



EXECUTIVE SUMMARY

Pursuant to Broward College Policy 6Hx2-1.14 and Procedure A6Hx2-1.14, Dr. Donald Astrab exercised the authority delegated by the Board to execute the non-standard agreement and renewal with CareerAmerica, LLC dba Ocelot, featuring FATV to provide students with informational videos about financial aid on the College's website. Fiscal Impact: \$14,157.00 (cumulative \$139,113.00)

Presenter(s): Janice Stubbs, Vice President of Student Services

What is the purpose of this contract and why is it needed? CareerAmerica, LLC DBA Ocelot is a virtual platform with a library of videos that includes a wide array of financial aid topics available for BC Students to access at their convenience. The top five most viewed videos for Broward College students are How to receive your refund?, Applying for financial aid, Do I have to reapply to financial aid every year?, How to clear red flags?, and What does SAP stand for? In the most recent February 2024 report, year over year usage increased by 13%. This platform to assist students with obtaining financial aid information has been used by Broward College since 2015.

What procurement process or bid waiver was used and why? Bid waiver exemption per FLDOE Rule 6A-14.0734(2)(g) and College Procedure A6Hx2-6.34 for information technology resources defined as all forms of technology used to create, process, store, transmit, exchange and used information in various forms of voice, video and data, and shall also include the personnel costs and contracts that provide direct information technology support consistent with each individual college's information technology plan.

Is this a budgeted expenditure from the budget established at the last June Board of Trustees meeting?
Yes.

What fund, cost center and line item(s) were used? CC0128, FD100, 64500.

Has Broward College used this vendor before for these products or services? Yes.

Was the product or service acceptable in the past? Yes.

Was there a return on investment anticipated when entering this contract? Yes.

Was that return on investment not met, met, or exceeded and how? The soft ROI is that our students are able to get their questions answered at their convenience regarding financial aid. A more educated student body results in increased enrollment and persistence.

Does this directly or indirectly feed one of the Social Enterprise tactics and how? It feeds financial security by providing videos for students to watch on topics related to financial aid.

Did the vendor amend Broward College's legal terms and conditions [to be answered by the Legal Office] if the College's standard contract was used and was this acceptable to the Legal Office?

The General Counsel's office has reviewed the agreement and any deviation to the College's standard terms has been deemed acceptable.

FISCAL IMPACT:

Board Item

Meeting of August 20, 2024

Description: Estimated \$14,157.00 from CC0128, BU301, FD201, PG000174 for a one year contrat.

05/14/24

CC0128 · Financial Aid Support

(\$14,157.00)

Janice Stubbs

Janice Stubbs, Vice President of Student Services

4/29/2024

APPROVAL PATH: 12067 CareerAmerica LLC dba Ocelot - FY2024-2025 - Virtual Platform

 **Workflow**

 Edit View

 Add Work Item

Stage	Reviewer	Description	Due Date	Status
1	Tara Jones	AVP Review		Completed
2	Janice Stubbs	VP Review		Completed
3	Alina Gonzalez	Review		Completed
4	Raj Mettai	Review		Completed
5	Natalia Triana-Aristizabal	Contracts Coordinator		Completed
6	Zaida Riollano	Procurement Approval		Completed
7	Christine Sims	Budget Departmental Review		Completed
8	Rabia Azhar	CFO Review		Completed
9	Legal Services Review Group	Review and Approval for Form and		Completed
10	Electronic Signature(s)	Signatures obtained via DocuSig		Completed
11	Natalia Triana-Aristizabal	Contracts Coordinator		Completed
12	Board Clerk	Agenda Preparation		Completed
13	District Board of Trustees	Meeting	08/20/24 08:30 AM	Pending



ORDER FORM #00004826

ORDER FORM			
Customer:	<u>The District Board of Trustees of Broward College, Florida</u>		
Contact Name:	Karol Cowan		
Contact Email:	ksanchez@broward.edu		
Billing Address:	111 East Las Olas Blvd, Fort Lauderdale, FL, 33301		
Billing Point of Contact:			
Billing Email:			
Billing Phone Number:			
Prepared By:	Max Shure		
Preparer's Email:	max.shure@ocelotbot.com		
Effective Date:	8/1/2024		
Initial Term:	1 year		
Service Term:	8/1/2024 - 7/31/2025		
Payment Terms:	Year 1: \$14,157 due 8/1/24 (service from 8/1/24-7/31/25)		
Item	Description	Unit Amount	Item Total
GetAnswers: VALUE Service	Online financial aid video service	\$14,157.00	\$14,157.00
Agreement Total			\$14,157.00

1 year renewal for the GetAnswers video portal.

Scope of services and coverage are specific as outlined above. Scope does not include additional entities, schools, campuses, grad programs, professional schools, or affiliate organizations unless otherwise specified.

For an Order with an Initial Term greater than twelve months, Ocelot shall have the right to increase the Fee at the annual anniversary of the Service Term start date in an amount equal to the greater of (i) the Consumer Price Index in the prior twelve-month period and (ii) 6%.






This Order Form is subject to the Master Services Agreement (the “MSA”). If there is any conflict or ambiguity between the terms of this Order Form and the MSA, the terms contained in this Order Form shall have priority over the MSA.

The District Board of Trustees of Broward College, Florida

CAREERAMERICA, LLC dba OCELOT

DocuSigned by:

8DD41D98CFDA4F4
Name: Donald Astrab
Title: Interim President
Date: 8/1/2024


Name: Ross P Thompson
Title: Chief Financial Officer
Date: 7/11/2024





MASTER SERVICES AGREEMENT

This Master Services Agreement (this “**Agreement**”) is entered into between CareerAmerica, LLC dba Ocelot (“**Ocelot**”) and The District Board of Trustees of Broward College, Florida (“**Customer**”) and is effective as of the Effective Date set forth in the Order Form executed by Ocelot and Customer. This Agreement sets forth the agreed terms and conditions which govern and control Ocelot’s delivery and Customer’s use of the Services (as defined below). Ocelot and Customer are collectively referred to as “**Parties**” and individually as “**Party**”. In the event of any conflict between this Agreement and the Order Form, the terms of the Order Form shall prevail.

For and in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Customer and Ocelot hereby agree as follows:

1. Definitions

- a. “**Customer Data**” means, in connection with Customer’s use of Services, all personal data or information provided by Customer, an End User on Customer’s behalf or otherwise provided to Ocelot for performance of Services, as well as any information derived from such information.
- b. “**Documentation**” means all available technical and functional specifications and other such information as may be available and reasonably necessary for the effective use of the Services in Customer’s operating environment, including the effective configuration, integration, and systems administration of the Services, and the operations and the performance thereof.
- c. “**Downtime**” means the number of minutes in a calendar month where the Ocelot Platform are not being distributed or the Ocelot Platform server is down; provided, however, that the following events shall not be included in the calculation of Downtime: (i) a Force Majeure Event and (ii) up to 8 hours per month of scheduled maintenance within a calendar month (the “**Maintenance Limit**”) with respect to the Ocelot Platform and/or the Services (“**Scheduled Maintenance**”).
- d. “**End User**” means a person who accesses the Ocelot Platform, including Customer and Customer’s faculty, staff, students and their family members and/or guardians, website visitors, and prospective students and their family members and/or guardians.
- e. “**Force Majeure Event**” means any event which is beyond the reasonable control of a Party, including but not limited to acts of war, natural disasters, acts of terrorism, epidemics or pandemics, government restrictions, interruptions by third party providers, or other similar emergency conditions.
- f. “**Ocelot Platform**” means the software products owned or licensed by Ocelot to which Ocelot grants Customer access as part of the Services and associated Documentation.
- g. “**Order Form**” means the fully executed ordering document which is made a part of this Agreement and which sets forth the detail of pricing and specific Services purchased by Customer.
- h. “**Services**” means the product identified on the Order Form, the Ocelot Platform (including any upgrades, modified or subsequent versions and updates), Documentation, and any other





services or products to be delivered by Ocelot (including but not limited to training and videos related to the Ocelot Platform and/or Documentation).

- i. **“Initial Term”** shall mean the Initial Term as set forth in the Order Form.
- j. **“Uptime”** shall mean the total number of minutes in a calendar month less the Downtime in such calendar month, divided by the total number of minutes in the calendar month.

2. Services

- a. Subject to the terms and conditions of this Agreement, Ocelot hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable, non-assignable, limited right to access and use the Services in accordance with this Agreement and the terms of all applicable Order Forms.
- b. Ocelot shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions, with an Uptime goal of 99%. Scheduled Maintenance shall be conducted either (i) between the hours of 12:00 AM (ET) and 6:00 AM (ET) or (ii) at any time after supplying Customer with three (3) days advance notice (the **“Maintenance Windows”**). Any Scheduled Maintenance conducted in excess of the Maintenance Limit or outside of the Maintenance Windows shall be included in the calculation of Downtime. Customer will promptly notify Ocelot of any failure to receive the Services, whereupon Ocelot will evaluate such failure to determine whether it qualifies as Downtime. If Downtime for a given month is greater than 1%, Customer shall be given an extension of the Agreement in the amount of Downtime exceeding 1% (a **“Service Extension Credit”**). The Service Extension Credit is Customer’s sole and exclusive remedy for Downtime. To request a Service Extension Credit, Customer must notify Ocelot in writing within thirty (30) days after the end of the month in which Downtime exceeded 1%.
- c. Ocelot may, in its sole discretion, make any changes to the Ocelot Platform that it deems necessary or useful to comply with applicable law or maintain or enhance: (i) the quality or delivery of the Services, (ii) the competitive strength of, or market for, the Services, or (iii) the cost efficiency or performance of the Ocelot Platform.
- d. Customer is permitted to “white label” the Ocelot Platform. Customer shall be solely liable for any intellectual property violations with respect to any name, avatar, or other branding used in connection with Customer white-labeling the Ocelot Platform.
- e. The Parties may add or change the Services by executing an Addendum in the form attached hereto as Exhibit A. Except for the updated Services provided in the Addendum, the terms of this Agreement and the Order Form shall govern.

3. Customer Obligations and Restrictions

- a. Customer shall promptly provide Ocelot and its agents, subcontractors, consultants, and employees such information, data, and access to facilities and systems as reasonably required to implement the Services.
- b. Customer shall not (i) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source-code, object-code or underlying structure, ideas, know-how or algorithms relevant to the Services or the Ocelot Platform; (ii) modify, translate, or create derivative works based on the Services (except to the extent expressly permitted by Ocelot in writing or authorized within the Services); or (iii) sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services to any third party (other than End Users).





- c. Customer is responsible to select the Services appropriate for its own business needs and for the accuracy, quality and content of all Customer Data. Customer is responsible to maintain sufficient safeguards designed to prevent access to or use of the Services other than by Customer and End Users and to promptly notify Ocelot of any unauthorized access or use of the Services. Customer shall use the Services in compliance with all applicable laws and regulations. Customer represents that it is in compliance with all applicable laws regarding this Agreement and that Customer and End Users have a continuing obligation to maintain all necessary rights and consents to disclose Customer Data to Ocelot and to allow Ocelot to provide the Services. Customer is responsible for any and all acts and omissions by any End User. If any act or omission by an End User would be a material breach of this Agreement if the same occurred by Customer, then such act or omission constitutes a material breach of this Agreement by Customer.
4. Intellectual Property Rights. Except as otherwise expressly provided in this Agreement, Ocelot reserves and retains its entire right, title, and interest in and to all intellectual property rights (as that term is broadly defined) arising out of or relating to the Services, including but not limited to the Documentation and all inventions, discoveries, technical communications, intellectual property, and records originated or prepared by Ocelot pursuant to this Agreement. No Customer or End User acquires or will claim any right, title or interest in intellectual property rights or ownership of the Services. Ocelot shall not acquire or claim any right, title, or interest in any Customer Data except solely as and to the extent necessary to perform the Services. Notwithstanding any other provision of this Agreement, Customer grants to Ocelot a worldwide, perpetual, irrevocable, royalty-free, transferable, sublicensable license to collect Customer Data and other information relating to the provision, use and performance of the Services, in aggregate or other de-identified or anonymized forms, and to analyze and use such aggregated, de-identified or anonymized Customer Data and other information to improve and enhance the Services.
5. Confidentiality.
 - a. Customer agrees, without limitation, that the terms of this Agreement and Ocelot's prices, discounts, and proposals are confidential, and Customer agrees to hold this Agreement and such information in confidence and not to disclose this Agreement or such information to any third persons. Customer acknowledges and agrees that any feedback, suggestions, comments, improvements, modifications and other information (including any ideas, concepts, "know-how" or techniques contained therein) that Customer provides to Ocelot about its products or services or their performance (collectively, the "**Feedback**") may be used, disclosed, disseminated or published by Ocelot for any purpose, including developing, manufacturing and marketing products and services incorporating Feedback, without obligation of any kind to Customer, and Customer waives any rights whatsoever in or to all Feedback.
 - b. Ocelot agrees to protect all confidential and proprietary information of Customer using the same level of care it takes to protect its own information of a similar nature, but in no event less than reasonable care.
 - c. If one Party is required by law to disclose confidential information of the other Party, then the disclosing Party shall, to the extent legally permissible and reasonably practicable, promptly notify the other Party in writing of such requirement prior to disclosure such that the other





Party may seek a protective order. In the event of required disclosure, the disclosing Party may only disclose that information that is required to be disclosed.

6. Data Protection; Security Incidents. Ocelot shall maintain administrative, technical, physical, and other safeguards designed to protect Customer Data. Ocelot shall access, modify, and use the Customer Data solely to the extent necessary to provide the Services. Ocelot shall maintain a SOC 2, Type II certification. If Ocelot processes any Customer Data on Customer's behalf in performing the Services, Customer shall be the data controller and Ocelot shall be a data processor for purposes of applicable data protection and privacy legislation in force from time to time ("**Data Protection Laws**"). Both Parties will comply with all applicable requirements of Data Protection Laws. Ocelot shall: (i) use Customer Data only in accordance with this Agreement and the documented instructions of Customer given from time to time; (ii) only permit Customer Data to be processed by persons who are bound by obligations of confidentiality; (iii) protect Customer Data against unauthorized or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure; and (iv) notify Customer within seventy-two (72) hours after becoming aware that it has suffered a material security breach or other event where there is a material loss, theft, unauthorized access, acquisition, use, disclosure, alteration, or destruction of Customer Data within Ocelot's possession or control (a "**Security Incident**"). Ocelot shall investigate any Security Incident and shall provide Customer with detailed information about the Security Incident to the extent reasonable possible and to the extent known. Ocelot shall take all reasonable steps within its systems to mitigate the effects of the Security Incident. Ocelot will use commercially reasonable efforts to provide Customer with the information needed for Customer to fulfil any obligations under applicable laws to notify its regulators and data subjects of the Security Incident. Ocelot agrees to cooperate with Customer in investigating, recovering, and regaining possession of any of the lost Customer Data as a result of the Security Incident.
7. Fees and Payment
 - a. Customer agrees to pay Ocelot the fees described in the Order Form after receiving the applicable invoice or notice of fees due. First year invoices are issued on the Signature Date and are due on the service term start date. Subsequent year invoices are due on the anniversary of the service term start date and may be sent up to ninety (90) days in advance. After the Initial Term and at the beginning of each Renewal Term, the fees for such upcoming Renewal Term may be revised to reflect Ocelot's then-current fees for the Services. Any changes to the fees for a Renewal Term will be communicated to Customer at least thirty (30) days prior to the Renewal Term. All fees will be paid in US Dollars, unless otherwise provided in the applicable Order Form.
 - b. Customer shall be responsible for and agrees to pay all applicable taxes, including federal, state, local, national, or regional taxes, which may include sales, use, privilege, or any other applicable taxes associated with the Services. If Customer considers themselves exempt from applicable taxes, Customer shall provide Ocelot with documentation supporting such tax-exempt status.
 - c. If Customer fails to make payment within thirty (30) days of the payment due date, Ocelot reserves the right to immediately suspend the Services and an interest of 24% per annum shall be applicable on the outstanding amount from such date up to the date payment is received.





- d. Not more than once in a twelve-month period, Ocelot may audit Customer's use of the Services to ensure Customer is not in violation of this Agreement. If Customer is in violation of this Agreement, Ocelot reserves the right to (i) raise the fees commensurate with Customer's actual use or enrollment size and (ii) invoice Customer for any overages, with such amounts being due immediately upon receipt of invoice.
- e. Payments shall be remitted to CareerAmerica, LLC through ACH Delivery, Wire Transfers, or Check as specified on the invoice.

8. Term and Termination

- a. Except as otherwise set forth on the Order Form and unless earlier terminated as set forth herein, this Agreement is effective from the Effective Date through the Initial Term set forth on the Order Form, and the Parties may mutually agree in writing to renewal for subsequent periods (each, a "**Renewal Term**" and together with the Initial Term, the "**Term**").
- b. This Agreement may be terminated, in whole or in part, by written notice to the other Party as follows: (i) for a material breach that remains uncured after thirty (30) days following the receipt of a written notice, which shall include a detailed description of the alleged breach; and (ii) if the other Party becomes insolvent or bankrupt, liquidated, or is dissolved, or ceases substantially all of its business.
- c. Ocelot has the right to promptly suspend Services to Customer and this Agreement if (i) Ocelot does not receive payment from the Customer thirty (30) days past the due date of any invoice, and all such past-due amounts will become promptly due or (ii) Customer is in material breach of Section 3 and Section 5; provided that Ocelot shall provide at least thirty (30) days' notice before suspending the Services for non-payment.
- d. Upon any termination or expiration of this Agreement, you must cease use of the Services and destroy all copies of the Documentation.

9. Warranty and Disclaimer. Ocelot does not warrant, guarantee, or otherwise assume responsibility for any service offered by a third party that interfaces with the Services. The Services are provided on an "AS IS" basis without warranty of any kind. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, OCELOT DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR INFRINGEMENT OR ANY WARRANTY FROM USAGE OF TRADE, COURSE OF PERFORMANCE OR COURSE OF DEALING. Ocelot strives to make sure its Service is free from interruption; however, we make no guarantees that it will be error-free.

10. Limitation of Liability. **UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL EITHER PARTY, OR ITS AUTHORIZED PARTNERS OR SUPPLIERS, BE LIABLE TO EACH OTHER OR TO ANY OTHER PERSON FOR LOSS OF PROFITS, LOSS OF GOODWILL, OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR DAMAGES FOR GROSS NEGLIGENCE OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR FOR ANY OTHER DAMAGE OR LOSS, EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL OCELOT, OR ITS AUTHORIZED PARTNERS, BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE TWELVE (12) MONTHS PRECEDING THE INCIDENT GIVING RISE TO SUCH DAMAGES. THE FOREGOING SHALL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS FOR SERVICES RENDERED HEREUNDER.**





11. Indemnification.

- a. By Ocelot. Ocelot shall defend and hold harmless Customer from and against any losses, damages, costs (including all reasonable legal fees) and expenses incurred by or awarded against Customer as a result of, or in connection with, any claim or action that use of the Services infringes the intellectual property rights of a third party ("**Claim**"). If any third party makes a Claim, or notifies Customer of an intention to make a Claim against Customer, Customer shall: (i) as soon as reasonably practicable, give written notice of the Claim to Ocelot, specifying the nature of the Claim in reasonable detail; (ii) give Ocelot sole authority and conduct of the Claim; (iii) not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of Ocelot; and (iv) provide Ocelot and its professional advisers with all reasonable cooperation to Ocelot in the defense and settlement of such claim, at Ocelot's expense. If any Claim is made, or in Ocelot's reasonable opinion is likely to be made, against Customer, Ocelot may, at its sole option and expense: (x) procure for Customer the right to continue using the Services (or any part thereof) in accordance with the terms of this Agreement; (y) modify the Services so that it ceases to be infringing; or (z) if such remedies are not reasonably available, terminate this Agreement on five (5) days' notice to Customer and Ocelot shall repay to Customer all sums which Customer has paid to Ocelot for the infringing part. In no event shall Ocelot, its employees, agents and subcontractors be liable to Customer to the extent that any Claim is based on: (a) a modification to the Ocelot Platform by anyone other than Ocelot; (b) Customer's (or any End User's) use of the Services in a manner inconsistent with the terms of this Agreement or the permitted use; (c) any feature of bespoke development which was specified by Customer in connection with the Services; and/or (d) Customer's (or any End User's) use of the Services after notice of the alleged or actual infringement from Ocelot or any appropriate authority. The foregoing states Customer's sole and exclusive rights and remedies, and Ocelot's (including Ocelot's employees', agents' and subcontractors') entire obligations and liability for infringement of any intellectual property rights.
- b. By Customer. Customer will defend Ocelot, including its directors, officers, employees, and affiliates, from an against any losses, damages, costs (including all reasonable legal fees) and expenses incurred or awarded against Ocelot as a result of, or in connection with, any claim or action asserted by a third party arising from or based on: (i) a breach by Customer of its obligations under this Agreement; and (ii) access and use of Services by Customer or its End Users in a manner that is contradictory to this Agreement and applicable law. Nothing contained herein will be construed or interpreted as (1) denying to Customer any remedy or defense available under the law to Customer or its agents and agencies, including any defense against being sued by reason hereon; (2) the consent of Customer or its agents and agencies to be sued by reason hereon; or (3) a waiver of sovereign immunity beyond the waiver set forth in Section 768.28, Florida Statutes.

12. Miscellaneous

- a. Insurance. Ocelot shall, at its own expense, carry and maintain during the Term of this Agreement commercial general liability insurance and cyber insurance consistent with industry standards.
- b. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency,





partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

- c. Publicity. Ocelot may use Customer's name or logo on its website and/or marketing materials. Customer may use Ocelot's logo on its website and/or any marketing materials with the prior written consent of Ocelot.
- d. Entire Agreement; Amendments. This Agreement, along with the Order Form(s) and Addendum(s) (including the Broward College Supplemental Addendum -Software attached hereto), constitutes the entire understanding between the Parties in relation to the subject matter contained herein and supersedes all prior or contemporaneous negotiations, discussions or agreements and may only be amended or modified by a written document signed by an authorized representative of both Parties. No other terms or conditions stated in any purchase order issued in connection with the transactions contemplated herein shall be binding on either party unless expressly incorporated into this Agreement in a document signed by an authorized representative of both Parties.
- e. Severability; Survival. If any of the provisions of this Agreement is found to be invalid or unenforceable, such provision shall not invalidate or affect the other provisions of this Agreement and such other provisions of this Agreement shall remain valid and enforceable. Any provisions, rights or obligations in this Agreement that, by its nature, should survive termination, shall survive any termination of this Agreement.
- f. Dispute Resolution. If there is any controversy, dispute or claim arising out of or relating to this Agreement, the Parties shall endeavor to settle it promptly, in good faith. If the dispute cannot be resolved, then the Parties shall promptly initiate and participate in good faith mediation of the dispute, with the mediator to be selected jointly by the Parties. If the dispute is not resolved through mediation, the Parties shall promptly submit such dispute to binding arbitration, with one arbitrator to be jointly selected by the Parties.
- g. Waiver. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in writing signed by a duly authorized representative on behalf of the Party claimed to have waived.
- h. Governing Law. This Agreement shall be governed and construed in accordance with the laws of Florida, without regard to its conflict of law provisions.
- i. Notices. All notices, requests, demands and other communications given or made in accordance with the provisions of this Agreement shall be in writing and personally delivered, mailed by first-class registered or certified mail (return receipt requested and postage prepaid), sent by courier, or sent by electronic mail (except notice of breach or of termination is not effective when sent solely electronically) and addressed as follows:

If to Ocelot:

CareerAmerica, LLC dba Ocelot
Attn: Ross Thompson, CFO
1401 21st St, Ste 4740
Sacramento, CA 95811
ross.thompson@ocelotbot.com





If to Customer:

The address and contact information set forth on the Order Form

Either Party may change its notice information by providing written notice to the other of the updated information

- j. Assignment. Customer may not assign or otherwise transfer (by operation of law or otherwise) this Agreement or their rights or obligations hereunder to any third party without Ocelot's prior written consent.
- k. Third Parties. Except as expressly provided herein, nothing in this Agreement, express or implied, shall create or confer upon any person or entity not a named party to this Agreement any legal or equitable rights, remedies, liabilities or claims with respect to this Agreement.

[Signature page follows.]





IN WITNESS WHEREOF, Customer and Ocelot, each through its duly authorized representative, hereby agree to the provisions of this Agreement.

CAREERAMERICA, LLC dba OCELOT



Name: Ross P Thompson

Title: Chief Financial Officer

The District Board of Trustees of Broward College,

Florida

DocuSigned by:


Name: Donald Astrab

Title: Interim President





Exhibit A

ADDENDUM ##### to Contract #####

ADDENDUM		
Customer:		
Contact Name:		
Contact Email:		
Billing Address:		
Billing Point of Contact:		
Billing Email:		
Billing Phone Number:		
Prepared By:		
Preparer's Email:		
Effective Date:		
Service Term:		
Payment Terms:		
Item	Description	Unit Amount
[Product]		
	Annual Fee	\$

This Addendum is subject to the Master Services Agreement, between Ocelot and Customer (the “MSA”) and the Order Form effective as of between Ocelot and Customer (the “Order Form” and together with the MSA, the “Agreement”). If there is any conflict or ambiguity between the terms of this Addendum, the MSA, and the Order Form, priority shall be given to the contract documents in the following order of precedence: (1) this Addendum, (2) the Order Form, and (3) the MSA; provided, however, that any fee increases shall be subject to the Order Form and the MSA.





Scope of services and coverage are specific as outlined above. Scope does not include additional entities, schools, campuses, grad programs, professional schools, or affiliate organizations unless otherwise specified.

The term of this Addendum shall be the same as the Term of the Agreement, as defined therein. Customer will be invoiced the Annual Fee at a pro-rated amount based on the time remaining in the current twelve-month period of the Term. Ocelot reserves the right to increase the Annual Fee for subsequent invoices pursuant to and subject to the terms of the Order Form and the MSA.

[CUSTOMER]

CAREERAMERICA, LLC dba OCELOT

Name:
Title:
Date:

Name:
Title:
Date:



**BROWARD COLLEGE
SUPPLEMENTAL ADDENDUM - SOFTWARE**

1. Incorporation by Reference. The District Board of Trustees of Broward College, Florida ("BC") and the undersigned ("Vendor") hereby incorporate this Supplemental Addendum–Software ("Addendum") into the agreement number **4826** between BC and Vendor ("Agreement"). If this Addendum conflicts with the Agreement terms, this Addendum shall control.

2. Payment. Vendor shall submit bills for compensation for goods, services, and/or expenses in detail sufficient for a pre- and post-audit. Invoices may be submitted via email, facsimile or U.S. mail. The time at which payment will be due from BC will be approximately thirty (30) days from receipt of an undisputed invoice, acceptance of deliverables, and upon satisfaction of the BC conditions that are detailed herein. In lieu of all provisions in the Agreement pertaining to penalties for late payment, if BC does not issue payment within approximately thirty days of receipt of a proper invoice, BC shall pay Vendor an interest penalty from the date the invoice was due until it was paid at the rate established pursuant to Section 55.03(1), Florida Statutes, if the interest exceeds one dollar.

3. Taxes. BC is immune and/or exempt from the payment of taxes and shall not be responsible for the payment thereof. BC shall provide an appropriate exemption certificate.

4. Travel Expenses. If BC is reimbursing travel expenses, Section 112.061, Florida Statutes, applies to those reimbursements. In order to be reimbursed, travel expenses must be expressly stated in the Agreement or otherwise approved by an authorized BC official in writing in advance.

5. No Automatic Renewals or Extensions. Provisions resulting in the automatic renewal or extension of the term of the Agreement shall be of no force and effect and are hereby deleted. To renew or extend the term of the Agreement, the parties shall enter into an amendment.

6. Compliance with Laws. Vendor represents, warrants and covenants as of the date of the Agreement and throughout the term of the Agreement that the software complies with all applicable legal requirements, including, but not limited to, the

Americans with Disabilities Act and related regulations.

7. Vendor Intellectual Property Indemnification. Vendor shall indemnify, defend, and hold harmless BC and its officers, directors, board of trustees, agents, assigns, and employees from liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, for any claim or lawsuit brought alleging infringement of any intellectual property right arising out of the rights granted by Vendor to BC under the Agreement. This section shall not be subject to any limitations of liability provisions in the Agreement. This paragraph shall survive the expiration or early termination of the Agreement.

8. Announcements and Press Statements. No party shall, except with prior written consent of the other party on each occasion, make any press or media announcements concerning the Agreement or use the name, logos, or trademarks of any other party, or any version, abbreviation, or representation of them, in any advertising or other form of publicity or fundraising without the written permission of the party whose name, logo, or trademark is sought for use. In the case of BC, permission must be granted by its _____ or that position's designee, and in the case of the other party, permission must be granted by its Chief Financial Officer or that position's designee.

9. Relationship of the Parties. Each of the parties is an independent contractor and nothing in the Agreement shall designate any of the employees or agents of one party as employees or agents of the other.

10. Use of BC Information Not Allowed. Pursuant to the Agreement, Vendor may access, maintain, collect, record, organize, structure, store, retrieve, adapt, alter, use, process or otherwise handle information owned or held by BC and may create information from or with such existing information owned or held by BC (collectively, the "BC Data"). Vendor shall not have the right to use BC Data (whatever the medium) except to perform its obligations under the Agreement or as otherwise stated in the Agreement number **4826**. Without limitation of the foregoing, Vendor shall not give any third party access to BC Data without BC's written





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permission except as expressly authorized in the Agreement or this Addendum.

11. BC Rights in Information. BC retains all rights to, title to, and interest in BC Data, and Vendor's use and possession thereof is solely on BC's behalf. BC may access and copy any BC Data in Vendor's possession at any time, and Vendor shall facilitate such access and copying promptly after BC's request.

12. Termination for Convenience. Reserved.

13. Annual Appropriation Contingency. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. In the event funding is not approved for any subsequent fiscal year, this Agreement shall terminate upon expenditure of the current funding, notwithstanding other provisions to the contrary. BC shall notify Vendor in writing after the adoption of the final budget for each subsequent fiscal year if funding is not approved.

14. State of Florida Public Entity Contracting Prohibitions. Vendor represents, warrants and covenants that it is not currently and, throughout the term of this Agreement shall not be, ineligible for the award or continuation of this Agreement under Sections 287.133, 287.134 and 287.135, Florida Statutes. Vendor understands and accepts that this Agreement may be void, voidable or subject to immediate termination by BC if the representation, warranty and covenant set forth above is violated. BC, in the event of such termination, shall not incur any liability to Vendor for any work or materials furnished.

15. BC's Sovereign Immunity. Nothing in the Agreement shall act, or be construed, to increase or alter BC's liability for tort claims beyond the waiver of immunity limits set forth in Section 768.28, Florida Statutes

16. Governing Law and Other Legal Matters. The laws of the State of Florida shall govern all aspects of the Agreement without regard to any conflict-of-law principles. The exclusive venue of any legal actions arising out of the Agreement shall be Broward County, Florida. BC is entitled to the benefits of sovereign immunity, including but not limited to immunity from suit in federal court. Any provisions in the Agreement requiring arbitration and/or mediation of matters arising out of or relating to the Agreement or altering

the time to bring lawsuits or to make claims under the Agreement shall be of no force and effect and are hereby deleted. Any provisions resulting in the Agreement's causing a default under another agreement or otherwise triggering rights and responsibilities under another agreement between the parties shall be of no force and effect and are hereby deleted.

17. Confidentiality Obligations. Vendor shall comply with any and all applicable state and federal laws and BC policies and procedures governing the use and/or safekeeping of BC Data, including but not limited to the Family Educational Rights and Privacy Act, laws governing personally identifiable information, the Florida the Health Insurance Portability and Accountability Act, the Gramm-Leach-Bliley Act, the Federal Trade Commission's Red Flags Rule, and amendments thereto (collectively, "Privacy Laws"). In the Agreement involves Vendor's access to education records, Vendor is hereby designated a school official and will comply with all legal requirements applicable thereto. If the Agreement involves Vendor's access to, any protected health information, as that term is or may be defined by state or federal law, BC and Vendor shall enter into a separate business-associate agreement that shall govern the use of the protected health information.

In the event Vendor is required by subpoena, law, or other judicial or administrative process to disclose BC Confidential Information, Vendor shall (i) provide BC with prompt notice thereof; (ii) consult with BC on taking steps to resist or narrow such disclosure; (iii) furnish only that portion of BC Confidential Information that is responsive to the request; (iv) comply with the requirements of all Privacy Laws; and (v) reasonably cooperate with BC in any attempt that BC may make to obtain an order or other reliable assurance that confidential treatment shall be accorded.

Upon termination of the Agreement or upon request by BC, Vendor shall promptly return all BC Confidential Information. This section shall not be subject to any limitations of liability provisions in the Agreement number 4826. Vendor agrees to include all such terms and conditions in this section in any subcontractor or agency contracts providing services on behalf of Vendor, provided this requirement is not intended to authorize any subcontracting or agency unless permitted hereby.





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18. Vendor’s Confidential Information / Public Records Law. BC is subject to the public records laws of Florida, including records retention requirements, and any provisions in the Agreement pertaining to confidentiality obligations on the part of BC are hereby deleted and shall be of no force and effect. Vendor shall allow public access to all project documents and materials in accordance with the provisions of Chapter 119, Florida Statutes. Should Vendor assert any exemptions to the requirements of Chapter 119 and related statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon Vendor and Vendor shall bear all costs and fees related to the same.

If Vendor meets the definition of “contractor” under Section 119.0701, Florida Statutes, in addition to other Agreement requirements provided by law, Vendor must comply with public records laws, and shall:

- (a) Keep and maintain public records required by BC to perform the service.
- (b) Upon request from the BC, provide the BC with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Vendor does not transfer the records to the BC.
- (d) Upon completion of the Agreement, transfer, at no cost, to the BC all public records in possession of Vendor or keep and maintain public records required by the BC to perform the service. If Vendor transfers all public records to the BC upon completion of the Agreement, Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Vendor keeps and maintains public records upon completion of the Agreement, Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the BC, upon request from the BC’s custodian of public records, in a format that is compatible with the information technology systems of the BC

- (e) IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT BC AT (954) 201-7639, LEGALSERVICES@BROWARD.EDU, OR 111 EAST LAS OLAS BOULEVARD, #523, FORT LAUDERDALE, FL 33301.

IN ADDITION, VENDOR ACKNOWLEDGES THAT BC CANNOT AND WILL NOT PROVIDE LEGAL ADVICE OR BUSINESS ADVICE TO VENDOR WITH RESPECT TO ITS OBLIGATIONS UNDER THIS SECTION. VENDOR FURTHER ACKNOWLEDGES THAT IT WILL NOT RELY ON BC OR ITS COUNSEL TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE, AND THAT VENDOR IS HEREBY ADVISED TO SEEK BUSINESS/LEGAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS AGREEMENT. VENDOR ACKNOWLEDGES THAT ITS FAILURE TO COMPLY WITH FLORIDA LAW AND THIS AGREEMENT WITH RESPECT TO PUBLIC RECORDS SHALL CONSTITUTE A MATERIAL BREACH OF THIS AGREEMENT AND GROUNDS FOR TERMINATION.

19. Miscellaneous. Any terms and/or conditions in the Agreement on the following subject matters are hereby deleted in their entirety and shall be of no force and effect: (i) grants of exclusivity by BC to Vendor; (ii) restrictions on the hiring of Vendor’s employees; and (iii) attorneys’ or collection-fees provisions.

By signing below, Vendor’s authorized representative agrees to incorporate this Addendum into the Agreement, and hereby executes this Addendum as of the date set forth below.





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VENDOR: CareerAmerica, LLC dba Ocelot

By: _____

Name: Ross Thompson

Title: CFO

Date: _____

