



## MASTER MEMBERSHIP AGREEMENT

This MASTER MEMBERSHIP AGREEMENT (this “**Agreement**”), effective as of June 21, 2019 (the “**Effective Date**”), is made by and between the Regents of New Mexico State University (“**Member**”) and EAB Global, Inc. (“**EAB**”).

WHEREAS, Member operates institutions of higher learning within the United States; and

WHEREAS, EAB provides, to subscribing members, programs that include (i) research and analysis based on information obtained from several sources (including members), (ii) access to a web-based software tool that performs analysis of and displays results from data an individual member provides or makes available to EAB, and/or (iii) professional services, including enrollment services (each, a “**Program**”); and

WHEREAS, Member desires to enroll in certain Programs under the terms of this Agreement; and

WHEREAS, the parties wish to formalize a process by which Member may enroll in additional Programs by, among other things, having this Agreement serve as the standard terms and conditions that would govern and apply to the Programs and such additional Programs; and

WHEREAS, the scope of services for each of the Programs, as set forth on Exhibit B hereto, and any Enrollment Addenda (as defined below) executed by the parties, shall describe the services that EAB provides or will provide under the Programs (collectively, the “**Services**”).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Member and EAB agree as follows:

1. Programs. As of the Effective Date, (a) the pricing, payment terms, and expiration dates for the Programs, shall be as set forth on Exhibit A attached hereto and incorporated by this reference, and (b) the scope of services for the Programs including certain program-specific terms and conditions, shall be as set forth on Exhibit B attached hereto and incorporated by this reference (collectively, the “**Scopes**”).
2. Program Enrollment Process. Member may join an additional Program, or renew any Program, following expiration of such Program, by entering into an addendum to this Agreement in substantially the form attached hereto as Exhibit D or such other form as is mutually agreed upon in writing by the parties and that specifically references this Agreement (an “**Enrollment Addendum**”). The terms and conditions of this Agreement shall apply to any Enrollment Addendum. In the event of a conflict between or among this Agreement, any of the Scopes, and/or any Enrollment Addendum, the Enrollment Addendum shall control over this Agreement and the Scopes, and the Scopes shall control over this Agreement.
3. Member-Provided Data. To the extent Member requests EAB to perform customized analysis for Member, Member shall provide or make available to EAB the data as required pursuant to an Enrollment Addendum or Scope by any applicable specified dates or milestones reasonably required for EAB to perform the Services. Member acknowledges and agrees that EAB exercises no control whatsoever over the content of such data or other content or information that Member or an End User so supplies to be used in connection with the Services, as well as any copyrights, trademarks, service marks, data, and other

intellectual property Member may provide to EAB in order to allow EAB to provide the Services to Member under the terms of this Agreement and any Enrollment Addenda (such data or other information and intellectual property, collectively, “**Member-Provided Data**” or “**M-P Data**”). Member shall have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all M-P Data, and EAB does not assume responsibility for unintended, objectionable, inaccurate, misleading, or unlawful M-P Data. EAB makes no warranty, representation, endorsement, or guarantee regarding, and accepts no responsibility for, the quality, content, nature or reliability of such M-P Data or any products or services referenced thereby. Unless otherwise specifically set forth in the Enrollment Addendum or Scope or required in order to provide the Services, Member acknowledges and agrees that EAB will have no obligation to archive or back up M-P Data, nor will EAB have any liability for any loss or corruption of M-P Data, nor will EAB have any obligation under the Agreement to retain any M-P Data, after the expiration or termination of the term of the Agreement.

4. Site and Software; License. As part of the Services, Member may be provided access to a password-protected website for the applicable program as described in an Enrollment Addendum or an Scope (“**Site**”). During the term of the applicable Enrollment Addendum or Scope, subject to its terms and the terms of this Agreement:
  - (a) EAB grants Member a limited, non-exclusive, non-transferable, non-assignable, non-sublicensable license to access and use the Software via the Site through use of the unique user identifiers provided to Member (“**Identifiers**”), solely for purposes of (i) creating and viewing analysis and reports based on the M-P Data, and (ii) obtaining other information made available through the Software; and
  - (b) Member agrees that access to and use of the Services may require an End User to agree to terms of use provided by EAB. “**End Users**” are end users of the Services who are not Personnel, including, as applicable, students and prospective students of Member.

For purposes of this Agreement, “**Software**” is any software to which Member is provided access as part of the Services, including software provided by a third party, and is included in the defined term “**Services**”. EAB and its suppliers and licensors reserve the right to update or enhance the Software at any time. EAB may require Member to agree to additional legal terms and conditions required by third parties who provide portions of the Services before accessing or using such Services.

5. Authorized Users. Member shall only allow its employees, authorized Personnel, End Users and other individuals or entities authorized by EAB in the Enrollment Addendum or Scope to access and use the Software as “**Authorized Users**”, solely in accordance with the terms of the Agreement. Member shall ensure that the number of Authorized Users accessing and using the Software shall not exceed the number specified in the applicable Enrollment Addendum or Scope, and shall be solely responsible for ensuring that Authorized Users only access the portions of the Site that they are legally permitted to access. Member shall, and shall ensure that its Authorized Users shall, solely use the Services for the benefit of the Member site(s) specified on Exhibit C (each, a “**Member Site**”) and solely for Member’s own internal operations. Member shall not, and shall ensure its Authorized Users do not, (a) use the Services in any manner or for any purpose that violates any law or regulation, or any right of any person, including, without limitation, intellectual property rights, (b) modify, alter, reverse engineer, decompile, or disassemble the Software, or otherwise attempt to obtain or perceive the source code from which the Software is compiled or interpreted, and Member acknowledges that nothing in the Agreement will be construed to grant Member any right to obtain or use such code, (c) use the Services to transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs, (d) interfere with or disrupt the integrity or performance of the Services or the data contained therein, (e) attempt to gain unauthorized access to the Services, computer systems or networks related to the Services, or (f) interfere with another user’s use and enjoyment of EAB’s Services and Software. Member is responsible for any breach of its obligations, representations and warranties within the

Agreement by any Authorized User, any other of its Personnel, or any other person within its control or to whom it grants access. For purposes of this Agreement, "**Personnel**" means a party's officers, directors, trustees, and employees.

6. Connectivity. Member is solely responsible, at its own cost and expense, for acquiring, installing and maintaining all connectivity equipment, hardware, software and other equipment as may be necessary for it and its Authorized Users to connect to and use the Site and Software.
7. Fees and Payment. Member will pay EAB fees for the Services as stated in the attached Exhibits and Enrollment Addenda. Unless expressly stated otherwise within such documents, Member shall pay EAB within thirty (30) days of receipt of an invoice. Overdue payments are subject to a late payment charge, which is compounded monthly, calculated at the lesser of (x) a rate of one percent (1%) per month or (y) the maximum amount permitted by law. Member will be responsible for all costs and expenses incurred by EAB in collecting any fees or other sums owed by Member. If Member fails to pay undisputed amounts in accordance with the Enrollment Addendum or Scope, EAB shall have the right, in addition to any of its other rights or remedies, to suspend the Services, without liability to Member until such amounts are paid in full. If Member disputes any fees, taxes, or other charges billed by EAB, Member shall notify EAB, in writing, of the disputed amount and provide any relevant information regarding the circumstances of the dispute. All parties agree to work cooperatively to resolve any such disputed amounts. If Member fails to provide EAB with a notice of such a disputed amount within ten (10) days following receipt of EAB's invoice for such disputed charge, then such amount is deemed undisputed and due to EAB.
8. Taxes. Member will be responsible for payment of any applicable sales, use and other taxes (other than taxes based on EAB's income), and all applicable export and import fees, customs duties and similar charges and any related penalties and interest for the grant of the Services hereunder. If Member is tax exempt, it shall furnish EAB with evidence of its tax exempt status. Member will make all required payments to EAB free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments to EAB will be Member's sole responsibility, and Member will, upon EAB's request, provide EAB with official receipts issued by appropriate taxing authorities, or such other evidence as EAB may reasonably request, to establish that such taxes have been paid. Notwithstanding the foregoing, no federal, state, or local income, payroll or employment taxes of any kind will be withheld or paid by Member with respect to payments to EAB or on behalf of EAB or its agents or employees.
9. Ownership. EAB is authorized to use such M-P Data to the extent expressly authorized in this Agreement (as defined herein). As between the parties, Member owns the M-P Data. Member acknowledges that EAB may use the M-P Data, and Member hereby grants EAB a non-exclusive right and license to use, reproduce, host, reformat, and create derivative works from, publicly display and otherwise exploit all or portions of the M-P Data (it being agreed that such de-identified data is not M-P Data): (a) in connection with providing the Services; (b) for internal tracking, reliability testing and research purposes; and (c) in a manner that does not identify Member or any End Users for any lawful purpose in EAB's discretion. The rights granted in the foregoing clauses (b) and (c) shall be perpetual and shall survive the termination or expiration of this Agreement.

As between the parties hereto, EAB owns all right, title and interest in and to the research, research results, tools, methods, analyses, reports, improvements, developments, or other materials or information relating to the Services (including, without limitation, any such materials based on or incorporating M-P Data, except for the M-P Data therein) (collectively, "**EAB Materials**"), the Services, and the know-how, techniques or procedures used or acquired in creating the EAB Materials or performing the Services, and any derivative works of any of the foregoing. Except as stated in this Agreement, no right, license, permission or interest of any kind in the Services or EAB Materials is intended to be given, transferred to or acquired by Member by the Agreement. Member is authorized to use such items only to the extent expressly authorized in this Agreement. Upon termination or expiration of an Enrollment Addendum or

Program, Member's rights to and its use of the applicable Services and EAB Materials shall promptly cease, except that Member shall continue to be able to use any EAB Materials comprised solely of reports provided to Member prior to the expiration of the term of the Agreement to the extent the EAB Materials include M-P Data. Upon request, Member shall return any EAB Materials that it is using in violation of this Agreement.

To the extent Member presently participates in more than one Program or service offering or enrolls in or purchases additional Programs or service offerings in the future, the data that Member provides to EAB in connection with a particular Program may be combined with data provided by Member in connection with other Programs or otherwise used by EAB in connection with other Programs to provide services to Member pursuant to the Agreement and other membership or services agreements between Member and EAB.

10. FERPA. (a) Subject to subsection (b), and to the extent that EAB receives from Member or otherwise has access to, on behalf of Member, personally identifiable information from a student education record (collectively, "**Student Records**"), EAB agrees to maintain such Student Records in accordance with the requirements of the Family Educational Rights and Privacy Act, 20 USC § 1232g, and its implementing regulations, 34 CFR pt. 99, as each may be amended from time to time (collectively, "**FERPA**"). (b) Member agrees (i) that EAB is performing for the Member an institutional service or function for which the Member would otherwise use its employees, (ii) that the Member will exercise direct control over EAB's use and maintenance of education records, and (iii) that the Member is responsible for complying with FERPA's annual notification requirement (34 C.F.R. § 99.7).
11. Compliance with Laws. It is understood and agreed that this Agreement does not render EAB as a "**Third Party Servicer**" as that term is defined at 34 C.F.R. § 668.2 and EAB is not subject to the requirements of 34 C.F.R. § 668.23 or 34. C.F.R. § 668.25. Member shall not report or characterize EAB to the U.S. Department of Education or any regulatory agency as such, and EAB shall not undertake any work pursuant to this Agreement inconsistent with this section.

The fees set forth in this Agreement or the applicable Enrollment Addenda are not intended to be incentive compensation payments. However, EAB represents, warrants and covenants that the compensation of its employees, subcontractors or other persons who perform any student recruitment activities for Member (if any) under this Agreement or any Enrollment Addenda is and will be in material compliance with Section 487(a)(20) of the HEA (20 U.S.C. § 1094(a)(20)), or any successor provision, and the regulations promulgated thereunder by the U.S. Department of Education (currently located at 34 C.F.R. § 668.14(b)(22)), (the "**Incentive Compensation Rules**"), to the extent applicable. It is the intention of the parties that if there are any payments that would be deemed incentive compensation payments, then this performance of the Services would fall under Example 2-B, page 12 of the letter titled "Implementation of Program Integrity Regulations" from the U.S. Department of Education issued on March 17, 2011. In the event the Incentive Compensation Rules change during the term of this Agreement or the Department of Education revises or issues official guidance concerning such regulations such that, in either case, the calculation and payment of fees is no longer feasible, the parties will promptly negotiate in good faith an amendment to this Agreement to comply with such change and to preserve, as nearly as practicable, the payment provisions and other economic benefits and terms of this Agreement. The Member and EAB agree that the Member is solely responsible for making final decisions about enrollments and enrollment targets for programs.

Member shall be responsible for obtaining and maintaining eligibility for student financial aid under Title IV of the HEA and the rules and regulations thereunder, for obtaining and maintaining all necessary state authorizations and approvals, and for maintaining its accreditation in full force and effect. Member shall promptly notify EAB in the event it is notified that any of the foregoing approvals and authorizations is, or is threatened to be, materially modified, suspended or terminated.

To the extent the Services include marketing campaigns or programs, EAB shall send to Member for its approval a proof of the final communication template for each mailing (e.g., emails and/or direct mail). If Member discovers any problems after review, Member will immediately notify EAB. If there are any subsequent changes in the marketing communications or campaign details, Member will review again according to the above procedure. Member shall review all marketing materials created by EAB for Member to ensure that all such marketing materials are accurate, complete and in compliance with all applicable laws, rules and regulations, including, but not limited to, adherence with the U.S. Department of Education's misrepresentation regulations provided at 34 C.F.R. 668, Subpart F, any applicable FTC guidelines and other consumer marketing laws and regulations. Member will be solely responsible for: (a) the design of any marketing program created as part of the Services and its compliance with applicable laws, rule and regulations; and (b) the content of any mailings to a prospective student or his/her families for completeness and accuracy.

12. Confidentiality; Reference. Except as required by law or as reasonably necessary in the performance of the Services or as otherwise agreed to by Member in this Agreement or in a separate writing, EAB will keep confidential any and all M-P Data. Notwithstanding the foregoing, Member agrees that EAB shall not be obligated to maintain the confidentiality of M-P Data that is known to EAB prior to receiving the M-P Data from Member or that becomes known (independently of disclosure by Member) directly or indirectly from a source other than one having an obligation of confidentiality to Member, or that is independently developed by EAB. Member agrees that EAB may collect aggregated statistical data regarding Member's use of the Service and provide such aggregated statistical data to third parties.

The EAB Materials are confidential to EAB and its suppliers, if any. Thus, Member shall not disseminate or permit the use of, and shall take reasonable precautions to prevent such dissemination or use of, EAB Materials by any third party. In addition, except as required by law, Member shall not disclose the fees charged by EAB to Member to any third party, other than its Personnel or professional services providers (e.g., accountants or legal counsel) who need to know such information in order to provide their respective professional services to Member and, in each case, are bound by confidentiality obligations to Member. Member shall not remove from the EAB Materials any confidential markings, copyright notices and other similar indicia therein and shall not create any derivative works thereof.

Notwithstanding the foregoing, a party may disclose M-P Data and the Materials to the limited extent required (x) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order shall provide prompt notice of such disclosure to enable the non-disclosing party to seek a protective order or otherwise prevent or restrict the disclosure; or (y) to establish a party's rights under the Agreement, including to make such court filings as it may be required to do.

EAB may use Member's name on a list of members in EAB programs.

13. Limitations on Liability. Member agrees that neither EAB nor its Personnel will be liable to Member for any claims, liabilities, or expenses relating to the Services, the EAB Materials or the Agreement for an aggregate amount in excess of the fees paid by Member to EAB pursuant to the applicable Program that gave rise to the damages during the twelve (12) month period before the claim, liability or expense arose, except to the extent finally judicially determined to have resulted from EAB's bad faith or intentional misconduct. In no event will a party or its Personnel be liable to the other party and/or its Personnel for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to the Services, the EAB Materials or the Agreement, including, without limitation, lost profits, costs of delay, any failure of delivery, business interruption, costs of lost or damaged data or documentation, or liabilities to third parties arising from any source, even if a party has been advised of the possibility of such damages. In addition, EAB will not be liable in respect of the following: (a) any decisions made by Member as a result of the performance of the Services (including any Software) or as a result of any

transactions made using any Software by any person using one of the Identifiers, or in reliance upon any of the EAB Materials, or (b) Member's misuse of the Services, EAB Materials or other data provided to Member in connection with the Services.

14. Warranties. EAB represents and warrants that it will provide the Services in a professional and workmanlike manner. Member represents and warrants that (a) its signatory is authorized to enter into this Agreement on behalf of Member, and (b) (i) its provision of M-P Data and (ii) its and its Authorized Users' receipt of and access to the Services (including the Software and M-P Data and other data and information made available through the Software) will not violate any of its obligations to third parties or violate any applicable laws and that Member has obtained all necessary third party consents and authorizations to provide the M-P Data and for such M-P Data to be used in the manner contemplated by the Agreement, including consents or authorizations pursuant to FERPA, and (c) any M-P Data it provides to EAB will not relate to any individual under the age of 18. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND EAB MATERIALS ARE PROVIDED "AS IS," AND EAB MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICES AND EAB MATERIALS AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, AND NONINFRINGEMENT. EAB DOES NOT WARRANT THAT THE SERVICES WILL MEET MEMBER'S REQUIREMENTS OR THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS AND EAB IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.
15. Essential Basis of the Agreement. Member acknowledges and understands that the disclaimers, exclusions and limitations of liability set forth in this Agreement form an essential basis of this Agreement between the parties, that the parties have relied upon such disclaimers, exclusions and limitations of liability in negotiating the terms and conditions in this Agreement, and that absent such disclaimers, exclusions and limitations of liability, the terms and conditions of this Agreement would be substantially different.
16. Termination. Any Enrollment Addendum or Program, may be terminated by a party upon written notice to the other party if such other party (a) fails to perform any material obligation required of it under the Enrollment Addendum or Program, as applicable, or this Agreement with respect to such document, and such failure is not cured within sixty (60) days of receipt of written notice thereof, or (b) files a petition for bankruptcy or insolvency, has an involuntary petition filed against it, commences an action providing for relief under bankruptcy laws, files for the appointment of a receiver, or is adjudicated a bankrupt concern. Upon termination pursuant to clause (a) of the preceding sentence by (i) EAB, all fees due to EAB under the Agreement shall promptly become due and payable and (ii) Member, EAB will waive (or refund, as applicable) a pro-rata portion of any prepaid fees for Services (i.e., fees due for Services to be performed after the termination date) and, in each case, EAB will be released from any further obligation to provide the Services. For purposes of clarity, solely the Enrollment Addendum, or Program, under which or in relation to which a party has failed to perform a material obligation of this Agreement or such applicable document may be terminated; an unaffected Enrollment Addendum or Program may not be terminated. Additional termination rights may be set forth in Exhibits of this Agreement.
17. Independent Contractor; Subcontractors. Each party is considered to be an independent party and will not be construed to be an agent or representative of the other Party, and, therefore, each Party has no liability for the acts or omissions of the other. In addition, neither Party, nor any of their employees, agents or subcontractors, is entitled to compensation, worker's compensation, or employee benefits from the other party by virtue of this Agreement.

18. Assignment. The Agreement is not assignable by either party without the other party's prior written consent, provided that an assignment by operation of law shall not require consent. The Agreement is binding upon, and inures to the benefit of, the parties and their respective successors and permitted assigns.
19. Notice. Any notices under the Agreement shall be in writing and sent by overnight courier mail or facsimile. For EAB, notice shall be sent to EAB Global, Inc., Attn: General Counsel, 2445 M Street, NW, Washington, DC 20037, facsimile number (202) 747-1010. For Member, notice shall be sent to the name and address set forth in this Agreement.
20. Entire Agreement; Amendment. This Agreement, including the Exhibits hereto, once executed and delivered by the parties, supersedes in its entirety all other understandings and agreements regarding the provision of the Services. This Agreement constitutes a legal, binding, valid and enforceable obligation of each party. In the event of an express conflict between any provision of this Agreement and an Enrollment Addendum, the provision of the Enrollment Addendum shall control. Any amendment or supplement to this Agreement must be in writing and signed by both parties.
21. Force Majeure. EAB shall be excused from performance of its obligations under any Enrollment Addendum or Program, if such a failure to perform results from compliance with any requirement of applicable law, acts of God, fire, strike, embargo, terrorist attack, war, insurrection or riot or any other cause beyond the reasonable control of EAB. Any delay resulting from any of such causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances.
22. Governing Law; Survival. This Agreement is to be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws rules or the United Nations Convention on the International Sale of Goods. Each party irrevocably consents and submits to the exclusive jurisdiction of the state and federal courts situated in the District of Columbia, in connection with any action to enforce the provisions of this Agreement, to recover damages or other relief for breach or default under this Agreement, or otherwise arising under or by reason of the Agreement. Sections 7 through 27 of this Agreement, and any provision of this Agreement (including, without limitation, Exhibits or Enrollment Addenda) that by its nature should survive, shall survive the expiration or termination of this Agreement.
23. Remedies. Except where otherwise specified, the rights and remedies granted to a party under this Agreement are cumulative and in addition to, and not in lieu of, any other rights or remedies which the party may possess at law or in equity.
24. No Waiver. The failure of either party to insist upon or enforce strict performance by the other party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect.
25. No Third Party Beneficiaries. The parties acknowledge that the covenants set forth in this Agreement are intended solely for the benefit of the parties, their successors and permitted assigns. Nothing in this Agreement, whether express or implied, will confer upon any person or entity, other than the parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of the Agreement.
26. Counterparts; Facsimile. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Delivery of an executed signature page to this Agreement by facsimile shall be effective to the same extent as if such party had delivered a manually executed counterpart.

27. Headings; Interpretations Construction; Severability. The captions and headings used in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement. This Agreement shall be construed fairly according to its terms, without regard to the drafter of any provision hereof. In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed or if any such provision is held invalid by a court with jurisdiction over the parties to this Agreement: (a) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law; and (b) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect.
28. Non-Discrimination. EAB will operate as an equal opportunity employer and will not discriminate against any employee or applicant for employment because of age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, serious medical condition, sex (including pregnancy), sexual orientation, spousal affiliation or protected veteran status. EAB agrees to conform to all related and applicable state and federal laws, executive orders and rules and regulations.
29. Worker's Compensation. EAB warrants that it has and will maintain in effect worker's compensation insurance for its employees and agents during the term of this Agreement, to the extent required by law.
30. Inspection and Audit. Member reserves the right to audit EAB's records associated with the Agreement at any time during the Term and for a three-year period following the expiration or termination of the Agreement. Any audit may be conducted by Member personnel or a third party under contract with Member during business hours. Before a third party conducts an audit, the third party shall enter into a non-disclosure agreement. Member will give EAB 14 days' notice prior to conducting any audit. EAB agrees to fully cooperate with the auditors. EAB will also make available to Member all books and records relevant to the Agreement kept or maintained by and subcontractor or agent of EAB. Any adjustments and/or payments due to Member as a result of the audit will be made no longer than 30 days after presentation of the findings to EAB. Any such audit shall be at Member's cost; provided, however, that should the audit discover findings related to inappropriate accounting (resulting in Member being overcharged at least 10% of the value of the goods or services, or \$10,000, whichever is less), non-performance, misrepresentation or fraud, EAB agrees to pay the cost of the audit.
31. Patent and Copyright Indemnity. EAB will indemnify, defend and hold harmless Member and its personnel from any and all third party claims, liabilities and expenses arising from any infringement, misappropriation, or other violation by the Services of any United States patent, copyright, trademark, service mark, or trade secret of a third party; provided that Member used the Services in accordance with the terms of the Agreement and consistent with the purpose for which they were provided to Member. EAB shall have no liability for any claim of infringement based on (a) Services which have been modified by Member or any third party on Member's behalf, (b) Member's use of the Services in connection with data, including M-P Data, where use with such data gave rise to the infringement claim, or (c) Member's use of the Services with third party software or hardware, where use with such other software or hardware gave rise to the infringement claim. Should the Services become, or in EAB's opinion are likely to become, the subject of a claim of infringement, EAB may, at its option, (x) obtain the right for Member to continue using the Services, (y) replace or modify the Services so they are no longer infringing, or (z) if neither of the foregoing options is commercially reasonable, terminate the right of Member to use the affected Services. Upon such termination, EAB will refund to Member, as Member's sole remedy for such termination, any fees paid for Services to be provided following the effective termination date. This Section states EAB's entire liability with respect to any claim of infringement regarding the Services.
32. Liability. The parties are each solely responsible, to the extent allowed by law, for the liability arising from personal injury, including death, or damage to property arising from the acts or failure to act of the respective Party or of its officials, agents, and employees pursuant to the Agreement. Member's liability is



strictly limited by, and this Agreement gives full effect to, the intent of the New Mexico Tort Claims Act, Sections 41-4-1 et seq. NMSA 1978, and any amendments thereto.

*[Remainder of this page intentionally left blank.*

*Signature page follows.]*

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute and deliver this Master Membership Agreement as of the date first set forth above.

EAB GLOBAL, INC.

THE REGENTS OF NEW MEXICO STATE  
UNIVERSITY, as the Member

By: *Brian Bondurant*  
Brian Bondurant (Fys 11/14/13)  
Name: Brian Bondurant  
Title: Controller

By: *Andrew J. Burke*  
Andrew J. Burke (Fys 10/14/13)  
Name: Andrew Burke  
Title: Sr. VP Admin. & Finance

Address for Notices:

EAB Global, Inc.  
Attn: General Counsel  
2445 M Street, NW  
Washington DC 20037  
Fax: (202) 747-1010  
Email: [Legal@eab.com](mailto:Legal@eab.com)

Address for Notices:

New Mexico State University  
Attn: Seth Miner  
MSC 3A  
PO Box 30001  
Las Cruces, NM 88003-0001  
Phone: 575-646-3121  
Email: [miners@nmsu.edu](mailto:miners@nmsu.edu)

Exhibit A

I. Summary of Costs

PROGRAM	FY 2020		FY 2021		FY 2022		FY 2023	
	Quantity	Cost	Quantity	Cost	Quantity	Cost	Quantity	Cost
<b>ENROLLMENT MARKETING</b>								
Inquiry Generation								
Year-Round Sophomore and Junior Search								
<i>List Source Names</i>	200,000		200,000	\$267,740	200,000	\$275,780	200,000	\$281,890
<i>Total</i>	200,000	\$259,940	200,000	\$267,740	200,000	\$275,780	200,000	\$281,890
Year-Long Fulfillment (30-Day Fulfillment in FY19)								
Parent First Search	24,000	\$143,840	24,000	\$148,160	24,000	\$152,600	24,000	\$157,180
Institutional Awareness and Perception Study	-60,000	\$20,600	-60,000	\$21,220	-60,000	\$21,860	-60,000	\$22,520
Application Generation		\$20,000						
Application Marketing (Marketing to NMSU App in FY19)								
<i>Inquiry Pool</i>	25,000		30,000		35,000		35,000	
Senior Search - NewNames	75,000		75,000		75,000		75,000	
Senior Search - PRE Names	25,000		25,000		25,000		25,000	
<i>Total</i>	125,000	\$403,270	130,000	\$440,730	135,000	\$479,890	135,000	\$496,500
Web Application								
Freshman	1		1		1		1	
Transfer	1		1		1		1	
International	1		1		1		1	
<i>Total</i>	3	\$48,300	3	\$49,750	3	\$51,250	3	\$52,800
<b>YIELD OPTIMIZATION</b>								
Yield IQ								
Financial Aid Optimization	All Admits	\$69,290	All Admits	\$71,340	All Admits	\$73,490	All Admits	\$75,700
Net Price Calculator		\$97,850		\$100,790		\$103,820		\$106,930
<i>Total</i>		\$12,360		\$12,730		\$13,110		\$13,500
<i>Total</i>		\$179,470		\$184,860		\$190,420		\$196,130
<b>NAVIGATE STUDENT SUCCESS TECHNOLOGY PLATFORM</b>								
Student Success Accelerator		\$15,000						
One-Time Implementation Fee		\$57,750		\$57,750		\$305,540		\$314,710
Annual Membership Fee		\$288,000		\$296,640		\$305,540		\$314,710
<i>SUBTOTAL</i>		\$1,436,170		\$1,466,850		\$1,477,340		\$1,521,730
EAB INVESTMENT		(\$169,970)		(\$169,130)		(\$167,660)		(\$166,160)
ADDITIONAL EAB INVESTMENT IF SIGNED BY 6/26/19		(\$47,000)		(\$47,000)		(\$47,000)		(\$47,000)
TOTAL PROGRAM COST		\$1,199,200		\$1,251,720		\$1,262,680		\$1,308,570
Postage Estimate		\$69,256		\$72,687		\$76,226		\$77,751
Digital Media Estimate		\$41,143		\$43,417		\$46,217		\$47,603
List Estimate		\$145,372		\$149,732		\$154,225		\$158,852

## II. Opt Out

Member may elect to discontinue the Programs set forth in Exhibit A effective June 30, 2022 (the “**Early Termination Date**”) by providing written notice of its intent to terminate the Programs no less than ninety (90) days prior to the Early Termination Date, in which case the Programs will cease on the Early Termination Date and Member will not owe the fees for the period after the Early Termination Date. If you do not provide such written notification, the Programs will continue in accordance with the terms of this Agreement.

**Exhibit B**

**Scope of Services for each Program**

**[See Attached]**

## **Undergraduate Enrollment Services**

### **Scope of Services**

EAB will provide the services described below on behalf of the Member to support their enrollment goals and objectives.

#### **A. Coordination of Services**

Upon execution of this Agreement, EAB will assign a team led by key senior EAB staff member (Principal or Strategic Leader) who will serve as the Member's primary point(s) of contact and work collaboratively with Member leaders and staff to meet the program objectives outlined herein. They are responsible for coordinating service delivery and program management across the Term.

EAB staff is available to travel to Member's campus as well as host Member staff at EAB's premises, to the extent permissible by Member's policies and procedures, to discuss the services provided under the terms of this Agreement. All associated travel costs are assumed by EAB; the Member is not assessed any incremental fees for travel.

The Strategic Leader will monitor and coordinate the following services along with the descriptions in Summary of Program Services for Member as applicable:

- ① Targeting recommendations for optimal results (including, as applicable, list recommendations and list order placement)
- ① Creative development: copy and design of all communication channels (print packages, emails, web pages, display ads, SMS text messages)
- ① Production of printed materials
- ① Development and hosting of program response sites
  
- ① Mailing and mail tracking
- ① Email deployment and delivery tracking
- ① Interim and final analyses
- ① Use of EAB's proprietary methods and systems

In addition, during the term of this Agreement, Member may access **My RoyalII™**, EAB's Member-only website, for real-time program reporting and analysis to applicable campaigns.

#### **B. Summary of Program Services**

##### **Year-Round Search**

- ① Year-Round Search will include the development, deployment, management and analysis of a comprehensive multi-channel communications program that will contact students whose profiles and characteristics make them a strong potential match for Member.



### **Institutional Awareness and Perception Study**

- ① The Institutional Awareness and Perception Study is designed to measure prospective students' awareness and familiarity with our partner institution and a set of its peers. The study explores students' preferences for specific school characteristics and allows students to assess the Member school relative to its peers

### **Custom Application Marketing**

- ① Custom Application Marketing will include the development, deployment, management and analysis of a comprehensive multi-channel communications program that will contact high school seniors whose achievements, characteristics and prior actions make them desirable candidates for admissions and enrollment as freshmen by Organization.
- ② Custom Application Marketing will launch up to four times and will encourage students to submit an application for admission to Organization, and includes the provision of an online admissions application, designed for ease of completion, personalized with each student's name and other pertinent information, and branded uniquely for Organization.
- ③ The following audiences will be included in Custom Application Marketing:

- ① If fees are collected on your behalf, students will have the option of submitting payment via credit card through an online account established for this purpose. Payments collected will be remitted to you net of associated credit card processing fees. The amount of these fees varies based on the volume of transactions processed through this program.
- ① Custom Application Marketing also includes the following:
  - Early Application Marketing (“EAM”): a multi-channel campaign to students and parents in expressing your interest in the student and laying the foundation for your invitation to apply.
  - A Digital Deadline Reminder (“DDR”) timed to arrive just prior to your first or most significant application deadline with messaging to encourage completion and submission of the application. This digital campaign will be sent to all applicable audiences in your campaign (Inquiry Pool students and purchased name responders, and their parents) who have not yet submitted your admissions application.

### **Web Application**

- ① The Web Application will include the development, hosting, management and analysis of Member's online application, made available to students at your .edu web site. Self-initiating students will be directed seamlessly to the EAB-hosted Member online application.
- ① The following versions of the online application will be included:
  - One Freshman Web Application



- One Transfer Web Application
  - One International Web Application
- ④ Outbound email messages will be sent as your application deadlines approach, urging those students who have begun the application to finish and submit it.
  - ④ If fees are collected on your behalf, students will have the option of submitting payment via credit card through an online account established for this purpose. Payments collected will be remitted to you net of associated credit card processing fees. The amount of these fees varies based on the volume of transactions processed through this program.

### **Yield Optimization**

Yield Optimization will include the development, deployment, management and analysis of a comprehensive communications program and/or financial aid services for first year students.

#### ④ Yield

The Yield IQ campaign will include the development, deployment, management and analysis of a comprehensive analytics and communications campaign to admitted students on behalf of Member.

- Member's admitted student pool will be surveyed regarding their enrollment intentions and guided through the next step of the enrollment process. This multi-channel program will consist of email messages, display advertising, and SMS communications to students, as well as targeted parent messages. Responses from the admitted student survey will be included in the data model.
- Member will have access to a live counselor dashboard that provides enhanced student-level visibility, allowing counselors to triage follow-up communications with admitted students.
- At the conclusion of the campaign, EAB will provide a Benchmarked Year-End Survey of students who indicated that they did not plan to deposit at your institution. The report will provide comparisons of Member to other institutions participating in the Yield IQ Program.
- If fees are collected on your behalf, students will have the option of submitting payment via credit card through an online account established for this purpose. Payments collected will be remitted to you net of associated credit card processing fees. The amount of these fees varies based on the volume of transactions processed through this program.

#### ④ Financial Aid Services

- Financial Aid Services
  - Financial Aid Optimization Analysis
    - Services include the development of an extensive database from the combined admissions and financial aid data we acquire from you.
    - From this database, we build a descriptive analysis which illustrates the behavior of the admitted student cohort for the most recently recruited classes, as a group and by segments.
    - The descriptive analysis provides a review of the composition of the admitted student cohort, by segment, and how such responded to offers of grant aid.
  - The Price Optimization Model

- Services also include the results from a statistically-driven live simulation model.
- Built into the model is the capacity to simulate financial aid packages for individual students, including add-on or stacked awards.
- In addition to customizing award strategy, this model is capable of showing the results of admitting more or less students from individual cells, or “buckets,” in Member’s matrix.
- The simulation model allows manually adjusting yield expectations by cell.
- Award simulation and aid policy development counsel
- Tactical counsel for implementation of the aid policy
- **Monitoring**
  - As financial aid data starts coming in, we monitor the composition of Member’s admitted student cohort and actual awards to inform potential mid-course adjustments. This monitoring process continues with your recruitment cycle.
- **Net Price Calculator**
  - The Net Price Calculator (“NPC”) will accommodate Federal Methodology (and Institutional Methodology if requested) and use Member’s financial aid award strategy to provide an estimate of the scholarship and grant amounts families may expect to receive based on both academic merit and financial need.
  - The NPC will allow students to enter their academic performance measures and the necessary financial information for their families. The results presented to students will provide an estimated total amount of gift assistance (scholarships and grants) from federal, state, and institutional sources.
  - The NPC will also illustrate how Member would meet financial need not met by gift aid with the amount of student employment and loans.
  - In addition, the NPC Terms & Conditions, which are available at [www.eab.com/NPCterms](http://www.eab.com/NPCterms), take precedence over any other terms and conditions included in this Agreement. These NPC Terms & Conditions are incorporated herein by this reference and are applicable only to the NPC portion of this Agreement.





## Student Success Collaborative

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### Scope of Services Overview

The Student Success Collaborative provides colleges and universities with access to a comprehensive student success management technology platform (“Navigate”), best practice research and networking, change management, and implementation support, including technical support. The major categories of service provided to members of the Student Success Collaborative (here, the “Membership”) are described below, some of which may change over time based on feedback from member organizations.

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### Student Success Collaborative Membership Summary:

#### 1. Overview of Navigate

The modules included in Member’s Navigate configuration – Intelligence, Strategic Care, Milestone Guidance, and Academic Planning – are described in more detail below.

- a. **Intelligence** – The Intelligence module is comprised of a comprehensive suite of secure, cloud-based data analytics which help administrators and leaders proactively assess, understand and manage student success. Key capabilities include but are not limited to:
  - Predictive Analytics
  - Population Health Analytics
  - Effectiveness Analytics
  - Historical Trend Analysis
- b. **Strategic Care** – The Strategic Care module is comprised of comprehensive case management, communication and workflow capabilities. It includes secure, cloud-based tools that link staff, faculty, advisors and students in a connected and coordinated network, ensuring targeted support and proactive care. Key capabilities include, but are not limited to:
  - Smart Student Profile
  - Advanced Search
  - Campaign Management
  - Appointment Scheduling
  - Multi-Modal Student Communications
  - Coordinated Care Network
  - Strategic Care Analytics
- c. **Smart Guidance** – Smart Guidance, which includes the Milestone Guidance and Academic Planning modules, provides curated guidance, planning and onboarding tools directly to students, via mobile and web applications, so they can make informed decisions and complete critical tasks at the most pivotal moments in the higher education journey. The capabilities of the two modules include, but are not limited to:

- i. **Milestone Guidance**

- Pivotal Moments Path

Term-to-Term Tools  
Program Explorer  
Content Administration Tool  
Student Milestone Analytics

ii. **Academic Planning**

- Course & Term Planning
- Shared Workspace
- Best-fit Scheduling & Registration
- Academic Planning Analytics

2. **Best Practice Sharing and Member Networking**

The Membership will also include access to services fostering networking across the cohort and sharing knowledge of how member organizations are leveraging the Membership to drive increased student retention, degree completion, and graduation success, including:

- Case studies profiling practice successes
- Research briefs on best practices
- User group conference calls
- Member Networking Summit
- Insights from Member national dataset

3. **Implementation, Change Management and Ongoing Support**

To address Member's strategic priorities of promoting student success and retention, EAB has crafted a service model to support change management at the outset of the membership and improve outcomes across the Membership Term. This service model combines an in-depth partnership between EAB's service team and the Member to prepare the institution for effective platform adoption and ongoing utilization as follows.

- b. **Onsite Working Sessions:** During the first year, EAB staff will travel to Member's campus for up to three (3) one-day working sessions with Member staff to support the platform launch. In each subsequent year of Membership, EAB staff will travel to Member's campus for up to two (2) one-day working sessions with Member staff to provide ongoing strategic support.
- c. **Leadership Check-In Calls:** During the first year, EAB staff will schedule monthly (or more frequent as determined by EAB staff during key phases of implementation) leadership check-in calls to discuss progress on implementation and confirm next steps. Following implementation, EAB staff are available for check-in calls with leadership teams monthly and with executive sponsors quarterly.
- d. **On Demand Phone & Email Support:** EAB staff are also available to provide additional support via email and phone outside of scheduled leadership calls and onsite. The typical response time is two (2) business days, however, full resolution or response may take longer depending on the request and EAB staff may request to resolve through a forthcoming scheduled call.

The following are some examples of the support EAB's Service Team can provide through the check-in calls and onsite working sessions:

- *Project Planning:*
  - Develop and monitor project plans for the implementation of the platform
  - Provide recommendations to support implementation and ongoing value delivery
  - Develop an annual service plan in partnership with member
  - Identify areas of opportunity to best leverage the technology
  - Identify how EAB's technology fits within Member's existing technology ecosystem
  - Partner with member in determining next phase roll-out strategy
- *Platform Configuration Support:*
  - Support configuration and implementation decisions
  - Partner on campaign calendar creation
  - Recommend configuration and content changes
  - Continue workflow best practice discussions
- *Training & Engagement:*
  - Develop action plan and/or facilitate sessions to enfranchise key leaders, stakeholders, and end-users
  - Assist with creation of promotion and communication plans
  - Facilitate a "Train the Trainer" workshop and refresher sessions (either virtually or in person)
  - Walkthrough student success toolkits
  - Delve into analytics with select academic leaders
  - Provide training and orientation on the resources available to your team including:
    - Self service training resources
    - Release documentation and videos
    - Online training materials

## Member Responsibilities:

Member agrees to:

1. Identify and maintain a staff member to serve in the following roles in the first 30 days of Membership:
  - *Executive Sponsor* – Senior executive or Cabinet member responsible for outlining institutional student success and EAB partnership goals; provides direction and support as needed to realize goals
  - *Program Sponsor* – Senior leader or executive responsible for setting goals and expectations for platform utilization and student success initiatives with key stakeholders on campus; provides project oversight and direction to ensure continued progress and project success (may be same as Executive Sponsor)
  - *Program Owner* – Provides day-to-day project leadership and manages activities and progress of the leadership and build/engagement teams on an ongoing basis. Engages key stakeholder groups on campus as appropriate.
  - *Technical Lead* – Works with EAB to coordinate initial configuration, data extraction, data transfer through the implementation process (as outlined below) and directs team as it relates to ongoing maintenance.
  - *Application Administrator* – Manages and owns all ongoing platform configurations, user access, and end-user support needs; leverages EAB documentation, training materials, and self-service resources as appropriate
  - *Internal Trainer(s)* – Participates in “Train the Trainer” workshop led by EAB; owns ongoing training of end-users on campus; leverages EAB documentation, training materials, and self-service resources as appropriate (minimum of one person, may be Application Administrator)
2. Schedule and hold a “Kick Off” call with the Executive Sponsor, Program Sponsor, Technical Lead, and EAB’s Strategic Leader within the first 30 days of the Membership Term to discuss implementation plan
3. Schedule and hold an annual executive update call with Executive Sponsor and Program Sponsor in each subsequent Year to discuss updates to institutional student success goals, project progress, and plan for the year ahead
4. Develop an annual service plan in collaboration with EAB’s Service team
5. Complete an annual assessment to determine Member status on EAB’s “Student Success Maturity Curve”
6. Ensure assigned staff participate in the following:
  - *Program Sponsor*: check-in calls with EAB Strategic Leader up to once a calendar quarter
  - *Program Owner*: check-in calls with EAB Strategic Leader up to once a month
  - *Application Administrator*: check-in calls with EAB Strategic Leader and Program Owner up to once a month
7. Send at least one (1) staff member each Year to the Membership’s annual meeting, “CONNECTED” as travel funding and schedule allows
8. Provide ongoing feedback on the platform to help EAB drive ongoing product development and innovation, including but not limited to usability, functionality, bug reports, and test results
9. Partner with EAB to develop and execute strategies to drive adoption (i.e., download product) and ongoing utilization of Student Pathways among students

## Data & Technical Requirements:





**Authorized Users**

EAB will provide access to a number of authorized users, designated by Member, which is equal to the total number of academic advisors, other student services staff and administrators with oversight for the campus(es) that are covered by the Membership. In addition, EAB will provide access to an agreed upon number of student users as set forth in the configuration section in the LOA.

## Student Success Accelerator: Diagnostic Scope of Services

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### Summary

A one-day on campus session focused on assessing the current state of particular student success challenge(s) followed by the delivery of a short diagnostic report designed to support the effective implementation of EAB technologies.

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The services for the Student Success Accelerator: Diagnostic (“**Diagnostic**”) will include:

1. **The Campus Onsite**— Senior EAB staff will travel to a member institution to facilitate a one-day session on one of the below student success terrains with the audience of your choosing. The onsite session must be scheduled within six (6) months of the start date of the Term.
2. **Diagnostic Report**—Within six (6) weeks of the onsite session, EAB will provide a customized 10-15 page report to include the following:
  - Conference Call Executive Presentation
  - Recommended Areas of Focus Leveraging Applicable Best Practices (including how to best leverage your current EAB technologies further)

Member may, in consultation with EAB, select one of the following terrains as the focus of the Diagnostic to be mutually agreed upon by EAB and Member 30 days in advance of the Campus Onsite:

- ① *Institutional Student Success Diagnostic*—EAB will identify areas of improvement and provide data, process, technology and training recommendations to help shape your student success efforts. Areas of assessment include: Onboarding and technologies, Resources and career engagement, Financial aid, Academic advising, Program selection and course registration, Graduation management, and Student success management
- ① *Accountability*—EAB will uncover administrative, organizational, and technological barriers to student success at your institution, and employ the best practices that will transform your organizational structure to mitigate these barriers. We will assess what student success data is being tracked, to whom it is shared, and whether it is being optimally leveraged.
- ① *Advising Redesign*—Academic advising is a critical resource to help students stay on path. We will determine whether your advising program aligns with best practices and can recommend which areas of improvement may serve the Member best.
- ① *Faculty Engagement*—EAB can assess your faculty culture and provide resources so you know what to expect of units, committees, and governance bodies; individual faculty; and help you create a foundation to hardwire a student success culture.
- ① *Student Communications*—Redesign your student communications platform so every student gets the right message at the right time across their college journey. EAB can help you design a strategy and build content that will transform how students receive and act on critical information.

**Exhibit C**  
**Member Sites**

New Mexico State University

**Exhibit D**

**Form of Enrollment Addendum**

[EAB LETTERHEAD]

[DATE]

CONTACT  
TITLE  
INSTITUTION  
ADDRESS  
CITY, STATE, ZIP

Re: **Enrollment Addendum (“EA”) – [Name of Program]**

Dear CONTACT:

Thank you again for the time you have afforded us to evaluate [Name of Program] (the “**Program**”). We are excited about the opportunity to work with [Institution] (“**Member**”) and are submitting this document for your signature to enroll Member in the Program on the terms and conditions set forth in the Master Membership Agreement, dated as of [date of Master Agreement], between Member and EAB Global, Inc. (“**EAB**”), as supplemented by this EA (together, the “**Agreement**”).

**I. Terms of Coverage**

Under the terms of the Agreement, Member will have access to all services provided to members of the Program, which are described in greater detail in the “Scope of Services” attached to and a part of this EA.

**II. Terms of Enrollment**

The term of your membership in the Program will begin on START DATE and end on END DATE.

We are pleased to extend the following special preferred membership fees in recognition of Member’s involvement in and support of the Program for the membership term specified above (fees subject to change if different term):

[Fees to be Specified.]

The fees are payable as follows: [Payment Schedule to be Specified.]

**III. Enrollment in the Program**

To initiate Member’s involvement in the Program under the terms of the Agreement, please sign this EA and return it via facsimile to our offices at 202-747-1010 no later than [Date] (after which fees set forth above are subject to change)– please send Attn: [Name].

[SIGNATURES TO FOLLOW]

