

## MASTER AGREEMENT

COMMONWEALTH OF VIRGINIA ("The Commonwealth") through Virginia Commonwealth University, as the "Lead Institution," for the Public Institutions of Higher Education in the Commonwealth of Virginia that license an Ellucian product(s), currently:

Christopher Newport University, The College of William and Mary, George Mason University, James Madison University, Longwood University, University of Mary Washington, Old Dominion University, Radford University, Richard Bland College, Virginia Commonwealth University, Virginia Polytechnic Institute and State University, and Virginia State University

Known collectively as the "Virginia Higher Education Ellucian User Group," and each individually known as an "Institution"

and

Ellucian Company L.P.,

For and on behalf of itself and certain other entities controlled by, controlling and/or under common control with Ellucian Company L.P.

4 Country View Road

Malvern, PA 19355

**THIS** Master Agreement (the "2017 Master Agreement"), which is deemed made and effective as of the date of later signature below includes the terms of that certain Master Agreement with an Effective Date of July 1, 2002, as thereafter amended, including as amended by the parties' Amendment to the Master Agreement having an Amendment Date of February 17, 2003, by the Renewal Period Amendment having an Amendment Date of May 15, 2007, and by the July 2011 Amendment to Master Agreement having an Amendment Date of July 1, 2011 (as so amended, the "2002 Master Agreement") by and between **THE COMMONWEALTH OF VIRGINIA** ("The Commonwealth"), acting through Virginia Commonwealth University, as the "Lead Institution"; and **ELLUCIAN COMPANY L.P.**, successor by assignment to SunGard Higher Education Inc. and successor by acquisition to SCT Software & Resource Management Corporation ("Ellucian"). This 2017 Master Agreement is effective as of the date of later signature below (the "Execution Date").

### BACKGROUND

The parties desire to enter into this 2017 Master Agreement, and to include the applicable terms of the 2002 Master Agreement referenced above and to memorialize the revisions, as provided for herein below.

**NOW THEREFORE**, in consideration of the promises and covenants contained herein, the parties, intending to be legally bound, agree as follows:

1. Defined Terms. Each of the terms defined in the 2002 Master Agreement will have the same meaning ascribed to that term in the 2002 Master Agreement whenever the term is used in this Amendment.

2. Amending Provisions.

(a) Term. The right of Institutions to license Component Systems, to obtain Improvements and to obtain Information Services pursuant to this 2017 Master Agreement for a five (5) year period will commence on July 1, 2017 and remain in full force and effect through June 30, 2022, inclusive ("Term"). There are two optional five (5) year Term renewals available to The Commonwealth. All terms and conditions of the 2017 Master Agreement shall remain the same during the renewal Term unless the 2017 Master Agreement is modified as specified herein. Written notice of The Commonwealth's intention to renew the Term should be provided to Ellucian approximately 60 days prior to the expiration date of the initial Term.

(b) Amendments to Definitions. Section 1 (Definitions) of the 2002 Master Agreement is hereby amended to add or replace the following definitions:

- i. "Affiliates" (added) means Institution-related entities such as auxiliary enterprises, student associations, foundations and other organizations performing functions for or for the benefit of an Institution, including those that are separately incorporated, and whether in existence as of the Execution Date, or that may be created subsequent to the Execution Date) that are affiliated with or under the control of a listed Institution, and in either instance, the primary purpose for the existence of which is to advance the educational, research, clinical or service mission of an Institution. Without limitation, certain Affiliates are listed in Exhibit \_\_\_. Upon Ellucian's written request from time-to-time, but not more often than once annually, each Institution shall provide Ellucian with a list of then-current Affiliates for each Institution that has provided access to an Affiliate.
- ii. "Cloud Software" (added) means the Software identified as "Cloud Software" in a Cloud Software Order Form which is provisioned in, and made available from, a remote environment and which is described more particularly in the Cloud Software Order Form.
- iii. "Delivery Date" (replaced) means, for each Component System, date on which the Software is made available to an Institution (*i.e.*, electronic access).
- iv. "Ellucian-Proprietary Component System" (added) has the same meaning as "SunGard Higher Education-Proprietary Component System and SCT-Proprietary Component System.
- v. "Institution" (replaced) means each of the Virginia public institutions of higher education that is first identified above in this 2017 Master Agreement of the Virginia Higher Education User Group; as well as each other governmental or quasi-governmental entity of the Commonwealth of Virginia that hereinafter qualifies to license Component Systems or obtain Information Services from Ellucian, and as appropriate also includes any "Affiliates" of an Institution as defined herein.
- vi. "Order Form" (replaced) means the ordering document between an Institution and Ellucian that expressly references and incorporates the 2017 Master Agreement, and specifying in

each instance, as applicable, the Software License, the Term-Licensed Component System, the term of the Software Maintenance, and the Information Services to be provided by Ellucian.

vii. “Software Supplement” (replaced) means additional terms and conditions applying to particular third party Software, as specified in an Order Form.

(c) License Term. Section 3 of the 2002 Master Agreement, License, is amended by adding the following to the end of the first paragraph:

Notwithstanding the foregoing, for Term-Licensed Component Systems and Cloud Software the license granted is not perpetual and is for the term of years noted in the applicable Order Form. The license(s) granted in this Section 3 include the right for an Institution to allow the Institution’s prospective students, students, parents of students, alumni, faculty and administration having a need to know to access the screen displays of the Software on a web-enabled basis for the purpose of viewing, inputting, and/or querying data within the scope of the institution’s permitted use of the Software.

(d) Discounting Level for Ellucian-Proprietary Component Systems. Institutions can acquire perpetual licenses for Ellucian-Proprietary Component Systems from Ellucian pursuant this 2017 Master Agreement at a license fee equal to fifty-five percent (55%) of Ellucian’s then-current List Price license fee for higher education institutions having an Enrollment comparable to that of the Institution in question. For purposes of clarification, the standing discount provided for Ellucian-Proprietary Component Systems does not apply to third party technologies embedded in or included with the applicable Ellucian-Proprietary Component Systems for which Institution is obtaining a right of use – that is, Institution must additionally acquire such third party technologies (either from Ellucian, if Ellucian is a licensor therefor, or directly from the third party provider thereof), and such third party technologies are not provided with, and are not subject to, the discount provided for herein.

(e) Information Services Hourly Rate. On a prospective basis only, for time-and-materials or fixed price Information Services engagement entered into by an Institution and Ellucian Company L.P. pursuant to an Order Form that is executed subsequent to the parties’ execution of this Master Agreement, the hourly rate that Ellucian Company L.P. will charge the Institutions in question for such Information Services for the period expiring June 30, 2018 will be \$180 per person-hour in instances in which Expenses will additionally be reimbursed to Ellucian, and \$225 per person-hour inclusive of Expenses. Thereafter, each such rate will have a maximum increase on a year-over-year basis at 4% per annum over the rate for the preceding year, absent any agreement to the contrary contained in the Order Form in question for lower hourly rates. Ellucian personnel rendering services bill for travel time, preparation time, and follow-up time. Billed travel time under this 2017 Master Agreement will be limited to the lesser of actual travel time or four (4) hours each way per trip.

(f) Annual Maintenance Escalation. Institutions that, on or before June 30, 2022, either (i) license Component Systems on or after July 1, 2017, or that (ii) renew Maintenance for any Component System for periods beginning on or after July 1, 2017 will have the right to choose by Component System an annual basis or renew for a multi-year term. Maintenance fees will increase annually, at rates determined as follows:

i. Maintenance fees will escalate on an annual basis at a rate of no more than six percent (6%) per year;

- ii. For a three-year term, Maintenance fees will escalate on an annual basis at a rate of no more than five percent (5%) per year;
- iii. For a five-year term, Maintenance fees will escalate on an annual basis at a rate of no more than four percent (4%) per year; or
- iv. For a ten-year term, Maintenance fees will escalate on an annual basis at a rate of no more than three and one-half percent (3.5%) per year.

If an Institution elects to contract for Maintenance on an annual (as opposed to multiple) Contract Year basis for any Contract Year beginning on or after July 1, 2017, then the corresponding Maintenance for the Baseline Component Systems for which such election was made will be terminable by the Institution annually, as of the end of the Contract Year in question, provided that the Institution in question provides Ellucian with written notice of termination (such written notice which must list out the Component Systems for which Maintenance will be so terminated by the Institution) at least three (3) months prior to the expiration of the Contract Year at the end of which Maintenance will be so terminated. Institutions that choose an annual Maintenance escalation may change to a multi-year Maintenance escalation as of the end of the Contract Year in question, provided that the Institution in question provides Ellucian with written notice of the conversion to a multi-year Maintenance escalation (such written notice which must list out the Component Systems for which Maintenance will be so changed by the Institution) at least three (3) months prior to the expiration of the Contract Year at the end of which Maintenance will be so changed.

- (g) Right of Institutions to Contract on a Post-Term Basis. For the avoidance of doubt, each Institution will have the right to contract with Ellucian for Maintenance, Term-Licensed Component Systems, or Cloud Software pursuant to the terms of the 2017 Master Agreement for a period of at least five (5) years following the expiration of the Term or optional five (5) year Term renewals. By way of example, if an Institution were to license a Baseline Component System under an Order Form effective June 30, 2022, the Institution would have the right to contract with Ellucian for Maintenance for that Baseline Component System through at least the five (5) year period ending June 30, 2027.
- (h) The Amending Provision in Section 2.(b) of the Amendment dated February 17, 2003 is changed to the following paragraph in place thereof:

To that end, any public agency or public institution of higher education in the Commonwealth of Virginia that completes the requirements of their Management Agreement and Governing Rules or VPPA and selects Ellucian as its contractor may have access to this Master Agreement. Upon written request from such an entity, Ellucian may allow access to this 2017 Master Agreement. Although the new users of Ellucian products may have access to this Master Agreement, the new users of the Ellucian products are not bound to use the Master Agreement and any use of the Master Agreement is strictly optional. For absence of doubt, an Institution may choose to change an Ellucian perpetual Software License to an Ellucian Term-Licensed Component System and/or Cloud Software without the obligation to complete the requirements of their Management Agreement and Governing Rules or VPPA.

### 3. Data Security Protection Terms (added) Definitions

- i. "End User" means the individuals authorized by the Institution to access and use the Services provided by Ellucian under this 2017 Master Agreement.
- ii. "Personally Identifiable Information" includes but is not limited to: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; "personal information" as defined in Virginia Code section

18.2-186.6 and/or any successor laws of the Commonwealth of Virginia; personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g; "medical information" as defined in Virginia Code Section 32.1-127.1:05; "protected health information" as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; nonpublic personal information as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; credit and debit card numbers and/or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; other financial account numbers, access codes, driver's license numbers; and state- or federal-identification numbers such as passport, visa or state identity card numbers.

- iii. "Securely Destroy" means taking actions that render data written on physical (e.g., hardcopy, microfiche, etc.) or electronic media unrecoverable that are consistent with those sections of the National Institute of Standards and Technology (NIST) SP 800-88 guidelines.
- iv. "Security Breach" means a security-relevant event which is known to have resulted in unauthorized access, unauthorized use, or unauthorized disclosure of an Institution's Data.
- v. "Services" means any goods or services acquired by from Ellucian.
- vi. "Institution Data" means all Personally Identifiable Information and other information that is submitted to Ellucian by an Institution for storage in Ellucian's cloud.

(a) Rights and License in and to the Institution Data

- i. The parties agree that as between them, all rights including all intellectual property rights in and to Institution Data shall remain the exclusive property of the Institution, and Ellucian has a limited, nonexclusive license to use these data as provided in this 2017 Master Agreement solely for the purpose of performing its obligations hereunder. This 2017 Master Agreement does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in the 2017 Master Agreement.

(b) Data Privacy

- i. Ellucian will use Institution Data only for the purpose of fulfilling its duties under this 2017 Master Agreement and will not share such data with or disclose it to any third party except for Ellucian agents and contractors with a need to know as required by this 2017 Master Agreement or as otherwise required by law.
- ii. Ellucian will provide access to Institution Data only to its employees and subcontractors who need to access the data to fulfill Ellucian obligations under this 2017 Master Agreement. Ellucian will ensure that employees who perform work under this 2017 Master Agreement are bound in writing by written confidentiality obligations substantially similar to those in this 2017 Master Agreement
- iii. Ellucian will have access to the Institution's education records as defined under the Family Educational Rights and Privacy Act (FERPA): Ellucian acknowledges that for the purposes of this 2017 Master Agreement it will be designated as a "school official" with "legitimate educational interests" in the Institution education records, as those terms have been defined under FERPA and its implementing regulations, and Ellucian agrees to abide by the limitations and requirements imposed on school officials as described in this Section 3. Ellucian will use the education records only for the purpose of fulfilling its duties under this agreement for Institution's and its End User's benefit, and will not share such data with or disclose it to any third party except as provided for in this 2017 Master Agreement, required by law, or authorized in writing by the Institution.

(c) Employee Background Checks and Qualifications

Ellucian employees will be screened in accordance with relevant laws, and such screening will be proportional to employee roles and responsibilities. Ellucian will maintain an employee awareness program to allow employees to understand and fulfill their responsibilities for information security, including requirements for personal data privacy, confidentiality, and non-disclosure of information.

(d) Security Breach

- i. Response. Upon becoming aware of a Security Breach, or of circumstances that are reasonably understood to suggest a likely Security Breach, Ellucian will timely notify the Institution consistent with applicable state or federal laws, investigate the incident in accordance with industry standards, and within a reasonable period of time provide the Institution with periodic status reports and a final written security incident report along with relevant supporting data. Except as otherwise required by law, Ellucian will cooperate with Institution to determine which party is required to provide notice of the incident directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities.
- ii. Costs.  
If Ellucian under this 2017 Master Agreement creates, obtains, transmits, uses, maintains, processes, or disposes of the subset of Institution Data known as Personally Identifiable Information or Institution financial or business data, the following provisions apply. In the event of a Security Breach, to the extent caused by the negligence or willful misconduct of Ellucian, Ellucian shall be responsible to pay for, or will reimburse the Institution for, the following costs, to the extent applicable and all subject to the greater of \$750,000 or the limit specified in Section 16 of the 2002 Master Agreement: (1) the cost of providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory, law enforcement or government agencies; (2) providing one year's credit monitoring to the affected individuals if the Personally Identifiable Information exposed during the breach could be used to commit financial identity theft; and (3) the payment of reasonable legal fees and costs incurred by the Institution in furtherance of the Institution's obligations as a result of the Security Breach. The Commonwealth of Virginia will be listed as additional insured per occurrence under Ellucian's commercial general liability policy.

(e) Response to Legal Orders, Demands or Requests for Data

- i. Except as otherwise prohibited by law, Ellucian will:
  - promptly notify the Institution of any subpoenas, warrants, or other legal orders, demands or requests received by Ellucian seeking Institution Data;
  - consult with the Institution regarding its response;
  - cooperate with the Institution's reasonable requests in connection with efforts by the Institution to intervene and quash or modify the legal order, demand or request, at Institution's expense; and
  - upon the Institution's request, provide the Institution with a copy of its response.

- ii. If the Institution receives a subpoena, warrant, or other legal order, demand (including request pursuant to the Virginia Freedom of Information Act) or request seeking Institution Data maintained by Ellucian, the Institution will promptly provide a copy to Ellucian. Ellucian shall promptly supply the Institution with copies of data required for the Institution to respond, and will cooperate with the Institution's reasonable requests in connection with its response, at Institution's expense.
- (f) Data Transfer Upon Termination or Expiration
- i. With respect to termination or expiration of an Order Form for a Service in which Ellucian has Institution Data in its possession, if an Institution elects to receive a copy of the Institution Data, the Institution will issue a written notice to Ellucian indicating the Institution's request for such Institution Data and the commercially reasonable format for such data. The written notice should be provided to Ellucian prior to the termination or expiration of the applicable term, but in no event shall Ellucian receive such notice later than 10 days from the date of termination or expiration of the applicable Order Form. Unless otherwise set forth in an applicable Order Form, failure to provide timely notice shall result in waiver of Institution's right to a copy of the Institution Data. Upon receipt of the notice from Institution, Ellucian will, at no additional charge to the Institution, promptly provide the Institution with a copy of all Institution Data then in Ellucian's possession, in a commercially reasonable format. At the conclusion of Ellucian's obligations pursuant to the notice, Institution Data will be Securely Destroyed.
  - ii. Ellucian will implement controls designed to maintain the continued availability of Institution Data and Cloud Software. Controls will include maintaining a defined business continuity management plan relevant to the services that, if interrupted, may result in significant downtime or data loss.
- (g) Audits
- i. If Ellucian must under this 2017 Master Agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of Institution Data known as Personally Identifiable Information or financial or business data which has been identified to Ellucian as having the potential to affect the accuracy of the Institution's financial statements or that Ellucian would reasonably know as having the potential to affect the accuracy of the Institution's financial statements, Ellucian will at its expense conduct or have conducted at least annually a:
    - American Institute of CPAs Service Organization Controls (SOC 2) Type II audit which attests Ellucian's security policies, procedures and controls;
    - vulnerability scan of Ellucian's electronic systems and facilities that are used in any way to deliver electronic services under this 2017 Master Agreement; and
    - formal penetration test of Ellucian's electronic systems and facilities that are used in any way to deliver electronic services under this 2017 Master Agreement.
  - (h) Additionally, subject to the Institution executing a non-disclosure agreement, Ellucian will provide the Institution upon request with access to the security attestation reports from the above audits, and will promptly take action to remediate or mitigate identified vulnerabilities.
- (i) Compliance
- Each Institution and Ellucian will comply with all applicable laws and industry standards in performing services under this 2017 Master Agreement. Any Ellucian personnel visiting the Institution's facilities to perform Services will comply with all reasonable applicable Institution policies regarding access to, use of, and conduct within such facilities. The Institution will provide copies of such policies to Ellucian upon request in writing, and in advance of requested compliance.

(j) No End User agreements

This 2017 Master Agreement is the entire agreement between the Institution (including Institution employees and other End Users) and Ellucian. In the event that Ellucian enters into terms of use agreements or other agreements or understandings, whether electronic, click-through, verbal or in writing, with End Users, such agreements shall be null, void and without effect, and the terms of this agreement shall apply.

(k) Survival

Ellucian's obligations under the Data Security Protection Terms shall survive termination of this 2017 Master Agreement until all Institution Data has been returned or securely destroyed.

THE PARTIES have executed this 2017 Master Agreement through the signatures of their respective authorized representatives.

Ellucian Company L.P.

By: Jenny Hayes  
Name: Jenny Hayes  
Title: VP, Revenue Recognition  
Date of Execution: 6/27/17

Commonwealth of Virginia, by and through  
Virginia Commonwealth University

By: Karol Kain Gray  
Name: Karol Kain Gray  
Title: Vice President for  
Finance and Budget  
Date of Execution: 6-28-17



