



CONTRACT FOR CONSULTANT SERVICES
BETWEEN
THE UNIVERSITY OF MARYLAND, BALTIMORE COUNTY
AND
EAB GLOBAL, INC.

By this Contract, made as of the 1st day of October, 2019, by and between the University of Maryland, Baltimore County, a constituent institution of the University System of Maryland and an agency of the State of Maryland ("University", "UMBC" or "State") located at 1000 Hilltop Circle, Baltimore, Maryland 21250 and, EAB Global, Inc. ("Consultant" or "EAB"), the parties hereby agree as follows:

Consultant represents that it has expertise providing certain services ("Services") as more fully described in the attached Exhibit A - "Scope of Work" and Exhibit B - EAB Terms and Conditions, both incorporated herein. Based on Consultant's expertise and experience, University wishes to engage the consulting services of Consultant, and in consideration of the covenants and agreements set forth herein.

1 CONSULTING SERVICES

- 1.1 Engagement of Consultant. University hereby engages Consultant to perform the Services described in Exhibit A, and consultant hereby accepts the engagement, and agrees to perform the Services upon the terms and conditions set forth herein.
- 1.2 Term. The engagement of Consultant hereunder shall commence on October 1, 2019 and end on August 1, 2020, unless terminated sooner in accordance with the provisions of this Contract.
- 1.3 Delivery and Completion Schedule. Consultant agrees to perform the Services in the time frames set forth in the attached Exhibit A. Consultant understands that TIME IS OF THE ESSENCE in performing the Services.
- 1.4 Consultant's Representations. In the performance of Consultant's duties under this Contract, Consultant shall perform the Services in a professional and workmanlike manner. Consultant agrees to comply with all applicable Federal, State and local laws and regulations.

2 INDEPENDENT CONTRACTOR

- 2.1 The relationship of the Consultant to University is that of an independent contractor and nothing herein shall be construed as creating an employment or agency relationship. The Consultant may adopt such arrangements as he/she may desire with regard to the details of the Services performed hereunder, the hours during which the Services are to be provided, and the place or places where the Services are to be furnished.
- 2.2 Consultant shall not be entitled to any benefits accorded to University's employees including, without limitation, worker's compensation, disability insurance, vacation or sick pay. Consultant shall be responsible for providing, at Consultant's expense, disability, worker's compensation or other insurance as well as licenses and permits usual or necessary for conducting the Services hereunder. Consultant shall be obligated to pay any and all applicable local, state and federal payroll and other taxes incurred as a result of Consultant's fees hereunder. Consultant hereby indemnifies University for any third party claims, losses, costs, fees, liabilities, damages or penalties suffered by University arising out of Consultant's breach of this provision.
- 2.3 Consultant shall not be considered an agent of University for any purpose whatsoever, nor shall Consultant have the right to, and shall not, commit University to any agreement, contract or undertaking. Consultant shall not use University's name in its promotional material or for any advertising or publicity purposes.
- 2.4 The Consultant's Federal Tax Identification Number or, where applicable, Social Security Number is: [REDACTED]

3 CONSULTING FEES AND EXPENSES

3.1 Consulting Fees.

- 3.1.1 University shall pay Consultant at the rate indicated in the attached Exhibit A, for time actually spent on the Services and for the period set forth herein. The total fees payable to Consultant shall not exceed \$72,500.
- 3.1.2 The fees set forth herein includes all costs of operation, including benefits attributable to payroll, overhead, wages and salaries of Consultant's employees, if any, and all applicable taxes.
- 3.1.3 Consultant shall submit invoices to University as set forth in Exhibit A. To the extent University may reasonably request in writing, Consultant shall support each invoice with justification for Services performed. Invoices shall include the Contract Number noted above, as well as the applicable Purchase Order number, and shall be submitted for approval to University at the above-referenced address. After the University has approved the invoice, payment will be due within thirty (30) days of receipt of the invoice.

3.2 Expenses.

- 3.2.1 N/A.

3.3 Audit Rights.

- 3.3.1 Consultant agrees that, during the term of this Contract and for a period of three years after its termination, upon ten (10) days advance written notice and at its cost, University shall have access to and the right to examine any directly pertinent books, documents, and records of Consultant relating to the invoices submitted by Consultant pursuant to this Contract. An audit under this section shall occur during Consultant's normal business hours and not more than one (1) time during any twelve (12) month period. Consultant shall have the right to exclude from such inspection any of its confidential or proprietary information, which was not otherwise provided to University as a part of the Services, unless such information is a material component of the issues being reviewed under the audit. The information provided pursuant to and the results of any audit shall be deemed to be Deliverables (as defined by the EAB Terms and Conditions) and subject to the confidentiality provisions of this Contract, including its Exhibits, or a mutual non-disclosure agreement, if applicable.

4 OWNERSHIP OF INTELLECTUAL PROPERTY

The ownership rights shall be as set forth in Section 4 of Exhibit B.

5 CONFIDENTIALITY AND NON-DISCLOSURE

- 5.1 Consultant acknowledges that in performing the Services hereunder, University may have to disclose to Consultant orally and in writing certain confidential information that University considers proprietary and has developed at great expense and effort. As used herein, the term "Confidential Information" means any scientific or technical data, marketing, operating, financial, business or any other information, design, process, procedure, formula or improvement in written, printed, graphic, or electronically recorded materials, that is proprietary to University and not otherwise publicly known. Consultant further acknowledges that the Services and any deliverables may incorporate Confidential Information. Consultant agrees that all items of Confidential Information are proprietary to University and shall remain the sole property of University.
- 5.2 Consultant agrees as follows:
 - 5.2.1 To use the Confidential Information only for the purposes described in this Contract, including its Exhibits; to not reproduce the Confidential Information except as otherwise provided; and to hold in confidence and protect the Confidential Information from dissemination to and use by anyone not a party to this Contract except as otherwise provided.

- 5.2.2 To restrict access to the Confidential Information to personnel of Consultant who (i) have a need to have such access and (ii) have been advised of and have agreed in writing to treat such information in accordance with substantially similar terms of this Contract.
- 5.2.3 Upon University's written request following the termination of this Contract, to return all Confidential Information in Consultant's possession.
- 5.2.4 [Intentionally omitted.]
- 5.3 The provisions of this Paragraph 5 shall survive termination or expiration of this Contract and shall continue for so long as the Confidential Information remains confidential.
- 5.4 Consultant acknowledges that University is obligated to comply with Family Educational Rights and Privacy Act of 1974 (20 U.S.C. § 1232g) as amended ("FERPA"). University agrees to treat Consultant as a "School Official" (as that term is used in FERPA) with a "legitimate educational interest" in any Client Data (as defined in Exhibit B) or Client Materials (as defined in Exhibit B) that is protected by FERPA and, therefore, Consultant agrees that with respect to all Client Data and Client Materials that is protected by FERPA that Consultant accesses, receives, stores or controls, Consultant will comply with all obligations that FERPA imposes on a "School Official". Notwithstanding anything in this Contract to the contrary, Consultant shall not use or disclose Client Materials or Client Data, including student education records as defined by FERPA, except as necessary (i) to provide the Services to University; or (ii) to comply with applicable laws (including subpoenas) or a binding order of a governmental authority. Consultant will give University reasonable notice of any such request of a governmental or regulatory body (including any subpoena) to allow University to seek a protective order or other appropriate remedy (except to the extent Consultant's compliance with the foregoing would cause it to violate a binding order of an Authority or Applicable Law). By way of illustration and not of limitation, Consultant shall not use such data for its own benefit and, in particular, will not engage in "data mining" of Client Data or Client Materials or the sale of Personal Data, including, without limitation, the sale of End User e-mail addresses. Notwithstanding anything in this Contract to the contrary, Consultant will not decrypt Client Data or Client Materials or access or read unencrypted Client Data or Client Materials. Notwithstanding anything in this Contract to the contrary, nothing in this Contract is intended to limit Consultant's obligations under this Section. Consultant shall indemnify and hold harmless the University from and against any and all third party claims, suits, proceedings, costs, losses, damages, liabilities, expenses, demands, and judgments, including actual court costs, reasonable attorney's fees, and other actual and reasonable expenses of litigation, to the extent arising out of a breach of Consultant's obligations under this Section 5. Consultant will, upon discovery, or receipt of notice, of a suspected or an actual, material unauthorized disclosure of student education records, promptly report said occurrence to the University but in no case later than five (5) days after discovery of the disclosure. Consultant will work with the University to remediate the unauthorized disclosure, as required by law, at the expense of Consultant.

6 INSURANCE/INDEMNIFICATION

- 6.1 Consultant represents that it now carries, and agrees it will continue during the term of this Contract to carry, as a minimum: Workers' Compensation, Commercial General Liability and including Comprehensive Automobile Liability insurance in the following amounts:

Workers' Compensation	Statutory
Comprehensive General Liability:	
Bodily Injury and Property Damage	\$1,000,000 each occurrence
Comprehensive Automobile Liability:	
Bodily Injury and Property Damage	\$1,000,000 each occurrence

In addition to the above mentioned coverage, Consultant shall maintain in force, for the duration of this Contract, Technology errors and omissions liability insurance appropriate to the Consultant's profession. Coverage as required in the paragraph shall apply to liability for a professional error, act, or omission arising out of the scope of the

Consultant's services as defined in this contract. Coverage shall be written subject to limits of not less than \$500,000 per claim.

6.2 Consultant shall provide certificates of insurance evidencing the above-described coverage. EAB shall provide University thirty (30) days' notice of cancellation of any of the policies which may affect University's interest and a statement confirming that University has been included an additional insured, except Workers' Compensation.

6.3 Consultant shall indemnify, defend and hold harmless University, its officers, employees, agents, and members from and against all third party claims, demands, losses, costs, expenses, obligations, liabilities, and damages, including, without limitation, interest, penalties, and reasonable attorney's fees and costs, that University incurred or suffered to the extent arising out of any breach of Consultant's obligations under this Contract.

7 CONFLICT OF INTEREST

Consultant affirms that to the best of its knowledge there exists no actual or potential conflict between Consultant's business or financial interest or its Services under this Contract, and, in the event of change in Services under this Contract, it will raise with University any question regarding possible conflict of interest which may arise as a result of such change.

8 **MULTI-YEAR CONTRACTS CONTINGENT UPON APPROPRIATIONS. Intentionally omitted.**

9 TERMINATION FOR DEFAULT

If the Consultant fails to fulfill its obligation under this Contract properly and on time, or otherwise violates any provision of the Contract, and does not cure such failure within sixty (60) days of receipt of notice thereof, the University may terminate the Contract by written notice to the Consultant. The notice shall specify the acts or omissions relied upon as cause for termination. The University shall pay the Consultant fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Consultant's breach. If damages are more than the compensation payable to the Consultant, the Consultant will remain liable after termination and the University can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of USM Procurement Policies and Procedures.

10 TERMINATION FOR CONVENIENCE

[Intentionally omitted].

11 DISPUTES

This Contract shall be subject to the provisions of University System of Maryland Procurement Policies and Procedures. Pending resolution of a claim, the Consultant shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Any dispute that is not subject to the jurisdiction of the Maryland State Board of Contract Appeals, as provided in the University System Procurement Policies and Procedures, shall be brought in and heard by the courts of the State of Maryland, and the parties voluntarily consent to the exclusive jurisdiction of the courts of this State for any such proceeding.

12 NONDISCRIMINATION

The Consultant shall comply with the applicable nondiscrimination provisions of federal and Maryland law.

13 ANTI-BRIBERY

The Consultant certifies that, to the Consultant's best knowledge, neither the Consultant; nor (if the Consultant is a corporation or partnership) any of its officers, directors, or partners; nor any employee of the Consultant who is

directly involved in obtaining contracts with the State or with any county, city, or other subdivision of the state, has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the United States.

14 GOVERNING LAW

This Contract is governed by and shall be construed under the laws of the State of Maryland. All parties to this Contract hereby voluntarily submit to the jurisdiction of the Courts of the State of Maryland for any legal proceeding arising out of or relating to this Contract. UMBC does not recognize any obligation to, and will not submit to, binding arbitration of disputes nor subject itself to the rules, regulations or procedures of any labor organization, guild or institute.

15 WAIVER OF JURY

UMBC AND CONSULTANT HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH THEY ARE PARTIES ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS CONTRACT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES WHO ARE NOT PARTIES TO THIS CONTRACT. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY UMBC AND CONSULTANT, WHO HEREBY REPRESENT AND WARRANT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY AN INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT.

16 ENTIRE AGREEMENT

- 16.1 This Contract and the EAB Terms and Conditions (collectively referred to as the "Contract" or "Agreement") constitute the entire agreement of the parties and supersedes all prior written or oral and all contemporaneous oral agreements, understandings, and negotiations between the parties with respect to the subject matter hereof. This Contract is intended by the parties as the final expression of their agreement and may not be contradicted by evidence of any prior to contemporaneous agreement. In the event of a conflict between the terms of this instant contract and EAB Terms and Conditions, this instant Contract terms shall prevail and control.
- 16.2 Modifications. This Contract may not be modified, changed or supplemented, nor may any obligations hereunder be waived or extensions of time for performance granted, except by written instrument signed by both parties.
- 16.3 Assignment. This Contract and the rights, duties, and obligations hereunder may not be assigned or subcontracted by Consultant without the prior written consent of University, provided that assignments by operation of law shall not require consent.
- 16.4 Partial Invalidity, Waiver and Severability. Any provision of this Contract which is found to be invalid or unenforceable shall be ineffective to the extent of such invalidity or unenforceability, and the invalidity or unenforceability of such provision shall not affect the validity or enforceability of the remaining provisions hereof. No waiver of any provisions of this Contract shall be deemed, or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. If any provision of this Contract becomes or is deemed to be invalid, illegal or unenforceable, the parties shall meet to discuss such provision. If such provision cannot be amended without materially altering the intention of the parties, it shall be deleted and the remainder of the Agreement and the related documents pursuant hereto shall remain in full force and effect. In the event of a conflict between the provisions in the body of the Agreement and any attachments, the provisions in the body of this Contract will control.
- 16.5 Notices. Any notice required to be given hereunder shall be deemed to have been given either when served personally, facsimile, or when sent by first class mail addressed to the parties at the addresses set forth in this Contract.
- 16.6 The parties signing this Contract warrant that he/she signs as duly authorized representative of his/her respective organizations.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed on their behalf by the undersigned as of the date first shown above.

EAB Global, Inc.

Adam Sutton
Signature

Adam Sutton
Typed/Printed Name

Revenue & Forecasting Manager
Title

10/15/14
Date

University of Maryland, Baltimore County

Elizabeth Moss
Signature

Elizabeth Moss

Exec. Director of Procurement & Strategic Sourcing

10/24/14
Date

EXHIBIT A

Scope of Services

Financial Aid Optimization
Fiscal Year 2020

I. Services Description

Financial Aid Optimization Analysis

- Services include the development of a database comprising the combined admissions and financial aid data EAB acquires from the University.
- From this database, EAB builds a descriptive analysis that illustrates the behavior of the admitted student cohort for the most recently recruited classes, as a group and by segments.
- The descriptive analysis provides a review of the composition of the admitted student cohort, by segment, and how such cohort responded to offers of grant aid.

The Price Optimization Model

- Services also include building a statistically-driven live simulation model.
- Built into the models is the capacity to simulate financial aid packages for individual students, including add-on or stacked awards.
- In addition to customizing award strategy, the model is capable of showing the results of admitting more or less students from individual cells, or "buckets," in Client's matrix.
- Client will also be able to manually adjust yield expectations by cell.

Monitoring

- As financial aid data starts coming in, EAB monitors the composition of Client's admitted student cohort and actual awards to inform potential mid-course adjustments. This monitoring process continues with the University's recruitment cycle.

Client's Financial Aid Services will begin in October 2019 and continue through August 2020.

II. Deliverables

The following deliverables for first-year students will be provided:

- Financial aid descriptive analysis by program
- Live simulation model
- Award simulation and aid policy development counsel
- Tactical counsel for implementation of the aid policy
- Monitoring of admits and awards

III. Fee

Fee, as set forth in Section 3.1.1, is inclusive of expenses associated with travel to campus.

IV. Payment Terms

November 2019, invoice \$22,000
January 2020, invoice \$22,000
March 2020, invoice \$18,000
June 2020, invoice \$10,500



Exhibit B

EAB GLOBAL, INC.
TERMS & CONDITIONS

1. GENERAL TERMS AND CONDITIONS

1.1. Fees. Fees ("Fees") are set forth in the Contract. EAB expressly acknowledges that Client is tax exempt.

1.2. Payment. EAB's obligation to furnish Deliverables (or to continue to furnish Deliverables) is conditioned on Client's timely payment of invoiced amounts. Late payment charges other than as prescribed by Title 15, Subtitle 1 of the State Finance and Procurement Article of the Annotated Code of Maryland are prohibited. In the event any invoice remains unpaid for thirty (30) days or more, EAB reserves the right to terminate this Contract or suspend the provision of any Deliverables until the account is brought current, provided that Client will have a 30 day cure period after receipt of written notice.

2. RESPONSIBILITIES

2.1. EAB Responsibilities. EAB agrees to furnish the Deliverables described in the Order Form. Any additional services shall be set forth in additional Order Form(s) signed by both Parties.

2.2. Client Responsibilities. Client shall provide EAB with all information and data reasonably required by EAB to perform services and furnish Deliverables to Client.

2.3. Financial Aid Processing. Client agrees to carry out, or cause to be carried out, the processing and awarding of all aspects of the financial aid process in compliance with federal regulations, including award acceptance and loan entrance counseling. Client will retain complete control of all aspects of awarding financial aid, including setting of budgets and disbursement schedules. It is understood and agreed that this Contract does not render EAB as a "Third Party Servicer" as that term is defined at 34 C.F.R. § 668.2 and EAB is not subject to the requirements of 34 C.F.R. § 668.23 or 34 C.F.R. § 668.25. Client shall not report or characterize EAB to the U.S. Department of Education or any regulatory agency as such, and EAB shall not undertake any work pursuant to this Contract inconsistent with this section.

3. TERM

3.1. Term. This Contract shall be in effect as of the Effective Date and, unless terminated as set forth herein, will continue until all Deliverables have been furnished pursuant to the Contract.

3.2. Termination for Breach. Either Party may terminate this Contract immediately upon written notice in the event that the other Party materially breaches the Contract and thereafter has failed to cure such breach (or to commence diligent efforts to cure such breach that are reasonably acceptable to the terminating Party) within sixty (60) days after receiving written notice thereof.

3.3. Upon Termination. Upon expiration or termination of this Contract, (a) Client will pay all outstanding invoices or amounts owing to EAB and (b) the following Sections will survive: 3.3, 4, 5, 6, 7 and 8.

4. PROPRIETARY RIGHTS

4.1. Client Data and IP. As between the Parties, Client will own all data provided to EAB under this Contract, including any

admissions and financial aid data Client provides to EAB ("Client Data"). Client will also own all right, title and interest in and to all other content and materials, including any copyrights, trademarks, service marks, data, and other intellectual property Client may provide to EAB in order to allow EAB to provide the services to Client under the terms of this Contract and the applicable Order Form ("Client Materials"). Client grants to EAB a worldwide, non-exclusive, right to store, reproduce, modify, perform, display, distribute and utilize the Client Data and Client Materials (a) to furnish the Deliverables under the terms of this Contract; (b) for internal tracking, reliability testing and product development research purposes; and (c) in an aggregated manner that does not identify Client for any lawful purpose in EAB's discretion. The rights granted in the foregoing clauses (b) and (c) shall be perpetual and shall survive any termination or expiration of this Contract.

4.2. Deliverables. EAB owns all right, title and interest in and to all Deliverables (excluding any Client Data and Client Materials therein), as well as all products and services, including all hardware, systems, software and other intellectual property EAB uses to provide services and furnish Deliverables hereunder. EAB grants to you a worldwide, perpetual, and non-exclusive right to store, reproduce, perform, display, and utilize the Deliverables for Client's internal business purposes; however, you may not (a) provide the Deliverables to any third party, or (b) modify, alter, reverse engineer, decompile, or disassemble the Deliverables to obtain or perceive any source code or algorithms.

4.3. Additional Programs. To the extent Client presently participates in more than one membership program or service offering or enrolls in or purchases additional membership programs or service offerings of EAB or its affiliates in the future ("Programs"), the data and materials that Client provides to EAB in connection with a particular Program may be combined with data provided by Client in connection with other Programs or otherwise used by EAB and its affiliates in connection with other Programs to provide services to Client pursuant to the Contract and other membership or services agreements between Client and EAB or its affiliates.

4.4. No Other Licenses. Except for the license and other rights granted to EAB under this Contract, EAB claims no ownership or control over, except as specifically provided herein, and shall have no liability with respect to, any Client Materials or Client Data.

5. WARRANTIES AND DISCLAIMERS

5.1. Limited Warranty. EAB warrants that the services to be provided under this Contract shall be performed in a professional manner conforming to generally accepted industry standards and practices.

5.2. Client Data Warranty. Client warrants that Client has or will have all necessary rights, and has obtained any necessary third party consents, authorizations or permissions required, to provide the Client Data and Client Materials to EAB for such Client Data and Client Materials to be used in the manner contemplated by this Contract.

5.3. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND DELIVERABLES

ARE PROVIDED "AS IS," AND EAB MAKES NO (AND HEREBY DISCLAIMS ALL) WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE CLIENT DATA AND CLIENT MATERIALS ARE PROVIDED "AS IS," AND CLIENT MAKES NO (AND HEREBY DISCLAIMS ALL) WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

6. LIMITATION OF LIABILITY

EXCEPT FOR THIRD PARTY CLAIMS OF VIOLATIONS OF PRIVACY OR OTHER LAWS COVERED BY ARTICLE 7.2, OR INDEMNIFICATION OBLIGATIONS, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE OR RESPONSIBLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, WHICH THE OTHER PARTY MAY INCUR, EXPERIENCE OR CLAIM (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF DATA, GOODWILL, PROFITS, USE OF MONEY OR USE OF DELIVERABLES, INTERRUPTION IN USE OR AVAILABILITY OF DATA, LOST BUSINESS, LOST OPPORTUNITY, WORK STOPPAGE OR OTHER IMPAIRMENT OF ASSETS) ARISING OUT OF ANY ALLEGED BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, ON ACCOUNT OF ENTERING INTO OR RELYING ON THIS AGREEMENT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR (A) THIRD PARTY CLAIMS OF VIOLATIONS OF PRIVACY OR OTHER LAWS COVERED BY ARTICLE 7.2, OR INDEMNIFICATION OBLIGATIONS, OR (B) CLIENT'S PAYMENT OBLIGATIONS, EITHER PARTIES' TOTAL LIABILITY FOR ANY CLAIM UNDER THIS AGREEMENT FROM ANY AND ALL CAUSES SHALL BE LIMITED TO AND SHALL NOT EXCEED THE AMOUNT OF FEES ACTUALLY PAID BY YOU TO EAB FOR THE DELIVERABLES AND/OR SERVICES RELATED TO SUCH CLAIM DURING THE ONE-YEAR PERIOD PRIOR TO THE CAUSE FOR SUCH CLAIM, REGARDLESS OF THE FORM IN WHICH ANY LEGAL OR EQUITABLE ACTIONS MAY BE BROUGHT, AND ANY SUCH DAMAGES SHALL CONSTITUTE YOUR SOLE AND EXCLUSIVE REMEDY.

7. CONFIDENTIALITY AND NONDISCLOSURE

7.1. Confidentiality. Except as required by law or as reasonably necessary in the performance of the services or as otherwise agreed to by Client, EAB will keep confidential any and all Client Data and Client Materials. Notwithstanding the foregoing, Client agrees that EAB shall not be obligated to maintain the confidentiality of Client Data or Client Materials that are known to EAB prior to receiving the Client Data or Client Materials from Client (pursuant to the Contract or any other agreement between EAB and Client) or that becomes known (independently of disclosure by Client) directly or indirectly from a source other than one having an obligation of confidentiality to Client. The Deliverables are confidential to EAB and its suppliers, if any. Thus, Client shall not disseminate to, or permit the use of, and shall take reasonable precautions to prevent such dissemination or use of, Deliverables by any of its personnel to any third party. In addition, except as required by law, Client shall not disclose the fees charged by EAB to Client to any third party, other than its personnel or professional services providers (e.g., accountants or legal counsel) who need to know such information in order to provide their respective professional services to Client and, in each case, are bound by confidentiality obligations to Client. Client

shall not remove from the Deliverables any confidential markings, copyright notices and other similar indicia therein.

7.2. FERPA. To the extent applicable, EAB agrees to abide by the applicable requirements of the Family Education Rights and Privacy Act ("FERPA") in using Client Data. EAB acknowledges and agrees that this Article 7.2 shall fully incorporate EAB's obligations set forth in the Consultant Services Contract with Client, Section 5.

8. MISCELLANEOUS

8.1. Publicity. EAB and its affiliates may publicly refer to Client, including on its and their website and in sales presentations, as an EAB client and may use Client's logo for such purposes. The publicity permission may be withdrawn at any time at the sole discretion of Client.

8.2. Force Majeure. EAB shall not be responsible for any delay or failure in performance of any part of this Contract to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes beyond its control. If any such an event of force majeure occurs, EAB shall provide Customer with written notice.

8.3. Independent Contractors. EAB's relationship to Client is that of an independent contractor, and neither Party is an agent or partner of the other. Nothing herein shall be deemed to establish a partnership, joint venture or agency relationship between the Parties. EAB shall have the right to use third parties, including, without limitation, its affiliates, in performance of its obligations and in providing the services and the Deliverables under this Contract, so long as the third parties are bound to substantially similar terms and conditions as this Contract.