



EXECUTIVE SUMMARY

Pursuant to Broward College Policy 6Hx2-1.14 and Procedure A6Hx2-1.14, Broward College exercised the authority delegated by the Board to issue a standard agreement (purchase order) with TrueLearn LLC for the Nursing Mastery Product (1 Year) software subscription for the TRIO Student Support Services (SSS) HSP Grant FY2024-2025. Fiscal Impact: \$7,225.00

Presenter(s): Jamonica Rolle, College Provost and Senior Vice President

What is the purpose of this contract and why is it needed? The Health Science academic tutorials are specifically designed for participants enrolled in the Health Science career pathway. The continuation of the current software will help students to develop and increase the skills for the contextualized courses and prepare them for the certification exams. Student Support Services (SSS) funds will be assigned to support students in test preparation programs, and to enhance health science skills such as formula memorization, equations, medical terminology, critical thinking, and test competencies. One of the key objectives for (SSS) is to keep high GPA to increase transfer possibilities and graduation requirements.

What procurement process or bid waiver was used and why? Small purchase for Category One (\$0.00 - \$10,000) per College Procedure A6Hx2-6.34 was used, where there are no formal or informal competitive requirements for goods and services acquired by the College at this dollar threshold.

Is this a budgeted expenditure from the budget established at the last June Board of Trustees meeting?
Not Applicable.

What fund, cost center and line item(s) were used? FD200-CC0093-GLC: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 investment was met. Students have shown an increase in good academic standing and GPA.

What specific goal of the Strategic Plan is advanced through this action: Empower Student Development: Customize learning experiences through multiple modalities.

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:

Description: \$7,225.00. Worktags: CC0093-GR001011-FD200-PG000369-BU304.

| | | |
|----------|----------------------------------|--------------|
| 12/06/22 | CC0093 · Developmental Education | (\$7,225.00) |
| | Technology Subscription | |

Janice Stubbs

Janice Stubbs, Vice President of Student Services

9/11/2024

APPROVAL PATH: 12421 TrueLearn LLC - Software Subscription FY2024-2025

 **Workflow**

 Synchronize Routing

 Edit View

 Add Work Item

| Stage | Reviewer | Description | Due Date | Status |
|-------|-------------------------------------|------------------------------------|-------------------|-------------|
| 1 | Esmeralda Sweeney | 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 | Pending Counter-Signature(s) | Review | | ✔ Completed |
| 12 | Natalia Triana-Aristizabal | Contracts Coordinator | | ✔ Completed |
| 13 | Board Clerk | Agenda Preparation | | 🕒 Pending |
| 14 | District Board of Trustees | Meeting | 01/14/25 11:00 AM | 🕒 Pending |

INSTITUTIONAL ORDER FORM

Contact Name The District Board of Trustees Broward College Order Form Number 11193
 Expiration Date 11/10/2024

Billing Information

Account Name Broward College - BSN Program
 Bill To Contact The District Board of Trustees Broward College
 Bill To Broward College Accounts Payable
 6400 NW 6 Way, 3rd Floor
 Fort Lauderdale, Florida 33309
 United States

Please provide the Billing contact and address if different:

Contact: _____

Phone: _____

Email: _____

Bill To Address: _____

Pricing

| Product | Subscription Start Date | Subscription End Date | Retail Price | Inst'l. Price | Quantity |
|----------------------------------|-------------------------|-----------------------|--------------|---------------|----------|
| Nursing Mastery Product (1 Year) | 11/1/2024 | 10/31/2025 | \$125.00 | \$85.00 | 85.00 |

Product Descriptions can be found by accessing the link below, which will open in a new window for you to review.

Retail Total \$10,625.00
 Inst'l. Savings -\$3,400.00
 Inst'l. Total \$7,225.00

Term Details

Term Length Subscription Start/End Date Payment Terms Net 30
 Billing Occurs Upon Signed Order Form

Invoicing

If your institution requires payment via purchase order, please notify your APEX/TrueLearn Representative prior to invoicing. An invoice will be generated and emailed within seven to ten business days from the time of processing.

All payments will be made to TrueLearn, LLC. (EIN: 81-5456869).

Payments via check should be sent directly to the below address:
TrueLearn LLC
PO Box 847697
Boston, MA 02284-7697

Please note that TrueLearn's physical and remittance addresses changed in Summer-2023, please ensure your team has our updated addresses on file.

Bundled products are a collection of SKUs that cannot be de-bundled. The invoice will reflect the itemized SKUs for each bundle.

Terms & Conditions

~~This Order Form hereby incorporates by reference the TrueLearn Terms of Service for Institutions located at <https://content.truelearn.com/TLinstitutionalTOS> (the "Terms"), and together with the Terms forms a binding and executed written agreement between TrueLearn, LLC ("TrueLearn") and Customer. TrueLearn and Customer, and the signatories below, each represent that this Order Form has been executed by an employee or agent of such party with all necessary authority to bind such party to the terms and conditions of this Order Form and the Terms. This Order Form, together with the Terms, will control over any different or additional terms of any non-True Learn ordering document. The terms and conditions of this Order Form are the confidential information of TrueLearn.~~

DS


PO Number & Tax Exempt Status

Is a PO required?

If PO required, please enter the number if available. (not required)

Below is the tax exempt information recorded in our system. If there is no data listed here, it means that we currently do not have the necessary information for your organization.

Tax Exempt?
Tax Exempt ID 85-8012557374C-7

If the above information is incorrect, please update the information using the text box below.

Approval

Customer

**PURCHASE ORDER/SUPPLIER CONTRACT FOR COMMODITIES AND SERVICES
TERMS AND CONDITIONS**

The below terms and conditions are applicable to both Purchase Orders AND the College's ordering vehicle entitled "Supplier Contract". Any reference below to "Purchase Order" shall refer to and have the meaning "Supplier Contract" when these terms and conditions are incorporated by reference in a Supplier Contract.

This Purchase Order along with its Exhibits constitutes a binding contract between the College and the Vendor named on the Purchase Order when accepted by the Vendor either by express acknowledgment or by commencement of work or shipment without reservations.

1. STATEMENT OF GOOD OR SERVICE. The College hereby engages the Vendor to provide the good or service as described in the attached proposal, quote, estimate, scope of work, statement of work, or statement of services, incorporated herein as Exhibit "A." Any inconsistency in this Purchase Order shall be resolved by giving precedence in the following order: (1) Purchase Order terms and conditions; (2) Exhibit "A;" (3) all other documents, including, but not limited to, drawings, descriptions, and sample(s).

2. ASSIGNMENT/GUARANTOR. The Vendor shall not assign, delegate or otherwise transfer its rights and obligations as set forth in this Purchase Order without the prior written consent of the College. Any attempted assignment in violation of this provision shall be null and void. The Vendor shall not pledge the College's credit or make the College a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. Pledging the College's credit shall also be construed to include the use of "factoring agents" or the practice of selling business accounts receivables to a third party at a discount for the purpose of obtaining funding which is also expressly prohibited.

3. FORCE MAJEURE. Notwithstanding any provisions of this Purchase Order to the contrary, the Parties shall not be held liable for any failure or delay in the performance of this Purchase Order that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the Parties. Failure to perform shall be excused during the continuance of such circumstances, but this Purchase Order shall otherwise remain in effect.

4. APPLICABLE LAW AND VENUE. The laws of the State of Florida shall govern all aspects of the Purchase Order. In the event it is necessary for either Party to initiate legal action regarding the Purchase Order, venue for all claims shall be in Broward County, Florida.

5. INDEMNIFICATION. For value received, the Vendor shall indemnify and hold the College, its officers, directors, board of trustees, agents, assigns, and employees harmless from liabilities, damages, losses and costs, including, but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Vendor and other persons employed or utilized by the Vendor in the performance of the Purchase Order. The Vendor further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, suppliers, agents, assigns, invitees and employees with the terms of this Purchase Order. This paragraph shall survive the expiration or termination of this Purchase Order.

6. ENTIRE AGREEMENT. This Purchase Order states the entire understanding and agreement between the Parties and no course or prior dealing, usage of the trade or extrinsic or parol evidence shall be relevant to supplement, vary or explain any term used with respect to this Purchase Order. The acceptance or acquiescence of any course of performance rendered under this Purchase Order shall not be construed as a waiver nor shall it be relevant to define or vary any term stated herein. This Purchase Order shall inure to the benefit of and shall be binding upon the Parties, their respective assigns and successors in interest.

7. TERMINATION FOR DEFAULT. A "material breach" of this Purchase Order is defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the Purchase Order. If the Vendor materially fails to fulfill its obligations under this Purchase Order, the College will provide written notice of the deficiency by forwarding a Cure Notice citing the specific nature of the material breach. The Vendor shall have thirty (30) days to cure the breach. If the Vendor fails to cure the breach within the thirty (30) day period, the College shall issue a Termination for Default Notice. The College may pursue whatever legal and/or equitable remedies it chooses regarding Vendor's breach of contract.

8. TERMINATION FOR CONVENIENCE. The College may terminate this Purchase Order with or without cause at any time for convenience upon thirty (30) calendar days' prior written notice to the Vendor. In the event of termination for convenience, the College shall compensate the Vendor for all authorized and accepted deliverables and/or services completed through the date of termination in accordance with Exhibit "A." The College shall be relieved of any and all future obligations hereunder including but not limited to, lost profits and consequential damages under this Purchase Order. The College may withhold all payments to the Vendor for such work until such time as the College determines the exact amount due to the Vendor.

9. DISPUTES. In the event a dispute arises which the Vendor and the College cannot resolve between themselves, the Parties shall have the option to submit to nonbinding mediation. The mediator or mediators shall be impartial, shall be selected by the Parties and the cost of the mediation shall be borne equally by the Parties. The mediation process shall be confidential to the extent permitted by law. Mediation shall not occur unless both Parties agree in writing.

10. COMPLIANCE/LICENSES. The Vendor, its employees, subcontractors or assigns shall obtain, at its own expense, all licenses, permits, and other authorizations necessary to comply with all applicable federal, state, and local laws and regulations relating to the performance of this Purchase Order. The Vendor is also responsible for compliance with all labor and employment laws as well as all Federal, State, and local discrimination laws. The Vendor is solely responsible for compliance with all labor and tax laws pertaining to its officers, agents, and Vendor employees and shall indemnify and hold the College harmless from any failure by Vendor to comply with such laws.

11. PUBLIC RECORDS/REQUEST FOR CONTRACTOR RECORDS. The Vendor shall allow public access to all project documents and materials in accordance with the provisions of Chapter 119, Florida Statutes. Should the 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 the Vendor and Vendor shall bear all costs and fees related to the same.

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

- (a) Keep and maintain public records required by the College to perform the service.
- (b) Upon request from the College, provide the College 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 Purchase Order term and following completion of the Purchase Order if the Vendor does not transfer the records to the College.
- (d) Upon completion of the Purchase Order, transfer, at no cost, to the College all public records in possession of the Vendor or keep and maintain public records required by the College to perform the service. If the Vendor transfers all public records to the College upon completion of the Purchase Order, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Vendor keeps and maintains public records upon completion of the Purchase Order, the Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the College, upon request from the College's custodian of public records, in a format that is compatible with the information technology systems of the College.

(e) IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS PURCHASE ORDER,

CONTACT THE COLLEGE AT (954) 201-7639, LEGALSERVICES@BROWARD.EDU, OR 111 EAST LAS OLAS BOULEVARD, #523, FORT LAUDERDALE, FL 33301.

IN ADDITION, THE VENDOR ACKNOWLEDGES THAT THE COLLEGE CANNOT AND WILL NOT PROVIDE LEGAL ADVICE OR BUSINESS ADVICE TO THE VENDOR WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS SECTION RELATED TO PUBLIC RECORDS. THE VENDOR FURTHER ACKNOWLEDGES THAT IT WILL NOT RELY ON THE COLLEGE OR ITS COUNSEL TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE, AND THAT THE VENDOR IS HEREBY ADVISED TO SEEK BUSINESS/LEGAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS PURCHASE ORDER. THE VENDOR ACKNOWLEDGES THAT ITS FAILURE TO COMPLY WITH FLORIDA LAW AND THIS PURCHASE ORDER WITH RESPECT TO PUBLIC RECORDS SHALL CONSTITUTE A MATERIAL BREACH OF THIS PURCHASE ORDER AND GROUNDS FOR TERMINATION PURSUANT TO PARAGRAPH 6.

12. AUDIT. The Vendor shall maintain all records, books and documents pertinent to the performance of this Purchase Order in accordance with generally accepted accounting principles consistently applied. The College shall have inspection and audit rights to such records for a period of 3 years from final payment under this Purchase Order. Records relating to any legal disputes arising from performance under this Purchase Order shall be made available until final disposition of the legal dispute. If the audit reveals that the Vendor owes the College any funds, Vendor shall pay for the audit and return all funds to the College immediately.

13. COLLEGE'S TAX EXEMPTION. The Vendor shall not utilize the College's tax exemption certificate number issued pursuant to Sales and Use Tax Law, Chapter 212, Florida Statutes, when purchasing materials used to fulfill its contractual obligations with the College. The Vendor shall be responsible and liable for the payment of all applicable FICA/Social Security and other taxes resulting from this Purchase Order.

14. INVOICES AND PAYMENTS. All invoices submitted by the Vendor shall contain the Purchase Order number, or the Vendor will not get paid. Invoices should include an itemization of the date, hours expended, and description of the deliverable. Invoices may be submitted via email, facsimile or U.S. mail. The time at which payment will be due from the College will be approximately 30 days from receipt of an undisputed invoice, acceptance of deliverables, and upon satisfaction of the College conditions that are detailed herein.

15. VENDOR NOT TO LIMIT WARRANTY. The Vendor shall not limit or exclude any express or implied warranties and any attempt to do so shall render this Purchase Order void, at the option of the College. The Vendor warrants that the goods and services furnished will conform to the specifications, drawings and descriptions listed in the offering document or to the sample(s) furnished, or in the Statement of Work.

16. NONDISCRIMINATION. The Vendor hereby assures that no person shall be excluded on the grounds of race, color, religion, national origin, disability, age, gender, marital status, sexual orientation or any other basis prohibited by law, from participation in, denied the benefits of, or otherwise be subjected to discrimination in any activity hereunder. The Vendor shall take all measures necessary to effectuate these assurances.

17. AMENDMENTS. This Purchase Order may be amended only when reduced to writing and signed by both Parties.

18. PUBLIC ENTITY CRIMES/SDN LIST. The Vendor, by its execution of this Purchase Order, acknowledges and attests that neither it, nor any of its suppliers, subcontractors, affiliates or consultants who shall perform services which is intended to benefit the College, is a State of Florida convicted vendor or is included on the State of Florida's discriminatory vendor list. The Vendor further understands and accepts that this Purchase Order shall be either void or subject to immediate termination by the College, in the event there is any misrepresentation or lack of compliance with the laws and the mandates of Section 287.133, Section 287.134, or Section 287.135, respectively, Florida Statutes. The College, in the event of such termination, shall not incur any liability to the Vendor for any work or materials furnished.

19. TERMS/PROVISIONS. Should any term or provision of this Purchase Order be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other

term or provision of this Purchase Order and the Purchase Order shall remain operable, enforceable and in full force and effect to the extent permitted by law.

20. NO WAIVER OF SOVEREIGN IMMUNITY. Nothing contained herein shall be construed or interpreted as: (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida or the United States; (2) the consent of the State of Florida or their respective officers, employees, servants, agents, agencies, or public bodies corporate to be sued; or (3) a waiver of sovereign immunity of the State of Florida or the United States by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Florida Statutes Section 768.28 or beyond that provided by applicable law. This section shall survive the termination of all performance or obligations under this Purchase Order and shall be fully binding until such time as any proceeding brought on account of this Purchase Order is barred by any applicable statute of limitations.

21. CONFLICT OF INTEREST. This Purchase Order is subject to the provisions of Chapter 112, Florida Statutes, as currently enacted or as amended from time to time. By accepting this Purchase Order, Vendor certifies there is no conflict of interest as described in the statute. Prior to execution of this Purchase Order, prospective Vendor's must disclose, the name of any officer, partner, director, proprietor, or affiliated person (including but not limited to consultant, lobbyist, advisor, subcontractor, etc.) of your firm who is also an employee of the College or an immediate family member (spouse, domestic partner, child, in-law, etc.) of an employee of the College and has a material interest in the Prospective Vendor's firm. The prospective Vendor must also disclose gifts exceeding the statutory limits provided to a College employee, or an immediate family member in the last twelve (12) months.

22. CONFIDENTIALITY. To the extent that information about the College's employees or students is contained in records created, maintained or accessed by the Vendor and that this information is confidential and protected by the Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S. C. 1232g), and/or any federal or state laws protecting personal information ("Protected Information"). Vendor agrees that: (i) it shall keep and maintain all "Protected Information" obtained during the performance of this Purchase Order, in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use or disclosure; (ii) will use and disclose Protected Information solely and exclusively for the purposes for which the Protected Information, or access to it, is obtained or provided, to perform the requested services in accordance with the terms and conditions of this Purchase Order, and not to use, sell, rent, transfer, distribute, or otherwise disclose or make available Protected Information for Vendor's own purpose or for the benefit of anyone other than the student, in each case, without student's prior written consent; and (iii) not directly or indirectly, disclose Protected Information to any person other than authorized College employees, or as may be requested by government authorities in the lawful performance of their duties.

The Vendor shall also perform and comply with clause 40 herein entitled "Background Checks."

At the request of the College, Vendor agrees to provide the College with a written statement of the procedures Vendor uses to safeguard Protected Information. Any breach of the requirements of this Confidentiality clause on the part of the awarded Vendor and its representatives may constitute grounds for immediate termination of contract.

23. MARKETING. Vendor may use the College's name in marketing materials for the purpose of publicizing contract awards; however, Vendor is prohibited from obtaining affirmations from College staff regarding its products or services. Affirmations include any kind of testimonials or endorsements of the Vendor as well as the products and/or services offered by the Vendor. The College, as a government entity, must fairly and equitably compete for goods and services, and therefore the endorsement of any particular firm, product, or service is strictly prohibited. Vendor is strictly prohibited from releasing any statements to the media regarding work performed under this Purchase Order without the review, and the express prior written approval of the College. The College's approval is at its sole discretion; however, such approval will not be unreasonably withheld.

24. NO CONSTRUCTION AGAINST DRAFTER. Each Party has participated in negotiating and drafting this Purchase Order, so if an ambiguity or a question of intent or interpretation arises, this Purchase Order is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of this Purchase Order.

ADDITIONAL TERMS AND CONDITIONS FOR COMMODITIES:

25. COLLEGE'S TITLE TO MATERIALS, DOCUMENTS & PACKAGING. All materials, drawings or other items provided by the College to the Vendor remain the property of the College and will be returned to the College upon demand. All containers, reels or pallets shipped with goods by the Vendor are to remain the property of the College unless otherwise agreed to in writing.

26. SHIPMENT UNDER RESERVATION PROHIBITED. Vendor is not authorized to ship the goods with any reservations and no tender of a bill of lading will substitute as a tender of the goods.

27. DELIVERY TERMS & TRANSPORTATION CHARGES. Delivery is "F.O.B. Destination" unless delivery terms are otherwise specified in the Purchase Order. If the College agrees in writing to reimburse the Vendor for transportation costs, the College shall have the right to designate the method of shipment. In either case, the title and all risk of loss of the goods shall remain with the Vendor until the goods are received and accepted by the College. Rejected materials will be returned to the Vendor at the Vendor's risk and expense.

28. MATERIAL SAFETY. In accordance with Title 29, C.F.R., Chapter XVII, and Chapter 442, Florida Statutes, it is the Vendor's duty to advise if a product is a toxic substance and to provide a Material Safety Data Sheet at the time of delivery.

29. VENDOR TO PACKAGE GOODS. Vendor will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows: (1) Vendor's name and address; (2) consignee's name, address and Purchase Order or Purchase Release number; (3) container number and total number of containers, e.g., box 1 of 4 boxes; and (4) the number of the container bearing the packing slip. Vendor shall bear the cost of packaging unless otherwise specified in the Purchase Order.

30. PRICES QUOTED. The Vendor's price will be the lowest prevailing market price and under no circumstances will the price be higher than specified, without the express written authorization of the parties, as evidence by an amendment to the Purchase Order.

31. COLLEGE'S RIGHT TO CANCEL. The College reserves the right to cancel all or part of this Purchase Order, without obligation, if acceptance is not expressed by the Vendor either through written notice or by delivery of items ordered, within the specified time(s) and date(s).

32. UNIFORM COMMERCIAL CODE. In addition to all other Florida laws that are applicable to this Purchase Order, provisions of the Uniform Commercial Code, Chapters 671-679, Florida Statutes shall apply to commodities.

ADDITIONAL TERMS AND CONDITIONS FOR SERVICES:

33. STATEMENT OF SERVICES. The Vendor shall, to the satisfaction of the College, fully and timely perform all work items described in the Exhibit "A." As part of the services to be provided by the Vendor under this Purchase Order, the Vendor shall substantiate, in whatever form reasonably requested by the College, the methodology, lab analyses, scientific theories, data, reference materials and research notes to formulate its opinions. This requirement shall survive the expiration or termination of this Purchase Order. The Parties agree that time is of the essence in the performance of each and every obligation hereunder. It is the Vendor's responsibility to advise its employees or hired workers of the nature of the project, as described in this Purchase Order and Exhibit "A" attached hereto. The Vendor shall determine the method, details and means of performing the services, within the parameters established by Exhibit "A." The College may provide additional guidance and instructions to the Vendor's employees or hired workers where necessary or appropriate as determined by the College. The Vendor agrees to abide by any and all additional guidance and instructions.

34. COMPENSATION/CONSIDERATION. The total consideration for all work required by the College pursuant to this Purchase Order shall not exceed the amount indicated in Exhibit "A." Should the Vendor incur any travel expenses, payment for such travel will be in accordance with Section 112.061, Florida Statutes. The Vendor shall supply the College with receipts and supporting documentation for all reimbursable travel expenses. The Vendor, by executing this Purchase Order, certifies to truth-in-negotiation, specifically, that wage rates and other factual unit costs supporting the consideration are accurate, complete and current at the time of contracting. If the total consideration for this Purchase Order is subject to multi-year funding allocations, funding for each applicable fiscal year of this Purchase Order will be subject to College Board of Trustees budgetary appropriation. In the event the College does not approve funding for any

subsequent fiscal year, this Purchase Order shall terminate upon expenditure of the current funding, notwithstanding other provisions in this Purchase Order to the contrary. The College will notify the Vendor in writing after the adoption of the final College budget for each subsequent fiscal year if funding is not approved for this Purchase Order.

35. INSURANCE. The Vendor shall carry at a minimum the following: Commercial General Liability insurance with limits of at least \$1,000,000 per occurrence for bodily injury, death and property damage and shall protect it from claims which may arise whether such claims may arise out of the operations of the vendor or by anyone directly or indirectly employed by the Vendor. Automobile Liability insurance on all vehicles used to carry out the Purchase Order against bodily injury and property damage in the amount of at least \$1,000,000 per occurrence. If the Vendor will have access to College networks, systems, access to student or employee data, then Vendor shall carry Cyber Liability or a similar insurance to cover any network security or data breach with limits of at least \$1,000,000. Vendor shall carry Worker's Compensation insurance as required by Chapter 440, Florida Statutes. If the Vendor is exempt from carrying Worker's Compensation, they may provide the exemption certificate or a signed letter on company letterhead indicating the basis of the exemption. If any of the required policies provide coverage on a "claims-made" basis then insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work. If coverage is cancelled or non-renewed and not replaced with another "claims-made" policy form with a Retroactive Date prior to the contract effective date, the Vendor must purchase "extended reporting" coverage for a minimum of three (3) years after the completion of contract work. The College may require Professional Liability insurance where applicable. All insurance policies shall be issued by companies qualified to do business in the state of Florida and grant the College thirty (30) days advanced written notice of cancellation, expiration or any material change in the specified coverage. The insurance companies must be rated at least A-VII by A.M. Best. The Vendor must provide a Certificate of Insurance (COI) completed in full, indicating the producer, insured, carrier's name, policy numbers and effective and expiration dates of each type of coverage required. The COI shall be signed by an authorized representative and shall identify the College as the Certificate Holder and as an additional insured with respect to General Liability policies. No work is authorized until such time as the College has received a COI in compliance with the above requirements. The College's Chief Risk Officer may revise or waive, at his/her discretion, the requirements stated above. The College will notify the Vendor if the insurance requirements will differ from those stated above.

Certificate Holder and Additional Insured shall read:

The District Board of Trustees of Broward College, Florida
Attn: Risk Management
6400 NW 6th Street
Ft. Lauderdale, FL 33309

~~**36. OWNERSHIP.** The College shall retain exclusive title, copyright and other proprietary rights in all work items, including, but not limited to, all documents, technical reports, research notes, scientific data, computer programs, including the source and object code, which are developed, created or otherwise originated hereunder by the Vendor under this Purchase Order. The Vendor shall grant to the College a perpetual, non-transferable, exclusive right to use any proprietary software, if any. Any equipment purchased by the Vendor with College funding shall be returned and title transferred from the Vendor to the College upon expiration or termination of this Purchase Order.~~

37. INDEPENDENT CONTRACTOR. The Vendor shall be considered an independent contractor and nothing in this Purchase Order shall be interpreted to establish any relationship other than that of an independent contractor between the Parties and their respective employees, agents, subcontractors or assigns, during or after the term of this Purchase Order. Both Parties are free to enter into contracts with other Parties for similar services. The College assumes no duty with regard to the supervision of the Vendor and the Vendor shall remain solely responsible for compliance with all safety requirements and for the safety of all persons and property at the site of performance under this Purchase Order. In the event the Vendor is a sole proprietor, the Vendor is responsible for submitting legally required tax returns to the Federal Government.

38. IMMIGRATION. The Vendor shall be responsible for verifying employee authorization to work in the U.S. and make a good faith effort to properly identify employees by timely reviewing and completing appropriate documentation, including but not limited to, USCIS Form I-9. Written verification shall be kept by the Vendor and made available for inspection on demand by the College. The hourly rate of pay for each employee shall comply with State law and industry standards for similar work performed under this Purchase Order. The Vendor shall maintain records verifying the rate of pay for each employee working on this

Purchase Order and make such records available for inspection on demand by the College. Failure to comply with these provisions shall be a material breach of this Purchase Order and cause for termination of the Vendor.

39. CHANGE IN PERSONNEL. The College may at any time and at its sole discretion request that the Vendor replace any Vendor personnel provided by the Vendor to work on this Purchase Order if the College believes that it is in the best interest of the College to do so. The College may, but will not be required to, provide a reason for requesting the replacement of personnel. Such change in personnel shall be made immediately upon the College's written request for a change of personnel. The Vendor shall place the above language in any contract that it has with subcontractors. The Vendor will enforce the replacement of subcontractor personnel upon a request by the College.

40. BACKGROUND CHECKS. *This clause applies to long term Vendors working on site, including, but not limited to, Childcare services, Janitorial Services, Food Services and Security or to the extent that HIPPA/FERPA Protected Information, as defined in clause 22 herein entitled "Confidentiality", about the College's employees or students is contained in records created, maintained or accessed by the Vendor. Vendor shall conduct thorough background checks for all of the Vendor's employees or hired workers who will be working on any College site or have access to FERPA or HIPPA Protected Information.* The background checks shall consist of education verification, a national criminal check for state and federal felonies and misdemeanors, and a check on immigration status in accordance with the above provision titled "IMMIGRATION." After reviewing the results of the background check, the Vendor shall determine whether the Vendor's employee and/or hired worker meets the necessary criteria for the position sought to be filled by the College. The College will rely on the Vendor's assessment of its employees' or hired workers' suitability to be hired for the position(s) sought to be filled by the College, based on the background check conducted by the Vendor. Prior to allowing any employees or hired workers to work on-site at College facilities, the Vendor will provide written verification to the College that a complete background check, as described above, was conducted for any such employee or hired worker. The Vendor will place the above language in any contract that it has with its subcontractors and is responsible for enforcement of this provision.

Vendor who has long term onsite workers performing work at College facilities, agrees to be bound by the College policies and standards of conduct listed in the "Contractor Policy Code Acknowledgement Form," which is attached hereto and incorporated herein as Exhibit "B."

41. EMPLOYMENT BENEFITS. Vendor expressly understands and agrees that Vendor, its officers, agents, and employees, are not entitled to any employment benefits from the College.

42. STOP WORK ORDER. The College may order that all or part of the work stop if circumstances dictate that this action is in the College's best interest. Such circumstances may include, but are not limited to, unexpected technical developments, direction given by the College's Board of Trustees, a condition of immediate danger to the College, the Vendor or the public, or the possibility of damage to equipment or property. This provision shall not shift responsibility for loss or damage, including but not limited to, lost profits or consequential damages sustained as a result of such delay, from the Vendor to the College. If this provision is invoked, the College shall notify the Vendor in writing to stop work as of a certain date and specify the reasons for the action, which shall not be arbitrary or capricious. The Vendor shall then be obligated to suspend all work efforts as of the effective date of the notice and until further written direction from the College is received. If deemed appropriate by the College and in the event work is resumed, the College may amend this Purchase Order to reflect any changes to Exhibit "A" and/or the project schedule.

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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 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. 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.

6. Indemnification. For value received, the Vendor shall indemnify and hold the BC, its officers, directors, board of trustees, agents, assigns, and employees harmless from liabilities, damages, losses and costs, including, but not limited to reasonable attorneys' fees, to the extent caused by the negligence,

recklessness or intentionally wrongful conduct of the Vendor and other persons employed or utilized by the Vendor in the performance of the Agreement. The Vendor further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, suppliers, agents, assigns, invitees and employees with the terms of this Agreement. This paragraph shall survive the expiration or termination of this Agreement.

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. Any limitations of liability of Vendor set forth in the Agreement shall not apply to: (a) claims for infringement or misappropriation of a copyright, patent, trade secret or other third-party proprietary right or (b) claims for personal injury or damages to real or personal property caused by Vendor's negligence or willful misconduct. 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 Vice President of Communications and Community Relations or that position's designee, and in the case of the other party, permission must be granted by its authorized representative or their 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. Without limitation of the foregoing, Vendor shall not give any third party access to BC Data without BC's written 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. BC may terminate the Agreement upon thirty (30) days' notice to Vendor, with no further obligation to Vendor other than to pay for any amounts owing prior to the effective date of termination. BC shall not be liable for any early termination charges and shall not be entitled to any refund of prepaid amounts.

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. Governing Law, Sovereign Immunity 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. 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. 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.

16. 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 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"). If 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

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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. 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.

17. 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.

18. Information Technology. If Vendor has access to any of the College's technology platforms, or will be providing such infrastructure and/or related services to College, Vendor agrees to maintain network security that, at a minimum, includes but not limited to network firewall provisions, intrusion detection, and prevention, anti-malware, and other cybersecurity safeguards as well as conduct regular third-party penetration testing. Vendor further agrees: (a) to use at least those security standards that College applies to its own network; (b) to protect and maintain the

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security of College data with protection that is at least as good or better than that maintained by College, including maintaining secure environments that are patched and up-to-date with all appropriate security updates; (c) that all transmissions or exchanges of system application data with College and/or any other parties expressly designated by College shall take place via secure means that includes using encryption technology (e.g., HTTPS or FTPS); (d) that all College data will be stored, processed and maintained solely on designated target servers and that no College data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless medium is part of Vendor's designated backup and recovery process; (e) that any websites hosted by Vendor on behalf of College shall be on an encrypted domain in compliance with College's minimum security standards; (f) to store any College data as part of its designated backup and recovery process in encrypted form, using no less than 256 bit key; (g) that any portable or laptop computer that resides at any College facility, has access to an College network, or stores any non-public College data, is equipped with strong and secure password protection; (h) that all data exchanged by the parties shall be used expressly and solely for the purpose enumerated in the Agreement and shall not be distributed, repurposed or shared across other applications, environments, or business units of Vendor, and that no College data of any kind shall be transmitted, exchanged or otherwise passed to other vendors or interested parties except on a case-by-case basis as specifically agreed to in writing by College; and (i) that it shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification in accordance therewith, and in the event of a data breach of any Vendor's security obligations or other event requiring notification under applicable law, Vendor shall assume responsibility for informing all such individuals in accordance with applicable laws and to indemnify, hold harmless and defend College against any claims, damages, or other harm related to such notification event. Vendor shall be responsible for any issues related to software access or disruption of services caused by Vendor or Vendor's subcontractors/suppliers, including any third-party cloud service providers.

19. Compliance with Export Control Regulations. The Vendor acknowledges they must comply with

export control laws, including the International Traffic in Arms Regulations (ITAR); the Export Administration Regulations (EAR); and the Office of Foreign Assets Control Regulations (OFAC). If Vendor provides export-controlled products, technology and/or software ("goods") to College, Vendor will provide College with a list of ECCNs (Export Control Classification Numbers) or the United States Munitions List (USML) Category Numbers, for such goods. This provision shall survive the expiration or earlier termination of the Agreement.

20. PCI DSS. If Vendor's provision of services involves the acceptance of funds on behalf of College or involve credit card services, Vendor shall be responsible for the security of all College customer cardholder data in its possession. Vendor represents and guarantees that for the life of the Agreement and/or while Vendor has involvement with College customer cardholder data, the software and services used for processing transactions shall be compliant with standards established by the Payment Card Industry Security Standards Council (<https://www.pcisecuritystandards.org/>). Vendor shall, upon written request, furnish proof of compliance with the Payment Card Industry Data Security Standard (PCI DSS) within 10 business days of the request. Vendor agrees to provide to College a current and complete copy of their Attestation of Compliance (AOC). Further, Vendor agrees to provide to College a proof of a recent (no more than 3 months old) passing quarterly external vulnerability scan as performed by an Approved Scanning Vendor (ASV) by the Payment Card Industry Security Standards Council.

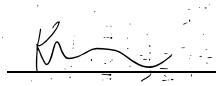
21. Deletion. Any terms and/or conditions in the Agreement on the following subject matters are hereby deleted in their entirety and shall be of no force and effect: (i) grants of exclusivity by BC to Vendor; (ii) restrictions on the hiring of Vendor's employees; (iii) attorneys' or collection-fees provisions; (iv) automatic renewals or extensions of the term of the Agreement; and (v) unilateral modification of the Agreement or any supplemental terms/policies not expressly referenced in the Agreement and/or any Order Form comprising a part of the Agreement.

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: TrueLearn, LLC

By: _____



Name: Kate Campbell

Title: Chief Sales Officer

Date: October 16, 2024