

## SERVICE AGREEMENT

This Service Agreement ("Agreement") is entered into by and between Academic Partnerships, LLC, a Delaware limited liability company ("AP"), and Boise State University (the "University") as of October 15, 2012 (the "Effective Date"). AP and the University are sometimes referred to in this Agreement each as a "Party", and collectively as the "Parties."

### Recitals

- A. The University offers undergraduate, graduate, and post-graduate courses both (i) in traditional classroom settings ("Offline Educational Courses") and (ii) online ("Online Educational Courses").
- B. AP provides services to universities who offer Online Educational Courses.
- C. Subject to the terms and conditions set forth herein, the University desires to engage AP to provide AP Resource Materials (defined herein) in connection with the University's (i) development, maintenance and marketing of the University's Online Educational Courses and (ii) the conversion of Offline Educational Classes to Online Educational Classes.
- D. The rights and obligations contemplated herein shall not inure to AP or the University unless and until approval of this Agreement is sought and received from the University's Office of the Vice President for Finance and Administration, the University's Office of the Provost and Vice President for Academic Affairs, and the Idaho State Board of Education.

### I. Definitions

Capitalized terms used in this Agreement shall have the meanings described below or elsewhere in the Agreement.

- A. "AP Materials" means (i) AP Resource Materials, (ii) Developed Materials created by AP, and (iii) any documentation or other materials associated with the foregoing.
- B. "AP Resource Materials" means the materials, resources and services of AP made available to the University when (i) developing Online Educational Courses, (ii) marketing such Online Educational Courses, (iii) converting the University's Offline Educational Courses to Online Educational Courses, (iv) providing student retention support and (v) developing the best practices for online curriculum, instruction and assessment.
- C. "AP Revenue" means the product of multiplying the AP Revenue Percentage times the Revenue.
- D. "AP Revenue Percentage" means a percentage of the tuition for each Online Educational Course in which a Student is enrolled. For the first Program, and to the extent one or more new Programs are added during the Term of this Agreement, the Parties will enter into an Addendum to this Agreement, the

purpose of which will be to set forth the AP Revenue Percentage for such new Program. Any such Addendum shall be in the form of Exhibit A attached hereto.

- E. **“Curriculum Materials”** means a group of related Online Educational Courses (along with instructional and assessment materials), the successful completion of which results in a degree or other credentialing.
- F. **“Developed Materials”** means any ideas, designs, development tools, know-how, concepts or written materials developed by either Party.
- G. **“Faculty”** means persons appointed by the University to teach Online Educational Courses.
- H. **“Intellectual Property”** means any and all now known or hereafter existing rights associated with (i) works of authorship, including exclusive rights, copyrights, moral rights and mask works, (ii) trade secret rights, (iii) trademark and trade name rights; (iv) patents, designs and other industrial property rights, (v) other intellectual and proprietary rights of every kind and nature whether arising by operation of law, by contract or license or otherwise and (vi) all registrations, renewals, extensions, combinations, divisions, or reissues of any of the foregoing.
- I. **“Program(s)”** mean units of study offered through Online Educational Courses that lead to a degree or other certification.
- J. **“Revenue”** means all the tuition collected from Students for Online Educational Courses, irrespective of any marketing efforts by University, including Revenue from all general, prerequisite or co-requisite Online Educational Courses.
- K. **“Student(s)”** means an individual enrolled in one or more Online Educational Courses at the University.
- L. **“University Material”** means the (i) Curriculum Materials, (ii) lectures, documentation and other materials created by the University, including Developed Materials created by the University and (iii) Faculty.

## **II. AP Obligations**

During the Term (defined herein) of this Agreement, AP shall have the following obligations:

- A. **Marketing.** AP will:
  - (i) be the exclusive marketer, other than some traditional advertising by University such as brochures and a home web page, of the Online Programs listed in the Addendum and will market the University and its Programs using affiliate partnerships representatives and digital marketing; and

- (ii) provide competitive research regarding other universities offering similar Programs.
- B. Program Implementation.** AP's implementation team will work with the University to launch the University's Programs. AP's implementation support will include:
  - (i) an integration team that works with the University's personnel (specific to each degree/certificate);
  - (ii) facilitation of Program planning sessions (faculty meetings, admission policies, course sequence and calendar);
  - (iii) facilitation of operational planning sessions with key University departments to review existing processes and recommend efficiencies;
  - (iv) development of a "Program Guidelines" document;
  - (v) facilitation of cross-functional meetings to manage implementation processes; and
  - (vi) project management services, including development of a detailed project plan (the "Plan") to drive program implementation activities, and weekly reporting of project progress against the Plan.
- C. Assistance with Student Information System ("SIS") and Learning Management System ("LMS").** The University will provide to AP, read-only access to records within its SIS and LMS that contain information about students enrolled in AP Programs, including any pre-requisite General Education courses. AP relies primarily on daily extracts from university systems, but will utilize essential data from these systems to (i) create Program prototypes, (ii) assist faculty with curriculum development, (iii) facilitate student matriculation, (iv) assist in improving student retention, (v) monitor Program success and (vi) assist with and facilitate the growth of the University's Online Educational Courses. Essential SIS data includes, but is not limited to, applicant, student, section and enrollment data. Essential LMS data includes, but is not limited to, course, section, student, grade and time-and-activity data critical to providing student retention.
- D. Curriculum Support Services.** AP will work with Faculty and the University with Program design, including but not limited to:
  - (i) assisting with Program / course blueprinting and course conversion;
  - (ii) assist University in structuring multiple start dates in a way that also assures financial aid eligibility; and

(iii) introducing best practices for the delivery of an online Curriculum.

**E. Recruiting and Enrollment Specialist Representatives (“ESRs”).** ESRs will serve as a primary point of contact for all prospective students for identified Programs. The ESRs will help educate students about the University’s Programs. AP’s responsibilities include:

- (i) staffing and equipping a call center for ESRs;
- (ii) providing a team of ESRs to contact potential students once a lead is received;
- (iii) providing a toll free number and website for prospective students;
- (iv) recruiting in compliance with federal law and the academic standards of the University; and
- (v) informing potential students of the Program characteristics and referring potential students to the University regarding financial aid and/or academic questions.

AP agrees that in the course of recruitment of Students for enrollment in one or more Online Educational Courses it will not provide any commission, bonus or other incentive payments based directly or indirectly upon success in securing enrollments to any person or entity engaged in any student recruiting or admission activities, or any person directly supervising such person, except in accordance with the provisions of 34 C.F.R. 668.14(b)(22)(2003) and any subsequent amendment thereto, and/or any other requirement of the United States Department of Education or the University’s regional accreditor.

**F. Application Support.** ESRs will:

- (i) inform applicant of all University application requirements;
- (ii) contact applicants regarding upcoming Program deadlines;
- (iii) remind applicants to submit necessary paperwork (transcripts, etc.);
- (iv) remind Students of the registration process, registration deadlines and payment deadlines once admitted to the University; and
- (v) refer Students to appropriate University resources if there are further questions about the Program(s).

**G. Student Services.** ESRs will provide retention services, including, but not limited to the following:

- (i) following up with Students periodically to ensure satisfaction continuing through graduation;
- (ii) referring Students to University resources if academic questions persist;
- (iii) welcoming new Students and provide upcoming registration dates and/or deadlines;
- (iv) re-engaging inactive Students; and
- (v) reminding Students of upcoming start dates, registration deadlines and payment deadlines.

**H. Protection of Student Information.** The University has informed AP that Student specific information may be protected from disclosure pursuant to the provisions of the Family Educational Rights and Privacy Act (FERPA), (20 U.S.C. § 123g; 34 CFR Part 99). AP expressly agrees that it shall (i) not disclose any such information to any third parties and (ii) take such measures as are reasonable and prudent to protect such information from inadvertent disclosure.

### **III. University Obligations**

The University shall maintain the sole authority in the (i) appointment of Faculty, (ii) admission of Students, (iii) delivery of Programs, (iv) evaluation of Student performance and (v) decision to award course credit and/or academic credentialing. During the Term of this Agreement, the University shall have the following obligations:

#### **A. Marketing Deliverables.**

- (1) University has a duty to expressly approve or disapprove of marketing materials submitted to it by AP within 10 business days of receipt by University of the materials. AP must seek approval from the University's College of Business and Economics as well as the University's Office of Trademark Licensing and Enforcement. Such approval from the University's Office of Trademark Licensing and Enforcement shall be sought via email at [licensing@boisestate.edu](mailto:licensing@boisestate.edu). If University does not respond to AP within the 10 day period, AP may assume that the marketing materials are approved;
- (2) University will deliver to AP its branding and style guidelines;
- (3) University will allow AP to use the University web domain for marketing (i.e., <http://online.universityname.edu> or <http://degree.universityname.edu>) and host those subdomains for ease of maintenance and updates;

- B. Regulatory Approvals, Accreditations, and Licenses.** The University will determine and obtain all necessary regulatory approvals and licenses for the Programs.
- C. Financial/Business Oversight.** The University will oversee the financial management of the Programs.
- D. Intellectual Property.** The University will not remove, deface, or obscure any of AP's or its suppliers' copyright or trademark notices and/or legends or other proprietary notices associated with the AP Materials.
- E. Access to Data.** The University will provide access to Student information data and online delivery data in order for AP to fulfill its obligations under this Agreement.

#### **IV. License Grants by AP**

- A. AP Resource Materials.** During the Term of this Agreement, AP grants the University a limited, non-exclusive, license to use and modify the AP Resource Materials for the specific and limited purpose of developing Programs.
- B. Trademarks.** During the Term of this Agreement, AP grants the University a limited, nonexclusive license to use such AP trademarks, as are designated in writing by AP, for the specific and limited purpose of marketing the Programs. Exhibit B lists the initial AP trademarks that may be used per this Section.

#### **V. License Grants by the University**

- A. University Materials.** During the Term of this Agreement, the University grants AP a limited, non-exclusive license to use and modify the University Materials for the specific and limited purpose of developing Programs.
- B. Trademarks.** During the Term of this Agreement, the University grants AP a limited, non-exclusive license to such University trademarks, as designated in writing by the University, solely for the purpose of marketing the Programs. Exhibit C lists the initial University trademarks that may be used per this Section.

#### **VI. Ownership**

- A. Ownership of AP Intellectual Property.** AP retains all ownership and Intellectual Property rights in the AP Materials.
- B. Ownership of University Materials.** The University retains all ownership and Intellectual Property rights in the University Materials.
- C. Ownership of Developed Materials.** Any right, title and interest in and to any Intellectual Property arising from or attributed to any of the work or activities

undertaken as part of this Agreement shall belong to the Party that creates such Intellectual Property, unless mutually agreed otherwise in writing.

## **VII. Term**

The term ("Original Term") of this Agreement commences on the Effective Date and ends on the fifth (5th) anniversary of the commencement date of the first Program ("Launch Date"), unless terminated under Section XII. The Original Term shall automatically renew for three (3) year periods "Successive Term(s)", unless terminated by either Party in writing 270 days before the expiration of the then current Original Term or Successive Term. To the extent that an Addendum to this Agreement is entered into for a new Program, the term of such Addendum shall also be for a period of five (5) years ("New Term") notwithstanding the fact that the New Term could exceed the period of the Original Term or the Successive Term. In the event of a New Term, all provisions of this Agreement shall remain in full force and effect for the duration of the New Term and any renewals thereafter.

## **VIII. Payment and Taxes**

- A. AP Revenue.** The University will collect all Revenue and will remit to AP the AP Revenue, which shall be due and payable to AP within thirty (30) days of the start of any Online Educational Course.
- B. Taxes.** Each Party will be responsible for any and all taxes due on their portion of Revenues received.
- C. Acknowledgement by the University.** The University acknowledges that a significant portion of AP's cost is incurred before a Student enrolls, and that AP's only method of cost recovery is through the continuing payments as a Student progresses through the Program. Therefore, for each Student who AP secures the enrollment of during the Term of this Agreement, the University will continue to remit payments to AP per Section VIII A above for so long as the Student continues to take On Line Educational Courses at the University, even if beyond the termination date of this Agreement.

## **IX. Indemnification**

- A. AP.** AP will defend and indemnify the University, to the extent permitted by Texas law, against a claim that any AP Materials furnished by AP infringes a third party's copyright, provided that: (a) the University notifies AP in writing within 30 days of the claim; (b) AP has sole control of the defense and all related settlement negotiations; and (c) the University provides AP with the assistance, information, and authority reasonably necessary to perform the above; reasonable out-of-pocket expenses incurred by the University in providing such assistance will be reimbursed by AP.

- B. University.** The University will defend and indemnify AP, to the extent permitted by the laws of Idaho, against a claim that any University Materials furnished by the University infringes a third party's copyright, provided that: (a) AP notifies the University in writing within 30 days of the claim; (b) the University has sole control of the defense and all related settlement negotiations; and (c) AP provides the University with the assistance, information, and authority reasonably necessary to perform the above; reasonable out-of-pocket expenses incurred by AP in providing such assistance will be reimbursed by the University.
- C. Remedies.** In the event that some or all of the AP Materials is held or is believed by AP to infringe third party rights, AP shall have the option, at its expense to: (a) modify the AP Materials to be non-infringing; or (b) obtain a license from the third party to continue using that portion of the AP Materials that is infringing the rights of such third party. If it is not commercially feasible to perform either of the above options, then AP may require the University to return the infringing AP Materials and all rights thereto. Upon return of the infringing AP Materials to AP, the University may terminate this Agreement with 10 days' written notice.

## **X. LIMITATION OF LIABILITY**

**NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES.**

## **XI. Warranties**

- A. Authority.** Each Party warrants, to the best of its knowledge, that it has the authority to enter into the Agreement and to perform its obligations set forth herein.
- B. Ownership by AP.** AP warrants that it is the sole and exclusive owner of all AP Materials or has the license to use and sub-license any Intellectual Property owned by third parties and incorporated into such AP Materials, and that, to the best of its knowledge; such AP Materials does not infringe any third-party rights.
- C. Ownership by the University.** The University warrants that it is the sole and exclusive owner of all University Materials or has the license to use and sub-license any Intellectual Property owned by third parties and incorporated into the University Materials, and that, to the best of its knowledge, the University Materials does not infringe any third-party rights.

## **XII. Termination**

- A. Material Breach.** If either Party materially breaches the terms of this Agreement and fails to correct the breach within 60 days after the non-breaching Party provides written notification, the non-breaching Party may terminate this Agreement.
- B. Termination for Convenience.** University may terminate agreement program addendum at any time and for any reason with 2 years' written notice to AP. If University exercises this Termination for Convenience provision, University agrees



that it will not contract with another service company for similar services for Programs covered by this Agreement before the natural termination date of this agreement (5 years after the Effective Date).

- B. **University's Obligations.** Upon expiration or termination of this Agreement, University shall cease all use of AP Materials and return any such material in its possession to AP.
- C. **AP's Obligations.** Upon expiration or termination of this Agreement, AP shall cease all distribution of University Materials and return any such material in its possession to the University, provided that AP shall have the right to continue to use the University Materials for the sole purpose of permitting Students then enrolled in a Program to complete such Program.

### **XIII. General**

- A. **Relationship Between the Parties.** Each Party is an independent contractor and will be solely responsible for payment of all compensation owed to its employees, as well as employment related taxes. Each Party will maintain appropriate worker's compensation for its employees as well as general liability insurance. Neither this Agreement, nor any terms and conditions contained herein, shall be construed as creating a partnership, joint venture, agency or franchise relationship.
- B. **Governing Law and Jurisdiction.** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with Idaho law. The Parties irrevocably agree that the courts of Ada County, Boise, Idaho shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).
- C. **Notice.** All notices, including notices of address change, required to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by certified mail to:

If to AP:

Academic Partnerships, LLC  
Attention: Chief Financial Officer  
600 North Pearl Street  
Suite 900  
Dallas, Texas 75201

With copy to:

Academic Partnerships, LLC

Attn: Legal Dept.  
2200 Ross Ave., Suite 3800  
Dallas, TX 75201  
FAX No. 214-438-4133

If to the University:

Boise State University  
Attn: Kirk Smith  
1910 University Drive  
Boise ID 83725

With copy to:  
Boise State University  
Office of the General Counsel  
1910 University Drive  
Boise, Idaho 83725-1002

The Parties agree that they each may treat documents faxed and/or email attachments and/or a signature sent electronically by the other Party as original documents; nevertheless, either Party may require the other to exchange original signed documents.

- D. Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.
- E. Waiver.** The waiver by either Party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. Except for actions for nonpayment or breach of either Party's intellectual property rights, no action, regardless of form, arising out of this Agreement may be brought by either Party more than two years after the cause of action has accrued.
- F. Headings.** The headings appearing in this Agreement are inserted for convenience only, and will not be used to define, limit or enlarge the scope of this Agreement or any of the obligations herein.
- G. Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument.
- H. Confidential Information.** Each Party agrees that it shall not use or disclose to any third party, except for the purpose of performing this Agreement, any business and technical information of the other Party which, in the exercise of reasonable judgment, should be recognized by such Party as confidential ("Confidential Information"). The obligation of confidentiality shall not apply to information which: (a) is or becomes part of the public domain through no fault of the receiving Party; (b) is furnished by the disclosing Party to others without

restrictions on use and disclosure; (c) becomes known or available to the receiving Party without restriction from a source other than the disclosing Party without breach of any Agreement with the disclosing Party; (d) is disclosed with prior written approval of the disclosing Party; (e) is independently developed by the receiving Party without the use of any Confidential Information; (f) is previously known to the receiving Party on a non-confidential basis; or (g) is required by the Idaho Public Records Law, a court order, or a government agency to be disclosed, in which case, the receiving Party shall give the disclosing Party as much notice as is reasonably practical so that the disclosing Party may seek a protective order or other confidential protection as the disclosing Party, in its sole discretion, may elect and the receiving Party shall reasonably cooperate with the disclosing Party in disclosing Party's efforts to obtain such order or protection.

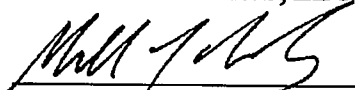
- I. **Force Majeure.** Neither Party will be liable for delays or failure in its performance hereunder to the extent such delay or failure is caused by any act of God, war, natural disaster, strike, lockout, labor dispute, work stoppage, fire, third-Party criminal act or act of government, or any other event beyond the reasonable control of that Party (an "Excusable Delay"). This Agreement may be terminated with written notice by either Party under this section should the Excusable Delay of the non-performing Party continue for more than 30 days.
- J. **Entire Agreement.** This Agreement with any documents referred to in it constitutes the entire agreement and understanding between the Parties and supersedes any previous agreement between them relating to the matters set forth herein.
- K. **Successors and Assigns.** This Agreement will be binding upon, and will inure to the benefit of, the permitted successors and assigns of each Party hereto. Neither party may assign, this Agreement or any of its rights hereunder without the prior written consent of the other party, which shall not be unreasonably withheld, and any attempted assignment without such consent shall be void.
- L. **Variation.** No variation of this Agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the Parties.
- M. **Survivability.** The following Sections shall survive the expiration and termination of this Agreement: III.C, VI, VIII, IX, X, XI, XII, and XIII.

*[Signature*

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**ACADEMIC PARTNERSHIPS, LLC**

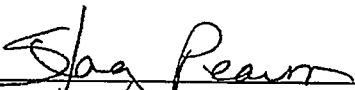
Signature: 

Name: Michael J. Briskey \_\_\_\_\_

Title: CFO \_\_\_\_\_

Date: 10-15-12

**BOISE STATE UNIVERSITY**

Signature: 

Name: Stacy Pearson

Title: VPFA

Date: 10-24-12

**EXHIBIT A** *MS*  
**ADDENDUM**

This Addendum ("Addendum") dated as of September 15, 2012, is a supplement to that certain Service Agreement ("Agreement") dated as of September 15, 2012 between Academic Partnerships, LLC ("AP"), and Boise State University (the "University") and is fully incorporated therein.

- 1. NAME OF PARTICIPATING SCHOOL OR COLLEGE: College of Business and Economics
- 2. EFFECTIVE DATE OF PROGRAM: Upon receipt of approval by the Idaho State Board of Education and signature by the University's Vice President of Finance and Administration.
- 3. PROGRAMS AND/OR DEGREES: Master in Business Administration
- 4. AP REVENUE PERCENTAGE: 45% of the total Revenue for the MBA. Once the Parties execute an addendum for two additional Programs, the AP Revenue Percentage for the MBA will change to 40% and the two new Programs will be 45%

**ACADEMIC PARTNERSHIPS, LLC**  
Signature: *Michael J. Briskey*  
Name: Michael J. Briskey \_\_\_\_\_  
Title: CFO \_\_\_\_\_  
Date: 10-15-12

**BOISE STATE UNIVERSITY**  
Signature: *Stacy Pearson*  
Name: Stacy Pearson \_\_\_\_\_  
Title: VPFA \_\_\_\_\_  
Date: 10-24-12

**EXHIBIT B**  
(AP Trademarks, including those of its affiliates)

1. ACADEMIC PARTNERSHIPS, LLC
2. ACADEMIC PARTNERSHIPS
3. AP



**EXHIBIT C**

(University Trademarks)

The then current University academic logo as provided by Boise State's Office of Trademark Licensing. Please contact [licensing@boisestate.edu](mailto:licensing@boisestate.edu).

## ADDENDUM 1


This Addendum 1 (Addendum) effective as of February 15, 2019, is a supplement to that certain Service Agreement (Agreement) dated as of October 15, 2012, between Academic Partnerships, LLC (AP), and Boise State University (the University) and is fully incorporated therein.

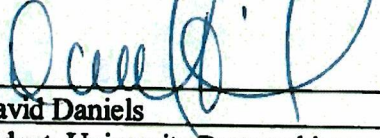
Master in Business Administration Areas of Emphasis	Anticipated Start Date	AP Revenue Percentage
Master of Business Administration, Management Emphasis	August 2019	45%
Master of Business Administration, Healthcare Administration	August 2019	45%
Master of Business Administration, Construction Management Emphasis	August 2019	45%
Master of Business Administration, Human Resources – Organization Development Emphasis	January 2020	45%

### Definitions

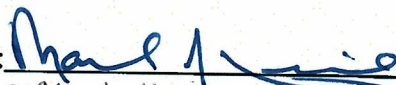
1. “Areas of Emphasis” and “Emphasis” means additional Online Educational Courses within any Program(s) which lead to the same degree with an additional certification or descriptive qualification. For the purposes of the original Agreement and its Exhibit A Addendum, Areas of Emphasis do not constitute a New Program for changes in either Term or AP Revenue Percentage.

### ACADEMIC PARTNERSHIPS, LLC

Signature:   
 Name: Howard Rouse  
 Title: Chief Operating Officer  
 Date: 3/20/19

Signature:   
 Name: David Daniels  
 Title: President, University Partnerships  
 Date: 3-19-2019

### BOISE STATE UNIVERSITY

Signature:   
 Name: Mark J. Heit  
 Title: VPI CEO  
 Date: 4/1/19