Purchasing Services
Nicole Westmoreland, MBA, Purchasing Agent
813/ 794-2221   Fax: 813/ 794-2111
727/ 774-2221   TDD: 813/794-2484
352/ 524-2221   e-mail: nwestmor@pasco.k12.fl.us

June 17, 2014

MEMORANDUM

TO: Honorable School Board Members

FROM: Nicole Westmoreland, MBA, Purchasing Agent NW

SUBJECT: eDynamic Learning
             Second Year of Three-Year Agreement
             Contract #2013001093

Pasco eSchool is requesting second year renewal of the attached agreement with eDynamic Learning in order to provide using online and distance learning technology in the nontraditional classroom. Please reference the attached memo from JoAnne Glenn, Principal for Pasco eSchool, for additional information.

At this time, Pasco eSchool is requesting the Board's approval to enter into the second year of the three-year agreement with eDynamic Learning. This agreement is renewable annually based on mutual agreement of both parties (attached). The second year renew will cover the period of July 1, 2014 through June 30, 2015. Anticipated annual cost for service is $50,000. The program will be funded through FTE earned by students enrolled and successful half credit completion. Services covered under this contract are considered educational services and therefore are exempt from the competitive pricing requirements as outlined in Department of Education 6A-1.012(11)(b).

Should you have any questions regarding this matter, please contact JoAnne Glenn or Debra Reaves, Purchasing Services, at your earliest convenience.

NW/dr

Attachments

Date/Time: June 11, 2014   09:11:00

Pasco eSchool
JoAnne Glenn, Principal
813/ 346-1901   FAX: 813/ 346-1991
E-MAIL: jglenn@pasco.k12.fl.us

June 6, 2014

To: Nicole Westmoreland, Purchasing Agent

From: JoAnne Glenn, Principal for Pasco eSchool

Subject: Request for Contract Approval (eDynamic Learning)

In accordance with Florida Statute 1002.415, 1002.37 and Senate Bill 1676, beginning with the 2009-2010 school year, each school district shall provide eligible K-12 students within its boundaries the option of participating in a virtual instruction program. The program makes instruction available to students using online and distance learning technology in the nontraditional classroom.

To provide the students with a variety of learning opportunities Pasco eSchool requests approval to renew the contract to begin offering virtual courses authored by the following provider:

• eDynamic Learning

The cost, as outlined in the contract by the provider, is based on a flat fee per semester enrollment.

The annual cost of the fees paid to this vendor is projected to be $50,000. The program will be funded through FTE earned by students enrolled in grades K-12 by credit completion per half credit.

DISTRICT SCHOOL BOARD OF PASCO COUNTY

Kurt S. Browning, Superintendent of Schools

7227 Land O' Lakes Boulevard • Land O' Lakes, Florida 34638

Purchasing Services
Nicole Westmoreland, MBA, Purchasing Agent
813/ 794-2221   Fax: 813/ 794-2111
727/ 774-2221   TDD: 813/ 794-2464
352/ 524-2221   e-mail: nwestmor@pasco.k12.fl.us

CONTRACT RENEWAL REQUEST
CONTRACT #: 2013001093
CONTRACT TITLE: eDynamic Learning

✓

Yes, I agree to renew the eDynamic Learning contract under the same terms and conditions as the existing agreement. The second year period shall be from **July 1, 2014 through June 30, 2015.**

No, I do not agree to renew the eDynamic Learning contract.

COMPANY NAME: eDynamic Learning

SIGNATURE: _____

TYPED NAME AND TITLE: Kevin Viau, President

TELEPHONE (WITH AREA CODE): 877-585-2029

FAX NUMBER (WITH AREA CODE): 877-398-0553

E-MAIL: KVIAU@EDYNAMICLEARNING.COM

DATE: JUNE 6/2014

The prospective vendor certifies, by submission and signature of this bid renewal form, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction per the provisions of Florida Statute 287.133(2)(a).

PLEASE EMAIL BACK TO: lnunn@pasco.k12.fl.us
DISTRICT SCHOOL BOARD OF PASCO COUNTY
ATTENTION: Leslie Nunn, Secretary II, Pasco eSchool
PURCHASING DEPARTMENT
20430 GATOR LANE
LAND O' LAKES, FL 34638
(813) 346-1902 (PHONE)
(813) 346-1991(FAX)

District Wide Accreditation • Southern Association of Colleges and Schools

eDynamic Learning Inc.

MASTER COURSE LICENSE AGREEMENT

Customer Name ("Customer"): PASCO ESCHOOL	Agreement Date: June 12th, 2013 (the "Effective Date")

Customer Contact Information

Name: JoAnne Glenn

Address: 2323 Little Rd., New Port Richey, FL 34655

Email: jglenn@pasco.k12.fl.us

Phone: (813) 346-1900 | Fax: (813) 346-1991

Customer Technical Contact (if different from Contact) - same as above	Customer Billing Contact (if different from Contact) - same as above
Name:	Name:
Address: ☐ As above, or:	Address: ☐ As above, or:
Address: ☐ As above, or:	Address: ☐ As above, or:
Email:	Email:
Phone: Fax:	Phone: Fax:

BINDING AGREEMENT: eDynamic Learning Inc. ("eDynamic") owns, licenses, markets, sells, provides and/or arranges to provide various products and services to clients in the educational services industry. Customer wishes to obtain the right to use certain course curricula from eDynamic, and eDynamic is willing to permit such use on the terms and conditions set out herein

The parties now wish to set out the balance of the terms and conditions under which eDynamic will permit the use of, and Customer will use, the curricula described herein.

Therefore, in consideration of the mutual agreements contained herein, the sufficiency of which the parties hereby acknowledge, the parties hereby agree on the terms and conditions specified in the following documents, which are incorporated into this Master Course License Agreement ("Agreement") by this reference:

Schedule A	Course List & Pricing
Schedule B	System Requirements
Schedule C	General Legal Terms and Conditions

THE UNDERSIGNED HEREBY ACKNOWLEDGES THAT THE ATTACHED SCHEDULES HAVE BEEN AND ARE HEREBY INCORPORATED BY REFERENCE, AND AGREES TO BE BOUND BY ALL SUCH PROVISIONS.

PASCO ESCHOOL, 2323 Little Rd., New Port Richey, FL 34655

eDYNAMIC LEARNING INC., Suite #219, 612-500 Country Hills Blvd NE, Calgary, Alberta, Canada T3K 5K3

Ms. Cynthia Armstrong, Board Chairman, District School Board of Pasco County
Name

Kevin Viau, President
Name

Authorized Signature   Date: 7/30/13

Authorized Signature   Date: JULY 16/2013

District School Board
of Pasco County

JUL 30 2013

Board Approved

CONTRACT REVIEWED
AND APPROVED:
7/18/13

CW6106598;2

SCHEDULE A—COURSE LIST & PRICING

Course	
Course	1. Anthropology I: Uncovering Human Mysteries 2. Digital Photography I: Creating Images with Impact!** 3. Digital Photography II: Discovering Your Creative Potential** 4. Forensic Science I: Secrets of the Dead 5. Forensic Science II: More Secrets of the Dead 6. Health Science: The Whole Individual 7. Law & Order: Introduction to Legal Studies 8. Music Appreciation: The Enjoyment of Listening 9. Personal & Family Finance 10. Philosophy: The Big Picture 11. Real World Parenting 12. Sociology I: The Study of Human Relationships 13. World Religions: Exploring Diversity 14. Middle School Photography: Drawing with Light 15. Introduction to Social Media: Our Connected World 16. Introduction to Culinary Arts *(not yet available: anticipated 2013 release)* 17. Fashion & Interior Design 18. History of the Holocaust 19. Peer Counseling I *(not yet available: anticipated 2013 release)* 20. Creative Writing I *(not yet available: anticipated 2013 release)* 21. Art in World Cultures *(not yet available: anticipated 2013 release)* 22. Speech I *(not yet available: anticipated 2013 release)*
Additional Learning Materials	(**) Digital Photography courses require Students to have their own digital camera. Anticipated released courses to be determined upon final publishing.
Pricing	In exchange for access to the Courses referenced above on the terms and conditions contained herein, Customer shall pay $69.50 per .5 credit User Enrollment per Course. Customer will provide a login to Licensor for audit purposes. All License Fees shall be accounted and paid to eDynamic quarterly within thirty (30) days of the end of each calendar quarter during the Term, for the previous three (3) months.

SCHEDULE B—SYSTEM REQUIREMENTS

The following free downloadable software is required for users to view the multimedia elements found in the Courses:

Application	Version
Adobe Flash Player	10 or greater
Adobe Reader	9 or greater
Adobe Shockwave Player	11 or greater
Realplayer	13 or greater
Windows Media Player	11 or greater
Apple Quicktime	7.5 or greater

SCHEDULE C—GENERAL TERMS AND CONDITIONS

These General Terms and Conditions, a part of the Master Course License Agreement made between eDynamic Learning Inc. ("eDynamic") and Customer denoted on the first page of the Agreement, establish the general terms and conditions under which eDynamic agrees to provide Customer with access to its Courses, all as outlined herein. Capitalized terms used but not defined in this Schedule C have the meanings assigned to them elsewhere in the Agreement. The parties agree as follows:

1.   License and Services

1.1   *License.* Subject to the terms and conditions of this Agreement, eDynamic hereby grants Customer a non-exclusive, non-transferable, revocable, North American license to use, during the Term and any Extension Term of this Agreement:

(a)   the Courses of eDynamic listed in Schedule A together with all applicable notes, transcripts, exercises and animations associated therewith ("Materials"); and

(b)   updates to any of the foregoing as may be, in the sole discretion of eDynamic, created by eDynamic from time-to-time ("Updates" and together with the Materials, the "Courses").

solely for the purpose of allowing Customer and Customer's instructors, teachers, students, staff and similar personnel to deliver and receive Courses as part of Customer's online and remote-accessed learning services (the "License"). The rights set forth in this section shall be subject to the following conditions:

(c)   the License does not permit the Customer to license (or allow the Customer to permit the license of) Courses to any affiliate or to any educational curricula distributors;

(d)   without limiting the foregoing, nothing herein contained allows the Customer to license (or allows the Customer to permit the license of) the Courses to Edgenuity, Inc.; Glynlyon, Inc. / Odysseyware; CompassLearning, Inc.; Apex Learning Inc.; or their successors or assigns, or any other entity or person that controls, is controlled by or is under common control with any of the above listed entities.

Customer agrees to make Courses available for the direct use of its students for the entirety of the Term and any Extension Term of this Agreement. Each student of Customer to whom Customer delivers any Course is referred to herein as an "Authorized User." Any enrolment in excess of 30 days in any Course by an Authorized User is referred to herein as a "User Enrolment."

1.11 The parties hereby terminate the December 1st, 2011 Master Course License Agreement, effective as at the close of business on the day prior to the Effective Date. The parties confirm that they remain responsible for all payments and obligations arising under the previous Master Course License Agreement up to the effective date of its termination and agree that all provisions of that agreement that by their terms survive termination will survive for the period specified therein.

1.2   *Provision of Updates.* To the extent that eDynamic has prepared Updates, eDynamic will provide the Customer with access to such Updates from time-to-time upon written request, but not more frequently than every six months during the Term. The Customer will implement and distribute those Updates within 60 days of receipt thereof.

1.3   *Course Revisions* Subject to Sections 1.4 and 1.5, the License includes the sublicensable right for the Customer to make revisions to the Courses for the sole purposes of:

(a)   Integrating such Courses with Customer's learning management system ("LMS") to facilitate the exercise of the other aspects of the License;

(b)   for any good faith purpose related to course migration or standards alignment; and

(collectively, "Revisions"), and eDynamic shall provide, at the Customer's request, reasonable assistance to Customer as regarding Course passwords or other Course-related digital rights management mechanisms installed or controlled by eDynamic to facilitate the making of such Revisions by or on behalf of Customer.

1.4   *Course Revision Conditions.* In making or permitting the making of any Revisions on its own behalf:

(a)   Customer agrees that, notwithstanding anything else contained in this Agreement, eDynamic shall have no responsibility or liability for any reason with respect to any Courses that have been subject to Revisions;

(b)   except as expressly provided herein, the Customer shall not use any works arising from the Revisions following the termination of this Agreement;

(c)   Customer agrees to indemnify and defend eDynamic, its parents, affiliates and subsidiaries, and their respective officers, directors, employees, contractors, and agents and their successors and assigns from any and all claims, actions, damages, expenses, obligations, losses, liabilities, and liens imposed on, incurred from, or asserted related to the Revisions or arising therefrom; and

(d)   Customer will provide such information, do such additional things, and sign such further documents as are reasonably required to perfect and protect the objects of this Section 1.4.

Additionally, without limiting the foregoing, except as expressly provided in this Section, Customer will not write or develop any derivative works or computer programs based upon any part of Courses. If Customer desires eDynamic to revise the content of any Course for any other purpose than those expressly provided herein Customer shall request the same in a written request sent to eDynamic, and eDynamic shall have the option, at its sole discretion, to make such content revisions. If eDynamic determines to make and provide such content revisions, the pricing of such content revision services will be separate from, and in addition to, the pricing terms of this Agreement, and the pricing, extent and timing of such content revision services shall be subject to each party's prior agreement.

1.5   *Intellectual Property Ownership.* The parties agree that all revisions, modifications, updates, and derivatives of any kind to any Course made pursuant to this Agreement or otherwise (and whether made to the format, content or otherwise), and all rights, rights of authorship, copyrights, trademarks and all other intellectual property rights arising therefrom or otherwise associated therewith (whether made by or on behalf of eDynamic or Customer), shall be exclusively owned by eDynamic. The Customer hereby

assigns and agrees to assign such works and rights to eDynamic, and the Customer shall, both during and after the Term, provide such information, do such additional things, and sign such further documents as are reasonably required to perfect and protect the objects of this clause. All Revisions made in accordance with this Agreement shall be deemed to be part of the License granted under Section 1.1 above.

1.6   *Installation Support and Teaching Support.* eDynamic will provide reasonable technical and curriculum related support to Customer related to the initial, first installation and integration of Courses on Customer's LMS. Customer has or shall otherwise obtain the expertise necessary to install and integrate eDynamic's Courses into Customer's LMS, and Customer shall be solely responsible for all costs associated therewith. If Customer requests from eDynamic reasonable technical and curriculum related support for additional or subsequent LMS installations and/or integrations, eDynamic shall provide such additional support on such terms regarding pricing, extent and timing as the parties shall agree. eDynamic will assign an account manager to Customer, at no charge, to serve as a primary in-office contact and oversee Customer's usage of Courses. Customer shall be responsible for user account registration, creation and management of user accounts. Authorized User registration, grading and record keeping shall be the sole responsibility of the Customer. However, eDynamic will provide support directly to Customer's customer support team representatives as relating to gradebook assessment errors, broken HTML links, and factual errors in the Courses during the Term.

1.7   *No Resale or Other Commercial Purposes.* Customer will not sell or otherwise use any Course for any purpose except as otherwise expressly permitted herein. Without limiting the foregoing, Customer will not post any Course on any third party website and will not distribute any Course to third parties for redistribution.

1.8   *eDynamic Ownership.* Except for the license rights expressly provided herein, eDynamic retains ownership of, and all right, title and interest in and to:

(a)   the Courses, including all information, text, data, images, graphics, button icons, illustrations, graphics, photographs, audio clips, music, sounds, pictures, videos, software, code, look-and-feel, design, layout, organization, presentation, user interface, navigation, trade dress and stylistic convention thereof or contained therein;

(b)   any trade-mark, logo, trade name, copyright notice, or other proprietary notice of eDynamic; and

(c)   any trade-mark, trade name, patent, copyright, technology, trade secret or know-how affixed to, incorporated in or relating to Courses.

Customer is not acquiring any right, title or interest of any nature whatsoever in Courses or any eDynamic logo or trade name, except the license rights expressly provided in this Agreement. Customer will use good faith efforts to cooperate with eDynamic in the protection of eDynamic's intellectual property rights, at eDynamic's reasonable request. Upon the expiration or termination of this Agreement, Customer shall return to eDynamic all of eDynamic's proprietary information in Customer's possession, including, but not limited to, all copies and code of Courses. Upon the request of eDynamic, Customer shall provide a certificate executed by an officer or director of Customer certifying Customer's compliance with this section.

2.   Payment

2.1   *Pricing, Payment Schedule and Terms.* In exchange for the License, Customer shall pay to eDynamic Load Fees, and the Label Fee, and the User Fees for User Enrolments in Courses as set forth in Schedule A (collectively, the "License Fees"). Payment of all License Fees will be due and payable as set forth in Schedule A. If any portion of any amount payable to eDynamic under this Agreement is not paid when due, Customer shall owe to eDynamic, in addition to such past due amount, the following:

(a)   a one-time late payment penalty in an amount equal to five percent of such past due amount; and

(b)   interest on such past due amount, until paid, at the annual rate of twelve percent with such interest compounding monthly.

2.2   *Additional Learning Materials.* The Courses may require Authorized Users to obtain additional learning materials and equipment not provided under this Agreement, including as identified under Schedule A (if any). In such case, Customer and/or its Authorized Users will be required to obtain such additional learning materials and equipment from a third-party, at their sole cost.

2.3   *Taxes.* All fees payable under the Agreement do not include any excise tax and customs duties, federal, provincial or local taxes. Customer will be solely responsible for payment of all applicable excise taxes, customs duties, federal, provincial or local taxes (other than those based on the net income of eDynamic).

2.4   *LMS Access.* Customer will allow eDynamic reasonable access (including via provision of a login) to audit Courses on Customer's LMS to allow eDynamic to verify User Enrolments and general compliance with this Agreement.

2.5   *User Enrolment Data; Audits.* Customer will provide eDynamic with enrolment census reports containing Customer's number of Authorized Users utilizing Courses on a quarterly basis. eDynamic may request additional enrolment census reports from Customer. eDynamic shall treat such reports as Confidential Information (as defined in Article 6 below). In order to allow eDynamic to verify the number of User Enrolments hereunder, once during each twelve (12) month period of the Term, eDynamic shall have the right, at its own expense (except as otherwise set forth herein), to conduct (or have conducted) an onsite and/or an electronic audit of Customer's records. eDynamic agrees that such audits will not include End User details except to the extent required to verify Customer's data. eDynamic will promptly provide Customer with details of its audit after the audit is completed. In the event the audit shows that Customer underpaid amounts otherwise owing to eDynamic, Customer shall pay to eDynamic the amount of such difference within twenty (20) days. In

the event that the difference is in excess of ten percent (10%) of the amount paid previously by Customer to eDynamic, then Customer shall further pay eDynamic's reasonable audit costs within twenty (20) days, and for the twelve (12) month period thereafter, eDynamic shall have the right to conduct up to quarterly audits.

3. Publicity

3.1 *Press Releases.* Except as otherwise required by applicable laws, any press releases or other public disclosures related to Courses or this Agreement, whether individual or joint, and the release date thereof, must be reviewed and approved by both parties before publication.

4. Privacy Policy

4.1 *Internal Use.* eDynamic and Customer have the right to use for legitimate internal business purposes all data and information collected in connection with this Agreement. Except as required by law, eDynamic will not disclose the identity of individual Authorized Users without consent. eDynamic's use of such data and information is subject to the terms of eDynamic's privacy policy in effect during the term of this Agreement.

5. Customer Obligations

5.1 *System Requirements.* eDynamic will assist with integration of eDynamic's Courses to Customer's LMS as set forth in Section 1.6 above. However, Customer shall be solely responsible for insuring that Authorized Users have:

(a) a suitable Internet connection;

(b) access to a computer that meets the minimum hardware and software requirements specified by eDynamic ("System Requirements") set forth in Schedule B; and

(c) personal email accounts.

Customer acknowledges and agrees that eDynamic is not able to, and does not, provide support to Customer or Authorized Users with respect to their Internet connection, computer hardware, computer software, or personal email accounts.

5.2 *Passwords.* Customer and/or Authorized Users will use passwords to access Courses. Customer agrees to comply with eDynamic's password policies and procedures including as relating to the issuance, protection and administration of such passwords. Customer will ensure that only Customer and/or Customer's Authorized Users shall have access to Courses. Unless eDynamic provides prior express written consent, Customer shall not allow anyone other than an Authorized User or technical support staff of Customer to access Courses.

5.3 *Promotion & Availability.* Customer will use reasonable commercial efforts to promote the Courses to Authorized Users and potential Authorized Users, including in its course catalogue and other promotional/sales materials. Without limiting the foregoing, Customer will include all Courses in its catalogue in each year during the Term. eDynamic will provide Customer with such information as eDynamic considers appropriate in order to assist Customer in the preparation of course catalogue and other promotional/sales materials, and access to a media kit in order to facilitate promotion of Courses to Authorized Users. At all times during the Term, Customer shall plan for, acquire and allocate a level of resources reasonably necessary to ensure that the Courses are and will be available to all students wishing to enroll therein, including ensuring that teaching and administrative staffing resources are sufficient to accommodate all such students.

5.4 *Representation.* Customer will not make any representations, warranties or commitments with respect to eDynamic or Courses without eDynamic's prior express written consent.

5.5 *Protection.* Customer will not, and will use reasonable efforts to ensure that its licensees hereunder do not copy, adapt, engineer, disassemble, modify, make derivative works of, distribute, sell or otherwise use any Course for any purpose except as otherwise expressly permitted herein.

6. Confidentiality

6.1 *Definition and Treatment.* Each party agrees that, during the Term of this Agreement and for two (2) years thereafter, it shall not disclose to any third party the terms or conditions of this Agreement or any Confidential Information of the other party, except as expressly authorized herein or as required by law. The term "Confidential Information" shall mean all non-public information that either party designates as being confidential, or which, under the circumstances of disclosure ought to be treated as confidential, including, without limitation, information relating to unreleased Courses, and the name, birth date and other personal data of Authorized Users and any information that could reasonably lead someone to discover such identity. Notwithstanding the foregoing, "Confidential Information" shall not include information that was known to the receiving party prior to the disclosing party's disclosure to the receiving party, or information that becomes publicly available through no fault of the receiving party.

7. Representations and Warranties; Disclaimer of Warranties

7.1 *Representations and Warranties.* Each party hereby represents and warrants to the other party that it:

(a) has the power and authority to enter into this Agreement and is permitted by applicable law and regulations to enter into this Agreement;

(b) will comply with all laws applicable to it in the performance of its obligations under this Agreement; and

(c) is not subject to any other agreement that would conflict with its ability to perform its obligations under this Agreement.

Customer additionally represents and warrants to eDynamic that Customer has had an adequate opportunity, prior to the execution of this Agreement, to review Courses and make adequate inquiries and informed decisions regarding Courses.

7.2 *Disclaimer.* EXCEPT AS OTHERWISE SET FORTH IN SECTION 7.1 ABOVE, eDYNAMIC DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, CONDITIONS, AND DUTIES OF ANY KIND (IF ANY), EXPRESS, IMPLIED, OR

CW6106590-2

STATUTORY, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR ANY PARTICULAR PURPOSE. eDYNAMIC DOES NOT REPRESENT OR WARRANT THAT THE COURSES WILL MEET CUSTOMER'S BUSINESS REQUIREMENTS, OR THAT THE OPERATION OF THE eDYNAMIC COURSES WILL BE ERROR FREE OR UNINTERRUPTED, OR THAT ALL OR ANY PROGRAMMING ERRORS CAN BE CORRECTED.

8. Indemnity

8.1 *Duty to Indemnify.* Each party will indemnify, defend, and hold the other party and its officers, employees, consultants and agents harmless from any and all actions, causes of action, claims, demands, costs, liabilities, expenses and damages arising out of or in connection with any breach or alleged breach of this Agreement (including any representation or warranty set forth in Section 7.1 above) or arising out of any negligence or willful misconduct by the indemnifying party.

8.2 *Process.* If an action is brought for which indemnity is sought under this Section 8.1, the party seeking indemnity will send written notice to the other party specifying the nature of the action and the total damages or other relief sought. The party seeking indemnity will reasonably cooperate with the indemnifying party at the indemnifying party's expense in connection with the defense of any such action. The party seeking indemnity reserves the right to employ separate counsel and participate in the defense at its expense.

9. Limitation of Liability and Exclusion of Certain Damages

9.1 *Exclusion of Certain Damages.* NOTWITHSTANDING ANYTHING ELSE CONTAINED HEREIN, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OR CAUSE OF ACTION OR THE ALLEGED BASIS OF THE CLAIM, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 *Limitation on Liability.* IN NO EVENT SHALL eDYNAMIC'S TOTAL AGGREGATE LIABILITY TO CUSTOMER FOR ANY CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, IN CONNECTION WITH INDEMNIFICATION OBLIGATIONS IN SECTION 8.1 ABOVE), REGARDLESS OF THE FORM OR CAUSE OF ACTION OR THE ALLEGED BASIS OF THE CLAIM, EXCEED THE TOTAL AMOUNT OF FEES ACTUALLY RECEIVED BY eDYNAMIC UNDER THIS AGREEMENT. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY REGARDLESS OF THE FORM OR THE CAUSE OF ACTION OR ALLEGED BASIS OF THE CLAIM, AND EVEN IF THE REMEDIES OTHERWISE PROVIDED UNDER THIS AGREEMENT, AT LAW OR IN EQUITY, FAIL OF THEIR ESSENTIAL PURPOSE.

10. Term and Termination

10.1 *Term.* This agreement shall be for a term of three years (the "Initial Term") renewed annually by mutual consent (each such one year term being referred to herein as an "Extension Term", and together with the Initial Term, the "Term").

10.2 *Termination Without Cause.* In addition to the rights to terminate provided in Section 10.1, either party may terminate this Agreement without cause or reason, at any time, by providing twenty-four (24) months written notice to other party. However, this clause shall not be interpreted to preclude a student from completing a Course, commenced prior to the expiration of the then current Initial Term or Extension Term, as the case may be.

10.3 *Termination For Cause.* In addition to the rights to the other suspension and termination rights provided herein, either party may suspend performance or terminate this Agreement immediately upon written notice to the other party, if the other party:

(a) is reasonably perceived to be in material breach of any provision of this Agreement; and

(b) has failed to cure that breach within thirty (30) days after receipt of written notice thereof or has failed to take reasonable steps to cure such breach if it cannot be cured within such thirty (30) day period.

Notwithstanding the foregoing, eDynamic may suspend or terminate this Agreement immediately upon written notice to Customer, if Customer is fifteen (15) days overdue on any payment due to eDynamic under this Agreement.

10.4 *Effect of Expiration/Termination.* Upon the expiration or termination of this Agreement for any reason, all access to all Courses will promptly cease. A final accounting will be made between the parties, and Customer will promptly pay all amounts due and owing to eDynamic. For clarity, in the event Customer sends eDynamic notice of its intent to terminate this Agreement, Customer will continue to be responsible to pay to eDynamic all License Fees, including full User Fees payable on User Enrolments commenced during such termination notice period.

10.5 *Survival.* Sections 4, 5.5, 6, 7.2, 8, 9, 10.4 and 11 will survive the expiration or termination of this Agreement, howsoever occasioned.

11. Miscellaneous

11.1 *Relationship of the Parties.* eDynamic and Customer are independent contractors with respect to one another, and this Agreement will not be interpreted to create any agency, joint venture, employment or partnership relationship. As independent contractors, each party shall be solely responsible to pay all applicable taxes arising from all endeavours related hereto, including, but not limited to, social security, self-employment taxes and disability insurance.

11.2 *Force Majeure.* For a reasonable time period, each party will be excused from delay or failure in performance due to causes beyond such party's reasonable control including without limitation, acts of God, government action, regulations, riots, wars, floods, and earthquakes. Notwithstanding the foregoing, this provision shall not apply to Section 2 hereof.

11.3 *Notices.* Any notices given under this Agreement shall be delivered either by messenger or overnight delivery service, or sent by facsimile with a confirmation sent via certified or registered mail, postage prepaid and return receipt requested, to the addresses set forth on the first cover page of the Agreement or at such other reasonable address or fax

Schedule C--2

number at which personal delivery may be effected of which a party may from time to time advise. Such notices shall be deemed to have been given on the day when actually received by the party to whom the notice is given.

11.4 *Assignment.* Customer will not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of eDynamic. Subject to the previous sentence, this Agreement will be binding upon, enforceable by, and inure to the benefit of the parties and their respective successors and assignees.

11.5 *Amendment.* No waiver or amendment of any provision of the Agreement will be effective unless made in writing and signed by both parties. Notwithstanding the foregoing, Customer acknowledges and agrees that eDynamic may, from-time-to-time during the Term, unilaterally update Schedule A to: (a) add further Courses on reasonable notice to the Customer; or (b) delete Courses on four (4) months written notice to the Customer. Additionally, Customer acknowledges and agrees that eDynamic may, from-time-to-time during the Term, unilaterally update Schedule B on reasonable written notice to Customer.

11.6 *Waiver.* No waiver of any provision of this Agreement will be effective unless it is in a signed writing, and no such waiver will constitute a waiver of any other provision(s) or of the same provision on another occasion.

11.7 *Governing Law; Forum for Resolution of Disputes.* This Agreement will be exclusively governed by and construed under the state of Florida. All disputes brought by either party arising under this Agreement will be brought exclusively in a state court of competent jurisdiction in the state of Florida., as permitted by law, and each party hereby submits to the exclusive jurisdiction and venue in such courts and waives and waives any objection it may now or hereafter have to venue or to convenience of forum

11.8 *Attorney's Fees.* In any action to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, each party will be responsible for its own attorneys fees and costs, including attorneys' fees, through all levels, including appeal.

11.9 *Severability.* If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

11.10 *No Third Party Beneficiaries.* This Agreement is for the benefit of, and shall be enforceable by, the parties only. This Agreement is not intended to confer any right or benefit on any third party. No action may be commenced or prosecuted against a party by any third party claiming as a third-party beneficiary of this Agreement.

11.11 *Entire Agreement.* This Schedule C, as part of the Master Course License Agreement, together with the other documents incorporated by reference constitute the entire agreement between the parties with regard to the matters dealt with in the Agreement, and supersedes all prior representation, negotiations, understandings and agreements, oral or written, between the parties, with respect thereto. All purchase orders, forms of acceptance, invoices and other documentation respecting the subject matter of the Agreement will be issued or be deemed to have been issued or given by each of the parties for administrative purposes, and any and all terms and conditions contained therein will be of no force and effect except and to the extent the information contained therein is required pursuant to the Agreement.

CW610659B.2

District School Board
of Pasco County

JUL 3 0 2013

Board Approved

CONTRACT REVIEWED
AND APPROVED:

Schedule C-3