

I. Historical - General



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October 15, 2012

Dr. Francisco Cigarroa
Chancellor
The University of Texas System
601 Colorado Street
Austin, TX 78701-2982
Email: fcigarroa@utsystem.edu

Re: Agreement between The University of Texas System (the "UT System") and edX

Dear Chancellor Cigarroa:

I am writing to memorialize the master agreement ("Master Agreement") between The University of Texas System (the "UT System") and edX Inc. ("edX") with respect to the UT System's participation in the operation of edX and the development and contribution of courses by the faculty of UT System institutions to the edX course offerings ("UTx" courses), the role of the UT System in the development of edX and its online course platform, and to set forth various additional principles that will guide our collaborative efforts in online education. This Master Agreement, effective as of October 15, 2012 (the "Effective Date"), should be read together with each schedule ("Schedule") the parties may execute under this Master Agreement, all subject to the terms of this Master Agreement.

1. **Shared Commitment.** EdX, and its founding partners Harvard University ("Harvard") and the Massachusetts Institute of Technology ("MIT"), share a commitment to excellence in online education and to the not-for-profit model of online and blended educational innovation, for the purpose of transforming education in quality, efficiency and scale through technology and research, for the benefit of campus-based students and the worldwide community of online and blended learners. The UT System shares this commitment, including specifically:
 - a. Adherence to excellence for individual courses. The rigor of the course on edX must match the rigor of a course fully on campus, including having the same primary professor.
 - b. The not-for-profit model.
 - c. Open Source Platform. The platform will be released under an open source license for the benefit of the worldwide educational community.
 - d. Open Source Content. Certain core courses will be licensed under an appropriate open license for educational use.
 - e. Blended On-Campus Learning. On-campus learning will improve through the use of online technologies.

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- f. **Research.** The data gathered from online courses will be used to analyze what works and what does not work in online education and to improve both online and on-campus education.
2. **The X University Consortium.** The UT System will join Harvard, MIT and the University of California at Berkeley in launching the X University Consortium (the "Consortium"). This Consortium will consist of members who will gather to share best practices in online and blended education and to provide a mechanism for collective conversations with edX. The Consortium will be the chief advisory committee for edX and the edX Board will reasonably consider the Consortium's input. EdX will use all reasonable efforts to cause, within 120 days from the Effective Date, the Consortium to meet and collaborate to build a set of by-laws and/or similar guidelines for its operation and governance. As a statewide system of education, the UT System will be entitled to designate three individuals to participate in the Consortium, whereas an individual university joining (not as part of a system) is entitled to one seat each. No member of edX that joins the Consortium in the future will receive more favorable representation in the Consortium, i.e. no more than three seats for a university system or one seat for an individual university joining by itself.
3. **Financial Arrangements.**
 - a. The UT System shall contribute up to \$10 million to edX as follows:
 - i. **Course development.** Up to \$5 million for development of high-quality online courses, to be paid on commencement of a course being offered, at the rate of \$250,000 per new course and \$100,000 per repeat course on the edX platform. In addition, edX plans to launch an "edge" platform to host pilot courses and modules developed by individual faculty members without assistance from edX (i.e. no content development, video production or project management services). Prices for these courses and modules will be determined before the launch of the platform.
 - ii. **Platform development.** \$5 million for development of the edX platform, to be paid within 10 business days of the Effective Date.
 - b. The UT System or the UT System institutions will receive 100% of gross revenues derived from the issuance of certificates of mastery of UTx courses and 100% of tuition revenue from registered students in the UT System. EdX will be entitled to net profits from agreements it enters into with third parties regarding, i.e. book sales on the site, proctoring services and any site-wide employee recruiting services. Details will be specified in the Revenue Schedule to be entered into under this Master Agreement.
 - c. **Most Favored Course Pricing.** EdX will afford to the UT System the benefit of any financial terms agreed by edX with any future X University (current X Universities being Harvard, MIT and the University of California, Berkeley) to provide individual courses on edX if such



financial terms are more favorable overall than those provided to the UT System herein. This paragraph applies only to the per course financial terms, and not the contribution to the edX platform.

4. Courses, etc.

- a. Working collaboratively with edX, the UT System institutions will provide free “massively open online courses” (MOOC’s) through the edX website that will reflect sound instructional design and active and collaborative learning, including, for example, embedded diagnostics, personalized adaptive learning tools and learning analytics. The parties’ standards for the courses, the respective duties of edX and the UT System institutions, and the timeline for course development will be set forth in the “Course Development Protocol” to be entered into as a Schedule under this Master Agreement. Once approved by edX, the UT System will retain the final veto right on any content provided on the edX platform under the UTx name.
 - b. In the X Course Offering Schedule, to be entered into as a Schedule under this Master Agreement, the UT System and edX will address UTx courses to be made available through edX, including, e.g., the basis for determining the number and nature of those courses. The first UTx courses will be launched in the Summer of 2013 and will be taught by faculty from The University of Texas at Austin. The courses for Summer 2013 and future courses, which will be offered by UT System institutions, including the health institutions, will be selected by mutual consent of edX and the UT System. The goal of the parties is to have at least four (4) UTx courses on the edX platform by Fall 2013.
 - c. An online learner who demonstrates mastery of the course subject for a UTx course will be eligible to receive a certificate acknowledging such mastery. The certificates will bear the name of the university offering the course followed by “X”, the edX name, and the name of the course. For example, the courses from The University of Texas at Austin will bear the name “UTAustinX”. The UT System institutions will designate a person (for example, dean of online education) or persons to sign the certificates. EdX will maintain the capacity to verify the authenticity of certificates. The UT System institutions must use the “edX” approved style of Certificates. EdX will supply the template certificate to the UT System at least sixty (60) days prior to the end of the first UTx course. The UT System agrees to put in place an internal approval process such that the form of certificate will be approved at least thirty (30) days prior to the end of the first UTx course.
 - d. The UT System institutions will in the future offer credit for courses in a manner to be determined solely by the UT System institutions.
 - e. EdX will offer training to the UT System personnel on the terms and conditions specified in the Training Schedule to be entered into under this Master Agreement.
5. Data. Subject to compliance with data privacy and other applicable laws, edX will own (or, if it may not legally own, will have the right to use to the fullest extent permitted by applicable law) (i) any registration data, such as the identity, contact information, and location of learners, collected from edX learners who register for UTx courses and (ii) any data derived from such learners’ participation



in UTx courses, such as data regarding learning methods, experiences, and outcomes (data within clauses (i) and/or (ii) being collectively "Learner Data"). Subject to compliance with data privacy and other applicable laws, during the term hereof, edX will grant to the UT System a limited, royalty-free, non-exclusive, worldwide license to use any Learner Data for scientific research, including research in the areas of cognitive science and education, for example, to evaluate the impact of edX on the worldwide educational community and to improve education on campus and online and to analyze statistics on student performance and how students learn. Any Learner Data shall be considered the Confidential Information of edX hereunder. Any transfer of FERPA data will be governed by the terms of the Data Transfer Schedule to be entered into pursuant to this Master Agreement. However, while nothing herein requires the transfer of FERPA data, the parties anticipate the transfer of de-identified data as appropriate. Nothing herein is meant to be a transfer by the UT System of data that may be owned by individual UTx students.

6. Intellectual Property.

- a. Ownership of Course Content. The intellectual property rights in the course content for UTx courses will be as follows:
 - i. All right, title and interest in content created by the UT System or its faculty will remain with the UT System or its faculty.
 - ii. As between the UT System and edX, course improvements, such as translations, captioning, or video annotations produced in response to accessibility requests will be owned by the UT System.
 - iii. To the extent that there is a creative contribution by edX or another university, the course content will be jointly owned by the contributing parties.
- b. Licensing of Course Content.
 - i. The UT System will grant to edX a limited non-transferable, sublicensable, royalty-free, fully-paid up, worldwide, non-exclusive license to the content and content improvements for use on the edX platform. The foregoing license shall apply to any such content during the term of participation by the UT System in edX and for three years following any termination of such participation on a limited basis. Thereafter, materials shall be available to edX for archive/historical purpose (i.e. not for use in active courses, but may continue to be made available to the public for reference purposes). The content license will be executed as a Schedule to this Master Agreement.
 - ii. The UT System agrees that it will license certain courses on the edX platform, including its courses for Summer and Fall 2013, under either (i) an open license no more restrictive than the Creative Commons' Attribution-NonCommercial-ShareAlike license (CC BY-NC-SA) or (ii) the most restrictive license established by either Harvard or MIT. The UT System may offer future courses under more restrictive licenses, provided that both the UT System and edX agree in advance.
- c. Ownership of Platform. All right, title and interest to the platform, and all updates, modifications, enhancements, improvements or upgrades by the UT System or others



will be owned by edX. The platform will be released under an open source license, at a time to be determined by edX. Prior to the release of platform open source, edX grants the UT System a license to use the platform for the purposes of carrying out its obligations under this Master Agreement.

- d. **Trademarks.** A license agreement for the use of UT marks and logos will be executed as a Schedule to this Master Agreement.

7. **Non-Infringement.**

- a. **Content.** The UT System will be responsible for ensuring that all content (including third party content contained in UTx courses) provided by the UT System or its instructors to edX may be used and made available via the edX platform and/or edX.org website without infringing or violating any copyright or other intellectual property rights of any third party. EdX may take down content that is the subject of an actual or reasonably anticipated claim by a third party and subject to the requirements of the Texas Constitution, the UT System will indemnify and hold edX harmless for any such claim.
- b. **Platform.** The UT System will be responsible for ensuring that all source code (including third party code) contributed to the edX platform by the UT System or its representatives may be used and made available via edX without violating any copyright or other intellectual property rights of any third party. EdX may delete any code that is the subject of an actual or reasonably anticipated claim by a third party and, subject to the requirements of the Texas Constitution, the UT System will indemnify and hold edX harmless for any such claim.

8. **Faculty/Participant Release.** The UT System will require and obtain from all of its faculty or other instructors providing course content for the edX platform an applicable license and release to enable to the university to grant the licenses set forth in Section 6(b). In addition, to the extent any other persons participate in the course, the UT System will require and obtain from such participants a suitable license and release to enable the university to grant the licenses set forth in Section 6(b).

9. **Compliance with Laws.** Each of the UT System and edX shall comply with all applicable federal and state laws in connection with its activities hereunder, including without limitation laws pertaining to data privacy, privacy of educational records, accessibility and laws governing Title IV eligible institutions.

10. **Preference for edX.** During the three-year period commencing on the Effective Date, the UT System will promote edX to UT System institution faculty as the preferred platform of choice for delivery of online courses by UT System institution faculty, will provide incentives that are reasonable and appropriate within the context of the UT System to the faculty of the UT System institutions to provide courses to edX, and will not as an institution enter into a collaboration or similar agreement with, provide significant institutional resources to, or permit or allow its names, trademarks, logos



or insignia to be used in connection with an online learning endeavor offering courses that is anticipated to compete with edX specifically in field of Massively Open Online Courses ("MOOCs"). In the prior sentence, the phrase "as an institution" is intended to mean actions of the administration of the UT System in general or the central administrations of each of the nine UT System universities and six health institutions but not necessarily constrain individual faculty, departments, labs, or centers. Notwithstanding the foregoing, continued support by the UT System for distance education endeavors or other online courses which are currently provided by the UT System (or those announced as being available in the upcoming 2012-13 academic year) shall be "grandfathered" and not required to be terminated as a result of the foregoing commitment by the UT System.

11. Publicity. The parties will coordinate to make a press announcement regarding UT System's participation in edX to occur on the date the UT System Board of Regents approves this Master Agreement (but not later than October 15th). Neither edX nor the UT System will make any press or media announcements concerning this letter agreement or use the other's names, trademarks, logos, or insignia, or any version, abbreviation or representation of them, in any advertising, publicity, promotional materials or other public announcement without the prior written consent of the other.
12. Linking. The UT System and each of the nine academic universities six health institutions in the UT System will provide a link to the edX website from their homepages, in a form mutually agreed to by the parties.
13. Term and Termination.
 - a. The term of this Master Agreement will commence as of the Effective Date and will continue until terminated pursuant to Section 13b.
 - b. This Agreement may be terminated:
 - i. Upon the mutual written agreement of the parties; or
 - ii. After the 3-year anniversary of the Effective Date by the UT System upon written notice to edX, provided, however, that all sums paid to edX on or prior to the date of termination shall not be refunded. If the UT System continues as an X University after its \$5 million commitment for individual courses has been expended on courses, the UT System will enter into a Schedule for payment terms and fees for future courses.
14. Upon termination of this Agreement, any terms of this Agreement that by their nature extend beyond the termination of this Agreement, including, without limitation, the terms of Sections 5, 6, 7, 15 and 16 will continue in full force and effect.
15. Confidentiality. Subject to UT System's obligations under the Texas Public Information Act, the parties each agree to keep confidential (and not use other than for the purposes of this Letter

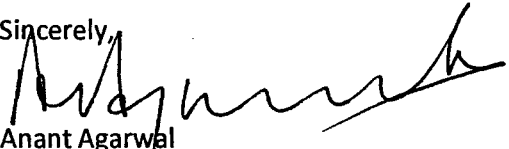
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Agreement) information which is identified by the disclosing party as proprietary; provided, the foregoing is not intended to limit the obligation of the parties to provide open source licenses to materials as identified in paragraph 6. Further, this obligation shall not apply (i) to materials the recipient already knows, receives from a third party without any obligation of confidentiality, or independently develops or (ii) to the extent required to be disclosed by law. Personally identifiable information and student educational records shall be maintained in confidence as required by law.

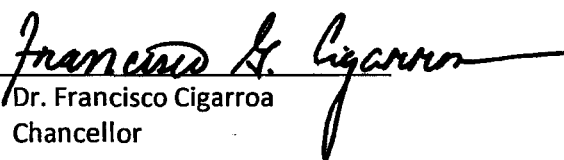
16. Other. Except as provided in paragraph 7, neither party nor any affiliate (nor any faculty member, trustee, officer, director, employee or agent of any of them) will be liable to the other for any indirect, special, incidental, or consequential damages sustained or incurred in connection with this agreement and the services that are subject to this agreement, regardless of the form of action and whether or not such damages are foreseeable. The parties are acting hereunder as independent contractors and this letter agreement shall not be construed as any authority for either party to act for the other party in any agency, joint venture or other capacity, or to make commitments of any kind for the account of or on the behalf of the other. This letter agreement is the entire agreement between the parties as to the matters hereunder and there are no other contracts, express or implied. This letter agreement may be amended or modified only by a writing signed by each party.

If the foregoing accurately reflects the shared understanding of edX and the UT System, please sign where indicated below. Speaking for edX and its founding X Universities, I am enormously pleased, excited, and honored by the addition of the UT System to edX. We look forward to changing the world together.

Sincerely,

Anant Agarwal
President, edX

Agreed:

University of Texas System

By: 
Dr. Francisco Cigarroa
Chancellor

Date: 10-19-12

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Schedule A – Revenue

Pursuant to the Section 3(b) of the Master Agreement, the parties agree as follows:

[To be negotiated in good faith following the Effective Date.]



Schedule B – Course Development Protocol

Pursuant to Section 4(a) of the Master Agreement, the parties agree as follows:

[To be negotiated in good faith following the Effective Date.]



Schedule C – X Course Offering Schedule

Pursuant to Section 4(b) of the Master Agreement, the parties agree as follows:

[To be negotiated in good faith following the Effective Date.]



Schedule D – Course Development Training

Pursuant to Section 4(e) of the Master Agreement, the parties agree as follows:

[To be negotiated in good faith following the Effective Date.]



Schedule E – Data Transfer

Pursuant to Section 5 of the Master Agreement

[To be negotiated in good faith following the Effective Date.]



Schedule F -- Course Content License
Pursuant to Section 6(b) of the Master Agreement

[To be negotiated in good faith following the Effective Date.]



Schedule G – Trademark License

Pursuant to Section 6(d) of the Master Agreement, the UT Texas System grants edX the following rights in its trademarks:

[To be negotiated in good faith following the Effective Date.]