



Ordering Document

Washington State Department of Corrections
PO Box 41101
Olympia, WA 98504

The term of this agreement is: 36 Months	Method of Payment: ACH
Billing Frequency: Annually	
The Subscription Start Date is: 5/15/2023	

Subscription Services Name (Platform)	Subscription Metric (Platform)	Subscription Quantity (Platform)
Management Platform	Per User	1,000

Acute Solutions

Continuing Education	Per User	500
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HHS Solutions

Behavioral Health Services	Per User	500
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Year 1 Annual Subscription Total USD 59,803.05

Professional Services Name	Metric	Quantity
Implementation Fee	Flat Fee	1

Professional Services Total USD 4,000.00
Due Upon Receipt of Invoice USD 63,803.05

PRICING EXPIRES IF NOT EXECUTED BY 3/31/2023

This Ordering Document, along with Attachment A, Washington State terms and Attachment B, Modified Relias Terms, together with the Master Services Agreement and the Schedules linked below, form the entire Agreement between the parties. Attachment A and Attachment B, respectively, shall take precedence over the other attached terms. Prices quoted do not include taxes. Please consult with the tax advisors within your state if you have questions about local tax requirements. If required by local law, Relias must collect taxes and pay them on your behalf. Additionally, if the Method of Payment on the Ordering Document is Credit Card, you will be charged an additional 3% transaction fee

Contract Document	Link to Contract Document
MSA	Attachment C
MSA Schedule A	Attachment D



CUSTOMER SIGNATURE PAGE

This Agreement (as hereinafter defined) is entered into between Relias LLC ("Company") and the customer identified in the signature block below ("Customer"), effective as of 5/15/2023 ("Effective Date"). This Agreement establishes the general terms and conditions to which the parties have agreed in order to facilitate the provision of certain services as more fully described herein and in each Ordering Document.

By signing below, the Customer acknowledges that they have read and understood the Agreement and agree to be bound by all the terms and conditions contained therein.

Washington State Department of Corrections

Relias LLC

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Job Title: _____

Job Title: _____

Date: _____

Date: _____

Address for Notices:

Washington State Department of Corrections
PO Box 41101
Olympia, WA98504

Address for Notices:

Relias LLC
1010 Sync Street, Suite 100
Morrisville, NC 27560

Liaison Contact :

Billing Contact :

Name: _____

Name: _____

Job Title: _____

Job Title: _____

Email: _____

Email: _____

Phone: _____

Phone: _____

Address:

Address:

ATTACHMENT A – WASHINGTON TERMS AND CONDITIONS

1. EQUALITY IN COMPENSATION

- 1.1. Company must ensure that similarly employed individuals in its workforce are compensated as equals, consistent with the following:

Employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.

Company may allow differentials in compensation for its workers based in good faith on any of the following:

- i. A seniority system, a merit system, a system that measures earnings by quantity or quality of production, a bona fide job-related factor or factors, or a bona fide regional difference in compensation levels.
 - ii. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: consistent with business necessity, not based on or derived from a gender-based differential, and accounts for the entire differential.
 - iii. A bona fide regional difference in compensation level must be: consistent with business necessity, not based on or derived from a gender-based differential, and account for the entire differential.
- 1.2. This Contract may be terminated if the Customer or the Washington State Department of Enterprise Services determines that Company is not in compliance with this provision.

2. MAINTENANCE OF RECORDS

- 2.1. During the term of this Contract and for six (6) years following its termination or expiration, Company shall maintain, and provide Customer or its designee, at no additional cost, with reasonable access to Company's records sufficient to:

- 2.1.1. Document performance of all services required by this Contract; and
- 2.1.2. Substantiate Company's statement of its organization's structure, tax status, capabilities, performance and principals; and
- 2.1.3. Demonstrate accounting procedures, practices, and records, which sufficiently and properly document Company's invoices to Customer and all expenditures made by Company to perform as required by this Contract.

- 2.2. If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- 2.3. Should an audit, conducted under the authority of this section, disclose that Company has been paid by the Customer in excess of the agreed upon costs (overpayment), or has been reimbursed by the Customer for direct or indirect costs which are disallowed as a result of that audit, then, Company shall, upon demand by the Customer, repay such overpayment or reimbursement to the Customer without requiring further legal action by the Customer.
- 2.4. The provisions of this section shall survive termination or expiration of this Contract.

3. PUBLIC RECORDS ACT

- 3.1. This Agreement and all records associated with the performance of this Agreement shall be available for inspection and copying by the public when required by the Washington State Public Records Act, Chapter 42.56 RCW (the "Act").
- 3.2. If records in the custody of Company are needed by the Customer to respond to a request under the Act, as determined by the Customer, Company agrees to make them promptly available to the Customer. Upon request by the Customer, Company further agrees to provide a detailed index of records associated with its performance of the contract. This index will allow for more efficient and accurate identification of potentially responsive records.
- 3.3. If Company considers any portion of any record associated with Company's performance under this Agreement to be protected from disclosure under law, Company shall clearly identify the specific information that it claims to be confidential or proprietary when the records are provided to the Customer in response to a public records request. The Customer retains sole discretion in the appropriateness and application of withholdings and redactions on all records.
- 3.4. If the Customer receives a request under the Act to inspect or copy information identified by Company as confidential or proprietary and the Customer determines that release of the information is required by the Act or otherwise is appropriate, the Customer's sole obligation shall be to notify Company (a) of the request and (b) of the date that such information will be released to the requester unless Company obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If Company fails to timely obtain a court order enjoining disclosure, the Customer will release the requested information on the date specified with whatever withholdings and redactions it deems proper.
- 3.5. The Customer is not obligated to claim any exemption from disclosure under the Act on behalf of Company. The Customer shall not be liable to Company for releasing records not clearly identified by Company as confidential or proprietary. The Customer shall not be liable to Company for releasing any records in compliance with this section, in compliance with the Act, or in compliance with an order of a court of competent jurisdiction.

4. REGISTRATION WITH DEPARTMENT OF REVENUE

Company shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

5. GOVERNING LAW

The Contract, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Contract or the transaction(s) contemplated by it, shall be governed by, construed and enforced only in accordance with the Laws of the state of Washington (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any claim against DOC shall be initiated by Contractor within one (1) year after the claim arises, or be barred.

6. SOLE SOURCE

The provisions of Chapter 39.26 RCW require the agency to file this sole source contract with the Department of Enterprise Services (DES) for approval. The effective date of this contract may not be earlier than DES approval of the contract or the tenth (10th) working day after it is filed with DES, whichever is later.

ATTACHMENT B - MODIFICATIONS TO THE RELIAS TERMS

MODIFICATIONS TO THE MSA

5. CONFIDENTIALITY

5.1 Confidential Information. Each party hereby agrees that it will not use or disclose any Confidential Information received from the other party other than as expressly permitted under the terms of this Agreement or as expressly authorized in writing by the other party. Confidential Information means any and all information disclosed by either party to the other which is marked confidential or proprietary, ~~or which should be reasonably understood by each party to be confidential or proprietary, including, but not limited to, the terms and conditions (but not the existence) of this Agreement, all trade secrets, Intellectual Property, and results of testing and benchmarking of Subscription Services. Client Data is excluded from the definition of Confidential Information.~~ Each party will protect the other party's Confidential Information from unauthorized dissemination with the same degree of care used to protect its own confidential information, but in no event less than a reasonable amount of care. Company may use, for any purpose, Client Data or data arising out of a combination of Client Data and Subscription or Professional Services, so long as the relevant data has been anonymized and de-identified; however, Company agrees not to use or disclose this information to the extent prohibited by applicable law. Information shall not be considered Confidential Information to the extent, but only to the extent, that the receiving party can establish that such information (i) is or becomes generally known or available to the public through no fault of the receiving party; (ii) was lawfully in the receiving party's possession before receipt from the disclosing party without a duty of confidentiality; (iii) is lawfully obtained from a third-party who has the right to make such disclosure on a non-confidential basis; or (iv) has been independently developed by one party without reference to any Confidential Information of the other.

8. INDEMNIFICATION

8.1 Indemnification. ~~Each Party~~ Company shall indemnify and hold harmless the other and its principals, officers, directors, agents, and employees (Indemnified Party[ies]), and at the indemnifying party's option, either defend Indemnified Parties or pay their attorney's fees and court costs, from any loss, cost, damage, or expense incurred by the Indemnified Party that is finally awarded by a court of law to any third party as a result of a claim ~~(i) arising from or in connection with a breach of sections 2.3 or 5 (and its subparts) above; or (ii) alleging infringement or misappropriation of a third party's U.S. patent, U.S. copyright, U.S. trademark, or U.S. trade secret.~~ Company shall have no indemnity obligation to Client where the alleged infringement or misappropriation arises from (i) a modification of Subscription Services as delivered to Client; (ii) the combination of Subscription Services with any other process, hardware, software, data, or functionality; (iii) any Client-originating data or content communicated using such Subscription Services; or (iv) any use of Subscription Services by Client in a manner inconsistent with the documentation or instructions provided by Company or otherwise in breach of this Agreement. ~~Client shall indemnify Company, its principals, officers, directors, agents, and employees (Company Indemnified Party[ies]), and at Client's option, either defend Company Indemnified Parties or pay their attorney's fees and court costs, from any loss, cost, damage, or expense incurred by the Company Indemnified Party that is finally awarded by a court of law to any third party as a result of a claim arising out of or in connection with any use or reliance by Client or any User of any Subscription Services, Professional Services, Content, or the Site.~~

8.2 Indemnification Procedure. The indemnifications made hereunder are provided upon the following conditions: (i) the indemnifying party controls any settlement or any suit or claim indemnified hereunder; (ii) the indemnified party's prior written consent, which shall not be unreasonably withheld or delayed, must be obtained prior to any settlement by the indemnifying party that affects the Indemnified Party's rights and obligations; (iii) the indemnifying party is promptly informed of any third-party claim indemnified hereunder; and (iv) in the case of Client, Client ceases any alleged infringing activity upon actual or constructive notice of any claim or allegation of infringement.

9.2 Subscription Services Term. The initial term of Subscription Services commences on the Subscription Start Date specified in the Ordering Documents and continues for the length of time set forth therein. ~~Subscription Services shall automatically renew at the end of a term (whether the initial term or a renewal term) unless either party gives written notice of termination at least sixty (60) days prior to the end of the term. The length of the renewal term shall be the same as that of the ending term. The initial term and renewal term(s) are collectively referred to as the Subscription Services Term.~~

~~10.13 Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to its principles of conflict of laws. Any dispute arising from or relating to this Agreement shall be litigated in the state or federal courts located in Wake County, North Carolina, to whose exclusive jurisdiction the parties hereby consent.~~

10.18 Conflict of Documents. If there is a conflict between the provisions of this Agreement and any other documents concerning Subscription Services performed under this Agreement, the order of precedence for purposes of resolution shall be: (i) The WA State Terms and Conditions, (ii) The modified Relias terms and conditions, (iii) this Agreement, (iv) any applicable Schedule identified in the Ordering Document(s), (v) the Ordering Document(s), and (vi) any other document executed by the parties.

SCHEDULE A MODIFICATIONS

5. INDEMNIFICATION

~~**5.1 Indemnification for Modified/Client Content.** Client shall indemnify and hold Company, its Affiliates, suppliers, data center, employees, and officers (**Content Indemnified Party[ies]**) harmless from and against all liability, claims, damages, fines, losses, and expenses (including reasonable attorney's fees, court costs, and the cost of enforcing this indemnity) suffered or incurred by Company or any Content Indemnified Party arising out of, or in connection with, any use or reliance by Client or any User of any Modified Content or Client Content, including all third-party claims, causes of action, suits, and legal proceedings asserted against Company or a Content Indemnified Party arising out of, or relating to, the use of or reliance by Client or any User on any Modified Content or Client Content.~~

1. DEFINITIONS

- 1.1 Affiliate** means any company that (i) controls, (ii) is controlled by, or (iii) is under common control with either party or its parent corporation. A company shall be deemed to control a company if it has the power to direct or cause the direction of the management or policies of such company, whether through the ownership of voting securities, by contract, or otherwise.
- 1.2 Agreement or MSA** means this Master Services Agreement, Ordering Document(s), Schedules, and such other documents, attachments, and exhibits to which the parties' authorized representatives mutually agree in writing.
- 1.3 Client** means the entity set forth on the Ordering Document(s) and receiving Subscription Services under the Agreement.
- 1.4 Client Data** means all required electronic data or information submitted by Client to Company for the provision of Subscription Services and/or Professional Services.
- 1.5 Company** means the entity set forth on the Ordering Document(s) and providing Subscription Services under the Agreement.
- 1.6 Content** means materials provided or posted by Company in connection with Subscription Services, including but not limited to training courses, tests, assessments, surveys, text, images, graphics, audio and sound recordings, and videos, including modifications, enhancements, or new versions thereof.
- 1.7 Intellectual Property** means any and all intellectual property rights recognized in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed or recorded, including without limitation inventions, technology, patent rights (including patent applications and disclosures), copyrights, trade secrets, trademarks, service marks, trade dress, methodologies, procedures, processes, know-how, tools, utilities, techniques, various concepts, ideas, methods, models, templates, software, source code, algorithms, generalized features of the structure, sequence and organization of software, user interfaces and screen designs, general purpose consulting and software tools, utilities and routines, logic, coherence and methods of operation of systems, training methodology and materials, which Company has created, acquired, or otherwise has rights in, and may, in connection with the performance of Subscription Services or Professional Services hereunder, create, employ, provide, modify, acquire, or otherwise obtain rights in.
- 1.8 Ordering Document** means the document(s) executed by the parties, that incorporates by reference the terms of this Agreement and describes order-specific information such as Subscription Services, Professional Services, Subscription Metrics, fees, and other business terms. Statement of Work (SOW) shall be synonymous with Ordering Document.
- 1.9 Professional Services** means consulting, implementation, training, creation of custom Content, or other professional services to be performed by the Company. Professional Services will be described in an Ordering Document executed by the parties.
- 1.10 Schedule** means a product-specific set of terms and conditions that serves as an addendum to this Agreement and will either come attached or be referenced within the Ordering Document(s).
- 1.11 Site** means the web interface at a URL designated by Company.
- 1.12 Subscription Metrics** means the per-unit metric(s) specified in the Ordering Document(s) or amendments in the aggregate, as applicable, that describes the Client's access to or utilization of Subscription or Professional Services. Subscription Metrics may take the form of per-User license, per-facility license, or any other measurement agreed upon by the parties.
- 1.13 Subscription Quantity** means the number of Subscription Metrics.
- 1.14 Subscription Services** means services described in the relevant Ordering Document and/or Schedule.
- 1.15 Subscription Start Date** means the date specified on the Ordering Document(s).
- 1.16 User(s)** means those persons who (i) have been authorized by Client to access and use Subscription Services and Professional Services; (ii) have complied with any registration requirements reasonably requested by Company; (iii) have been issued a personal and unique User ID and password; and (iv) have acknowledged the terms and conditions applicable to Subscription Services. Only current employees and independent contractors of Client are eligible to be Users.

2. USE RIGHTS

- 2.1 Grant of Use.** Subject to the terms of the Agreement, Company grants to Client the right to access and use Subscription Services, solely for its internal business purposes and solely in connection with the personal training, analysis, or assessment of its Users or business.
- 2.2 Authorized Users.** Client shall provide Company with the required demographic data for all Users in the specified electronic format provided by Company to complete the initial registration process. Activating and deactivating Users as a method of keeping the number of Users within range of the Subscription Metrics shall be a material breach of the Agreement.
- 2.3 Acceptable Use.** Client and all Users shall use Subscription Services exclusively for authorized and legal purposes, consistent with all applicable laws and regulations. Client agrees and shall ensure that Users do not post or upload any content or data which (i) is libelous, defamatory, obscene, pornographic, abusive, harassing, or threatening; (ii) contains computer viruses, worms, time bombs, trojan horses or other harmful or malicious code, files, scripts, agents, or programs; (iii) violates the rights of others, such as data which infringes on any intellectual property rights or violates any right of privacy or publicity; or (iv) otherwise violates any applicable law. Client further agrees and shall ensure that Users do not interfere or disrupt networks connected to Subscription Services, do not interfere with another entity's use of similar services, and comply with all regulations, policies, and procedures of networks connected to Subscription Services. Company may remove any violating content posted on Subscription Services or transmitted through Subscription Services without notice. Company may suspend or terminate any User's access to Subscription Services if Company determines that such User has violated the terms and conditions of this Agreement. Client is responsible for maintaining the confidentiality of all passwords and for ensuring that each password is used only by the authorized User. As between the parties, Client is entirely responsible for all activities that occur under its account. Client shall immediately notify Company of any unauthorized use or any other breach of security known to Client. Company shall have no liability for any loss or damage arising from Client's failure to comply with these requirements.
- 2.4 Restrictions.** Client shall not itself, or through any Affiliate, employee, contractor, agent, or other third party (i) sell, resell, distribute, host, lease, rent, license, or sublicense, in whole or in part, Subscription Services, Content, or the Site, or access thereto; (ii) decipher, decompile, disassemble, reverse assemble, modify, translate, reverse engineer, or otherwise attempt to derive source code, algorithms, tags, specifications, architecture, structure, or other elements of Subscription Services or Content, in whole or in part; (iii) allow access to, provide, divulge, or make available the Site, Subscription Services, or Content to anyone other than an authorized User; (iv) create derivative works based upon Subscription Services or Content, or modify, adapt, translate, or otherwise make any changes to Subscription Services, Content, or any part thereof; (v) use Subscription Services to provide processing services to third parties, or otherwise use the same on a service bureau basis; (vi) disclose or publish, without Company's prior written consent, performance or capacity statistics or the results of any benchmark test performed on Subscription Services; or (vii) remove from any Subscription Services or other materials owned by Company identification, patent, copyright, trademark, or other notices. Proprietary notices, including without limitation

patents, copyrights, and trademarks notices, as well as disclaimer notices, must be reproduced on any such authorized copies.

2.5 Enforcement. Client shall (i) ensure that all Users of Subscription Services comply with the terms and conditions of this Agreement, (ii) promptly notify Company of any actual or suspected violation thereof, and (iii) cooperate with Company with respect to investigation and enforcement of the Agreement. Client shall be solely responsible for all acts and omissions of its Users in connection with their access and use of Subscription Services.

2.6 Environment. Subscription Services will be hosted on a server that is maintained by Company or its designated third-party subcontractor. User access to Subscription Services is provided through the Site. Client is solely responsible for obtaining and maintaining, at its own expense, all equipment and services needed to access the Site.

2.7 Availability. Company shall use commercially-reasonable efforts to make Subscription Services continually available except for scheduled downtime events where notice is provided to Client, emergency downtime events, or Internet service provider failures or delays. Company will use commercially reasonable efforts to perform scheduled downtime events outside of normal business hours. Client acknowledges that Subscription Services may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications; Company is not responsible for any delays, delivery failures, or other damage resulting from such problems.

2.8 Content. Access to Content, if applicable, shall be provided by Company through Subscription Services. Client is responsible for selecting which Content will be available to authorized Users. Company continuously reviews and updates Content based on an ongoing-needs analysis. Company reserves the right to add, revise, or withdraw from its Content any item or part of an item in its sole discretion.

2.9 Site Administrator. Client shall designate a primary contact who shall function as the liaison to Company and who shall be trained by Company so that the contact shall be able to train and support Users on the use of Subscription Services (**Site Administrator**). The Site Administrator shall be the primary point of contact with Company on all issues related to Subscription Services.

2.10 Client Data Responsibilities. Client shall be solely responsible for the accuracy, quality, integrity, and legality of data uploaded in connection with Subscription Services by Client. Client shall own or shall obtain all proprietary rights necessary, including copyrights, patents, and trade secrets, in and to any content or data it provides, develops, or uploads for use in Subscription Services. Client authorizes Company and its third-party subcontractors to serve as the hosts and repository for the data Client enters into Subscription Services.

2.11 Changes. Company reserves the right to add or substitute functionally-equivalent products in the event of product unavailability, product end of life, or changes to software requirements. Company regularly updates Subscription Services, meaning that such Subscription Services are continually evolving. Some of these changes will occur automatically while others may require Client cooperation. Where required, Client shall reasonably cooperate in implementing such changes.

3. PROFESSIONAL SERVICES

3.1 Cooperation. Client shall provide Company with good-faith cooperation and access to such information, facilities, personnel, and equipment that Company may reasonably require in order to provide Professional Services. Client acknowledges that Company's performance is dependent upon the timely and effective completion of Client's responsibilities and Client's timely decisions and approvals in connection with Professional Services. Company may reasonably rely on all such decisions and approvals.

4. FINANCIAL TERMS

4.1 Fees, Payment Terms, and Taxes. Fees, billing frequency, and method of payment are specified in the Ordering Document. Fees shall be based upon the Subscription Metrics, Subscription Quantity, and Professional Services. Payments shall be in US dollars. After the first twelve (12) months of the initial term, but not more than once in any twelve-(12) month period, Company may modify the fees for Subscription Services upon sixty (60) days' prior written notice. Any change in pricing for the first twelve (12) months of any renewal term shall be provided by Company to Client in writing at least sixty (60) days prior to the end of the current term. Payment of all fees is due thirty (30) days after the invoice date. Company may invoice up to thirty (30) days in advance. Interest accrues on past-due balances at 1% per month. Failure to make timely payments shall be a material breach of the Agreement, and Company will be entitled to (i) suspend Subscription or Professional Services upon thirty (30) days' prior written notice to Client, (ii) modify the payment terms, and/or (iii) request full payment before additional performance is rendered by Company. Prices quoted within Ordering Documents and quotes do not include taxes. Client shall consult with its tax advisors concerning applicable tax requirements. If required by law, Company shall invoice Client for applicable taxes and pay them on Client's behalf.

4.2 Subscription Metrics. Client may only reduce its Subscription Quantity by giving written notice to Company at least sixty (60) days prior to the end of the current term. The reduction will be effective as of the start of the subsequent term. If actual use exceeds the licensed quantity, additional Subscription Quantity must be purchased at then-current fees. Additional Subscription Quantity shall be prorated for the remainder of the then-current Subscription Services Term. There shall be no fee adjustments or refunds for any decrease in usage during Subscription Services Term.

4.3 No Contingencies. Client agrees that its purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written comments made by Company regarding future functionality or features.

5. CONFIDENTIALITY

5.1 Confidential Information. Each party hereby agrees that it will not use or disclose any Confidential Information received from the other party other than as expressly permitted under the terms of this Agreement or as expressly authorized in writing by the other party. **Confidential Information** means any and all information disclosed by either party to the other which is marked confidential or proprietary or which should be reasonably understood by each party to be confidential or proprietary, including, but not limited to, the terms and conditions (but not the existence) of this Agreement, all trade secrets, Intellectual Property, and results of testing and benchmarking of Subscription Services. Client Data is excluded from the definition of Confidential Information. Each party will protect the other party's Confidential Information from unauthorized dissemination with the same degree of care used to protect its own confidential information, but in no event less than a reasonable amount of care. Company may use, for any purpose, Client Data or data arising out of a combination of Client Data and Subscription or Professional Services, so long as the relevant data has been anonymized and de-identified; however, Company agrees not to use or disclose this information to the extent prohibited by applicable law. Information shall not be considered Confidential Information to the extent, but only to the extent, that the receiving party can establish that such information (i) is or becomes generally known or available to the public through no fault of the receiving party; (ii) was lawfully in the receiving party's possession before receipt from the disclosing party without a duty of confidentiality; (iii) is lawfully obtained from a third-party who has the right to make such disclosure on a non-confidential basis; or (iv) has been independently developed by one party without reference to any Confidential Information of the other.

5.2 Compelled Disclosure. A party may disclose Confidential Information if it is compelled to do so by law. In any such case, the disclosing party must, to the extent legally permitted, provide prior notice and reasonable assistance to the other party (whose Confidential Information would be disclosed), at the other party's cost, if the other party desires to contest disclosure.

6. OWNERSHIP

6.1 All rights not expressly granted in this Agreement are reserved by Company and its licensors.

6.2 Subscription Services. Company and its licensors shall retain sole and exclusive ownership of, and all rights, title, and interest in Subscription Services, Content, and the Site, including without limitation (i) Intellectual Property embedded or associated therein, and (ii) all derivative works and copies thereof.

6.3 Professional Services. Company shall retain all rights, title, and interest in Intellectual Property used or in any manner employed by Company in the provision of Professional Services.

7. WARRANTIES, DISCLAIMERS, AND LIMITATION OF LIABILITY

7.1 General. Each party represents and warrants that it has the legal power and authority to enter into this Agreement.

7.2 Professional Services. Company warrants that the Professional Services will be performed in a workmanlike manner. As Client's exclusive remedy for any claim under this warranty, Client shall notify Company in writing of its claim within thirty (30) days of Company's completion of the applicable services and, provided that such claim is reasonably determined by Company to be Company's responsibility, Company shall re-perform the applicable service. Company's entire liability and Client's exclusive remedy for any breach of the warranty set forth in this section shall be the re-performance of the applicable service.

7.3 EXCEPT AS EXPRESSLY STATED IN THIS SECTION 7, ALL SUBSCRIPTION SERVICES AND PROFESSIONAL SERVICES ARE PROVIDED ON AN AS IS, AS AVAILABLE BASIS. COMPANY, ITS LICENSORS, THIRD-PARTY SUBCONTRACTORS, AND SUPPLIERS EXPRESSLY DISCLAIM, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, (i) ANY WARRANTY THAT ANY SOFTWARE, DATABASE, SUBSCRIPTION SERVICES, DELIVERABLES, OR PROFESSIONAL SERVICES ARE ERROR FREE, ACCURATE, RELIABLE, WILL OPERATE WITHOUT INTERRUPTION, OR THAT ALL ERRORS WILL BE CORRECTED, OR THAT SUBSCRIPTION SERVICES WILL COMPLY WITH ANY LAW, RULE, OR REGULATION; (ii) IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE; AND (iii) IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. NO ADVICE, STATEMENT, OR INFORMATION GIVEN BY COMPANY, ITS AFFILIATES, CONTRACTORS, OR EMPLOYEES SHALL CREATE OR CHANGE ANY WARRANTY PROVIDED HEREIN. COMPANY DISCLAIMS ALL LIABILITY OR LOSS ARISING OUT OF ANY ACTION TAKEN IN RELIANCE ON ITS SITE, CONTENT, ASSESSMENTS, PRODUCTS, OR SUBSCRIPTION OR PROFESSIONAL SERVICES.

7.4 AS BETWEEN COMPANY AND CLIENT, CLIENT ASSUMES SOLE RESPONSIBILITY AND LIABILITY FOR ITS USERS' COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT. COMPANY SHALL HAVE NO LIABILITY FOR ANY CLAIMS, LOSSES, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH CLIENT'S OR ANY OF ITS USERS' USE OF THE SUBSCRIPTION OR PROFESSIONAL SERVICES ALONE OR IN COMBINATION WITH ANY THIRD-PARTY PRODUCTS, SERVICES, SOFTWARE, OR WEB SITES, INCLUDING THOSE THAT ARE ACCESSED VIA LINKS FROM WITHIN SUBSCRIPTION SERVICES.

COMPANY'S TOTAL LIABILITY (INCLUDING ATTORNEYS' FEES AWARDED UNDER THIS AGREEMENT) TO CLIENT FOR ANY CLAIM BY CLIENT OR ANY THIRD PARTIES UNDER THIS AGREEMENT, WILL BE LIMITED TO THE FEES PAID FOR SUCH ITEMS THAT ARE THE SUBJECT MATTER OF THE CLAIM FOR THE PRIOR TWELVE (12) MONTHS. IN NO EVENT WILL COMPANY, ITS LICENSORS, OR ITS SUPPLIERS BE LIABLE TO CLIENT OR THIRD PARTIES FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, TREBLE, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, REVENUE, PROFITS, STAFF TIME, GOODWILL, USE, DATA, OR OTHER ECONOMIC ADVANTAGE), WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, WHETHER OR NOT PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

NO CLAIM ARISING OUT OF THE AGREEMENT, REGARDLESS OF FORM, MAY BE BROUGHT MORE THAN THE SHORTER OF ONE YEAR OR THE PERIOD ALLOWED BY LAW AFTER THE CAUSE OF ACTION HAS ACCRUED.

THIS SECTION 7 SHALL SURVIVE FAILURE OF ANY EXCLUSIVE REMEDY.

8. INDEMNIFICATION

8.1 Indemnification. Each Party shall indemnify and hold harmless the other and its principals, officers, directors, agents, and employees (**Indemnified Party[ies]**), and at the indemnifying party's option, either defend Indemnified Parties or pay their attorney's fees and court costs, from any loss, cost, damage, or expense incurred by the Indemnified Party that is finally awarded by a court of law to any third party as a result of a claim (i) arising from or in connection with a breach of sections 2.3 or 5 (and its subparts) above; or (ii) alleging infringement or misappropriation of a third party's U.S. patent, U.S. copyright, U.S. trademark, or U.S. trade secret.

Company shall have no indemnity obligation to Client where the alleged infringement or misappropriation arises from (i) a modification of Subscription Services as delivered to Client; (ii) the combination of Subscription Services with any other process, hardware, software, data, or functionality; (iii) any Client-originating data or content communicated using such Subscription Services; or (iv) any use of Subscription Services by Client in a manner inconsistent with the documentation or instructions provided by Company or otherwise in breach of this Agreement.

Client shall indemnify Company, its principals, officers, directors, agents, and employees (**Company Indemnified Party[ies]**), and at Client's option, either defend Company Indemnified Parties or pay their attorney's fees and court costs, from any loss, cost, damage, or expense incurred by the Company Indemnified Party that is finally awarded by a court of law to any third party as a result of a claim arising out of or in connection with any use or reliance by Client or any User of any Subscription Services, Professional Services, Content, or the Site.

8.2 Indemnification Procedure. The indemnifications made hereunder are provided upon the following conditions: (i) the indemnifying party controls any settlement or any suit or claim indemnified hereunder; (ii) the indemnified party's prior written consent, which shall not be unreasonably withheld or delayed, must be obtained prior to any settlement by the indemnifying party that affects the Indemnified Party's rights and obligations; (iii) the indemnifying party is promptly informed of any third-party claim indemnified hereunder; and (iv) in the case of Client, Client ceases any alleged infringing activity upon actual or constructive notice of any claim or allegation of infringement.

9. TERM AND TERMINATION

9.1 Agreement Effective Date. This Agreement shall become effective the earlier of (i) the date of placement of the last-required signature, (ii) the date of first provision of Professional or Subscription Services, or (iii) the Subscription Start Date and shall continue in full force and effect until the expiration or termination of all Ordering Documents and attachments, unless otherwise terminated as provided hereunder.

9.2 Subscription Services Term. The initial term of Subscription Services commences on the Subscription Start Date specified in the Ordering Documents and continues for the length of time set forth therein. Subscription Services shall automatically renew at the end of a term (whether the initial term or a renewal term) unless either party gives written notice of termination at least sixty (60) days prior to the end of the term. The length of the renewal term shall be the same as that of the ending term. The initial term and renewal term(s) are collectively referred to as the **Subscription Services Term**.

9.3 Termination. Either party may terminate the Agreement including all Ordering Documents executed thereunder immediately upon written notice (i) in the event that the other party commits a non-remediable material breach of the Agreement, or if the other party fails to cure any remediable material breach or provide a written plan of cure acceptable to the non-breaching party within thirty (30) days of being notified in writing of such breach; (ii) in the event of institution of bankruptcy, receivership, insolvency, reorganization, or other similar proceedings by or against the other party under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar laws or statutes of the United States or any state thereof, if such proceedings have not been dismissed or discharged within thirty (30) calendar days after they are instituted; or (iii) in the event of insolvency, an assignment for the benefit of creditors, the admittance by either party of any involuntary debts as they mature, or the institution of any reorganization arrangement or other readjustment of debt plan of either party not involving the United States Bankruptcy Code.

9.4 Partial Termination. Where a party has rights to terminate, the non-breaching party may at its discretion either terminate the entire Agreement or the applicable

Ordering Documents. Ordering Documents that are not terminated shall continue in full force and effect under the terms of this Agreement.

9.5 Effect of Termination. Following termination of this Agreement, upon written request by Company, Client shall certify that Client has returned or destroyed all copies of Subscription Services, Confidential Information, Intellectual Property of Company, and all materials or documents relating to Subscription Services in any format and residing on any media. Client acknowledges that its rights to use the same are relinquished. Company has no obligation to retain Client Data more than three (3) months following the expiration or termination of Subscription Services; however, in cases where Client is current on all fees under the Agreement, Company shall provide Client Data to Client, upon reasonable request and during Company's normal business hours, for no additional fee during these three (3) months, after which additional fees may be incurred.

Termination for any reason shall not excuse Client's obligation to pay in full all amounts due or that become due through such termination or that arise under section 10.19. Nor shall termination result in a refund of fees paid, except where such termination is due to Company's breach or as expressly provided otherwise in this Agreement.

Upon termination of a Professional Services engagement, all work product, including all drafts and works in progress of deliverables, shall be delivered to Client upon payment of all relevant fees. Upon its receipt of a notice of termination, Company shall cease, and shall cause any agent or subcontractor to cease, all work under the applicable Ordering Documents and minimize any additional costs or reimbursable expenses unless otherwise directed in writing by Client. Except as may be expressly set forth in the applicable Ordering Documents, Client shall pay Company's fees for services performed to the date of termination on a T&M basis together with any expenses reasonably incurred in connection therewith.

10. GENERAL PROVISIONS

10.1 Suspension. Company will be entitled to suspend any or all Subscription and Professional Services (i) immediately in the event Client is in breach of sections 2.1, 2.2, 2.3, or 2.4, above, or (ii) upon thirty (30) days' written notice to Client in the event Client is otherwise in breach of this Agreement. Company may impose an additional charge to reinstate service following such suspension.

10.2 Force Majeure. Delay or failure to perform any part of this Agreement (except for payment obligations), to the extent caused by events, occurrences, or causes beyond the control of the party seeking protection under this subsection, shall not constitute a breach of this Agreement, nor shall such delay or failure form the basis of any claim of loss, damage, or liability to the other party. Such events may include, but are not limited to, acts of God, epidemic, pandemic, strikes, lockouts, riots, acts of war, terrorism, earthquake, fire, or explosions. Dates by which performance obligations are scheduled to be met will be extended for a period equal to the time lost due to any such delay.

10.3 Subcontractors. Company may subcontract or delegate Subscription and/or Professional Services to any third party without Client's prior written consent. Company shall remain responsible to Client for any services which it subcontracts or delegates.

10.4 Assignment. Company may assign this Agreement and any or all of its rights and obligations herein without Client's approval. Client may not assign or transfer this Agreement without Company's prior written consent.

10.5 Non-solicitation. During the term of this Agreement and for a period of one (1) year following its termination, neither party will solicit for employment directly or through other parties, without the other party's written permission, any individual employed by the other party, provided however that the solicitation or hiring of individuals responding to general public marketing and recruiting advertisements and events shall not be a violation of this provision; only active, targeted solicitation is prohibited.

10.6 Compliance. Company reserves the right to utilize Client Data to verify compliance with the terms of this Agreement. Company may monitor the usage, performance, and operation of Subscription Services using electronic, remote, or other means, without notice to Client.

10.7 Notices. Any notice required or permitted to be sent under this Agreement (except for invoices and notices related to payment of fees and price increases) shall be delivered by hand, by overnight courier, or by registered mail, return receipt requested, to the address of the parties first set forth in the Agreement signature page or to such other address of the parties designated in writing in accordance with this subsection.

10.8 Relationship. This Agreement shall not create a partnership, franchise, joint venture, agency, or a fiduciary or employment relationship. Neither party may bind the other party or act in a manner which expresses or implies a relationship other than that of independent contractor.

10.9 Invalidity. If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

10.10 No Waiver. No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right.

10.11 Entire Agreement. This Agreement constitutes the parties' entire agreement relating to its subject matter. It cancels and supersedes all prior or contemporaneous oral or written communications, agreements, proposals, conditions, representations, warranties, or other communication between the parties relating to its subject matter. No modification of this Agreement will be binding unless in writing, signed by an authorized representative of each party. All pre-printed or standard terms of any of Client's purchase order or other business processing document shall have no effect.

10.12 No Third-Party Beneficiaries. This Agreement is for the benefit of the parties, their successors, and permitted assigns and does not confer any rights or benefits on any third party.

10.13 Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to its principles of conflict of laws. Any dispute arising from or relating to this Agreement shall be litigated in the state or federal courts located in Wake County, North Carolina, to whose exclusive jurisdiction the parties hereby consent.

10.14 Headings and Drafting. The headings in this Agreement shall not be used to construe or interpret this Agreement. This Agreement shall not be construed in favor of or against a party based on the author of the document.

10.15 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an enforceable original of this Agreement, and the parties agree that facsimile, scanned copies of signatures, and electronic signatures shall be as effective and binding as original signatures.

10.16 Notice of U.S. Government Restricted Rights. If the Client hereunder is the U.S. Government, or if Subscription Services are acquired hereunder on behalf of the U.S. Government with U.S. Government funding, notice is hereby given that Subscription Services are commercial computer software and documentation developed exclusively at private expense and are furnished as follows: "U.S. GOVERNMENT RESTRICTED RIGHTS. Software delivered subject to the FAR 52.227-19. All use, duplication and disclosure of the Software by or on behalf of the U.S. Government shall be subject to this Agreement and the restrictions contained in subsection (c) of FAR 52.227-19, Commercial Computer Software - Restricted Rights (June 1987)."

10.17 OFAC Compliance. Client warrants that it is currently in compliance with and shall at all times during the term of this Agreement remain in compliance with, and cause its Users to comply with, the regulations of the OFAC of the Department of the Treasury and any statute, executive order, or other governmental action relating thereto.

10.18 Conflict of Documents. If there is a conflict between the provisions of this Agreement and any other documents concerning Subscription Services performed under this Agreement, the order of precedence for purposes of resolution shall be: (i) this Agreement, (ii) any applicable Schedule identified in the Ordering Document(s), (iii) the

Ordering Document(s), and (iv) any other document executed by the parties.

10.19 Survival. The following provisions will survive any termination or expiration of this Agreement or Ordering Documents: sections 4, 5, 6, 7, 8, 9.5, 10, all corresponding sections in the attached Schedule(s), and all those provisions that, whether expressly or implied by their nature, are intended to survive the rescission, termination, or expiration of this Agreement.

[END DOCUMENT]

1. DEFINITIONS

1.1 Administrative Site means the main Site that is designated for administrative functions related to a group of Sub-Portals in an Enterprise System. The Administrative Site will have administrative capabilities over every Sub-Portal in the Enterprise System, including the ability to run reports, assign Content, and designate other Site Administrators.

1.2 Enterprise System means an Administrative Site linked to Sub-Portals.

1.3 Client Organization means an organization that has a corporate or contractual relationship with or is a member of Client. Client may specify Client Organizations that will receive Subscription Services through a Sub-Portal to this Agreement in an attached Exhibit. The addition of Sub-Portals shall require the execution of an amendment to this Agreement.

1.4 Documentation means the LMS User instructions, release notes, and online help files in the form generally made available by Company to its Clients, as updated from time to time by Company.

1.5 LMS means Company's proprietary learning management system and other software access provided in connection with Subscription Services, including the Documentation, modifications, enhancements, and new versions thereof.

1.6 Subscription Services means access to the LMS and Content through the Site for Client's internal training purposes.

1.7 Sub-Portal means an individual Site that is included in an Enterprise System that has a direct relationship with other Sub-Portals and the Administrative Site.

1.8 Sub-Portal Administrator means a User who has been authorized by Client or Client's Site Administrator to have access to all administrative functionality within the individual Sub-Portal.

2. CONFIDENTIALITY

2.1 No Protected Health Information. Client will not provide Company with access to any Protected Health Information (as defined in 45 CFR § 160.103, **PHI**). Company reserves the right not to accept access to Client Data that contains PHI. Client represents and warrants that: (i) Client has the right and authority necessary to provide the Client Data to Company as provided hereunder, (ii) Client will disclose to Company only such Client Data as Client is authorized to disclose to Company, and (iii) such disclosure will be provided at all times in compliance with all applicable law, including, to the extent applicable, with the Health Insurance Portability and Accountability Act of 1996, Public Law 104 191, and regulations promulgated thereunder by the U.S. Department of Health and Human Services, each as amended from time to time (**HIPAA**). The parties acknowledge that, under the terms of this Agreement, Company does not collect or possess PHI, and that Company shall not be required to execute a Business Associate Agreement or similar agreement. Client warrants and represents that it shall not upload in any of the Subscription Services or otherwise provide Company or its suppliers access to any such PHI.

3. OWNERSHIP

3.1 Modified Content; Client Content. Certain Users designated by Client may have authority to modify portions of the Content to meet certain of Client's needs or requirements (**Modified Content**) or to create unique content to meet certain of Client's needs or requirements (**Client Content**). In the case of Modified Content, Client shall own the specific modifications made by authorized Users (but not the underlying Content). In the case of Client Content, as between Company and Client, Client shall own the Client Content created or uploaded by authorized Users. Client shall be solely responsible for the accuracy, quality, integrity, and legality of data, Client Data, Modified Content, and Client Content uploaded in the LMS by Client.

3.2 De-Identified Data. Client acknowledges and agrees that Company has the unrestricted right to use Client's de-identified data for any purpose, in accordance with applicable law, including but not limited to quality assessment and improvements to the Subscription Services.

4. WARRANTIES, DISCLAIMERS, AND LIMITATION OF LIABILITY

4.1 LMS Limited Warranty. Company warrants that the LMS will operate in all material respects in conformity with the functional specifications described in the Documentation. If the LMS does not perform as warranted and there is a material failure of the LMS to conform to its functional specifications described in the Documentation that is reported by the Client to, and replicable by, Company (**Errors**), Company shall use commercially reasonable efforts to correct Errors. As Client's exclusive remedy for any claim under this warranty, Client shall promptly notify Company in writing of its claim. Provided that such claim is reasonably determined by Company to be Company's responsibility, Company shall, within thirty (30) days of its receipt of Client's written notice, (i) correct such Error; (ii) provide Client with a plan reasonably acceptable to Client for correcting the Error; or (iii) if neither (i) nor (ii) can be accomplished with reasonable commercial efforts from Company, then Company or Client may terminate the affected Subscription Services, and Client will be entitled to a refund of the pre-paid portion of the fees paid for the affected Subscription Services. The preceding warranty cure shall constitute Company's entire liability and Client's exclusive remedy for cure of the warranty set forth herein in this Section 4.1 of Schedule A. If Client elects not to terminate the Subscription Services, Client waives all rights for the applicable warranty cure set forth herein. Company is not responsible for any claimed breach of any warranty set forth in this section caused by: (i) modifications made to the LMS by anyone other than Company; (ii) Company's adherence to Client's specifications or instructions; (iii) Errors caused by or related to Internet connections; (iv) Client deviating from the LMS operating procedures described in the Documentation; (v) discrepancies that do not significantly impair or affect the operation of the Subscription Service; or (vi) any systems or programs not supplied by Company.

4.2 Links. The Subscription Services may include links to third-party Internet sites or other resources provided by third parties. Because Company has no control over such sites and resources, Client acknowledges and agrees that Company is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. Client further acknowledges and agrees that Company shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by, or in connection with, use of or reliance on any such content, goods, or services available on or through any such third-party site or resource.

5. INDEMNIFICATION

5.1 Indemnification for Modified/Client Content. Client shall indemnify and hold Company, its Affiliates, suppliers, data center, employees, and officers (**Content Indemnified Party[ies]**) harmless from and against all liability, claims, damages, fines, losses, and expenses (including reasonable attorney's fees, court costs, and the cost of enforcing this indemnity) suffered or incurred by Company or any Content Indemnified Party arising out of, or in connection with, any use or reliance by Client or any User of any Modified Content or Client Content, including all third-party claims, causes of action, suits, and legal proceedings asserted against Company or a Content Indemnified Party arising out of, or relating to, the use of or reliance by Client or any User on any Modified Content or Client Content.