

**ELECTRONIC STUDENT RECORD/TRANSCRIPT SOFTWARE & SERVICES  
MASTER SERVICES AGREEMENT**

THIS MASTER SERVICES AGREEMENT is entered into as of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between:

**NCS Pearson, Inc.:**

**Member:**

NCS Pearson, Inc. ("Pearson")  
3075 W Ray Road, Suite 200  
Chandler, AZ 85226

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. This Master Services Agreement includes the attached General Terms and Conditions, any schedules separately executed by the parties (the "Schedules"), and any attached exhibits, each of which is incorporated herein by reference (collectively the "Agreement").
2. The Agreement sets forth the terms and conditions under which the above named and undersigned member ("Member") and each of its affiliated educational institutions (collectively, "Member Institutions", and each individually, a "Member Institution") may use (a) any of Pearson's proprietary software that is specifically licensed to Member pursuant to a Schedule ("Software"); (b) any user documentation that Pearson makes generally available in hard copy or electronic form, to its members in conjunction with the licensing of such software ("Documentation"); and (c) any updates or enhancements to the Software and/or Documentation as set forth in a Schedule or as Pearson may otherwise provide to Member from time to time (the Software, Documentation, and updates or enhancements described above are collectively and individually referred to as the "Services").
3. Any signed copy of the Agreement made by reliable means (e.g., photocopy or facsimile) shall be considered an original.
4. Member acknowledges and agrees that it is not relying on any statement or warranty not expressly provided herein with respect to the Software or maintenance, educational or other services provided hereunder.

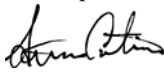
By signing below, each party acknowledges that it has read, understands, and agrees to the terms of the Agreement.

**NTC:**

**Member:**

NCS Pearson, Inc.  
a Minnesota corporation

\_\_\_\_\_  
a \_\_\_\_\_

By:   
Name: Steve Curtis  
Title: President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## General Terms and Conditions

1. Provision of Services Generally. During the Term (defined herein) Pearson will provide the Services in accordance with the provisions and any specifications set forth in the applicable Schedule.
2. Training Generally. During the Term, Pearson will provide Member with training materials relating to the use of the Services in order to support Member's promotion of the Services.
3. Member Users. During the Term, Pearson will provide the software for use by an authorized school/college staff member or other receiving organization personnel, a current or former student, or an eligible parent or guardian (a "Member User") in placing, managing, and retrieving record/transcript orders.
4. Promotion Policy. Member shall actively promote the Service. Such promotion will include: (a) informing faculty, staff and students about the use and benefits of the Service, (b) scheduling appropriate Member Users for training, and (c) placing mutually agreed descriptive text and hyperlink on Member's website.
5. General Responsibilities of Member and Member Institutions. Member is solely responsible for (a) accuracy of any means of authenticating students used by Pearson and provided by Member or any Member Institution, (b) completeness, accuracy, and timely delivery of all student record information and other documents Member or any Member Institution provides to Pearson, (c) compliance with the regulations of Member or any Member Institution related to the transmission of student records/transcripts and other information, (d) operation of Member's or any Member Institution's computer and communication systems, and (e) results of the use of the Services by Member or any Member Institution.
6. Security Responsibilities. Member is solely responsible for (a) protecting the computer systems operated by Member or any Member Institution on which the Software is accessed against any unauthorized access and use and, (b) securing Member's private passwords against unauthorized use or disclosure. Pearson shall have no liability for any loss or damage arising from unauthorized use of Member's identification keys or Member private passwords.
7. Access Monitoring. Member shall promptly notify Pearson of any reason that the use of the Services by Member or any Member Institution or access by Member or any Member Institution to its Student Records might be delayed or negatively impacted. Such notice shall include a detailed description of the reason and anticipated resolution schedule, to enable Pearson to inform affected Member Users as Pearson deems appropriate.
8. Member Restrictions. Member will not: (a) provide any third parties access to the Services; or (b) use the Services in any manner which violates the Agreement, any use or privacy policies of Pearson then in effect, or any applicable laws (including, but not limited to, those related to privacy, spamming, obscenity or defamation); or (c) knowingly introduce viruses or otherwise cause harm to the Software or Services. Further, Member will not enter into any other agreement or otherwise engage with any non-governmental third party to deliver electronic student records/transcripts.
9. Data Submission Formats. Unless specifically set forth otherwise in and by a schedule, Pearson and Member shall agree upon one standard format for all records/transcripts that are to be uploaded to Pearson as part of the performance of the Services and, using that report format, Member will provide Pearson with sample records/transcripts. This standard report format shall be referred to as the Data Submission Format. During the term of the Agreement, all records/transcripts submitted to Pearson must use a Pearson-supported Data Submission Format. Member will promptly notify Pearson of its intent to make changes to the content and layout of the student records that are uploaded to Pearson. Failure to do so may result in an interruption of the Service for which Pearson shall bear no liability or penalty.
10. Services Fees. Unless specifically set forth otherwise in and by a schedule, payment for Services shall be the responsibility of the Member User or Member Institution originating a record/transcript transmission. The fees for Services shall be as set forth in and by the applicable Schedule.
11. Additional Fees. If Member desires to change the Services described in and by a specific Schedule or make any change to the Data Submission Format, then Pearson shall charge Member an additional fee or charge for such change or modification. Any such change or modification may result in delays in the provision of the Services and/or the transmission of records/transcripts and other information by Member or any of its Member Institutions.
12. Fee Waivers. In order to assist students who have demonstrated that payment of Pearson's fees might represent an economic barrier to college entrance, Pearson provides fee-waivers that can be used in place of other payment methods. Up to a maximum of two (2) fee waivers may be allocated by a Member Institution to any qualifying student who has met the requirements for, and received a fee waiver from The College Board or ACT.
13. Additional Services. From time to time during the Term, Pearson may also offer related products or services in addition to the Services to Members, Member Users, and Designated Persons for free or requiring additional fees; provided, however, that such products and services will be offered on an optional basis and shall not be required in order to obtain the basic Service.
14. Licenses Granted to Member. During the Term, Pearson shall grant to Member a non-exclusive, non-transferable license to use the Software solely in connection with the Services.
15. Licenses Granted to Pearson. During the Term, Member shall grant to Pearson and its agents the right and license (a) to retrieve and retain student record data from Member's database, (b) to provide school records/transcripts and other academic records to one or more other persons or institutions ("Designated Persons") or authorized Member Users, and (c) to print and manually send student records/transcripts to Designated Persons designated by Member User.
16. Authorized Agent. Member hereby assigns Pearson as Member's authorized agent in sending, electronically or on paper, student records/transcripts and/or other student records to Designated Persons hereunder, and agrees to provide such documents and certificates as Pearson reasonably requests, to confirm such authority to prospective Designated Persons.
17. Term and Termination. The term of the Agreement (the "Term") shall commence upon the Master Agreement Effective Date and shall continue thereafter until from the third anniversary of the Master Agreement Effective Date. Thereafter, it shall automatically renew for successive one year periods, unless and until terminated by either party, in its sole discretion, by providing written notice, which may be delivered by email, to the other at least thirty (30) days prior to the then current termination date. In addition, if the Services being provided to Member are in whole, or in part, being delivered pursuant to an agreement between Pearson and a third-party (the "Third-Party Agreement") and such Third-Party Agreement expires or terminate prior to the expiration or termination of this Agreement; Pearson shall have the right to terminate this Agreement, without liability or penalty to Member, upon thirty (30) days prior written notice. Upon termination, Member shall remove all Software from their computer systems and cease all use in any manner of the Software and Services. Sections 18 through 34 shall survive any termination of the Agreement.
18. Pearson's Indemnity. Pearson will defend and hold Member harmless from any claim or action against Member for (a) infringement by the Software or Services of any registered U.S. patent or copyright of any third party in existence of as of the Effective Date, and (b) gross negligence or intentional misuse by Pearson of any student record/transcript or other student information received by it under the Agreement. Member must give prompt written notice of any such claim to Pearson and accord Pearson the opportunity, at its own expense, to

handle the defense against any such claim. The failure to provide such notice to Pearson or the defense and/or settlement of any such claim by Member without such notice and opportunity to Pearson shall relieve Pearson of any further obligations with regard to any such claim.

19. Member Indemnity. Member will defend and hold harmless Pearson from any claim or action relating to (a) the content or accuracy of any student records/transcripts or other student information that Member provides or approves, (b) any delay in the verification or the transmittal to Pearson of student records and (c) any unauthorized use or misuse of the Software or Services.

20. Warranty of Each Party. Each party represents and warrants to the other that (a) it has the right and authority to enter into and perform its obligations under the Agreement, (b) it will comply with all relevant laws and regulations, and (c) it is not subject to any conflicting obligations that will or might reasonably prevent it from performing its obligations under the Agreement.

21. Pearson Warranty. Pearson represents and warrants that: (a) neither the Software nor Services will alter the Student Record/transcript to create inaccuracies therein; (b) it will take commercially reasonable measures to avoid interruption of the Services other than scheduled down times for service and maintenance; and (c) the security levels set forth in Pearson's standard security policies then in effect will be maintained. **PEARSON MAKES NO WARRANTIES WITH RESPECT TO THE SERVICES AND SOFTWARE AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY FREEDOM FROM SERVICE INTERRUPTION OR LOSS OF DATA.**

22. LIMITATION OF LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING FROM THE USE OF THE SOFTWARE OR SERVICES, HOWEVER CAUSED, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. **IN ANY EVENT, IN RESPECT OF ANY CLAIM, DEMAND OR ACTION ARISING FROM THIS AGREEMENT AGAINST PEARSON, WHETHER BASED IN CONTRACT, TORT OR OTHERWISE, MEMBER SHALL BE LIMITED TO RECEIVING ACTUAL AND DIRECT DAMAGES IN A MAXIMUM AGGREGATE AMOUNT EQUAL TO THE CHARGES PAID BY MEMBER FOR THE APPLICABLE SERVICES OR MATERIALS ON WHICH THE CLAIM IS BASED. NO CLAIM MAY BE MADE BY MEMBER UNDER THIS AGREEMENT LATER THAN ONE YEAR AFTER THE PERFORMANCE OF THE SERVICES GIVING RISE TO THE CLAIM IN QUESTION.**

23. Ownership of Records/Transcripts. Member shall be the owner of the student records/transcripts, subject to the right of Pearson to retain and deliver such information hereunder, and Pearson shall be the owner of the Services, Software and intellectual property rights therein. Pearson shall also be the owner of any comments, suggestions, and ideas Member submits or offers to Pearson in connection with their use of the Services and Software. Member will not reverse engineer, decompile, or create derivative works of any of Pearson's Service offerings or Software. All uses of Pearson's trademarks, logos, trade names and service marks shall inure solely to the benefit of Pearson. Except as specifically licensed in the Agreement, Member shall not have any other rights with respect to the Services or Software or any constituent parts thereof.

24. Confidential Information. Each party shall maintain in strict confidence and shall use and disclose only as authorized by the other, all information that it receives under the Agreement which is of a confidential nature (including, without limitation, (i) information, the disclosure of which is prohibited by FERPA, including without limitation, education records of students, and any personally identifiable information contained therein (other than directory information); (ii) any and all information disclosed by one party to the other party pursuant to the terms of a nondisclosure agreement executed by and between such parties; and (iii) the terms of the Agreement and the specifications and

materials delivered by Pearson pursuant hereto) concerning the other party's operations, employees, customers or students (collectively, "Confidential Information"). Information shall not be deemed Confidential Information if it is (a) generally available to the public; (b) released by the disclosing party without restriction; (c) independently developed by the receiving party without use of Confidential Information of the disclosing party, or (d) acquired by the receiving party from a third party without similar restriction, without breach of the Agreement. Member acknowledges that Pearson may use, disclose or publish data or submissions collected and/or generated from the Services only to the extent that it will not identify or be attributable to any individual. Each of the parties may publicize the relationship created hereunder and market the Services to students and prospective Designated Persons, provided however, that Member shall first obtain Pearson's written consent before publicizing the relationship to parties other than their staff, faculty, students and their students' parents or to prospective Designated Persons. Member and Pearson are also bound by the terms and conditions of Pearson's On-Line Privacy Policy, as amended from time to time ("Privacy Policy") with respect to information provided, obtained and stored electronically by Pearson.

25. Independent Contractor. The parties are independent contractors and the Agreement does not create any agency, employment partnership, or other similar relationship between them, and neither party has the right to create any obligations or to make any representations on behalf of the other party.

26. Notices. Any notice required or permitted to be given under the Agreement may be delivered to Member, by mail, postage prepaid, return receipt requested, or at the email addresses provided by Member for such purposes, and if to Pearson such notices must also be sent by mail, postage prepaid, return receipt requested, to Pearson at the address first set forth above. Notice so given shall be deemed effective when received, or if not received by reason of fault of the addressee, when delivered.

27. Assignment. Member may not assign or transfer its rights or obligations under the Agreement.

28. Compliance with Laws. Pearson shall not be required to provide Services if, and to the extent, that Pearson believes in good faith that the provision of such Services will be in violation of any law, statute, or regulation.

29. Severability. If any provision of the Agreement shall be held to be unenforceable or invalid, the provision will be enforced to the maximum extent permissible and the remaining provisions of the Agreement shall remain in full force and effect.

30. No Third Party Beneficiaries. The Agreement is for the sole benefit of the parties hereto and does not create any third-party beneficiaries.

31. Conflict. In the event of a conflict between these General Terms and Conditions, a Schedule, or exhibit, the terms and conditions of these General Terms and Conditions shall prevail. The terms and conditions of any purchase order or other instrument issued by Member or any Member Institution in connection with this Agreement which are in addition to or inconsistent with these General Terms and Conditions shall not be binding on Pearson.

32. Reservation of Rights. Pearson reserves all rights not specifically granted herein.

33. Nonsolicitation. During the term of this Agreement and for a period of two (2) years thereafter, Member agrees not to hire, solicit, nor attempt to solicit, the services of any employee or contractor of Pearson without the prior written consent of Pearson. Violation of this provision shall entitle Pearson to liquidated damages against Member equal to two hundred percent (200%) of the solicited person's gross annual compensation.

34. Governing Law. The Agreement shall be governed by the laws of the State of Minnesota and subject to the exclusive jurisdiction of the courts located in Hennepin County, Minnesota.

## SCHEDULE A MASTER SERVICES AGREEMENT

THIS SCHEDULE A TO MASTER SERVICES AGREEMENT (this "Schedule") is attached to and incorporated into that certain Master Services Agreement (the "Agreement") made the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by and between NCS Pearson, Inc. ("Pearson") and the party identified below ("Member"). The terms and conditions of the Agreement shall apply to this Schedule, unless specifically provided otherwise in this Schedule. Further, in the event of any conflict between the terms and conditions of the Agreement and the terms and conditions of this Schedule, the terms and conditions of the Schedule shall govern.

1. Description of Services; Specifications; and Pricing.

Services:	Specifications:	Pricing:
TREx National Option Membership		Free
Send a student record/transcript to any academic institution in the country outside the TREx scope (also including many scholarship providers and other organizations such as the NCAA)	NTC members will receive the record/transcript electronically; nonmembers will receive it by mail, printed on secure transcript paper.	\$5.00 if used (Transactions within the TREx scope are free.)
Request records/transcripts from over 100,000 academic institutions nationwide	NTC members will receive the request electronically; nonmembers will receive it by fax.	Free

2. Payment

Districts are billed quarterly for transactions during the prior calendar quarter. If you prefer that NTC charge a credit card automatically, please complete the following payment information:

Visa     MasterCard     American Express     Discover

Credit card number: \_\_\_\_\_ Expiration date: \_\_\_\_\_

Purchase order number, if applicable: \_\_\_\_\_

Invoices are sent by email by default. Check here if you would rather receive paper invoices in the mail:

Billing contact (regardless of payment method):

Name: \_\_\_\_\_  
 Organization: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 Email: \_\_\_\_\_

Credit card billing name/address, if different (if paying by credit card):

Name: \_\_\_\_\_  
 Organization: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_


**Member:** \_\_\_\_\_

**NTC:** NCS Pearson, Inc.  
a Minnesota corporation

Address: \_\_\_\_\_  
 \_\_\_\_\_

Address: 3075 W Ray Road, Suite 200  
Chandler, AZ 85226

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

By:   
 Name: Steve Curtis  
 Title: President