to amend, renew, and extend Software Support Services for the Continuing Perpetual Licensed Software (only) for a term commencing on the Beginning Date through June 30, 2024 ("Extended Maintenance Term"). As used herein, any reference to "Contract Year" shall mean, with respect to the Continuing Perpetual Licensed Software, a twelve (12) month period from July 1 to June 30. During the Extended Maintenance Term, Ellucian will continue to provide Software Support Services (including Maintenance) on the Continuing Perpetual Licensed Software and Client shall continue to pay for such Software Support Services in accordance with the terms and conditions of Client's underlying Maintenance Agreement except (i) Client shall pay the Total Base Year Fee specified in Table C of Exhibit 1 to cover the partial Contract Year from the Beginning Date through June 30, 2020, with payment of that amount due on the Execution Date hereof; (i) for each subsequent Contract Year through the Expiration Date, Software Support Services fees may increase by not more than five percent (5%) over the amount payable for Software Support Services for the immediately preceding Contract Year and will be specified by Ellucian in an annual invoice issued at least thirty (30) days before the start of the applicable Contract Year for which such Software Support Services fees are being remitted, with payment due within thirty (30) days of the date of each such invoice; and (ii) absent any further amendment or extension with respect to continuing Software Support Services beyond the Extended Maintenance Term, Software Support Services fees for each subsequent Contract Year after the Extended Maintenance Term will be specified by Ellucian in an annual invoice but will not increase over the immediately preceding Contract Year's fee by not more than seven percent (7%).

(e) Additional Services and Accompanying Fees. Ellucian agrees to provide Client with the professional services identified in the attached **Exhibit 6** (the "Services"), for the additional fees set forth in that Exhibit 6, on the terms and conditions set forth in the Agreement as modified by this Amendment.

(f) Export Regulations. The Agreement is subject to United States government and other applicable laws, regulations, orders or other restrictions regarding export from the United States or another country, and import into any country, of computer hardware, software, technical data or other items, or derivatives of such hardware, software, technical data or other items. Client will not allow the Software, in whole or in part, to be exported outside of the United States, in any manner or by any means, without in each instance obtaining Ellucian's prior written consent and, if required, a validated export license from the Office of Export Administration within the United States Department of Commerce and such other appropriate United States governmental authorities. However, Client may permit access to the Software on a remote basis from outside of the United States, subject to compliance with United States law. Client is prohibited from directly or indirectly exporting (or re-exporting) or providing access to the Software: (i) to any country to which the United States has embargoed goods (including, for these purposes, any national or resident of any such country); or (ii) to anyone on the United States Treasury Department's List of

Specially Designated Nationals, List of Specially Designated Terrorists or List of Specially Designated Narcotics Traffickers, or the United States Commerce Department's Denied Persons List.

Client further certifies that it is not involved in the research, design, development or production of chemical, biological, or nuclear weapons or the technology used to deliver such weapons. Client agrees at all times to use diligent, good faith efforts, to establish written policies and procedures (as needed), and to employ such other generally accepted commercial practices as are necessary to comply at all times with these requirements and restrictions. Further, Client agrees to provide Ellucian with such access to Client personnel, facilities and documentation at such times during normal business hours and with reasonable, prior notice, as Ellucian may reasonably request to audit Client's compliance with these requirements and restrictions. The provisions of this Section entitled Export Regulations will survive the expiration or termination of the Agreement.

(g) Current FTE; Fee Adjustments for FTE and Technology Capacity Increases. The fee for the Cloud Software allows Client to use the Cloud Software for not more than the "Contracted FTE" number specified in Exhibit 1. Ellucian reserves the right to perform an annual review of Client's then-current FTE. If Client's actual FTE exceeds the then-current Contracted FTE, or if Client's technology capacity requirements otherwise increase or vary (including, for these purposes, the need for additional or more costly technology dependencies), Ellucian will have the right to charge additional fees associated with the increase or variation for the time that such increase or variation was in effect, based on Ellucian's then-current standard fees in effect at the time of such increase. Upon the payment by Client of such fee, Client's Contracted FTE will be increased to equal the then-current next tier for Contracted FTE. For avoidance of doubt, Client will in no event be due a credit, refund or fee reduction in the event that Client's actual FTE decreases below the Contracted FTE at any time during the Software Term. Client agrees to provide Ellucian with reasonable access to its personnel, facilities, and documentation during normal business hours and with reasonable, prior notice, for purposes of ascertaining Client's then-current FTE.

(h) Effect of Failure to Remit Timely Payment of Use Fees for Subscription Software, Cloud Software. If Client fails to timely remit payment of any the fees for use of the Subscription Software and/or Cloud Software, then, Ellucian will deliver notice of such non-payment to Client, and Client will have 30 days to cure the deficiency; if Client fails to do so, then, in addition to any other rights legally available to Ellucian, Ellucian reserves the right to terminate Client's rights of use for the Subscription Software and the Cloud Software, and to terminate Client's access to the Cloud Software.

3. Limited Warranty; Exclusive Remedy.

Except as otherwise expressly provided for in any Software Supplement, Ellucian warrants that, during the Software Term, the Software will operate without Defects. For each Defect, Ellucian, as soon as reasonably practicable and at its own expense, will provide Client with an avoidance procedure or a correction of the Defect (in accordance with the Software Support Services provisions of this Amendment and the associated Maintenance Standards attached as **Exhibit 3**). If, despite its reasonable efforts, Ellucian is unable to provide Client with an avoidance procedure for or a correction of a Defect, then, subject to the limitations set forth in this Amendment, Client may pursue its remedy at law to recover direct damages resulting from the breach of this limited warranty. These remedies are exclusive and are in lieu of all other remedies, and Ellucian's sole obligation for breach of this limited warranty is contained in this Section. ELLUCIAN MAKES NO OTHER WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, AND ELLUCIAN EXPLICITLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. ELLUCIAN EXPRESSLY DOES NOT WARRANT THAT THE CLOUD SOFTWARE, IN WHOLE OR IN PART, WILL BE ERROR FREE OR WILL OPERATE WITHOUT INTERRUPTION. CLIENT WAIVES ANY CLAIM THAT ANY SUCH REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

4. Personal Data. Client may from time to time provide Ellucian with certain personal data (Client representing that it has the right to do so in each such instance) of Client's students, prospective students, parents of students, alumni, faculty members and employees that is regulated by various laws and regulations ("Client Personal Data"). Ellucian confirms that for so long as it processes Client Personal Data, Ellucian will adhere to the provisions for the protection of Client Personal Data set forth in **Exhibit 5**.

5. **LIMITATION OF LIABILITY.** ELLUCIAN'S CUMULATIVE LIABILITY FOR THE SOFTWARE WILL NOT EXCEED THE FEES THAT CLIENT ACTUALLY PAID TO ELLUCIAN FOR THE SOFTWARE GIVING RISE TO THE LIABILITY DURING THE SIX (6) MONTH PERIOD PRECEDING THE DATE ON WHICH SUCH LIABILITY FIRST AROSE. IN NO EVENT WILL ELLUCIAN BE LIABLE TO CLIENT FOR ANY PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR ANY LOST BUSINESS OR LOST PROFITS, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT ELLUCIAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6. **Certain Additional Client Responsibilities and Obligations Regarding Cloud Software**

- Client's authorized users will be provided with passwords, and Client must hold the passwords in strict confidence and not transfer, exchange, misuse or abuse the passwords in any way or attempt in any way to disable, deactivate, or render ineffective the password protection of the Cloud Software.
- Client will be responsible for the accuracy, completeness, quality, and legality of Client data and of the means by which it acquired Client data.
- Client will use commercially reasonable efforts to prevent unauthorized access to or use of the Cloud Software and will notify Ellucian promptly of any such unauthorized access or use.
- Client will use the Cloud Software only in accordance with this Order Form, the Documentation, and applicable laws.
- Client will not make the Cloud Software available to anyone other than its authorized users. Authorized users may include 3rd party consultants in support of Client's business operations.
- Client will not sell, resell, rent, or lease the Cloud Software.
- Client will not use the Cloud Software to store or transmit any viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents, or programs.
- Client will not attempt to gain unauthorized access to the Cloud Software or related systems or network.
- Client will not use the Cloud Software to communicate, by way of electronic communication or otherwise, any message, data or material that: (i) is libelous, harmful to minors, obscene or constitutes pornography; (ii) infringes the copyrights, patents, trade secrets, trademarks, trade names or other proprietary or privacy rights of a third party or is otherwise unlawful; or (iii) would otherwise give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation.

7. **Integration Provision.** This Amendment can be executed by the parties in separate conforming counterparts, all of which together will be deemed to be one and the same document. Except as modified by this Amendment, the Agreement will remain in full force and effect. As of the Execution Date, the Agreement, constitutes the entire understanding of the parties in regard to the subject matter hereof and cannot be modified except by written agreement of the parties. Both the transaction provided for in and the fees due under this Amendment are non-cancelable, and the amounts paid under this Amendment are nonrefundable, except as provided in this Amendment. By the execution of this Amendment, each party represents and warrants that it is bound by the signature of its respective signatory. Further, in executing this Amendment, Client has not relied on the availability of either any future version of any Baseline Software or any future software product.

<p>Ellucian</p> <p>By: _____ <i>Authorized Signature</i></p> <p>Name: _____ <i>Printed</i></p> <p>Title: _____</p> <p>Date: _____</p>	<p>Client</p> <p>By: _____ <i>Authorized Signature</i></p> <p>Name: _____ <i>Printed</i></p> <p>Title: _____</p> <p>Date: _____</p>
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The last date of signature above is the "Execution Date" of this Amendment.
Client's Billing Contact Information appears below.

Client

Billing Contact Information

Name: _____

Address: _____

City, State, Zip: _____



EXHIBIT 1

Client: Chabot-Las Positas Community College District
Delivery Address: 7600 Dublin Blvd., 3rd Flr., Dublin, California 94568

EQUIPMENT FOR SUBSCRIPTION SOFTWARE NOT HOSTED BY ELLUCIAN: Host(s) or client server configuration(s) and/or combinations of host(s) and client server configuration(s) within the United States for which Ellucian supports the Software (“Equipment”). Client acknowledges that certain of the Software may require specific host or client configurations. Client, as soon as reasonably practicable, will provide a detailed written description of the configuration on which it intends to use the Subscription Software so that Ellucian can confirm that it is a configuration meeting the Equipment requirements.

NOTICE: To use any of the Software, Client must also obtain, install on the hardware, and maintain, Ellucian-supported versions of certain software products and software/hardware peripherals. By this notice, Ellucian is advising Client that Client should consult with its Ellucian Professional Services representative to obtain a written listing of such necessary software products and software/hardware peripherals.

TABLE A - TERMINATED PERPETUAL SOFTWARE

Description
Banner Student
Banner Student Self-Service
Banner Financial Aid
Banner Human Resources
Banner Employee Self-Service
Banner Faculty and Advisor Self-Service
Banner Finance
Degree Works
Ellucian Mobile Platform Edition
Financial Aid FM Need Analysis

TABLE B consists of two parts – Table B.1 (Subscription Software) and Table B.2 (Cloud Software). Maintenance for the Subscription Software will be provided by Ellucian in accordance with the Software Support Services standards specified in Part I of the attached **Exhibit 3**, and Maintenance for the Cloud Software will be provided by Ellucian in accordance with the Software Support Services standards specified in Part II of the attached **Exhibit 3**.

For purposes of the Subscription Software identified in Table B.1 and the Cloud Software identified in Table B.2 below, the “**Beginning Date**” is defined as July 1, 2019, the “**Expiration Date**” is defined as the last day of the sixtieth (60th) month following the Beginning Date, and the “**Software Term**” is defined as the five (5) year period between the Beginning Date and the Expiration Date. The subscription fees shown in Table B.1 and Table B.2 represent the subscription fees payable by Client for the initial License Year (only) and will increase annually during the Software Term by three percent (3%) per License Year over the subscription fees payable for the immediately preceding License Year.

Renewal of Software Term. Following the Software Term identified in Exhibit 1, Client’s license to access and use the Subscription Software and the Cloud Software as provided in Sections 2(b) and 2(c), respectively, of this Amendment will automatically renew for consecutive License Year(s) on a year-to-year basis (each a “Renewal License Year”), unless either party notifies the other in writing of its intent not to effect such a renewal at least ninety (90) days prior to the Expiration Date, or, for any License Year subsequent to the Expiration Date, at least ninety (90) days prior to the expiration of the then-current License Year.

TABLE B.1 - SUBSCRIPTION SOFTWARE ^{1,2,3}

Description	Source Code Licensed? (Y/N)	Software Supplement (See Exhibit 2)	Subscription Fee
Banner Student (includes Student Self-Service and Faculty and Advisor Self-Service)	Yes	None	Included
Ellucian Degree Works ⁴	Yes (for Ellucian-proprietary components only)	None	Included
Ellucian Degree Works Transfer Equivalency ⁴	No	None	Included
Banner Financial Aid (includes Financial Aid Self-Service and CSS Profile Interface)	Yes	None	Included
Banner Finance (includes Finance Self-Service)	Yes	None	Included
Banner Human Resources (includes Employee Self-Service)	Yes	None	Included
Ellucian Mobile Platform ^{5,6}	Yes ⁷	None	Included

TABLE B.2 - CLOUD SOFTWARE ^{1,2,3}

Description	Software Supplement (See Exhibit 2)	Subscription Fee
Ellucian Analytics ^{8,9} <i>Includes:</i> <ul style="list-style-type: none"> • Ellucian Ethos Data Access for two (2) environments (one production and one non-production) • 1 TB storage • 5 Ellucian Analytics Designer Named Users • 15 Ellucian Analytics Viewer Named Users 	HP Vertica Software Supplement; Tableau Software Supplement	Included
Ellucian Intelligent Learning Platform for Canvas ¹⁰	None	Included
Federal Methodology Needs Analysis	None	Included

TOTAL SUBSCRIPTION FEE FOR SUBSCRIPTION SOFTWARE AND CLOUD SOFTWARE (initial License Year) ¹¹	\$366,614
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Notes to Table B:

- ¹ The term “License Year” means each period of twelve (12) months commencing on July 1 and ending June 30 during the Software Term.
- ² The subscription fees shown in the table above do not include implementation/setup services.
- ³ Pricing in this Amendment allows for up to a tier threshold of 12,999 (the “Contracted FTE”).
- ⁴ Ellucian Degree Works includes a limited use license for the Steno Run-Time Library, a third party-owned product which is licensed only for use with Degree Works. As of the Execution Date, the following third party software and hardware/peripheral products are not included in the fees payable to Ellucian under this Amendment and must be separately acquired by Client, and, without limitation, are required in order to use the Component System identified in the table above: an Intel-based x86 Linux server running either Red Hat Enterprise Linux 6.x or 7.x (32-bit and 64-bit) or Oracle Linux Server 6.x or 7.x (64-bit); GCC 4.x (GNU Compiler Collection) with *sharutils* and *ncurses-devel* package; Oracle 11g or 12c database license (with the Pro*C pre-compiler); Java 1.8 with JDK 1.8.0_144+ and the ojdbc8.jar driver; RabbitMQ; UUENCODE and UUDECODE; Perl 5.8+; OpenSSL 1.0.1+; Apache Tomcat 8.5+ or Oracle’s WebLogic 12.1.3.0.0; and Apache FOP 1.1 is required. If Client uses the Colleague UniData environment, DataOrchestrator is required. If Client is using LDAP for Single Sign-On to Transit, OpenLDAP Versions 2.2.13 – 2.4.39 (with the development package) is required. Client must obtain licenses to these products from the applicable third party owner and/or from the owner’s authorized vendors.
- ⁵ The Ellucian Mobile Software – Platform Edition includes a client-side application, a mobile integration server application and access to Ellucian’s cloud configuration system. Client’s access to Ellucian’s cloud configuration

system is provided only as long as Client remains a current and compliant subscriber to Ellucian’s Maintenance services for this Software, as further described in Table C below.

- 6 The Ellucian Mobile Software contains third party software licensed pursuant to various open source agreements, including the open source software identified in the documentation made available in conjunction with Ellucian’s delivery of the Ellucian Mobile Software. The third party open source software is licensed under the terms of one or more of the following open source licenses that accompanies such open source software: Apache License 2.0, GNU Lesser General Public License 2.1, MIT License, iCal4j License, or similar royalty free/open source license. Nothing in this Amendment limits Client’s rights under or grants Client rights that supersede the terms and conditions of any applicable end user license for such open source software.
- 7 The Ellucian Mobile Software – Platform Edition includes source code for the client-side application and the mobile integration server application.
- 8 Ellucian currently utilizes Amazon Web Services (“AWS”) for the provision of hosting services associated with this Cloud Software. In this regard, Client shall ensure that all Client authorized users comply with the Acceptable Use Policy and other applicable services terms currently available at <http://aws.amazon.com/legal>.
- 9 For the purposes of this Cloud Software, the following definitions will apply: “Designer Named Users” means individuals who have permissions to create and manage defined and/or Client-created content. A Designer Named User will have access to design-based tools related to visualization, for whom subscriptions to the Cloud Software have been ordered, and who have been supplied user identifications and passwords by Client (or by Ellucian at the request of Client). Client must have at least one Designer Named User who is also the Client’s administrative user, with administrative rights to manage and configure Client-based configuration elements and to manage all extract, transform, load (ETL) or data loading jobs and processes. “Viewer Named Users” means individuals who have a set of defined permissions to enable that Viewer Named User to view and interact with analytic content, for whom subscriptions to the Cloud Software have been ordered, and who have been supplied user identifications and passwords by Client (or by Ellucian at the request of Client).
- 10 As of the date of this Amendment, the Ellucian Intelligent Learning Platform Baseline Software is designed for compatibility with the following Learning Management Systems (LMS): Blackboard, Moodle, Canvas or D2L. If Client needs additional LMS connection(s) in addition to the LMS connection(s) specified in Table B.2 (above), Client will be required to license such additional connection(s) on a per-LMS basis at Ellucian’s then-current pricing.
- 11 As further specified above and in the payment terms below, the Total Subscription Fee for Subscription Software and Cloud Software represents the payment due for the initial License Year only and is subject to increase during the Software Term.

Subscription Software Delivery Table B.1: Ellucian will deliver each Baseline Software identified in Table B.1 of Exhibit 1 (or will otherwise make such Baseline Software available to Client for electronic access) within thirty (30) days after the Execution Date.

Cloud Software Delivery Table B.2: Ellucian will provide the necessary process and procedure for Client’s access to the Cloud Software identified in Table B.2 within thirty (30) days after the Execution Date. In providing the Cloud Software under this Amendment, Ellucian may use a combination of remote services, centralized services, and onsite services, using personnel worldwide.

Payment Terms: For the Subscription Software and Cloud Software licensed pursuant to this Amendment, subscription fees for the initial License Year (commencing on the Beginning Date) will be specified by Ellucian in an invoice (equal to the Total Subscription Fee For Subscription Software And Cloud Software identified in Table B), issued on the Execution Date, and will be due and payable within thirty (30) days from the date of invoice. Thereafter, for each successive License Year during the Software Term, the subscription fees will increase annually by three percent (3%) per License Year over the amount payable for the immediately preceding License Year. Beginning with the second License Year during the Software Term, subscription fees for both Subscription Software and Cloud Software will be invoiced by Ellucian annually by License Year at least thirty (30) days before the commencement of the applicable License Year, and will be due in advance, on or before the commencement of each applicable License Year; payment thereof will be due within thirty (30) days from the date(s) of invoice(s). Payment

of the annual fees specified herein is in addition to any subscription fees due under any other software or subscription agreement(s) between the parties.

TABLE C - CONTINUING PERPETUAL SOFTWARE:

Description	Base Year Fee (July 1, 2019 to June 30, 2020)
Banner Operational Data Store Oracle	Included
Evisions Corporation Argos Advanced Features	Included
Evisions Corporation Argos Enterprise	Included
Oracle Internet Application Server Enterprise Edition	Included
Banner Document Management Integration Component	Included
OpenText ApplicationXtender Desktop	Included
ApplicationXtender Reports Management PDF Print Stream Option	Included
ApplicationXtender Reports Management Server	Included
ApplicationXtender Reports Management Test Bundle	Included
ApplicationXtender Test Bundle	Included
ApplicationXtender Web Access .NET	Included
ApplicationXtender Web Services	Included
Ellucian CRM Advise	Included
Ellucian CRM Lite User	Included
Ellucian eCRM Premium User	Included
Ellucian eCRM Standard User	Included
Banner CRM Recruit Integration Manager	Included
Recruiter Base License	Included
<ul style="list-style-type: none"> • CRM Recruit Payment Gateway • Address Cleanses for CRM Recruit (500,000) 	
Banner Enterprise Data Warehouse	Included
Luminis Basic	Included
TOTAL BASE YEAR SOFTWARE SUPPORT SERVICES FEE:	\$208,016

Notes to Table C:

¹ In addition to the Continuing Perpetual Software listed above, Client also has the following on Premise Software that will be dropped from Maintenance effective June 30, 2019 by agreement of the parties: Banner Advancement, Banner Communication Management, and Banner Recruiting and Admissions Performance. Accordingly, neither party shall owe the other any prospective obligations with respect to such Software such that Client’s obligation to pay Ellucian Software Support Services fees for the Software products identified in this Note 1 is terminated as of June 30, 2019.



SOFTWARE SUPPLEMENTS

HP/VERTICA SOFTWARE SUPPLEMENT

1. **Internal Use.** The use of the Software is for Client’s internal purposes only and is subject to any specific software licensing information or restrictions that are in the Software and/or in the Documentation.
2. **License Restrictions.** Client may not make copies or distribute, reseller or sublicense the Software to third parties. Client may not modify, reverse engineer, disassemble, decrypt, decompile or make derivative works of the Software. If there is a mandatory right for Client to do so under statute, Client must inform Ellucian in writing about such modifications.
3. **Global Trade Compliance.** Client agrees to comply with trade-related laws and regulations of the U.S. and other national governments. If Client exports, imports or otherwise transfers the Software, Client will be responsible for obtaining any required export or import authorizations.
4. **Compliance.** Ellucian or its licensor may audit Client’s compliance with the Software.
5. **U.S. Government.** If the Software is licensed to Client for use in the performance of a U.S. Government prime contract or subcontract, Client agrees that, consistent with FAR 12.211 and 12.212, commercial computer software, computer software documentation and technical data for commercial items are licensed under our standard commercial license.
6. **Third Party Programs.** The Software may include third party software programs that are subject to open source, freeware or pass through commercial licenses and/or notices that are required to be distributed with the Software. These licenses and notices are available to Client in the Software directory, in Documentation or via a supplementary list provided by Ellucian or its licensor. Client shall not remove these agreements and notices. Any covenants, representations, warranties, indemnities and other commitments with respect to the Software are made by Ellucian and not by any authors or suppliers of, or contributors to, such open source, freeware or commercial programs. This Amendment does not modify or abridge any rights or obligations that you may have under the third party licenses included with the Software. Client’s use is subject to the rights and obligations under the applicable open source, freeware or pass through license. Any third party program that is separate from, but delivered with, the Software, if any, is provided and licensed solely under the applicable open source, freeware or commercial pass through license for the program.
7. **Ownership.** No transfer of ownership or any intellectual property will occur under this Amendment.
8. **Termination or Expiration of Licenses.** Immediately upon termination or expiration of the Software Term, Client will stop accessing the Software and destroy or return any copies of the Documentation to Ellucian. Ellucian or its licensor may ask Client to certify in writing that it has complied with this section.
9. **Anti-Corruption Laws.** Client agrees that it is familiar with the provisions of the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act and other analogous anti-corruption legislation in other jurisdictions where Client does business (together, “Anti-Corruption Law”), and that it shall not in connection with the license to the Software make any payment or transfer anything of value, offer, promise or give a financial or other advantage or request, agree to receive or accept a financial or other advantage either directly or indirectly: to any government official or employee (including employees of a government corporation or public international organization) or to any political party or candidate for public office or to any other person or entity with an intent to obtain or retain business or otherwise gain an improper business advantage. Client further agrees that it will not take any action with would cause it to be in violation of the Anti-Corruption Laws. In case of breach of the above, Ellucian may suspend or terminate the subscription of the Software at any time without notice or indemnity. Client agrees to indemnify the non-breaching party for any losses, damages, fines or penalties which the non-breaching party may suffer or incur as a result of or incidental to any such violation.

TABLEAU SOFTWARE SUPPLEMENT (TABLEAU SOFTWARE, INC.)

1. **Limited License.** During the Software Term, Client can use the Tableau code incorporated into the Cloud Software (“Tableau Code”) in object code form, in accordance with the applicable Documentation solely to query and analyze data generated by Ellucian products (and no other data) in the manner permitted by the Cloud Software.
2. **Warranty Disclaimer.** EXCEPT FOR ANY WARRANTY THAT MAY BE OFFERED BY ELLUCIAN, THE CLOUD SOFTWARE, INCLUDING WITHOUT LIMITATION THE THIRD-PARTY CODE, IS PROVIDED “AS IS” AND TABLEAU MAKES NO WARRANTIES TO ANY PERSON OR ENTITY WITH RESPECT TO THE C L O U D SOFTWARE AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
3. **Limitation of Damages and Remedies.** IN NO EVENT SHALL TABLEAU BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THE CLOUD SOFTWARE. NOTWITHSTANDING ANYTHING IN AGREEMENT TO THE CONTRARY, THE TOTAL LIABILITY OF TABLEAU TO CLIENT, INCLUDING BUT NOT LIMITED TO DAMAGES OR LIABILITY ARISING OUT OF CONTRACT, TORT, BREACH OF WARRANTY, INFRINGEMENT OR OTHERWISE, SHALL NOT IN ANY EVENT EXCEED THE FEES PAID BY CLIENT WITH RESPECT TO THE CLOUD SOFTWARE. TABLEAU SHALL NOT BE LIABLE FOR LOSS OR INACCURACY OF DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, SYSTEM DOWNTIME, GOODWILL, PROFITS OR OTHER BUSINESS LOSS, REGARDLESS OF LEGAL THEORY, EVEN IF TABLEAU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES AGREE THAT THE LIMITATIONS OF THIS SECTION ARE ESSENTIAL AND THAT TABLEAU WOULD NOT PERMIT CLIENT TO USE THE CLOUD SOFTWARE ABSENT THE TERMS OF THIS SECTION. THIS SECTION SHALL SURVIVE AND APPLY EVEN IF ANY REMEDY SPECIFIED IN THE AGREEMENT SHALL BE FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.
4. **Audit Rights.** Upon Tableau’s written request, Client shall certify in a signed writing that its use of the Cloud Software is in full compliance with the terms of the Amendment to which this Tableau Software Supplement is attached and provide a current list of users. With prior reasonable notice, Tableau may audit the Cloud Software in use by Client, software monitoring system and records, provided such audit is during regular business hours. If such inspections or audits disclose that Client has installed, accessed, or permitted access to the Cloud Software in a manner that is not permitted under the Amendment and this Tableau Software Supplement, then Client is liable for the reasonable costs of the audit in addition to any other fees, damages, and penalties Tableau may be entitled to hereunder and pursuant to applicable law.
5. **Third-Party Code.** The Cloud Software may contain or be provided with components which are licensed from third parties (“Third-Party Code”), including components subject to the terms and conditions of “open source” software licenses (“Open Source Software”). Open Source Software may be identified in the Documentation, or in a list of the Open Source Software provided to Client upon Client’s written request. To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this Tableau Software Supplement with respect to such Open Source Software, including, without limitation, any provisions governing access to source code, modification or reverse engineering. Client may not distribute the Tableau Code as Open Source Software or link, combine or otherwise package the Tableau Code with any Open Source Software or otherwise take any action that could in any way cause such Tableau Code to become subject to any Open Source Software license terms, including any such license that requires as a condition of use or distribution of the licensed code (or derivatives or modifications thereof) that such code, derivative or modification be disclosed or distributed in source code form, licensed for the purpose of making derivative works, or redistributed only under certain terms.



Maintenance Standards

PART I: Advantage Plus Level (Applicable to Subscription Software (Table B.1))

I. Defined Terms:

“Notification” means a communication to Ellucian’s Action Line by means of: (i) Ellucian’s Customer Support Center; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with Ellucian’s then-current policies and procedures for submitting such communications.

“Priority One Call” means a Notification that Client believes that a Defect has caused: (i) a full failure (i.e., “crash”) of its computer system; (ii) a full failure of the Licensed Software; or (iii) a failure of its computer system or the Licensed Software which, in either case, prevents Client from performing data processing which is critical to Client’s operations on the day on which the alleged Defect is reported.

“Priority Two Call” means a Notification that Client believes that a Defect has caused a partial failure of Client’s computer system or the Licensed Software which significantly hinders its ability to perform data processing which is critical to Client’s operations on the day on which the alleged Defect is reported.

“Priority Three Call” means a Notification that Client believes that a Defect has caused an intermittent failure of, or problem with, its computer system or the Licensed Software that causes a significant delay in Client’s ability to perform data processing on the day on which the alleged Defect is reported, but where the processing is not critical to Client’s operations.

“Priority Four Call” means a Notification that Client believes that a Defect has caused a problem with its computer system or the Licensed Software that does not significantly affect critical processing.

II. Hours During Which Ellucian’s “Action Line” Telephone Support Will be Available to Client in Connection with the Provision of Maintenance: Seven (7) days per week, 24 hours per day.

Note: Ellucian’s Action Line uses an automated answering system to receive and record telephone calls from clients, as well as to receive reports via Ellucian’s Customer Support Center and e-mail. This system allows Ellucian’s Action Line staff to classify, prioritize, record basic details, conduct certain research, and assign a consultant to respond to a client’s telephone call.

III. Targeted Response Times: With respect to Ellucian’s Maintenance obligations, Ellucian will use diligent, commercially reasonable efforts to respond to Notifications from Client relating to the Baseline Software identified in Exhibit 1 in accordance with the following guidelines:

Priority One Calls – one (1) hours or less.

Priority Two Calls – four (4) hours or less.

Priority Three Calls – twenty-four (24) hours or less.

Priority Four Calls – seventy-two (72) hours or less.

Notes: (1) For purposes of these targets, a “response” will mean as an initial contact from an Ellucian representative to Client to begin evaluation of the problem reported under one of the categories of calls identified above; (2) As a prerequisite to Ellucian’s obligation to respond to Client, Client must follow the policies and procedures of Ellucian’s Action Line (such as the dialing of a particular phone number, the categorization of a particular problem, etc.) when submitting its Notification.

PART II: Subscription Advantage Level (Applicable to Cloud Software (Table B.2))

1. Ellucian’s Action Line will be available to Client for Defect reporting five (5) days per week, Monday through Friday (excluding national holidays and Ellucian-observed holidays), from 8:00 AM to 8:00 PM (Eastern U.S. Time). However, production outages will be supported 24x7x365 as long as Client contacts Ellucian’s Action Line via the telephone number provided to Client.
2. The priority of an active incident is indicated at the time the incident is first reported to Ellucian. Client must report the priority of the incident using the definitions below. Ellucian will review and validate the priority for open incidents and may adjust the priority to better align with these definitions.

Ellucian uses reasonable commercial efforts to respond to Client’s Notifications in accordance with the following guidelines:

Priority Levels	Definition	Target Response Times
Priority 1 - Critical	A Notification that the production Cloud Software instance is not available for remote access by Client or that Client believes that a Defect has caused: (i) a full failure (i.e., “crash”) of its computer system; (ii) a full failure of the Cloud Software; or (iii) a failure of its computer system or the Cloud Software which, in either case, prevents Client from performing data processing which is critical to Client’s operations on the day on which the alleged Defect is reported.	1 hour or less
Priority 2 - High	A Notification that Client believes that a Defect has caused a partial failure of the Cloud Software or a failure that significantly hinders Client’s ability to perform data processing which is critical to Client’s operations on the day on which the alleged Defect is reported	4 hours or less
Priority 3 - Medium	A Notification that Client believes that a Defect has caused an intermittent failure of, or problem with, the Cloud Software, or that causes a significant delay in Client’s ability to perform data processing on the day on which the alleged Defect is reported, but where the processing is <u>not</u> critical to Client’s operations	1 business day or less
Priority 4 - Low	A Notification that Clients believes that a Defect exists, but it does not significantly affect critical processing	3 business days or less

For purposes of these targets, a “response” will mean an initial contact from an Ellucian representative to Client to begin evaluation of the problem reported under one of the categories of calls identified above. As a prerequisite to Ellucian’s obligation to respond to Client’s Notification(s), Client must follow Ellucian’s policies and procedures (such as the dialing of a particular phone number, the categorization of a particular problem, etc.) when submitting a Notification.

A “Notification” means a communication to Ellucian by means of: (i) Ellucian’s Action Line; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with Ellucian’s then-current policies and procedures for submitting such communications.

3. Response times listed in this Exhibit reflect targets and should not be construed as contractual obligations. Response time commitments do not promise a complete resolution within the stated time frames. Rather, the time commitment is intended to indicate the estimated target time interval in which Ellucian will contact Client after triaging and routing. Ellucian will begin working the request to seek a resolution of the issue once communication with Client has been established to verify the request and depending on the priority level as described above.



Service Level Agreement

1. Coverage and Terminology.

This Service Level Agreement (the "SLA") applies to the production Cloud Software instance supported under this Amendment.

Availability: "Availability" means the percentage of a particular month (based on 24-hour days for the number of days in the subject month) that the production Cloud Software is available for remote access by Client as measured by Ellucian pursuant to the Service Level Objectives defined in the Service Level Objective section below.

Measurement: Availability is measured as the ratio of actual Availability to expected Availability resulting in an "Achieved Availability" percentage. Achieved Availability is determined by calculating the aggregate minutes, during the periods the production Cloud Software instance is scheduled to be available ("Scheduled Uptime"), that the production Cloud Software instance is unavailable for use by Client ("Unscheduled Outage"), divided by the total aggregate minutes of scheduled Availability for the month which is Scheduled Uptime minus the time the production Cloud Software is scheduled to be unavailable with Client agreement ("Scheduled Downtime"), and rounded to the nearest 10th (tenth) unless otherwise indicated in the specific SLA definition. The "Achieved Availability" calculation is expressed as:

Achieved Availability = 1 - (Unscheduled Outage / (Scheduled Uptime - Scheduled Downtime))

For the avoidance of doubt, the unavailability of the production Cloud Software instance as a result of scheduled maintenance and emergency maintenance windows will not be considered a service outage and will not give rise to Service Level Credits.

2. Service Level Objective.

Ellucian aims to achieve one hundred percent (100%) Availability for the production Cloud Software instance. Subject to the terms in this SLA, Ellucian will provide ninety-nine and one half percent (99.5%) Availability for the production Cloud Software instance.

A monthly Availability report will be made available within ten (10) business days following Client's written request.

3. Service Level Credits.

Except under the conditions mentioned in the Conditions section below, if the Availability of the production Cloud Software instance is less than ninety-nine and one-half percent (99.5%), Ellucian will issue a credit (a "Service Level Credit") to Client according to the following tables.

Table with 2 columns: Availability and Service Level Credit Issued by Ellucian *. Rows show availability ranges from >= 99.50% to 95.00% - 96.99% and corresponding credit percentages (None, 5%, 10%, 15%).

Production Cloud Software	
Availability	Service Level Credit Issued by Ellucian *
92.00% - 94.99%	20% of applicable monthly fee
<92%	25% of applicable monthly fee; plus 7% for each additional 3.3% of total downtime in the applicable calendar month, up to a maximum of 100% of the applicable monthly fee

* For the avoidance of doubt, and without limitation, Service Level Credits are subject to the terms and conditions provided for in Section 6 (“Service Level Credit Request, Payment Procedures”) of this SLA.

4. Maintenance Procedure.

4.1 Ellucian will use diligent efforts to announce scheduled maintenance as defined in the following procedures:

Cloud Software Maintenance Procedures

Ellucian reserves the right to perform emergency maintenance (for example, to restore Cloud Software or remediate security vulnerabilities) without any prior notification to Client, if Ellucian determines that it is necessary to protect and maintain the security, availability or integrity of the Cloud Software.

Ellucian’s standard maintenance windows are as described below (NOTE: The below windows are maximums and will only be utilized if required). Ellucian will use diligent efforts to announce scheduled maintenance as defined by these maintenance windows.

Maintenance Windows				
Window	Duration	Days	Anticipated service disruption	Notification
Weekly	4 hours	Weekend	Low	48 hours
Monthly	8 hours	Weekend	Likely	1 week

Emergency changes required to restore disrupted Cloud Software will follow documented change processes and might not occur during a defined window.

4.2 Ellucian reserves the right to perform emergency maintenance (for example, to restore Cloud Software or remediate security vulnerabilities) without any prior notification, should it be deemed necessary to protect and maintain the security, availability or integrity of the Cloud Software.

5. Conditions.

5.1 Client will not receive any Service Level Credits under this SLA in connection with any failure or deficiency caused by or associated with any of the following:

- Outages, delays, or latency elsewhere on the Internet (including but not limited to upstream internet service providers (ISPs)) that hinder access to the Cloud Software;
- Scheduled maintenance, to the extent provided herein, and emergency maintenance and upgrades;
- Domain Name Server (DNS) issues and DNS propagation outside the direct control of Ellucian;
- Browser or DNS caching that may make the production Cloud Software appear inaccessible when others can still access it;
- False SLA breaches reported as a result of outages or errors of any Ellucian measurement system;
- File transfer, email or webmail delivery and transmission;
- Circumstances beyond Ellucian’s reasonable control;

- Any issues caused by the action of third party software, contractors, or vendors (other than third parties authorized by Ellucian); or
- Functional Cloud Software setup, configuration, or functionality outside the scope of the Amendment.

5.2 Ellucian is not responsible for localized incidents affecting a subset of the population. Further, Ellucian is not responsible for intermittent availability issues such as those that cannot be documented, measured or repeated.

6. Service Level Credit Request, Payment Procedures.

6.1 As part of Ellucian's obligation to provide the Cloud Software, Ellucian will provide oversight for monitoring this SLA utilizing the availability metrics information provided through the use of an industry standard monitoring tool (such tool will be the authoritative system for service level measurement under this SLA). Utilizing this output, and in order to receive a Service Level Credit, Client must make all Service Level Credit requests via email or Ellucian's ticketing system. Each Service Level Credit request in connection with this SLA must include Client's account name and the dates and times of the unavailability of the production Cloud Software and must be received by Ellucian within thirty (30) days after such production Cloud Software was not available as defined herein. If Ellucian can confirm the unavailability, and after Ellucian performs a root cause analysis which identifies that the production Cloud Software was the cause of the unavailability, then Service Level Credits will be applied within two (2) months after Ellucian's receipt of Client's Service Level Credit request.

6.2 The Service Level Credit percentage will be based on the amount of the Cloud Software subscription fee paid by Client for Cloud Software for the month being measured. Notwithstanding anything to the contrary herein, the total amount credited to Client in a particular month under this SLA will in no event exceed the total Cloud Software subscription fee paid by Client for such month. Service Level Credits are exclusive of any applicable taxes charged to Client or collected by Ellucian. Such Service Level Credits are Client's sole and exclusive remedy with respect to any failure or deficiency in the production Cloud Software. No Service Level Credits will be issued for non-production environments.

6.3 Note: Service Level Credits are not refundable and can be used only towards future billing charges for the Cloud Software. Provided, however, if a Service Level Credit is due in the last billing cycle of the Cloud Software Term, then the Service Level Credit will be applied against the fees due in the last billing cycle of the Cloud Software Term or refunded, as the cases may be.

Data Protection

“Data Protection Law” means all laws and regulations relating to the processing of Client Personal Data by Ellucian, each as and when applicable, including but not limited to regulation (EU) 2016-679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (“GDPR”) and any applicable national implementing law as amended from time to time.

In order to adduce adequate safeguards with respect to the protection of Client Personal Data, the parties agree to the following clauses:

Data Protection

1. Ellucian confirms that for so long as it processes Client Personal Data in performing its obligations under this Amendment, it will:
 - (a) maintain appropriate technical and organisational data security measures, including a written information security policy to protect the Client Personal Data consistent with applicable laws and regulations;
 - (b) maintain the confidentiality of Client Personal Data in accordance with the Master Terms and this Amendment;
 - (c) process the Client Personal Data only in accordance with the Client’s instructions. The parties agree that the Amendment to which this Exhibit is attached contains instructions from Client to Ellucian to process Client Personal Data as reasonably required to perform the obligations described therein. Client hereby authorises Ellucian to take such steps in the processing of Client Personal Data on behalf of Client as are reasonably necessary for the performance of Ellucian’s obligations under this Amendment. Additional instructions outside of the scope of this Amendment, including instructions regarding assisting Client with its requirements under Articles 32 to 36 of GDPR or other Data Protection Law, will be agreed by the parties in writing, including any additional fees payable by Client to Ellucian for carrying out instructions that require Ellucian to change or supplement its existing business process and technical and organisational data security measures;
 - (d) limit access to the Client Personal Data to Ellucian’s employees, agents and subcontractors (including Ellucian group companies) who have a need to access such Client Personal Data to perform Ellucian’s obligations under this Amendment. Client agrees that Ellucian may use subcontractors to fulfill its obligations under this Amendment so long as Ellucian’s relationship with such subcontractors complies with clause (e) below;
 - (e) require that its employees, agents and subcontractors who have access to the Client Personal Data agree to abide by substantially similar restrictions and conditions that apply to Ellucian with regard to such Client Personal Data;
 - (f) implement appropriate administrative, technical and physical safeguards designed to ensure the security or integrity of the Client Personal Data and protect against unauthorized access to or use of such Client Personal Data that could result in substantial harm or inconvenience to the Client;
 - (g) notify Client of a Information Security Breach as soon as reasonably practicable and without undue delay after Ellucian becomes aware, and take reasonable steps to mitigate the effects of the Information Security Breach. An “Information Security Breach” is an event that is known to have resulted in unauthorized access to, or unauthorized use or disclosure of, Client Personal Data;
 - (h) make available to Client such information as is strictly necessary for the Client to demonstrate its compliance with applicable data protection law at no cost to Ellucian. Any costs arising in connection with Ellucian’s obligations under this clause will be promptly reimbursed to Ellucian by the Client upon reasonable request. Ellucian uses independent third party auditors to verify the adequacy of its security measures for Cloud Software and Cloud Services. No more than once per calendar year, Client may request

- and Ellucian will provide: (i) subject to Client executing a non-disclosure agreement, a copy of the most recent independent security attestation report associated with the provision of Cloud Software or Cloud Services as applicable, and (ii) a copy of Ellucian's then-current information security policies and standards that relate to security controls associated with the Cloud Software or Cloud Services as applicable; and
- (i) not transfer the Client Personal Data from within the European Economic Area ("EEA") to locations outside the EEA unless it takes such measures as are necessary to ensure the transfer is in compliance with applicable data protection law. Such measures may include (without limitation) transferring the Client Personal Data to a recipient in a country that the European Commission has decided provides adequate protection for personal data (including, but not limited to, as a result of adherence to the EU-US Privacy Shield Framework), to a recipient that has achieved binding corporate rules authorization in accordance with applicable data protection law, or to a recipient that has executed standard contractual clauses adopted or approved by the European Commission.
2. As applicable, the parties may agree to specify in subsequent individual Order Forms the subject-matter and duration of processing of Client Personal Data, the nature and purpose of the processing, the type of personal data and categories of data subjects, the obligations and rights of the Client as controller and any specific processing instructions.
3. The parties agree that on the termination or completion of the provision of the relevant Software or services that are the subject of this Amendment, Ellucian and its subcontractors will, at the Client's request, return all the Client Personal Data in their possession (if any) and the copies thereof to the Client or will destroy all the Client Personal Data and certify to the Client that it has done so, unless legal obligations imposed upon Ellucian prevent it from returning or destroying all or part of the Client Personal Data transferred. In the latter case, Ellucian warrants that it will maintain the confidentiality of the Client Personal Data transferred and will not actively process (except for storage and deletion) such Client Personal Data.
4. Ellucian shall have the right to (a) use, store, process, modify, reproduce, distribute and display Client Data, and to grant sublicenses to third parties, solely for the purposes of providing the software, performing Ellucian's obligations under the Amendment to which this Exhibit is attached and complying with applicable law or legal requirements; (b) to use, store, process, modify and reproduce Client Data for Ellucian's internal business purposes, including development, diagnostic, forecasting, planning, analysis and corrective purposes in connection with the Software and Services, and for otherwise improving and enhancing the Software and Services; and (c) to use, store, process, modify, reproduce, display, perform, distribute, disclose and otherwise exploit Aggregated Data in any manner for Ellucian's business purposes, including disclosure within its public statements and marketing materials describing and/or promoting Ellucian and/or the Software and Services. "Aggregated Data" means any data obtained or generated by Ellucian, including data pertaining to the Software and Services, Ellucian's systems and Software and Services, and the use of any of the foregoing, and includes data derived from Client Data and data that has been combined into databases which include third party data, which in all instances (i) does not identify any individual and (ii) is not attributed or attributable to a specific customer. Aggregated Data includes data that has been combined into databases which include third party data.



PROFESSIONAL SERVICES

No Services: The fee(s) shown in the Amendment to which this Exhibit is attached do not include implementation/setup services. For the avoidance of doubt, Client is not requesting, and Ellucian has no obligation to provide, any services for the Ellucian Component Systems listed in this Amendment (except as otherwise set forth in the Agreement or the Amendment), including without limitation, any implementation or training. In the event that Client wishes to purchase services from Ellucian in the future, the parties will enter into a separate agreement for the provision of such services at Ellucian's then-current rates.