

Exhibits to Report to Provost Mark Searle:

Allegations of Unethical Conduct in the

Department of Economics

W.P. Carey College of Business

From

Ruth V. McGregor

May 24, 2019

Exhibit 1

From: Brian Goegan <bgoegan@asu.edu>

Sent: Thursday, April 18, 2019 10:48 AM

Subject: Unethical Behavior in the Economics Department at ASU

Students,

For the past few years the Economics Department has been enforcing two policies I believe to be unethical, and I feel obligated to disclose them to you.

In order to convince Cengage to give the Provost a large monetary grant, the department agreed to require all ECN 211 and 212 students use MindTap - a Cengage product. This deal requires students to pay just to turn in their homework. Instructors who were making assignments available on Blackboard/Canvas have been forced to move those same assignments behind the MindTap paywall to ensure students must pay Cengage to pass the class. Students are being saddled with unnecessary costs so the Provost can fund a pet project.

The second policy was put in place to ensure that the Provost's project was made to look good. All ECN 211, 212, and 221 courses were required to prevent at least 30% of students from passing the class. We were told that we needed to set a baseline against which the Provost's project could be compared. For many instructors, this meant setting students up to fail so it could seem like the Provost swooped in and fixed a problem that doesn't exist.

I found both of these policies to be highly unethical and said so to Dean Hillman. In response, the economics department has decided to let me go. I am hoping all of you can continue the fight against this corruption. I hope you will do two things:

- **Send an email to President Crow and Dean Hillman** asking them to take action to end these policies and to ensure that this does not happen again. Their email addresses are amy.hillman@asu.edu and michael.crow@asu.edu. You can send a pre-filled email with this link: [Send an Email](#).
- **Forward this email to other students** who are not majoring in economics, but who have taken or are taking these courses. You can also send them to this [website copy](#) of the email.

It may not seem like much, but I promise you that if you send an email now it will spur real action on this issue.

Sincerely,

Brian Goegan

Clinical Assistant Professor, Department of Economics, Arizona State University

Exhibit 2

From: Provost Mark Searle

Sent: Thursday, April 18, 2019 6:06 PM

Subject: RE: Unethical Behavior in the Economics Department

I am writing to address misinformation spreading online and through the news media about the use of the Cengage MindTap adaptive learning platform in some of our economics courses.

The misinformation claims that students are required to pay for use of the platform to turn in homework, that Cengage gave ASU a grant for using the program, that a requirement exists to prevent at least 30 percent of students from passing the class, and that a professor was dismissed after expressing disapproval of the platform.

We have looked into these claims and have found no factual evidence to support them.

As with all of ASU's adaptive learning courses up to this point and many other classes there has been a course fee associated with using the adaptive platform. There is a fee to use MindTap but it also pays for the class (digital) textbook. The economics courses using MindTap are optional at this time; students may choose to take the same courses taught by other professors using traditional university grading/textbook platforms. Cengage has not given ASU any grants. The accusation that the university would establish quotas in any course requiring to fail a certain percentage of students is unequivocally false. That is not who we are. We generally do not comment on the details of disciplinary matters related to faculty, and there are many reasons that a faculty member's contract might not be renewed, including when a faculty member resists course-correction of multiple shortcomings despite supervisory intervention.

We regret if the spread of this misinformation online has caused confusion on these matters. If you have any questions or feedback, do not hesitate to contact me.

Mark Searle

Executive Vice President and University Provost

Exhibit 3

Unethical Behavior in the Economics Department at ASU

University Provost Mark Searle responded to student's concerns in an email which contained several pieces of misinformation that I wish to address. His response was as follows:

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The misinformation claims that students are required to pay for use of the platform to turn in homework, that Cengage gave ASU a grant for using the program, that a requirement exists to prevent at least 30 percent of students from passing the class, and that a professor was dismissed after expressing disapproval of the platform.

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As with all of ASU's adaptive learning courses up to this point and many other classes there has been a course fee associated with using the adaptive platform. There is a fee to use MindTap but it also pays for the class (digital) textbook. The economics courses using MindTap are optional at this time; students may choose to take the same courses taught by other professors using traditional university grading/textbook platforms. Cengage has not given ASU any grants. The accusation that the university would establish quotas in any course requiring to fail a certain percentage of students is unequivocally false. That is not who we are. We generally do not comment on the details of disciplinary matters related to faculty, and there are many reasons that a faculty member's contract might not be renewed, including when a faculty member resists course-correction of multiple shortcomings despite supervisory intervention.

We regret if the spread of this misinformation online has caused confusion on these matters. If you have any questions or feedback, do not hesitate to contact me.

Mark Searle

Executive Vice President and University Provost"

I would like to present the factual evidence supporting my claims.

"The economics courses using MindTap are optional at this time"

The requirement to use MindTap started in the Spring of 2017. In the "Start of the Year" meeting on Tuesday, August 16th, 2016, Jose Mendez, assistant chair of the department of economics, presented the following slide and discussed the deal the Provost's office had made with Cengage.

Another Requirement

- Nearly certain Provost's Office will require use of **Mindtap** in all sections of ECN 211 and ECN 212 starting Spring 2017.
- To limit the financial impact on students, the department has made a counterproposal* and we are waiting to hear from the Provost's Office.

*Unbundle Mindtap from text: students allowed to obtain text anywhere & pay much reduced price for Mindtap

I met with Gustavo Ventura, chair of the economics department, in early 2018 to voice my concerns about these policies, where he insisted that MindTap be used in all Principles courses. He emailed a follow up to me on March 5th, 2018:

"Hi Brian,

Per our last conversation, please let me know what you thought about complying with the use of book (Mankiw) and software requirements (MindTab) for ECN 212 in this summer. Recall that MindTab homeworks should be assigned and be a material part of the students' grades. I would need to know by the start of next week.

Thanks. Gustavo"

I sent Gustavo my syllabus which limited the MindTap requirement so that students would not have a large portion of their grade based on acquiring that access code. In an email sent to me by Gustavo on Friday, March 23, 2018, he insisted that I make two changes to the syllabus for two sections of ECN 212 being taught over the summer, saying:

"Hi Brian.

I went over your syllabus for ECN 212 for this summer.

Please make the following changes.

1. In regard to the textbook, it should say:

Required Textbook: Principles of Microeconomics, 8th Edition, by N. Gregory Mankiw along with MindTap®

—

Economics.

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2. In regard to total grading weight on the concept quizzes associated to Mindtab, it should be raised to about 20% of the total number of points. This would put your class more in line with other Principles' courses.

Please send me a copy of the new syllabus when you have it ready for my approval.

Thanks. G

--

Gustavo Ventura, Chair

Economics Department, Arizona State University"

Note that he requires me to increase the number of points I require through MindTap and says that this would be consistent with other Principles courses, directly contradicting the Provost's claim. Student's were and are required to pay in order to turn in their homework.

"Cengage has not given ASU any grants."

This contradicts what we were told at the time about the deal with Cengage. On June 30th, 2017 I expressed my concern to Jose Mendez, assistant chair of the economics department, in an email where I said the following:

"I am also concerned that the requirement of the Provost's office to use MindTap constitutes an illegal bribe, and I am certain that it is deeply immoral. I cannot force students to pay a hundred dollars so that the Provost can fund a project that has had such abysmal results so far. And if I have to, I will need to tell them why they are being forced to pay that money and who they can direct their complaints to so that my conscience is clear. I cannot be the only one who feels this way. This is a level of corruption that really shouldn't be tolerated. It isn't as if we evaluated all possible options and collectively decided that this was the best on offer. Our required use of Mankiw and MindTap was purchased by Cengage, and it is easy to see why they need to do that in order to sell books and software. The prices they charge are far in excess of the value of what they provide."

Jose Mendez insisted we meet in person, where he confirmed he understood that my objection was about the way the project was being funded and did not deny the claim. At no point in the past two years has anyone contradicted my statement until the Provost did yesterday. Gustavo Ventura never claimed Cengage had not provided money for the project when I said so, Dean Goul never informed me otherwise, and Dean Hillman never denied it either in the meeting I had with her. If this isn't the case, the University should clarify with what money people are being paid in order to develop the adaptive learning platform and where all of that money came from.

"The accusation that the university would establish quotas in any course requiring to fail a certain percentage of students is unequivocally false."

In his call for a "Start of the Year" meeting on July 13th, 2018, Jose Mendez noted the agenda in the email:

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"Among the topics I plan to cover are our policies regarding grade distributions, class cancellations, and WPC's policy prohibiting honors enrichment contracts in a regular course when an honors section of the course is available and not full."

At this meeting Jose Mendez laid out the policy that all ECN 211, 212, and 221 courses need to follow the given distribution. For ECN 221, the historical average was the benchmark, but for ECN 211 and 212 he set the benchmark which required students' grades to consist of 10% Ds, 10% Es, and 10% Ws (withdrawals). He said explicitly in this meeting that this policy was a directive of Vice Provost Art Blakemore and was being enforced because they needed to set a baseline for a metric they would be using to judge Art Blakemore's "Principles Project" - which is the *"adaptive learning courses"* mentioned in Mark Searle's email to students.

On September 13, 2018, Jose Mendez finally returned my request by email for the grade distribution I needed to meet for ECN 221. He noted the following:

"As requested, here is the Poly grade distribution for ECN 221. It is nearly identical to the Tempe benchmark.

A 0.224806
B 0.356589
C 0.279070
D 0.054264
E 0.031008
W 0.054264"

In a follow up on September 17th, 2018, Jose Mendez told me explicitly I needed to match the required distribution for the class:

"As the instructors at Poly have done, you need to stick to the grade distribution benchmark provided by the department. You control that."

"We generally do not comment on the details of disciplinary matters related to faculty, and there are many reasons that a faculty member's contract might not be renewed, including when a faculty member resists course-correction of multiple shortcomings despite supervisory intervention."

At last the Provost says something that is true. I did resist "course-correction" on these two matters. As you can see, Gustavo Ventura - my supervisor - did intervene regarding my lack of requirements regarding MindTap in my regular Principles courses. And Jose Mendez did repeatedly insist I get my grade distributions fully in line with the baseline he set out on behalf of Vice Provost Art Blakemore. I am pleased to see the Provost acknowledge that it was my ethical concerns about these policies that led to my contract not being renewed. Or perhaps it is that the Provost feels faculty should not resist course-correction when that course-correction is a demand to do something unethical.

Exhibit 4

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Home (/) / Rebutting a series of false claims

Rebutting a series of false claims

UPDATE: On April 29, ASU retained The Honorable Ruth McGregor, former chief justice of the Arizona Supreme Court, to conduct an external review of the accusations leveled at the university by a former faculty member.

Background: Rebutting a series of false claims

A member of the ASU Economics faculty, who learned in the Fall of 2018 that his teaching contract was not being renewed, has lashed out in a number of public and private forums, accusing his former colleagues of unethical or even illegal behavior surrounding the selection of instructional materials and grading standards.

Those allegations are untrue, but the university has received many internal and external inquiries seeking more information. We are therefore providing this statement setting the record straight regarding the instructional materials and grading practices used in ASU's introductory Economics courses.

The reason for the focus on introductory Macroeconomics and Microeconomics

Economics 211 and 212, the courses at issue, are the introductory level economics classes required for all economics majors. They are also core courses for any business major and are taken by many students majoring in other fields. Higher level economics and business courses build on the knowledge base students obtain in the introductory level classes. Student success therefore depends on ensuring that every student who passes ECN 211 or 212 has learned the essential material from that course.

However, ECN 211 and 212 are also difficult courses, providing a first systematic introduction to economic theory. Historically, a significant percentage of students have failed or withdrawn from these courses on their first attempt. This has been true for many years, and the university has adopted various strategies to try to increase the number of students who master the material and pass these classes.

Choosing a uniform text

With many different sections of ECN 211 and 212 being taught by many different professors, the department chair decided that using a single common text for each course was the best approach to ensure that all students were learning the same material at the 200 level and could move on successfully to their 300- and 400-level classes.

The faculty teaching these courses were asked by the department assistant chair to provide input on a ECN 211 and 212 text. Based on that input, the department chair chose the *Principles of Economics* by Gregory Mankiw for ECN 211 and 212. (The text is commonly divided into Microeconomics and Macroeconomics editions; for ECN 211, students use the Macroeconomics Mankiw, for ECN 212 they use the Microeconomics Mankiw.)

Professor Mankiw is a Harvard economics professor and the former chair of the Council of Economic Advisers under President George W. Bush. The *Principles of Economics* texts are best-sellers; both are frequently used by economics departments at colleges and universities around the country.

Using the MindTap version of the Mankiw text

Professor Mankiw's text has been in publication for more than 20 years and is now in its eighth edition. In keeping with advancements in instruction, a digital version is now commonly used that integrates with an online learning platform called MindTap. That is the version of the Mankiw text that the department chair, with consultation from the faculty, chose as the uniform text for ECN 211 and 212.

Through the MindTap platform, faculty can assign students interactive homework that tests their comprehension and tailors follow-up questions to help with areas in which they are struggling and aid them in preparing to pass their exams. For economics, MindTap is particularly useful for assignments that help students understand the math involved through responsive digital graphs and other visual representations. MindTap is not just a portal for students to use to submit homework they have done on paper or on a word processing program. It is an interactive computer program that assists students in learning from the homework that they are doing outside of their class time.

Negotiating a bulk discount

With more than 13,000 ASU students taking either ECN 211 or 212 in a given year, ASU has significant purchasing power to negotiate favorable pricing for those students. Once the Economics faculty had chosen the Mankiw/MindTap bundle as the uniform text for ECN 211 and 212, ASU was able to negotiate a discount for its students, who pay a total of \$93 for the bundled digital book and learning platform. (There is an additional charge of \$8 to print a hard copy, if the student wants one.) The same text on Amazon is \$148 without MindTap included.

Students who are taking multiple classes that use MindTap also have the option of buying a semester- or year-long subscription that gives them access to all of the Cengage-published digital texts. The one-semester subscription is \$119; the year-long version is \$179. This is not an ASU-specific deal but is available to all college and university students and is not required.

Developing an adaptive learning platform

In addition to adopting the Mankiw text and MindTap platform as the uniform approach for all ECN 211 and 212 courses at ASU, the department of economics has also been working on developing a fully adaptive version of the ECN 211 and 212 courses.

Adaptive learning is an important teaching tool that ASU has been on the forefront of [developing](https://www.wsj.com/articles/at-arizona-state-big-lectures-are-history-11551283201) (<https://www.wsj.com/articles/at-arizona-state-big-lectures-are-history-11551283201>) and [studying](http://www.fox10phoenix.com/news/arizona-news/asu-phasing-out-traditional-classrooms-in-favor-of-new-approach-to-teaching) (<http://www.fox10phoenix.com/news/arizona-news/asu-phasing-out-traditional-classrooms-in-favor-of-new-approach-to-teaching>). Adaptive learning uses software to understand what a student has learned and to help them get stronger in the concepts they haven't yet mastered. The goal of adaptive and active learning is to increase student mastery and thus achieve greater success.

Here's a hypothetical example in order to explain how it works: If you're a student in an adaptive learning calculus class, you would sit down to do some calculus problems on your computer. Let's say you get a problem wrong. The software is able to tell what concept you didn't understand that led to your error: In this case, perhaps it was a concept from algebra that you had forgotten. The next question the computer will give you will be an algebra question designed to shore up your understanding of that algebra concept you missed. Or, it might take you to a short video or a few paragraphs of text to explain what you didn't know. As soon as you've mastered the algebra concept you were missing, you get right back in the swing of the calculus problems.

This kind of learning has been incredibly effective in helping students of all ability levels learn the core concepts of the subject they are studying. Students also retain those concepts better, because the lesson plan is completely customized for each person in the class. It's not listening to a lecture and hoping most of the students understand what the teacher is saying. The software is point by point following along with what the student knows, teaching concepts that are not completely developed and allowing the student to move at his or her own pace.

ECN 211 and 212 are exactly the kind of courses in which adaptive learning shows the most promise: key, introductory-level classes necessary for students to progress — and ones in which many students struggle to master the material. The goal of ASU's development of adaptive learning is to find ways to improve these outcomes so that more students master the content and pass.

Adoption of the adaptive learning approach

There are several subjects at ASU that use adaptive courses for all students, including introductory math and some introductory science classes. The economics department faculty voted to give adaptive learning a try in ECN 211 and 212. The ECN 211 and 212 adaptive courses are still in a pilot phase, with about 70% of students taking traditional versions and only 30% taking adaptive ones.

So far, ASU has seen great improvement for students taking adaptive versions of historically difficult classes, regardless of their demographics or family circumstances. The success rates of the adaptive versions of ECN 211 and 212 are such that the W. P. Carey School of business, which houses the economics department, is hoping to expand adaptive learning to accounting and statistics classes as well. Around the university, other departments are also choosing to try adaptive learning based on the success that has been demonstrated in the math and science classes.

Adaptive learning has been credited with a significant increase in ASU's retention rate and graduation rate and has also met strong support from the Arizona Board of Regents, who oversee the University of Arizona, Northern Arizona University and ASU.

Funding of the adaptive learning approach

ASU has funded its development of adaptive learning in part through grants. The first grant was from the [Bill and Melinda Gates Foundation](https://www.gatesfoundation.org/How-We-Work/Quick-Links/Grants-Database/Grants/2013/07/OPP1093446) (<https://www.gatesfoundation.org/How-We-Work/Quick-Links/Grants-Database/Grants/2013/07/OPP1093446>) in 2013, as part of a coalition of colleges, universities and associations (<https://www.insidehighered.com/news/2013/04/04/gates-foundation-helps-colleges-keep-tabs-adaptive-learning-technology>) that gathered to explore the approaches to adaptive learning that were being developed by many different companies. The purpose of that study was not to use any one provider, but instead to study the range of different approaches being developed. Since then, the Association of Public and Land Grant Universities (APLU) has also given ASU a grant (<http://www.aplu.org/news-and-media/News/aplu-selects-seven-public-research-universities-for-grant-to-accelerate-use-of-adaptive-courseware-to-improve-undergraduate-education>) to continue this important research. (APLU itself gets funding from the Gates Foundation.)

Neither the Gates Foundation nor APLU have required ASU to work with Cengage or anyone else, and ASU in fact works with different providers in different subjects in which it has developed adaptive courses.

Students in adaptive courses currently pay a course fee that takes the place of purchasing the text. The course fees for the adaptive versions of ECN 211 and 212 are \$100, or \$7 more than the discounted price on the Mankiw text with MindTap that is required for traditional courses. (Starting in fall 2019, the course fee will be eliminated as part of ASU's overall consolidation of course-related fees (<https://students.asu.edu/yourtuition>).)

The course fee students paid for the adaptive course helped to offset the expenses of developing and providing the adaptive learning platform, including the licensing of that platform from the relevant provider (Cengage, for the ECN 211 and 212 classes). Any expenses that were not covered by the grants or the course fees were paid for from the university's operating budget. In addition, if other colleges or universities should ever adopt the adaptive courses that ASU has developed, then ASU receives royalties for the licensing of its intellectual property content to those other schools.

Grade distributions and benchmarks

ASU's grading policy prescribes a range of letter grades and meanings, ranging from "A" grades for "excellent" work through "C" grades for "average" and "E" grades for "failing." Grades serve as an important indicator of whether a student has mastered the assigned material and are relied on for assigning credit, permitting students to enroll in classes for which they have completed a prerequisite, admission to degree and graduate programs and future employment.

ASU's Department of Economics, in this case, exercised its responsibility to ensure that the grades and degrees it awards are an accurate reflection of student performance. Students also benefit from ASU's integrity in this regard, because they receive accurate feedback on their own performance, because they are treated fairly no matter which section of a class they sign up for and because integrity in grading is essential to the value of their academic credentials.

ASU and other colleges and universities regularly monitor the distribution of grades in classes for a variety of reasons.

One is to identify the types of historically difficult classes, like ECN 211 and 212, to target with student-focused supports such as adaptive learning, digital homework platforms and tutoring resources.

Another is to ensure consistency and quality of instruction. With numerous professors teaching the same class in the same semester at the same institution (as evidenced by the fact that 13,000 students take these courses annually at ASU) it is logical to expect that their students would perform similarly, with similar percentages of students getting As, Bs, and Cs. If a particular professor has an unusually high number of students failing, that would raise concerns that something might be going wrong in that professor's class. Conversely, if a particular professor awards far more A and B grades than the other professors do, that would raise concerns about grade inflation. Both circumstances would and did merit attention by the department.

ASU never requires professors to arbitrarily fail a certain number or percentage of students. If all of the students in the course master the material at a passing standard, they should all receive passing grades based on how well they demonstrated mastery of the material. What specific passing grade they receive should be based on how well they have demonstrated mastery of the material. Fair and consistent grading is what is expected; grade inflation is not.

Answers to specific questions

Were students required to pay a fee to submit their homework?

No. All ECN 211 and 212 professors are required to use the Mankiw texts and accompanying MindTap learning platform, which are bundled together for ASU students at a discounted price of \$93.

If a student had just bought the book alone from a non-ASU vendor, and used Blackboard or Canvas to submit assignments instead of MindTap, as Brian Goegan argues would be better, it would have been \$55 more expensive, since the same text is \$148 dollars (https://www.amazon.com/Principles-Macroeconomics-N-Gregory-Mankiw/dp/1305971507/ref=sr_1_2?crid=Z0IXYF5BSTNG&keywords=mankiw+principles+macroeconomics&qid=1555688672&s=books&sprefix=mankiw+principles%2Cstripbooks%2C180&sr=12) on Amazon without Mind Tap included. Those students would also lose the benefit of MindTap's interactive features, which were selected by ASU's Economics faculty as their preferred tool for helping students to master the course material.

Brian Goegan was only able to "save" his students these costs by simply refusing to actually use the text and the accompanying MindTap learning platform that his Department of Economics colleagues had decided to adopt as the uniform text for all classes. Over a period of several years, he adopted practices such as listing the text in his syllabus "merely because I have to" and then assigning minimal course credit to using the interactive MindTap platform.

Did other faculty members object to the use of this text?

The department chair, in consultation with the faculty, picked this text. Brian Goegan fundamentally disagreed with the idea that students should ever buy texts; he argued they can just use the internet instead. His faculty colleagues told him, in detail, why they believed the text and MindTap were beneficial to students. He just did not agree.

Does ASU receive a payment from Cengage for using of the Cengage materials?

ASU students enrolled in traditional ECN 211 classes buy the Mankiw/MindTap bundle from Cengage, which receives the entire purchase price of \$93. (They could also buy the same product from Amazon or another vendor for more money, in which case that money would go to whoever they bought the product from.) That price is less than what they or other students would pay to buy the bundle from Cengage, because ASU was able to negotiate a bulk

pricing discount based on the number of its students who take ECN 211.

For the adaptive version of ECN 211, up through Spring 2019, ASU students enrolled in the course paid a course fee of \$100, and then ASU paid a per-student licensing fee to Cengage for that student to have access to the adaptive learning platform. Any difference between the course fee and licensing fee was retained by ASU to offset the costs of developing the platform; that amount is currently \$1 per student. In addition, if Cengage is able to sell the adaptive version of ECN 211 that ASU has helped to develop to other colleges and universities, ASU will receive royalties from those sales. Those royalty payments will come from sales of the adaptive course to students at other colleges and universities, not from ASU students. This is similar to royalties paid for textbooks by publishers.

Was Brian Goegan required to fail 30% of his students?

No. ASU never requires a professor to fail a certain percentage of students. What caused Brian's department to talk with him about his grading practices was that he consistently awarded a huge percentage of A and B grades, as compared to the same classes when taught by other professors in his department.

Office of the University Provost

Arizona State University is a top ranked research university in the greater Phoenix metropolitan area.

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Exhibit 5



GRANT AGREEMENT

This GRANT AGREEMENT ("Agreement") is entered into and made effective on this 21 day of June 2016 (the "Effective Date") by and between the Association of Public and Land-grant Universities ("APLU"), with its principal place of business in the District of Columbia, and The ASU Foundation for A New American University ("Grantee") on behalf of Arizona State University ("University"), a public university of the State of Arizona.

WITNESSETH:

WHEREAS, APLU wishes to support the project described in Exhibit A, which is incorporated herein by reference (the "Project"); and

WHEREAS, University is equipped to execute the Project in accordance with the terms and conditions set forth in this Agreement and wishes to do so;

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants expressed herein, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. **Scope of Project.** University agrees to use all reasonable efforts and professional expertise to execute the Project in accordance with Exhibit A. University will complete the Project in a timely, professional manner and represents and warrants that they will be of a quality that is consistent with or exceeds industry and/or professional standards. University specifically agrees to provide the following individual (the "Principal Investigator") to complete the project on its behalf during the term of this Agreement: Arthur Blakemore. The Principal Investigator may be changed only with the prior written approval of APLU. Should the Principal Investigator become unavailable or unable to complete the Project for any reason during the term of this Agreement, APLU shall have the immediate right to terminate this Agreement, provided, however, that APLU shall allow University to propose an alternate Principal Investigator who, if approved by APLU, shall continue with the project and this Agreement shall not be terminated.
2. **Term and Termination.**
 - a) The term of this Agreement begins on July 1, 2016 and continues through January 31, 2020 and is dependent upon the completion of the Project outlined in Exhibit A.
 - b) Either party may terminate this Agreement for cause in the event of a material breach by the other party that is not cured within ten (10) days after receiving written notice describing the breach. Upon termination of this Agreement for any reason, APLU shall be obligated to pay to the Grantee, if applicable, the reasonable out-of-pocket expenses accrued in accordance with the terms and conditions of this Agreement through the effective date of such termination. In

the event that this Agreement is terminated prior to completion of the Project, Grantee shall immediately return any unspent funds.

3. Grantee Status. Grantee will not act in the capacity of an employee, agent, partner or joint venturer of APLU for any purpose whatsoever and shall not have the authority to bind APLU to any contractual or monetary obligations. Grantee and APLU recognize that APLU shall not control or supervise University in the manner in which University performs the obligations under this agreement and that the University is free to perform obligations under this Agreement in such manner as University sees fit, subject to compliance with the description of the duties and obligations specified in Exhibit A and other applicable APLU rules and regulations and consistent with industry practices, this Agreement, and all federal, state and local laws. Unless otherwise specified in Exhibit A, University shall provide at University's own expense all equipment and supplies necessary to perform the Project, including but not limited to any telephones and computers.
4. Payment. For activities pursuant to this Agreement, APLU shall award Grantee as follows:
 - a) Grantee shall be compensated a lump sum payment of \$515,000 for the Project in the amount and under the schedule specified in Exhibit A.
 - b) Payment to Grantee will be made without withholding of any taxes or other amounts by APLU; nor will APLU be responsible for providing Grantee with any form of employee benefits.
5. Confidentiality. During the term of this Agreement, University may learn or come into possession of proprietary and confidential information related to APLU's operations (the "Confidential Information"). Both during and for a period of five (5) years after the term of this Agreement, University will use diligent efforts to maintain in confidence and use Confidential Information only for the purposes contemplated in this Agreement. The preceding obligations shall not apply to information that (a) has been publicly disclosed through no fault of University, (b) APLU agrees in writing, may be used or disclosed, (c) is developed independently by persons who had no direct or indirect access to the Confidential Information, as shown by contemporaneous written records; (d) that is obtained from a third party without an obligation of confidentiality; or (e) that either party is required to disclose pursuant to valid subpoena, judicial or administrative order, or other legal requirement; provided that the party subject to such legal requirement shall give the other party prompt notice of such legal requirement so as to permit that party the opportunity to file appropriate legal objections to such disclosure.
6. Evaluation. Grantee agrees to permit representatives of APLU to examine at any reasonable time during normal business hours any relevant information necessary to confirm that the Project is being completed in conformance with the description of scope of work in Exhibit A and in compliance with applicable laws and regulations and in conformity with the terms of this Agreement.
7. Indemnification. To the extent allowed by law, Grantee shall indemnify and hold harmless APLU and its officers, directors, employees and agents from any and all claims, damages, suits, costs and expenses (including attorneys' fees) arising out of or relating to any act or failure to act by Grantee

pursuant to this Agreement. Grantee agrees that APLU shall not be liable for the negligent acts or omissions of Grantee and its employees and agents.

8. Compliance with Applicable Laws. Grantee and University shall complete the Project in compliance with all applicable federal, state, and local legal and regulatory requirements.
9. Publicity. Neither party shall use the name, trademark, or logo of the other party or its employees for promotional purposes without prior written consent of the other party. Nor shall either party disclose the terms of this Agreement except as required by law or pursuant to prior written consent of the other party.
10. Ownership. All pre-existing data, materials, and software that are proprietary to APLU and provided to University by APLU to assist in the performance of this Agreement shall remain the property of APLU ("APLU Pre-existing Intellectual Property"). APLU hereby authorizes University to have access to and make use of the data as is appropriate for the performance by University of its obligations under the Agreement. Upon expiration or termination of the Agreement for any reason, University may not utilize the data for any purpose other than in performing Project pursuant to this Agreement.

All pre-existing data, materials, and software that are proprietary to University and provided to APLU by University to assist in the performance of this Project shall remain the property of University ("University Pre-existing Intellectual Property"). APLU may not utilize the data, materials, or software for any purpose other than as specified in Exhibit A, Scope of Work, pursuant to this Agreement, or as permitted under licensing agreements available to the general public.

Except as otherwise specified in APLU's grant agreement any new intellectual property (including copyrightable work, trademarks and patents) generated by University employees in the course of this Agreement shall be subject to the terms and conditions of contracts executed between the authors and University, and to University's internal policies, but subject to a royalty-free perpetual nonexclusive license to APLU to use the intellectual property in furtherance of APLU's mission.

11. Representations and Warranties. Grantee represents and warrants that (a) University has the authority to execute the Project promised hereunder, and (b) to the best of Grantee's knowledge and belief, the work product University produces under this Agreement will not knowingly infringe the rights of any third parties (including copyright) or be obscene, libelous, slanderous, or otherwise defamatory.
12. Force Majeure. The performance of this Agreement by either party is subject to acts of God, war or threat of war, government regulation, acts of terrorism, disaster, fire, strikes, civil disorder, public health crises, curtailment of transportation facilities or other circumstance beyond the control of the parties unreasonably delaying or making it inadvisable, illegal or impossible for either party to perform its obligations hereunder. This Agreement may be terminated without penalty for any one (1) or more of such reasons by written notice from one party to the other; provided that the party delayed or unable to perform shall promptly advise the other party of such delay or impossibility of performance, and provided further that the party so delayed or unable to perform shall take reasonable steps to mitigate the effects of any such delay or nonperformance.

13. Notice. Any notices given hereunder shall be sent by (i) air mail, return receipt requested, (ii) overnight courier service, (iii) personally delivered, or (iv) by facsimile or electronic mail as follows:

FROM APLU to Grantee:

Virginia DeSanto
ASU Foundation for A New
American University
300 E. University Dr.
P.O. Box 2260
Tempe, AZ 85280-2260
ocfrgrants@asu.edu
480-956-1475

FROM Grantee to APLU:

Emily van Loon, CFO
APLU
1307 New York Ave., NW, Ste. 400
Washington, DC 20005
evanloon@aplu.org
202.478.6063

FROM APLU to PI:

Arthur Blakemore
Vice Provost & Professor
Arizona State University
300 E. University Dr. Ste. 420
Tempe, AZ 85280-7850
Arthur.Blakemore@asu.edu
480.965-9032

14. Assignment; Subcontracting; Binding Effect. Neither party shall assign its rights or duties under this Agreement without prior written consent of the other party. University may not subcontract all or any part of University's duties under this Agreement without APLU's prior written consent. University will be responsible for all charges or fees of any such subcontractors and for ensuring that all work is performed by such subcontractors are consistent with industry standards, the terms and conditions of this Agreement, and all applicable laws. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the respective parties and their successors and assigns.
15. Equitable Relief. The parties understand and agree that money damages may not be a sufficient remedy for the breach of the provisions of this Agreement, and that each party shall be entitled to seek emergency injunctive relief as a remedy for any such breach by the other party, including but not limited to specific performance. Such remedy shall not be deemed to be the exclusive remedy for the breach of this Agreement, but shall be in addition to all other remedies at law or in equity to the non-breaching party.
16. Severability. In the event that a court of competent jurisdiction holds any provision of this Agreement to be invalid, such holding shall have no effect on the remaining provisions of this Agreement, and they shall continue in full force and effect.
17. Survival. The provisions of this agreement that by their nature are intended to continue in their effect following expiration or termination of this Agreement shall survive any such expiration or termination.
18. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties with regard to all matters herein. There are no other agreements, conditions or representations, oral or written, express or implied, with regard thereto.
19. Modification. This Agreement may not be altered, amended or modified except by written document signed by all parties.

20. Dispute Resolution. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, that cannot be resolved in a timely manner by informal discussions between the parties may be settled by binding arbitration before a single arbitrator agreeable to both parties in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Any such arbitration proceedings shall occur in the District of Columbia. Judgment upon any award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The prevailing party (as determined by the arbitrator or by any other tribunal used by the parties) shall have its reasonable costs and attorney's fees paid by the other party. In the event the arbitrator or tribunal determines that neither party has substantially prevailed in its claim, then each party shall pay its own attorney's fees and shall equally share the cost of the arbitrator.
21. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be considered an original, and all of which taken together will constitute one and the same instrument and will be effective as of the Effective Date. Electronic signatures shall have the same effect as originals.
22. Exhibits. The exhibits to this Agreement are incorporated by reference herein, and the Parties agree to comply with all of the terms and conditions set forth in such exhibits. To the extent that there is a conflict between an exhibit and this Agreement, the terms of this Agreement shall control.

[Remainder of page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first above written.

Grantee

By: VE DeSanto
Virginia DeSanto
Vice President, CFO & Treasurer
ASU Foundation for a New American University

Date: 6/21/16

Grantee

By: Gretchen Buhlig
Gretchen Buhlig
Executive Vice President & Managing Director of Development
ASU Foundation for a New American University

Date: 6/21/16

APL'

Emily van Loon, CPA
By: _____
Emily Van Loon
Chief Financial Officer

Date: 6-28-2016

Attachment – EXHIBIT A

EXHIBIT A - AGREEMENT

1. **Statement of Work.** Arizona State University ("University") has been selected to participate in the Accelerating Adoption of Adaptive Courseware Grant Program ("Program") as a *Participating Institution* at our discretion. Between July 1, 2016 and January 31, 2020, the University team will participate in a cohort of institutions committed to accelerating the adoption of adaptive courseware in general education courses for undergraduate students, and especially for underserved, low-income, first generation students, while documenting increases and sharing new knowledge about the institutional change process and associated education outcomes. Adaptive courseware will be used in blended learning environments and will target multiple high-enrollment courses and/or courses with high D/W/F rates.

As a Participating Institution, University will engage with the cohort and provide feedback as APLU and the Personalized Learning Consortium ("PLC") manage the Program and report its results to the program funder, the Bill & Melinda Gates Foundation ("the Foundation"), approved adaptive courseware suppliers ("Approved Suppliers"), and other postsecondary education institutions. As a Participating Institution, the University team will share successes and challenges in adaptive courseware adoption and use with the cohort and other institutions involved in PLC learning communities. These activities might include, but are not limited to conference calls, webinars, social media events, conference participation, writing projects, etc.

2. **Publicity and Public Relations.** University is a subgrantee of APLU. University may not make any statement otherwise to imply to donors, investors, media or the general public that University is a direct grantee of the Foundation. University may state that the Association of Public and Land-grant Universities (APLU) is the Foundation's grantee and that University is a subgrantee of APLU's for the Program.
3. **University Team.** University is expected to provide the following representatives: (1) Primary Leadership Contact; (2) Campus-based Program Manager who manages the overall effort as APLU's day-to-day contact and is accountable for progress against all outcomes, outputs, and activities, including serving as the liaison with external networks; (3) Institutional Research Contact; (4) Information Technology Contact, and (5) PR/Communications Contact.
4. **Personalized Learning Consortium Membership.** University will maintain membership in the PLC at the "sustaining" level from July 1, 2016 through December 31, 2019. Member dues are set annually by the PLC Oversight Board. The 2016 annual dues for "sustaining" level members is \$25,000. This amount will be prorated for Participating Institutions joining the PLC as a requirement of the Program from the Start Date through December 31, 2016. Member dues are payable upon receipt of an invoice from APLU.
5. **Approved Adaptive Courseware Suppliers and Products.** The Program supports delivery of hybrid or blended learning courses using approved adaptive courseware products ("Approved Products") from Approved Suppliers. All associated reporting of enrollments and outcomes will be based on use of Approved Products. APLU will provide Participating Institutions with the list of Approved Products at the beginning of the grant term. This list will be updated by the Foundation as needed and not less than

once per year. University will receive the list of Approved Products from APLU. Approved Products may be added or removed from the list at the sole discretion of the Foundation.

6. Budget.

- a) A budget is due to APLU by September 15, 2016.
- b) The budget will reflect spending that supports a full-time, campus-based program manager and the faculty development (compensation, staff support, training, and/or related incentives) required to accelerate adoption of adaptive courseware at the University.
- c) The budget will include the funds provided under this Agreement ("*Grant Funds*") as well as the University's investment in the Program ("*Participating Institution Contribution*") which may be direct or in-kind expenditures.
- d) University may not use Grant Funds for any purpose other than the Program. University may not use Grant Funds to reimburse any expenses incurred prior to the Start Date.
- e) University may not use Grant Funds to license adaptive learning platforms, or to build, buy, or license adaptive coursewares.
- f) University may not use Grant Funds to pay Personalized Learning Consortium membership dues.
- g) University may not use Grant Funds for any indirect or overhead costs associated with administration of the Program.**
- h) APLU recognizes that adjustments to projected spending within cost categories are often needed in order to reach the outcomes aligned with the approved project. All budget category changes over 10% must be approved by the TCC project manager and should be clearly articulated in the accompanying fiscal report narrative.

7. Travel Expenses. A list of approved reimbursements will be provided by the APLU/PLC Program Manager in advance of all scheduled APLU meetings/events. Expense reports must be submitted within 15 business days of completed travel and APLU shall pay such expense within ten (10) business days of receipt. These expenses are paid from the main APLU budget and are not part of University's Grant Funds.

8. Reports and Payments. This table shows the milestones and reporting deliverables for this grant. Where indicated, APLU's payment is contingent on satisfaction of the listed milestones and/or reporting deliverable. APLU may authorize changes to the payment and reporting schedules from time to time where appropriate. APLU will confirm any such changes in writing. University may be asked to complete implementation quality rubrics and participate in surveys administered by APLU in order to monitor depth and breadth of implementation and to assess the quality of implementation.

REPORTING & PAYMENT SCHEDULE			
<i>Target, Milestone, or Reporting Deliverable</i>	<i>Due By</i>	<i>Payment Date</i>	<i>Payment Amount</i>
Receipt of APLU countersigned agreement	July 1, 2016	July 2016	\$154,500
Submission of budget	September 15, 2016	n/a	n/a
Semi-Annual Report for the period from the Start Date through December 31, 2016 including: <ul style="list-style-type: none"> Adaptive courseware implementation plan Faculty development plan Financial report (including Participating 	January 31, 2017	February 2017	\$103,000

Institution Contribution)			
<p>Semi-Annual Report for the period from January 31, 2017 through May 31, 2017 including:</p> <ul style="list-style-type: none"> • Credit accumulation thresholds (percentage of students earning 30 credits annually for full time, 15 credits annually for part time) • Credit completion ratios (average percentage of attempted credits completed annually) • Course completion rates for relevant general education courses (overall and for key student populations) • Course completion rates for courses with an adaptive courseware component (overall and for key student populations) • Retention rates • Adaptive courseware implementation report • Faculty development report • Financial report (including Participating Institution Contribution) 	June 30, 2017	n/a	n/a
<p>Semi-Annual Report for the period from June 1, 2017 through December 31, 2017 including:</p> <ul style="list-style-type: none"> • Credit accumulation thresholds (percentage of students earning 30 credits annually for full time, 15 credits annually for part time) • Credit completion ratios (average percentage of attempted credits completed annually) • Course completion rates for relevant general education courses (overall and for key student populations) • Course completion rates for courses with an adaptive courseware component (overall and for key student populations) • Retention rates • Adaptive courseware implementation report • Faculty development report • Financial report (including Participating Institution Contribution) 	January 31, 2018	February 2018	\$103,000
<p>Semi-Annual Report for the period from January 1, 2018 through May 31, 2018 including:</p> <ul style="list-style-type: none"> • Credit accumulation thresholds (percentage of students earning 30 credits annually for full time, 15 credits annually for part time) • Credit completion ratios (average percentage of attempted credits completed annually) • Course completion rates for relevant general education courses (overall and for key student populations) • Course completion rates for courses with an adaptive courseware component (overall and for key student populations) • Retention rates • Adaptive courseware implementation report • Faculty development report • Financial report (including Participating Institution Contribution) 	June 30, 2018	n/a	n/a

<p>Semi-Annual Report for the period from June 1, 2018 through December 31, 2018 including:</p> <ul style="list-style-type: none"> • Credit accumulation thresholds (percentage of students earning 30 credits annually for full time, 15 credits annually for part time) • Credit completion ratios (average percentage of attempted credits completed annually) • Course completion rates for relevant general education courses (overall and for key student populations) • Course completion rates for courses with an adaptive courseware component (overall and for key student populations) • Retention rates • Adaptive courseware implementation report • Faculty development report • Financial report (including Participating Institution Contribution) 	January 31, 2019	February 2019	\$103,000
<p>Semi-Annual Report for the period from January 1, 2019 through May 31, 2019 including:</p> <ul style="list-style-type: none"> • Credit accumulation thresholds (percentage of students earning 30 credits annually for full time, 15 credits annually for part time) • Credit completion ratios (average percentage of attempted credits completed annually) • Course completion rates for relevant general education courses (overall and for key student populations) • Course completion rates for courses with an adaptive courseware component (overall and for key student populations) • Retention rates • Adaptive courseware implementation report • Faculty development report • Financial report (including Participating Institution Contribution) 	June 30, 2019	n/a	n/a
<p>Final Report for the entire grant period from the Start Date through December 31, 2019 including:</p> <ul style="list-style-type: none"> • Credit accumulation thresholds (percentage of students earning 30 credits annually for full time, 15 credits annually for part time) • Credit completion ratios (average percentage of attempted credits completed annually) • Course completion rates for relevant general education courses (overall and for key student populations) • Course completion rates for courses with an adaptive courseware component (overall and for key student populations) • Retention rates • Adaptive courseware implementation report • Faculty development report • Financial report (including Participating Institution Contribution) 	January 31, 2020	March 2020	\$51,500
Total Grant Amount			\$515,000

9. Report Templates. University is required to submit one or more reports regarding the expenditure of grant fund and University's progress on the Program. The APLU/PLC Program Manager will send the report templates for this grant. These templates are subject to change. Please submit reports electronically to the APLU/PLC Program Manager. The final plan may include video components, implementation plans, faculty development plans, and related assets.
10. Record Maintenance and Inspection. APLU requires that University maintain adequate records of the Program to enable APLU to easily determine how the grant funds were expended. University books and records must be made available for inspection by APLU or its designee at reasonable times to permit APLU to monitor and conduct and evaluation of operations under this grant.
11. Site Visits. APLU may conduct annual site visits and will hold regular teleconferences with the campus-based program managers at Participating Institutions to monitor progress and facilitate reporting to the Foundation.
12. Intellectual Property Ownership. The work product produced by use of Approved Products in the Program is not intended to generate original work product. To the extent that any copyrightable work product may be developed, the intellectual property ownership and use of this work is subject to the terms and conditions of contracts executed between the authors, Participating Institutions, and Approved Suppliers, and to University's internal policies. APLU will not be party to such agreements. Notwithstanding the foregoing, APLU shall have a royalty-free perpetual nonexclusive license to use all work product and deliverables produced under this agreement in furtherance of APLU's mission.

Exhibit 6

RELEASE OF EXHIBIT PENDING PURSUANT TO CONTRACTUAL CONFIDENTIALITY PROVISION

Exhibit 7

THE ASSOCIATED STUDENTS OF ARIZONA STATE UNIVERSITY
UNDERGRADUATE STUDENT GOVERNMENT, TEMPE SENATE
SIXTEENTH LEGISLATURE
SEVENTEENTH REGULAR SESSION
TUESDAY, APRIL 23RD, 2019

SENATE RESOLUTION 15

INTRODUCED BY:

SENATOR NICOLE MOROTE
BARRETT, THE HONORS COLLEGE

SENATOR EDWARD JOSEPH NOLAN
BARRETT, THE HONORS COLLEGE

SENATOR NATE BELCHER
THE COLLEGE OF LIBERAL ARTS AND SCIENCES

SENATOR JOHN HOPKINS
W.P. CAREY SCHOOL OF BUSINESS

SENATOR HENRY HAN
IRA A. FULTON SCHOOLS OF ENGINEERING

SENATOR VARUN SUSARLA
SCHOOL FOR THE FUTURE OF INNOVATION IN SOCIETY

A Resolution In Response To Allegations of Misconduct By ASU's Department of Economics

1 **Section 1: Short Title.**

2 This legislation can be cited as “The Economics Inquiry Act.”

3
4 **Section 2: Jurisdiction.**

5 WHEREAS the Undergraduate Student Government Tempe was formed to provide
6 a forum for inter-university dialogue, to organize student involvement, and to
7 advocate for and administer services, resources, and programs that benefit the
8 students of Arizona State University;

9
10 WHEREAS the Committee on University Affairs is tasked with conducting
11 research and investigation of issues that impact students, and presenting subsequent
12 findings and recommendations to the USGT Senate;

13
14 WHEREAS, under USGT bylaws, Senators are beholden to the constituency within
15 their college, but must act with the best interest of the university as a whole;

16
17 **Section 3: Allegations by Professor Brian Goegan.**

18 NOTING WITH CONCERN that on April 18, 2019, Professor Brian Goegan, of
19 the Department of Economics at the W.P. Carey School of Business, sent an email
20 to undergraduate students within the Economics program leveling the following
21 accusations against Department of Economics policies instituted by Vice-Provost
22 Art Blakemore:

- 23 (1) The Department of Economics agreed to implement an adaptive learning
24 course addendum known as “MindTap,” a product of Cengage Learning
25 *requiring* students to pay an additional course fee. In exchange, Cengage
26 would provide Vice-Provost Blakemore a “large monetary grant” to fund his
27 “Principles Project;”
- 28 (2) The Department of Economics requires its instructors to *prevent* at least
29 30% of its students from passing the following courses: ECN 211, 212, and

221, for the purpose of setting a baseline against which Vice Provost
Blakemore's "Principles Project" can be compared;

WHEREAS Dr. Goegan disclosed that he spoke out against these policies to
supervisors numerous times;

WHEREAS Dr. Goegan disclosed that he was later informed that his contract
would not be renewed for the 2019-2020 academic year;

WHEREAS Dr. Goegan maintained his involvement teaching classes for Spring
2019 and serving as an advisor to the Student Economics Association;

WHEREAS in subsequent emails and on his personal website, Dr. Goegan alleges
that his ASU email access was terminated after he emailed the Department of
Economics students about the policies he believed to be unethical;

WHEREAS in communication with the Committee on University Affairs, Dr.
Goegan disclosed that he was placed on immediate leave after his initial email;

WHEREAS Dr. Goegan has been informed that he is no longer being allowed to
instruct his Spring 2019 class, advise a student organization, or enter the campus of
Arizona State University;

Section 4: University Administration Response.

WHEREAS approximately eight hours after Professor Goegan made these claims,
and after dozens of students inquired into them, University Provost Mark Searle
made a statement in response to student inquiry;

59 WHEREAS, specifically, Provost Searle stated that Arizona State University has
60 “looked into [the claims of Professor Goegan] and have found no factual evidence
61 to support them.”

62
63 WHEREAS Provost Searle rebuts Professor Goegan’s claims with the following
64 statements:

- 65 (1) “The economics courses using MindTap are optional at this time; students
66 may choose to take the same courses taught by other professors using
67 traditional university/textbook platforms.”
68 (2) “Cengage has not given ASU any grants.”
69 (3) “The accusation that the University would establish [grade] quotas in any
70 course is unequivocally false.”

71
72 FURTHERMORE, in the same communication, Provost Searle mentions that
73 Arizona State University does not typically comment on “disciplinary matters
74 related to faculty,”

75
76 NOTING that Provost Searle goes on to state that a reason why a faculty member’s
77 contract might not be renewed might include a faculty member “resisting
78 course-correction of multiple shortcomings despite supervisory intervention”

79
80 WHEREAS on April 22nd, 2019, as a result of a State Level Open Records Act
81 requested by AZ Family, a contract between Arizona State University and Cengage
82 was made publically available, noting the payment structure and terms of
83 negotiation between both parties. This contract was signed by Provost Mark Searle.

84
85 **Section 5: The Cost of College.**

86 WHEREAS the Arizona Board of Regents recently approved President Michael
87 Crow’s proposed fee restructuring for the 2019-2020 school fees, which he

explained in the FY2020 final tuition proposal would make the billing structure “very simple, and the ability of students and families to understand the charges they [would] incur [would] become much more transparent;”

WHEREAS President Crow has praised this tuition proposal for its elimination of “term-to-term variability that results from class fees;”

NOTING THAT “term-to-term variability” cannot be completely eliminated from Arizona State University while courses and programs selectively place necessary assignments behind a paywall by placing homework in an external submission platform;

Section 6: The Student Voice.

WHEREAS the Committee on University Affairs conducted constituent research surveying, with a sample size of 224 ASU students;

NOTING that 80 of 112 (71.1%) past or present Economics students do not “understand why [their] homework assignments are on MindTap as opposed to Canvas/Blackboard;”

NOTING that 68 of 96 (70.8%) of students in a W.P. Carey program do not feel that “external online homework submission platforms [like MindTap] are beneficial to [their] learning experience;”

NOTING that 214 of 224 students surveyed (95.5%) support “an independent investigation to evaluate Dr. Goegan's claims of unethical conduct by the Economics Department;”

Section 6: The Student Voice.

117

118 WHEREAS the Committee on University Affairs conducted constituent research
119 surveying, with a sample size of 224 ASU students;

120

121 NOTING that 80 of 112 (71.1%) past or present Economics students do not
122 “understand why [their] homework assignments are on MindTap as opposed to
123 Canvas/Blackboard;”

124

125 NOTING that 68 of 96 (70.8%) of students in a W.P. Carey program do not feel
126 that “external online homework submission platforms [like MindTap] are beneficial
127 to [their] learning experience;”

128

129 NOTING that 214 of 224 students surveyed (95.5%) support “an independent
130 investigation to evaluate Dr. Goegan's claims of unethical conduct by the
131 Economics Department;”

132 Section 6: The Student Voice.

133

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135 surveying, with a sample size of 224 ASU students;

136

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138 “understand why [their] homework assignments are on MindTap as opposed to
139 Canvas/Blackboard;”

140

141 NOTING that 68 of 96 (70.8%) of students in a W.P. Carey program do not feel
142 that “external online homework submission platforms [like MindTap] are beneficial
143 to [their] learning experience;”

144

145

146 NOTING that 214 of 224 students surveyed (95.5%) support “an independent
147 investigation to evaluate Dr. Goegan's claims of unethical conduct by the
148 Economics Department;”
149

150 THEREFORE BE IT RESOLVED, that the 2018-2019 USG-Tempe Senate -

151 (1) supports simple and affordable tuition and fees, and advocates for
152 transparency in student fee structures so that financial expectations are as clear as
153 possible;

154 (2) affirms students’ right to access information detailing understand the
155 financial deals and contracts into which the University, a public institution, enters
156 on their behalf, and the implications that that has on their academic opportunities
157 and growth;

158 (3) calls upon the Office of the Provost at Arizona State University to
159 launch and fully cooperate with an external investigation, conducted by a qualified
160 law firm or other investigative body that is not already affiliated with Arizona State
161 University;

162 (4) supports the Arizona State University Department of Economics and
163 W.P. Carey School of Business releasing financial statements, disclosing revenue
164 streams and expenditures, in order to allow all interested ASU students to determine
165 whether or not the allegations of a Cengage grant are true;

166 (5) supports the creation of a new University Board, or the assignment of an
167 already existing supervisory body with direct student representation, with the
168 authority to approve or deny the usage of any external homework submission
169 platform with cost to students greater than \$50;

170 (6) respectfully requests that the Office of the Provost at Arizona State
171 University and W.P. Carey Dean Amy Hillman publicly respond to this legislation
172 with

173 (a) A statement of intent to launch and cooperate with an external
174 investigation;

175 (b) A comparison between the grade distributions of traditional and
176 adaptive learning courses;
177 by no later than 12:00 PM on May 4, 2019.

Exhibit 8

PAYMENTS RECEIVED BY ASU FROM CENGAGE JANUARY 2014-MAY 2015

Acceptance Date	Amount	Recipient	Line Description	Purpose
3/11/2014	\$ 259.35	ASU College of Nursing & Healthcare Innovation	CENGAGE ROYALTY PAYMENT	Letras Femininas is a journal publication of scholarly articles by Spanish and Spanish American women. The royalty payments were for reprint rights for the articles but are no longer received by SILC or ASU.
3/27/2014	\$ 146.80	ASU College of Liberal Arts & Sciences	CENGAGE LETRAS FEMENINAS	
3/27/2014	\$ 358.54	School of International Letters & Cultures	CENGAGE CHASQUI	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
12/16/2014	\$ 23.95	ASU DPC Dean of Students	CENGAGEBRAIN OVERAGE	
4/15/2015	\$ 257.38	School of International Letters & Cultures	Chasqui Royalty	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
10/13/2015	\$ 237.64	School of International Letters & Cultures	CENGAGE CHECK # 01900053	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
4/6/2016	\$ 326.92	School of International Letters & Cultures	CENGAGE #01925520 TO CHASQUI	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
10/11/2016	\$ 287.02	School of International Letters & Cultures	Chasqui Royalty	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
4/4/2017	\$ 257.88	School of International Letters & Cultures	CENGAGE #19468275 ROYALTY CHSQ	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
10/3/2017	\$ 245.42	School of International Letters & Cultures	CENGAGE#19492064 CHASQUI ROYAL	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
4/3/2018	\$ 316.31	School of International Letters & Cultures	CENGAGE LEARNING #19512312	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
9/21/2018	\$ 280.20	School of International Letters & Cultures	Chasqui Royalty	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
10/17/2018	\$ 255.82	ASU Ctr for Medieval & Renaissance Studies	CHECK, Annali RoyaltyCengage#1952928	Semi-annual royalties for their Annali D'Italiantistica journal sales through Cengage
4/4/2015	\$ 354.78	School of International Letters & Cultures	Chasqui Royalty	Chasqui is a journal publication of scholarly articles on all aspects of Latin American studies. The royalty payments are for reprint rights for the articles.
4/18/2015	\$ 313.75	ASU Ctr for Medieval & Renaissance Studies	CHECK,Annali RoyaltyCengage#0010077	Semi-annual royalties for their Annali D'Italiantistica journal sales through Cengage
4/3/2017	\$ 235.27	ASU Ctr for Medieval & Renaissance Studies	Annali d'Italiantistica royalties	Semi-annual royalties for their Annali D'Italiantistica journal sales through Cengage
10/6/2017	\$ 216.96	ASU Ctr for Medieval & Renaissance Studies	Annali d'Italiantistica royalties	Semi-annual royalties for their Annali D'Italiantistica journal sales through Cengage
4/3/2018	\$ 250.72	ASU Ctr for Medieval & Renaissance Studies	Annali d'Italiantistica royalties	Semi-annual royalties for their Annali D'Italiantistica journal sales through Cengage
10/17/2018	\$ 255.82	ASU Ctr for Medieval & Renaissance Studies	kell	Semi-annual royalties for their Annali D'Italiantistica journal sales through Cengage
4/18/2019	\$ 313.75	ASU Ctr for Medieval & Renaissance Studies	Annali d'Italiantistica royalties	Semi-annual royalties for their Annali D'Italiantistica journal sales through Cengage
12/11/2015	\$ 26.96	ASU College of Nursing & Healthcare Innovation	Sim In Nursing Royalty Sep'15	Concept Media Film Contract - Videos were developed as a reusable learning object through Concept Media by CONHI simulation team for Teaching Excellence in Simulation Education in 2009 and royalties were paid to ASU through Cengage when used on their platform.
3/15/2018	\$ 78.46	ASU College of Nursing & Healthcare Innovation	Royalty - Sim Nurse DVD	same as above
TOTAL	\$5,299.70			

Exhibit 9

CONFIDENTIAL – summary of contributions by Cengage or Cengage employees to ASU Foundation

\$5,000 on March 11, 2011

- To the ASU Venture Catalyst Fund
- Allocated to the Office of Knowledge Enterprise Development
- Sponsorship of the EDGE Education Innovation Summit for a Technology Adoption Scholarship
- Fair market value of \$1,800, net gift value of \$3,200

\$5,000 on June 19, 2018

- Allocated to the Office of the Vice President and University Technology Officer
- Fair market value of \$600, net gift value of \$4,400
- Appears to be for sponsorship of the April 2018 Shaping EDU Unconference (<https://shapingedu.asu.edu/unconference-archival/2018-unconference/conveners>)

In addition, four individuals who list Cengage as their employers have made small gifts over the years:

1. \$100 on June 2, 2009 to the Native Peoples Fund, College of Liberal Arts and Sciences
2. \$50 in total
 - \$25 in 1989-90 to the University President Investment Fund
 - \$25 on April 19, 2005 to the Dean's Scholarship Fund at the W.P. Carey College of Business
3. \$210 in total
 - \$10 on March 15, 1988 to the College of Education Academic Enrichment fund
 - \$200 to the University President Investment Fund from November 21, 1988 to December 3, 1991 (by the same individual as #3)
4. \$53 in total
 - \$23 on November 24, 2017 to Promise Scholarship at Education Outreach and Student Services
 - \$30 to the College of Liberal Arts and Sciences on March 22, 2019

Exhibit 10

CO-PUBLISHING AND FULFILLMENT AGREEMENT

This Agreement is made, as of January 7, 2016 (the "Effective Date") by and between Cengage Learning, Inc., 5 Maxwell Drive, Clifton Park, NY 12065 ("CL") and the Arizona Board of Regents, a body corporate, for and on behalf of Arizona State University, 1151 S. Forest Ave., Tempe, AZ 85281 ("ASU").

WHEREAS, ASU and CL desire to incorporate certain content, as hereinafter provided, into a course as provided in exhibits attached hereto and made a part hereof (the "Course"), and provide the Course to ASU's students and non-ASU students and share in the revenue therefrom;

WHEREAS, CL has developed and owns certain educational content (the "CL Content") and ASU is developing content for the Course ("ASU Content"); and

WHEREAS, ASU and CL desire to work together to build and distribute the Course on the terms and conditions hereinafter contained,

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein, the parties hereto agree as follows:

ARTICLE I - LICENSE GRANTS:

- 1.1 CL Content.** CL, while retaining all rights, including copyright, to the CL Content, hereby grants to ASU, during the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable, limited license to (a) incorporate the CL Content into the Course to be used on Cengage's platform to be powered by Knewton Inc.'s adaptive learning technology (the "Platform"); and (b) distribute the Course as hereinafter provided. ASU shall make no other use of the CL Content.
- 1.2 ASU Content.** ASU, while retaining all rights, including copyright, to the ASU Content, hereby grants to Cengage, during the term of this Agreement, a non-exclusive, nontransferable, non-sublicensable, limited license to (a) incorporate the ASU Content into the Course to be used on the Platform; and (b) distribute the Course as hereinafter provided. CL shall make no other use of the ASU Content.
- 1.3 The Course.** The Course shall be distributed, as provided on Exhibit B attached hereto and made a part hereof, to students, faculty and administrators of ASU and students, faculty and administrators of non-ASU educational institutions (collectively, "End-Users").

ARTICLE II – DUTIES OF CL AND ASU:

- 2.1 Course Development.** CL and ASU shall mutually agree on the Content to be included in the Course, the design of the Course and subject matter experts ("SMEs") for

development of the Course. Each time the parties have agreed upon the Content and SMEs, the parties shall enter into an exhibit to this Agreement, each to be numbered Exhibit A-1, A-2, etc. which shall contain the list of the Content, work to be performed, other duties of the parties and the Course to result, as well as a schedule for the work to be performed. Each exhibit shall be attached hereto and governed by this Agreement. CL and ASU shall mutually agree on a cycle for reviewing and updating the Course.

2.2 CL Duties. CL, at its expense, shall bear the capital costs of deploying the Course at ASU, including the provision of CL products and offerings (including software) necessary for the desired rollout, deployment and use, as well as the industry standard level of service necessary to support such Course. In particular, CL shall handle/provide (at no cost to ASU, unless otherwise agreed):

- a. Project Management: CL shall provide project management for the rollout and ongoing support to ASU as needed. CL shall provide one (1) main project management resource, to work as a partner to ASU's project manager, to coordinate deployment, provide support and serve as a resource for training. It is understood that this will need to be a dedicated resource during rollout and other designated times when necessary.
- b. White –glove support and customer service (done remotely if needed) to manage the Course deployment.
- c. CL and ASU shall mutually provide training for ASU faculty on the use of the Course upon wide scale adoption, to be agreed upon by the parties, at ASU.

2.3 ASU Duties. ASU shall handle/provide (at no cost to CL):

- a. Instructional design, and project management support to help with instructional design, evangelizing, developing marketing strategies, participating on milestone conversations and managing overall deliverables with CL and Knewton, Inc.
- b. Faculty experts on content and instruction.
- c. Supporting research on the pedagogical and other measurable benefits of the Platform at ASU.

2.4 Joint Duties. Instructional lessons shall be mutually agreed upon by ASU and CL. CL and ASU shall mutually agree on other responsibilities associated with the development of the Course including work to be performed, other duties of the parties and the Course to result, as well as a schedule for the work to be performed.

ARTICLE III – REVENUE SHARING AND PAYMENT TERMS:

3.1 Revenue Sharing. In consideration of the License granted hereunder, the revenue from distribution of the Course shall be shared and payment shall be made as provided on Exhibit B.

ARTICLE IV - INTELLECTUAL PROPERTY:

- 4.1 CL Proprietary Interest.** ASU acknowledges and agrees that CL has proprietary rights in and to the CL Content, to the Course to the extent that CL Content is incorporated therein, and to the Platform, and that CL owns all right, title and interest thereto including all intellectual property rights associated therewith. ASU shall not, by virtue of this Agreement or by virtue of its access to the CL Content, obtain any proprietary rights in or to the CL Content except the rights specifically granted to ASU herein. ASU shall not use or transmit the CL Content in any manner except as specifically authorized by this Agreement. CL shall ensure that it has obtained all necessary permissions and/or copyright ownership in and to all CL Content.
- 4.2 ASU Proprietary Interest.** CL acknowledges and agrees that ASU has proprietary rights in and to the ASU Content and to the Course to the extent that ASU Content is incorporated therein, and that ASU owns all right, title and interest thereto including all intellectual property rights associated therewith. CL shall not, by virtue of this Agreement or by virtue of its access to the ASU Content, obtain any proprietary rights in or to the ASU Content except the rights specifically granted to CL herein. CL shall not use or transmit the ASU Content in any manner except as specifically authorized by this Agreement. ASU shall ensure that it has obtained all necessary permissions and/or copyright ownership in and to all ASU Content.
- 4.3 Cessation of Use.** Each party agrees and covenants to cease to reproduce, market and distribute the other party's Content, or portions thereof, and the Course, or portions thereof, immediately upon written notice from the other party in the event that the other party (a) ceases to have sufficient rights in the applicable Content to grant the rights granted under this Agreement, (b) is required by judicial or governmental order to cease or suspend publication of such Content, or (c) decides in its reasonable judgment to cease or suspend distribution of such Content due to a threat of legal action or liability.
- 4.4 Copyright Notice.** When making the Course available to End-Users as permitted by this Agreement, the Course shall contain a notice comprised of the following elements to be conspicuously displayed to protect each party's intellectual property rights: (a) the word "Copyright" or the symbol © (the letter c in a circle), (b) the year of first publication of such document as specified by the party which owns the Content, (c) the name of the copyright holder, and (d) the words "All Rights Reserved."
- 4.5 Trademarks.** Subject to the terms and conditions of this Agreement, each party hereby grants to the other party a non-exclusive, non-transferable, limited license to reproduce and display such party's trademarks, trade names and logos (collectively, "Marks") provided by such party to the other party hereunder solely for the purposes contemplated in this Agreement; provided, however, that neither party shall make any specific use of the other party's Marks without, prior to each specific use first obtaining such other party's prior written consent. Each party hereby acknowledges and agrees that all use of the other party's Marks shall inure to the benefit of the party who owns such Marks and shall not create any rights, title or interest in the other party; all Marks of the other party are, and shall remain, the sole and exclusive property of such other party; each party shall not hold itself out as having any ownership rights with respect thereto or, except as

specifically granted hereunder, any other rights therein; and each party shall cause to appear with any use of the other party's Marks any label or symbol reasonably required by such other party to preserve its rights in and to its Marks.

ARTICLE V – TERM AND TERMINATION:

- 5.1 Term.** The initial term of this Agreement shall commence on the Effective Date and continue through January 6, 2019. Thereafter, this Agreement shall renew automatically for two (2) one (1) year renewal periods, unless either party terminates this Agreement at the end of the initial term or either of the renewal periods by giving the other party written notice of termination at least sixty (60) days prior to the end of the initial term or the then current renewal period. The initial term and the renewal periods shall be referred to, collectively, herein as the “term” of this Agreement.
- 5.2 Failure to Perform.** Either party has the right to terminate this Agreement if the other party materially breaches any representation, warranty, covenant or agreement made by it hereunder or otherwise fails to perform any of its material obligations hereunder which breach or failure has not been cured within thirty (30) days after receipt of written notice of default from the non-breaching party (or such additional cure period as the non-breaching party may authorize).
- 5.3 Bankruptcy and Business Termination.** Either party may immediately terminate this Agreement upon written notice to the other party if the other party has a receiver or similar party appointed for all or substantially all of its property, is declared insolvent by a court of competent jurisdiction, ceases to do business, files a petition in bankruptcy or a petition is filed against it in bankruptcy, becomes the subject of any court or administrative proceeding related to its liquidation or insolvency (whether voluntary or involuntary) which is not dismissed within sixty (60) days, or makes an assignment for the benefit of its creditors.
- 5.4 Conduct Upon Termination.** Upon expiration or termination of this Agreement for any reason, each party shall immediately cease all use, distribution and sale of the Course and the other party's Marks, and each party shall promptly pay to the other party any fees or other payments due hereunder that have accrued but have yet to be paid at the time of the termination. Notwithstanding anything contained herein to the contrary, in the event that this Agreement is terminated (except for an Exempted Termination (as defined below) and at ASU's option and expense, CL shall continue providing the services contemplated herein and providing End-Users access to the Course for sufficient time that all End-Users using the Course have completed their coursework for which fees have been paid, but in no event shall such period exceed six (6) months (the post termination services are referred to as the "Transition Services", and the period during which such Transition Services are provided are herein referred to as the "Transition Period"). Any fees for any Transition Services beyond what has already been paid for the Course shall be as agreed between CL and ASU, and shall be payable in full on the first day of the Transition Period. The Transition Services will be provided at least at the same

levels of quality and timeliness of performance as such services were provided prior to the termination, and in a professional manner, with high quality and in accordance with industry standards. CL represents that it will have the ability to provide such Transition Services. ASU may, upon written notice to CL, modify the specific Transition Services to be provided to a subset of the services provided under this Agreement and may reduce the term for the Transition Period to less than that specified above, provided that CL shall not be obligated to refund to ASU any fees paid by ASU nor shall ASU be relieved of any obligation to pay any fees accrued on or prior to the date this Agreement is terminated. The parties may also mutually agree in writing to extend the Transition Period, subject to the parties mutually agreeing on the fees to be paid by ASU for such Transition Services during such extended period. Upon termination of this Agreement, to the extent ASU elects to have CL provide Transition Services, the parties agree to work in good faith, at ASU's sole reasonable cost and expense, to effectuate an orderly transition of the services contemplated herein. As used herein, an "Exempted Termination" means either: (a) a termination of this Agreement by CL pursuant to Section 5.2 for a breach by ASU; or (b) a termination of this Agreement pursuant to Section 4.2 under circumstances where either (i) the provision of the Course has been or may reasonably be enjoined or (ii) the continued provision of the Course would expose either of the parties to monetary damages.

ARTICLE VI – WARRANTIES, INDEMNIFICATION AND LIMITATION OF LIABILITY:

- 6.1 Warranty.** Each party represents and warrants to the other party as follows: (a) such party has full power, authority and rights to enter into this Agreement and to perform the obligations and/or to grant the licenses set forth hereunder; and (b) the execution, delivery and performance of this Agreement do not, and will not, conflict with or violate (i) any other agreement or instrument applicable to such party, (ii) any applicable law, rule or regulation, or (iii) any rights of a third party.
- 6.2 DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, CL MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONTENT OR THE COURSE, AND CL EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.
- 6.3 Limitation of Liability.** UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM BREACH OF THIS AGREEMENT OR ARISING FROM ANY OTHER PROVISION OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS

ARTICLE VII – CONFIDENTIALITY

- 7.1 Confidentiality.** Each party acknowledges that, from time to time, it may be exposed to certain information, which is the other party's confidential and proprietary information and not generally known to the public ("Confidential Information"). Each party agrees that it will take appropriate steps to protect the other party's Confidential Information from unauthorized disclosure, that it will not disclose such Confidential Information to any third party, and that it will not use any such Confidential Information other than as authorized by this Agreement, without the prior written consent of the other party. The term "Confidential Information" does not include information that (a) is or becomes generally available to the public other than as a result of disclosure by the recipient or anyone to whom the recipient transmits the information, (b) becomes available to the recipient on a non-confidential basis from a source other than the disclosing party who is not bound by a confidentiality agreement with the disclosing party, (c) was known to the recipient or in its possession prior to the date of disclosure by the disclosing party, or (d) is independently developed by the recipient without reference to the Confidential Information of the disclosing party.

ARTICLE VIII – MISCELLANEOUS

- 8.1 Publicity.** Neither party shall publicly use the other party's or each of its affiliates' name or Marks in any publicity, promotion, news release, website posting, announcement, client list, marketing materials or other disclosure or otherwise refer to the other party or its affiliates in any way in or with the media with respect to this Agreement or the transactions contemplated hereunder, unless such party has obtained the prior written consent of the other party in each case.
- 8.2 Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona without reference to its conflict of laws principles which would require the application of the laws of another jurisdiction.
- 8.3 Force Majeure.** Except for the obligation to make payments hereunder, neither party shall be liable for any delay or failure in performing its obligations hereunder if caused by a factor beyond such party's reasonable control, including, without limitation, acts of God, acts of terrorism, acts of government, fire or other casualty, provided the affected party makes every effort to promptly resume performance. In the event that the affected party cannot resume performance within thirty (30) days, then the other party may, without penalty or liability, terminate this Agreement upon written notice.
- 8.4 Assignment.** Neither party may assign, sublicense or otherwise transfer (voluntarily, by operation of law, or otherwise) this Agreement, in whole or in part, or any right, interest, benefit or obligation under this Agreement, without the prior written consent of the other party. Any attempt to assign this Agreement other than in accordance with this Section shall be null and void.

- 8.5 Prevailing Terms.** Except for Exhibit C attached hereto and made a part hereof, in the event of a conflict between the terms and conditions set forth in the body of this Agreement and any attachment hereto, the terms and conditions of this Agreement shall take precedence over any conflicting terms and conditions in any attachment hereto, provided that if a particular attachment expressly amends by section a term of this Agreement, such amendment shall take precedence and be valid. The terms and conditions on the attached Exhibit C are part hereof.
- 8.6 Waiver.** The failure by either party to insist upon strict enforcement of any terms and conditions of this Agreement shall not be construed as a waiver of such right or of any other right hereunder.
- 8.7 Remedies Cumulative.** Except as expressly limited herein, the rights and remedies set forth hereunder are cumulative and in addition to any other remedies available at law or in equity.
- 8.8 Relationship of the Parties.** Nothing in this Agreement shall be construed to make either party the agent of the other for any purpose whatsoever; neither party is authorized to enter into any contract or assume any obligation for the other. Nothing in this Agreement shall be construed to establish a partnership, joint venture or employer-employee relationship between CL and ASU.
- 8.9 Headings.** The headings of the various sections of this Agreement have been inserted only for purposes of convenience; such headings are not part of this Agreement and shall not be deemed, in any manner, to modify, enlarge or restrict any of the provisions of this Agreement.
- 8.10 Notices.** Any and all notices and other communications to either party hereunder shall be in writing and deemed delivered (i) upon receipt if by hand, email (where expressly provided herein) or overnight courier and (ii) three (3) days after mailing by first class, certified mail, postage prepaid, return receipt requested, to the addresses set forth on the first page hereof or to such other address for a party as shall be specified by like notice.
- 8.11 Severability.** If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect.
- 8.12 Entire Agreement.** This Agreement and any exhibits, addenda and amendments hereto, constitute the entire understanding between the parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings, whether oral or written, regarding such subject matter. There are no other understandings, agreements, representations or warranties relied upon by either party with respect to the subject matter herein, which are not included herein. This Agreement may be modified only in writing signed by both parties.

8.13 Survival of Obligations. Sections 5.4, 8.2, Articles IV, VI and VII, and all terms on Exhibits B and C for the periods provided for in Section 5.4 above, together with all provisions herein necessary or appropriate to interpret and enforce the same, will survive the termination or expiration of this Agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

CENGAGE LEARNING, INC.

By: Jul Espinoza

Printed Name: Jul Espinoza

Title: VP, Finance

ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY

By: _____

Printed Name: _____

Title: _____

8.13 Survival of Obligations. Sections 5.4, 8.2, Articles IV, VI and VII, and all terms on Exhibits B and C for the periods provided for in Section 5.4 above, together with all provisions herein necessary or appropriate to interpret and enforce the same, will survive the termination or expiration of this Agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

CENGAGE LEARNING, INC.

By: _____

Printed Name: _____

Title: _____

ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF ARIZONA STATE
UNIVERSITY

By:  _____

Printed Name: MARK SEARLE

Title: EXECUTIVE VICE PRESIDENT

AND
UNIVERSITY PROUST

EXHIBIT A

CL shall supply Content via materials including text, video, animations, and activities to support ASU's Courses: ECN 211 Macroeconomic Principles and ECN 212 Microeconomic Principles. CL shall deliver these materials through an online course management system that utilizes the Platform.

The underlying architecture and design of the Course system shall be completed by CL with input and guidance from ASU. In addition to the Content provided by CL, ASU may provide ASU -provided materials as desired by the parties.

ASU shall supply personnel, as mutually agreed, to assist CL in the appropriate design and content selection for the Course.

Schedule:

ECN 211 Microeconomics Principles (Pilot)

11/14/16 – Delivery of V1 Course (ready for use in January '17 classes)

ECN 211/ECN 212 Macro/Microeconomic Principles (Full Delivery)

4/10/17 – Delivery of V1 Course (ready for use in Summer '17 classes)

EXHIBIT B

The price for each ASU student End-User to access the Course shall be one hundred dollars (\$100.00). During the period from **Spring 2017 through Spring 2018** (the “Pilot Period”), for every ASU student End-User who is enrolled in the Course as of each add/drop date for the Course, ASU shall charge each such ASU student End-User one hundred dollars (\$100.00). For each such sale, ASU shall retain twenty-one dollars (\$21.00) and shall remit seventy-nine dollars (\$79.00) to CL. Following the Pilot Period, for every ASU student End-User who is enrolled in the Course as of each add/drop date for the Course, ASU shall charge each such ASU student End-User one hundred dollars (\$100.00). For each such sale, ASU shall retain one dollar (\$1.00) and shall remit ninety-nine dollars (\$99.00) to CL. Thirty (30) days following each add/drop date of the Course, during the term of this Agreement, ASU shall submit a report to CL, including the number of ASU student End-User enrollments in the Course as of such add/drop date and the amount owed CL. ASU shall submit payment for such enrollments, to an address to be advised by CL, at the same time as ASU submits its report to CL.

Following are the numbers of anticipated ASU student End-User enrollments:

ECN 212 Micro Principles Pilot

Time Period	Spring 2017	Summer 2017	Fall 2017
Enrollments	75	150	750

ECN 211 Macro Principles Pilot

Time Period	Spring 2017	Fall 2017	Spring 2018
Enrollments		75	150

Following successful implementation during the pilot phase, enrollment will scale into several thousands for each course. The estimated enrollment is as follows. The enrollment numbers are contingent upon a the schedule listed in Exhibit A.

ECN 212

Spring 2018	Fall 2018	Spring 2019
2100	2000	2200

ECN 211

Fall 2018	Spring 2019	Fall 2019
2000	2100	2200

Following are the three methods of delivery and payment that shall apply:

1. ASU shall provide ASU student End-Users access to the Course via the Platform where the Course shall be hosted. ASU student End-Users shall have access to the Course for the first semester in which each such End-User takes the Course and up to two (2) subsequent semesters. If access is provided for a period beyond such period by ASU, ASU shall pay CL fifty dollars (\$50) for each additional semester.
2. Non-ASU adoption and direct purchase by student:
 - a. CL shall host the Course on CL's platform where students shall access the Course directly or via a link on the adopting school's learning management system ("LMS") for up to two (2) semesters;
 - b. CL shall create printed access codes ("PACs"), instant access codes ("IACs") or ePins, which the students may obtain from their institution, their institution's bookstore or CL's website;
 - c. Students shall pay \$100-150 for the Course via the adopting institution, the adopting institution's bookstore or the CL's website; and
 - d. CL shall pay ASU according to the provisions of Section 4 below.
3. Non-ASU adoption, course fee model:
 - a. CL shall host the Course on CL's platform where students shall access the Course directly or via a link on the adopting school's learning management system ("LMS") for up to two (2) semesters;
 - b. The adopting institution will notify CL of the total number of students enrolled in the Course after each semester's drop/add period ends;
 - c. The price to the adopting institution shall be \$100-150 per student;
 - d. CL shall bill the adopting school for the numbers of students so enrolled;
 - e. The adopting school will pay CL's invoice; and
 - f. CL shall pay ASU according to the provisions of Section 4 below.
4. CL shall pay ASU, at a location to be advised by ASU, for use of the Course by non-ASU End-Users as follows:
 - A revenue share of two percent (2%) on first time sales hereunder until a threshold of two hundred fifty thousand dollars (\$250,000) in sales for non-ASU End-Users is reached (0-\$250,000)
 - A revenue share of three percent (3%) on first time sales hereunder on the next two million (\$2,000,000) in sales for non-ASU End-Users (\$250,001-\$2,250,000)
 - A revenue share of five percent (5%) on first time sales hereunder above \$2,250,000 in sales for non-ASU End-Users (\$2,250,001+).

- CL shall pay ASU a revenue share of two percent (2%) on business that was closed under this Agreement, the first time such business is renewed. Thereafter, shall be paid a revenue share of one percent (1%) shall be paid on all such renewable business at the time of renewal.

Funding and Support of Joint Development Project

In support of this Project, CL, at its expense, shall bear the capital costs of deploying the Active, Adaptive Psychology Course- Powered by the Mindtap at ASU, including the provision of CL products and offerings (including software) necessary for the desired rollout, deployment and use, as well as the highest-level of service expected from a strategic partner.

In particular, CL shall handle/provide (at no cost to ASU, unless otherwise agreed):

- Project Management: CL shall provide project management for the rollout and ongoing support to ASU as needed. CL shall provide one (1) main project management resource, who would work as a partner to ASU's project manager, to coordinate deployment, provide support and serve as a resource for training. It is understood that this will need to be a dedicated resource during rollout and other designated times when necessary.
- White –glove support and customer service (done remotely if needed) to manage ASU Adaptive Mindtap deployment

In support of the Project, ASU shall handle/provide (at no cost to CL):

- Instructional Design and project management support to help with (1) instructional design, evangelizing, developing marketing strategies, participating on milestone conversations and managing overall deliverables with CL and Knewton (2) supporting research on the pedagogical and other measurable benefits of the Mindtap Adaptive Psychology Platform at ASU.

In connection with the Project, CL and ASU shall each bear the costs of their respective personnel engaged in the Project. Except as set forth above, each party shall bear its own expenses relating to the project.

EXHIBIT C
ARIZONA STATE UNIVERSITY SUPPLEMENTAL TERMS AND CONDITIONS

To the extent any provisions of the foregoing contract with the Arizona Board of Regents, a body corporate, for and on behalf of Arizona State University (“ASU”) conflict with any of the provisions of this Exhibit, the provisions of this Exhibit will control. References to this “Contract” include the foregoing contract and this Exhibit. All provisions of this Contract that by their terms anticipate performance after the termination of this Contract, and all provisions necessary or appropriate to interpret and enforce such provisions, will survive termination of this Contract.

1. **Nondiscrimination.** The parties will comply with all applicable state and federal laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and nondiscrimination, including the Americans with Disabilities Act. **If applicable, the parties will abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**

2. **Conflict of Interest.** In accordance with Arizona Revised Statutes (“A.R.S.”) § 38-511, ASU may cancel this Contract within three years after the execution of this Contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Contract on behalf of ASU, at any time while this Contract or any extension thereof is in effect, is an employee or agent of any other party to this Contract in any capacity or a consultant to any other party with respect to the subject matter of this Contract.

3. **Arbitration in Superior Court.** In the event of litigation, as required by A.R.S. § 12-1518, the parties agree to make use of arbitration in all contracts that are subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

4. **Records.** To the extent required by A.R.S. § 35-214, the non-ASU parties to this Contract (jointly and severally, “Entity”) will retain all records relating to this Contract. Entity will make those records available at all reasonable times for inspection and audit by ASU or the Auditor General of the State of Arizona during the term of this Contract and for a period of five years after the completion of this Contract. The records will be provided at Arizona State University, Tempe, Arizona, or another location designated by ASU on reasonable notice to Entity.

5. **Failure of Legislature to appropriate.** In accordance with A.R.S. § 35-154, if ASU’s performance under this Contract depends on the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then ASU may provide written notice of this to Entity and cancel this Contract without further obligation of ASU. Appropriation is a legislative act and is beyond the control of ASU.

6. **Weapons, Explosive Devices and Fireworks.** ASU prohibits the use, possession, display or storage of any weapon, explosive device or fireworks on all land and buildings owned, leased, or under the control of ASU or its affiliated or related entities, in all ASU residential facilities (whether managed by ASU or another entity), in all ASU vehicles, and at all ASU or ASU affiliate sponsored events and activities, except as provided in A.R.S. § 12-781, or unless written permission is given by the Chief of the

ASU Police Department or a designated representative. Notification by Entity to all persons or entities who are employees, officers, subcontractors, consultants, agents, guests, invitees or licensees of Entity (“Entity Notification Parties”) of this policy is a condition and requirement of this Contract. Entity further agrees to enforce this contractual requirement against all Entity Notification Parties. ASU’s policy may be accessed through the following web page: <http://www.asu.edu/aad/manuals/pdp/pdp201-05.html>.

7. **Confidentiality.** ASU is a public institution and, as such, is subject to A.R.S. §§ 39-121 through 39-127 regarding public records. Accordingly, notwithstanding any other provision of this Contract to the contrary, any provision regarding confidentiality is limited to the extent necessary to comply with the provisions of Arizona law.

8. **Indemnification by ASU; Limitation.** ASU will indemnify and hold harmless Entity and its owners, officers, directors, members, managers, agents, employees or subcontractors for, from, and against any and all third party claims, actions, liabilities, damages, losses, or expenses actually incurred (including reasonable court costs, attorneys’ fees, and costs of claim processing, investigation, and litigation) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property to the extent caused, or alleged to be caused, by (i) the negligent acts or omissions of ASU; or (ii) failure to comply with any applicable law. ASU is a public institution and, as such, any indemnification, liability limitation, or hold harmless provision will be limited as required by Arizona law, including without limitation [Article 9, Sections 5 and 7](#) of the Arizona Constitution and A.R.S. §§ 35-154 and 41-621. Therefore, notwithstanding any other provision of this Contract to the contrary, ASU’s liability under any claim for indemnification is limited to claims for property damage, personal injury, or death to the extent caused by acts or omissions of ASU.

9. **Indemnification by Entity.** Entity will indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities, and its and their officials, agents and employees (collectively, “Indemnitee”) for, from, and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation, and litigation) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property to the extent caused, or alleged to be caused, by (i) the negligence, acts or omissions of Entity or any of its owners, officers, directors, members, managers, agents, employees or subcontractors; (ii) a breach of this Contract; or (iii) failure to comply with any applicable law. Entity will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Contract, Entity waives all rights of subrogation against Indemnitee for losses arising from the services performed or deliverables provided by Entity under this Contract.

10. **Student Educational Records.** Student educational records are protected by the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (“FERPA”). Entity will comply with FERPA and will not access or make any disclosures of student educational records to third parties without prior notice to and consent from ASU or as otherwise provided by law. If this Contract contains a scope of work or any provision that requires or permits Entity to access or release any student records, then, for purposes of this Contract only, ASU hereby designates Entity as a “school official” for ASU under FERPA, as that term is used in FERPA and its implementing regulations. As such, Entity will comply with FERPA and will not make any disclosures of ASU students’ educational records to third parties without prior notice to, and consent from, ASU or as otherwise permitted by law. In addition, any access or disclosures of student educational records made by Entity or its employees and agents must comply with ASU’s definition of legitimate educational purpose, which definition can be found at: SSM 107-01: Release of Student Information (<http://www.asu.edu/aad/manuals/ssm/ssm107-01.html>). If Entity violates the terms of this section, Entity will immediately provide notice of the violation to ASU.

11. **Authorized Presence Requirements.** As required by A.R.S. § 41-4401, ASU is prohibited from awarding a contract to any contractor or subcontractor that fails to comply with A.R.S. § 23-214(A) (verification of employee eligibility through the e-verify program). Entity warrants that it and its subcontractors comply fully with all applicable federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A). A breach of the foregoing warranty will be deemed a material breach of this Contract that is subject to penalties up to and including termination of the Contract. ASU retains the legal right to inspect the papers of any contractor or subcontractor employee who works hereunder to ensure that the contractor or subcontractor is complying with the warranty stated above.

12. **Tobacco-Free University.** ASU is tobacco-free. For details visit www.asu.edu/tobaccofree.

13. **Information Security.** All systems containing ASU Data must be designed, managed, and operated in accordance with information security best practices and in compliance with all applicable federal and state laws, regulations and policies. In addition, systems must be managed so they are in compliance or are consistent with ASU's policies and standards regarding data usage and information security. To diminish information security threats, Entity will (either directly or through its third party service providers) meet the following requirements:

(a) **Access Control.** Control access to ASU's resources, including sensitive ASU Data, limiting access to legitimate business need based on an individual's job-related assignment. Entity will, or will cause the system administrator to, approve and track access to ensure proper usage and accountability, and Entity will make such information available to ASU for review, upon ASU's request.

(b) **Incident Reporting.** Report information security incidents immediately to ASU (including those that involve information disclosure incidents, unauthorized disclosure of ASU Data, network intrusions, successful virus attacks, unauthorized access or modifications, and threats and vulnerabilities).

(c) **Off Shore.** Direct services under this Contract will be performed within the borders of the United States. Any services that are described in this Contract that directly serve ASU and may involve access to secure or sensitive ASU Data or personal client data or development or modification of software for ASU will be performed within the borders of the United States. Unless stated otherwise in this Contract, this requirement does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of this Contract. This provision applies to work performed by subcontractors at all tiers and to all ASU Data.

(d) **Patch Management.** Carry out updates and patch management for all systems and devices in a timely manner and to the satisfaction of ASU. Updates and patch management must be deployed using an auditable process that can be reviewed by ASU upon ASU's request.

(e) **Encryption.** All systems and devices that store, process or transmit sensitive ASU Data must use an industry standard encryption protocol for data in transit and make efforts to use an industry standard encryption protocol for data at rest.

(f) **Notifications.** Notify ASU immediately if Entity receives any kind of subpoena for or involving ASU Data, if any third-party requests ASU Data, or if Entity has a change in the location or transmission of ASU Data. All notifications to ASU required in this Information Security paragraph will be sent to ASU Information Security at Infosec@asu.edu, in addition to any other notice addresses in this Contract.

(g) **Security Reviews.** Complete SSAE 16 or substantially equivalent reviews in accordance with industry standards, which reviews are subject to review and approval by ASU upon ASU's request. Currently, no more than two reviews per year are required.

(h) **Scanning and Penetration Tests.** Perform periodic scans, including penetration tests, for unauthorized applications, services, code and system vulnerabilities on the networks and systems included in this Contract at regular intervals in accordance with industry standards and best practices. Entity must

correct weaknesses within a reasonable period of time, and Entity must provide results of all tests to ASU upon ASU's request.

(i) ASU Rights. ASU reserves the right (either directly or through third party service providers) to scan and/or penetration test any purchased and/or leased software regardless of where it resides. **(j) Secure Development.** Use secure development and coding standards including secure change management procedures in accordance with industry standards. Perform penetration testing and/or scanning prior to releasing new software versions. Entity will provide internal standards and procedures to ASU for review and approval upon ASU request.

14. **Americans with Disabilities Act and Rehabilitation Act.** Entity will comply with all applicable provisions of the Americans with Disabilities Act, the Rehabilitation Act, and all applicable federal regulations. All electronic and information technology and products and services to be used by ASU faculty/staff, students, program participants, or other ASU constituencies must be compliant with the Americans with Disabilities Act as amended and the Section 508 of the Rehabilitation Act of 1973. Compliance means that a disabled person can acquire the same information, engage in the same interactions, and enjoy the same services as a nondisabled person, in an equally effective and integrated manner, with substantially equivalent ease of use.

15. **Data Use and Ownership.** As between the parties, ASU will own, or retain all of its rights in, all data and information that ASU provides to Entity, as well as all data managed by Entity on behalf of ASU, including all output, reports, analyses, and other materials relating to or generated by the Services, even if generated by Entity as well as all data collected, extracted, or received through ASU's or Entity's use of the Services or Deliverables (collectively, the "ASU Data"). The ASU Data also includes all data and information provided directly to Entity by ASU students and employees, and includes personal data, metadata, and user content. The ASU Data shall be ASU's Intellectual Property and Entity will treat it as Confidential Information. Entity shall not use, access, disclose, or license or provide to third parties, any ASU Data, or any materials derived therefrom, except, in each case, as authorized in writing by ASU. Without limiting the generality of the foregoing, Entity may not use any ASU Data, whether or not aggregated or de-identified, for product development, marketing, profiling, benchmarking, or product demonstrations, without, in each case, ASU's prior written consent.

16. **Warranties.** Entity represents and warrants that: (i) all of the Services will be performed in a professional and workmanlike manner and in conformity with industry standards by persons reasonably suited by skill, training and experience for the type of Services they are assigned to perform; (ii) Entity will comply, and will be responsible for ensuring Entity Parties comply, with all applicable federal, state and local laws in the performance of the Services; (iii) Entity's performance of the Services will not result in a breach of any other Contract to which Entity is a party; (iv) Entity owns or has sufficient rights in and to all CL Content, and such CL Content will not infringe upon or violate any Intellectual Property of any third parties; (v) any software developed or delivered under this Contract by CL will not contain any viruses, worms, Trojan Horses, or other disabling devices or code.

17. **Insurance Requirements.** Without limiting any liabilities or any other obligation of Entity, Entity shall purchase and maintain (and cause its subcontractors to purchase and maintain), in a company or companies lawfully authorized to do business in the State of Arizona, and rated at least A- VII in the current A.M. Best's, the minimum insurance coverage below.

Entity and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Entity, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. ASU in no way warrants that the minimum limits contained herein are sufficient to protect Entity from liabilities that might arise out of the performance of the work under this Contract by Entity, its agents, representatives, employees or subcontractors.

(a) **Minimum Scope and Limits of Insurance.** Entity shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability -- Occurrence Form.** Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability – Written and Oral	\$1,000,000
Fire Legal Liability	\$50,000
Each Occurrence	\$1,000,000

- A. The policy shall be endorsed to include the following additional insured language:
“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of Entity.”
- B. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of Entity.

2. **Worker's Compensation and Employers' Liability** – statutory limits, as amended from time to time and in each case no less than the amounts specified below:

Worker's Compensation
Employer's Liability

Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

- A. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of Entity.
- B. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor /Independent Contractor) form.

3. Technology/Network Errors and Omissions Insurance.

Each Claim	\$2,000,000
Annual Aggregate	\$4,000,000

Coverage to include:

- Hostile action or a threat of hostile action with the intent to affect, alter, copy, corrupt, destroy, disrupt, damage, or provide unauthorized access/unauthorized use of a computer system including exposing or publicizing confidential electronic data or causing electronic data to be inaccessible;
 - Computer viruses, Trojan horses, worms and other types of malicious or damaging code;
 - Dishonest, fraudulent, malicious, or criminal use of a computer system by a person, whether identified or not, and whether acting alone or in collusion with other persons, to affect, alter, copy corrupt, delete, disrupt, or destroy a computer system or obtain financial benefit for any party or to steal or take electronic data;
 - Denial of service for which the insured is responsible that results in the degradation of or loss of access to internet or network activities or normal use of a computer system;
 - Loss of service for which the insured is responsible that results in the inability of a third party, who is authorized to do so, to gain access to a computer system and conduct normal internet or network activities;
 - Access to a computer system or computer system resources by an unauthorized person or an authorized person in an unauthorized manner;
 - Loss or disclosure of confidential information no matter how it occurs;
 - Systems analysis;
 - Software Design;
 - Systems programming;
 - Data processing;
 - Systems integration;
 - Outsourcing including outsourcing development and design;
 - Systems design, consulting, development and modification;
 - Training services relating to computer software or hardware;
 - Management, repair and maintenance of computer products, networks and systems;
 - Marketing, selling, servicing, distributing, installing and maintaining computer hardware or software; and
 - Data entry, modification, verification, maintenance, storage, retrieval or preparation of data output.
- A. If the professional liability insurance required by this Contract is written on a claims-made basis, Entity warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning at the time work under this Contract is completed.

B The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

(b) **Additional Insurance Requirements:** The policies shall include, or be endorsed to include, the following provisions:

- A. Entity's insurance coverage shall be primary insurance with respect to all other available sources.
- B. Coverage provided by Entity shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- C. The State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by Consultant, even if those limits of liability are in excess of those required by this Agreement.

(c) **Notice of Cancellation:** With the exception of ten day notice of cancellation for non-payment of premium, any changes material to compliance with this Contract in the insurance policies above shall require 30 days written notice to the State of Arizona. Such notice shall be sent directly to Arizona State University, Risk Management, P.O. Box 876512, Tempe, Arizona 85287 and shall be sent by certified mail, return receipt requested.

(d) **Verification of Coverage:** Entity shall furnish ASU with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by ASU before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to Arizona State University, Risk Management, P.O. Box 876512, Tempe, Arizona 85287. The ASU project/contract number and project description shall be noted on the certificate of insurance. ASU reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

(e) **Subcontractors:** Entity's certificate(s) shall include all subcontractors as insureds under its policies or Entity will furnish to ASU separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

18. **Notices.** All notices and communications required or permitted under this Contract shall be in writing and shall be given by personal delivery against receipt (including private courier service such as Federal Express), or certified United States Mail, return receipt requested. All notices and communications shall be sent to the addresses set forth below or to such other address as the parties may specify in the same manner:

To ASU:

Office of the Provost
PO Box 877805
Tempe, AZ 85287
Attn: University Provost

With a copy to:

Purchasing and Business Services
PO Box 875212
Tempe, AZ 85287-5212
Attn: Chief Procurement Officer

To Entity:

Cengage Learning, Inc.
Maxwell Drive
Clifton Park, NY 12065
Attn: VP - Legal

Notices, if delivered, and if provided in the manner set forth above, shall be deemed to have been given and received on the date of actual receipt or upon the date receipt was refused. Any notice to be given by any party may be given by legal counsel for such party.

19. **Termination.** ASU may terminate this Contract with or without cause upon 30 days written notice to Entity. If this Contract is terminated, the University shall have no further obligations other than payment for services already rendered and for expenses previously incurred.

20. **Leased Employees.** Entity shall determine and inform ASU if any leased employees are retired members of the Arizona State Retirement System prior to the leased employee performing any work under this Contract.

21. **Governing Law and Venue.** This Contract will be governed by the laws of the State of Arizona without regard to any conflicts of laws principles. ASU's obligations hereunder are subject to the regulations/policies of the Arizona Board of Regents. Any proceeding arising out of or relating to this Contract will be conducted in Maricopa County, Arizona. Each party waives any objection it may now or hereafter have to venue or to convenience of forum.

22. **Responsibility.** Each party will be responsible for the negligence, acts and omissions of its employees and contractors when acting under such party's direction and supervision. Notwithstanding the terms of this Contract or any other document or agreement: (i) other than for employees and contractors acting under ASU's direction and supervision, ASU is not responsible for any actions of any third parties, including its students; and (ii) no person may bind ASU unless they are an authorized signatory of ASU, as set forth in PUR-202, which is at <http://www.asu.edu/counsel/manual/signatureauthority.html>.

23. **Background Checks.** To ensure the safety and security of ASU, Entity will conduct reference checks, background checks, and fingerprinting (Screenings) as and when required, on all persons employed or contracted by Entity who have physical contact with ASU students or staff in the performance of the work under this Contract or have access to students' or staff's personally identifiable information (each a "Covered Person"). The necessity and adequacy of the Screenings will be determined by the type of work each Covered Person will be performing under this Contract; at a minimum, within 90 days prior to a Covered Person commencing work under this Contract, Entity will conduct Screenings on such Covered Person as would be required if ASU were hiring the person. These minimum Screening requirements are set forth in ASU ACD 126 at <http://www.asu.edu/aad/manuals/acd/acd126.html> and ARS § 15-1649. During the term of this Contract, Entity will exclude from any direct participation in Entity's performance under this Contract, any dishonest, unethical, unreasonably dangerous, or otherwise unqualified person. Entity will maintain as part of the records Entity is required to maintain hereunder, all Screening information and all documentation relating to work performance for each Covered Person who

performs work hereunder. Entity will abide by all applicable laws, rules and regulations including the Fair Credit Reporting act and/or any equal opportunity laws, rules, regulations or ordinances.

Exhibit 11

CO-PUBLISHING AND FULFILLMENT AGREEMENT

This Agreement is made, as of March 20, 2015 (the "Effective Date") by and between Cengage Learning, Inc., 5 Maxwell Drive, Clifton Park, NY 12065 ("CL") and the Arizona Board of Regents, a body corporate, for and on behalf of Arizona State University, 1151 S. Forest Ave., Tempe, AZ 85281 ("ASU").

WHEREAS, ASU and CL desire to incorporate certain content, as hereinafter provided, into a course as provided in exhibits attached hereto and made a part hereof (the "Course"), and provide the Course to ASU's students and non-ASU students and share in the revenue therefrom;

WHEREAS, CL has developed and owns certain educational content (the "CL Content") and ASU is developing content for the Course ("ASU Content"); and

WHEREAS, ASU and CL desire to work together to build and distribute the Course on the terms and conditions hereinafter contained,

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein, the parties hereto agree as follows:

ARTICLE I - LICENSE GRANTS:

- 1.1 **CL Content.** CL, while retaining all rights, including copyright, to the CL Content, hereby grants to ASU, during the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable, limited license to (a) incorporate the CL Content into the Course to be used on Cengage's platform to be powered by Knewton Inc.'s adaptive learning technology (the "Platform"); and (b) distribute the Course as hereinafter provided. ASU shall make no other use of the CL Content.
- 1.2 **ASU Content.** ASU, while retaining all rights, including copyright, to the ASU Content, hereby grants to Cengage, during the term of this Agreement, a non-exclusive, nontransferable, non-sublicensable, limited license to (a) incorporate the ASU Content into the Course to be used on the Platform; and (b) distribute the Course as hereinafter provided. CL shall make no other use of the ASU Content.
- 1.3 **The Course.** The Course shall be distributed, as provided on Exhibit B attached hereto and made a part hereof, to students, faculty and administrators of ASU and students, faculty and administrators of non-ASU educational institutions (collectively, "End-Users").

ARTICLE II – DUTIES OF CL AND ASU:

- 2.1 **Course Development.** CL and ASU shall mutually agree on the Content to be included in the Course, the design of the Course and subject matter experts ("SMEs") for

development of the Course. Each time the parties have agreed upon the Content and SMEs, the parties shall enter into an exhibit to this Agreement, each to be numbered Exhibit A-1, A-2, etc. which shall contain the list of the Content, work to be performed, other duties of the parties and the Course to result, as well as a schedule for the work to be performed. Each exhibit shall be attached hereto and governed by this Agreement. CL and ASU shall mutually agree on a cycle for reviewing and updating the Course.

2.2 CL Duties. CL, at its expense, shall bear the capital costs of deploying the Course at ASU, including the provision of CL products and offerings (including software) necessary for the desired rollout, deployment and use, as well as the industry standard level of service necessary to support such Course. In particular, CL shall handle/provide (at no cost to ASU, unless otherwise agreed):

- a. Project Management: CL shall provide project management for the rollout and ongoing support to ASU as needed. CL shall provide one (1) main project management resource, to work as a partner to ASU's project manager, to coordinate deployment, provide support and serve as a resource for training. It is understood that this will need to be a dedicated resource during rollout and other designated times when necessary.
- b. White –glove support and customer service (done remotely if needed) to manage the Course deployment.
- c. CL and ASU shall mutually provide training for ASU faculty on the use of the Course upon wide scale adoption, to be agreed upon by the parties, at ASU.

2.3 ASU Duties. ASU shall handle/provide (at no cost to CL):

- a. Instructional design, and project management support to help with instructional design, evangelizing, developing marketing strategies, participating on milestone conversations and managing overall deliverables with CL and Knewton, Inc.
- b. Faculty experts on content and instruction.
- c. Supporting research on the pedagogical and other measurable benefits of the Platform at ASU.

2.4 Joint Duties. Instructional lessons shall be mutually agreed upon by ASU and CL. CL and ASU shall mutually agree on other responsibilities associated with the development of the Course including work to be performed, other duties of the parties and the Course to result, as well as a schedule for the work to be performed.

ARTICLE III – REVENUE SHARING AND PAYMENT TERMS:

3.1 Revenue Sharing. In consideration of the License granted hereunder, the revenue from distribution of the Course shall be shared and payment shall be made as provided on Exhibit B.

ARTICLE IV - INTELLECTUAL PROPERTY:

- 4.1 **CL Proprietary Interest.** ASU acknowledges and agrees that CL has proprietary rights in and to the CL Content, to the Course to the extent that CL Content is incorporated therein, and to the Platform, and that CL owns all right, title and interest thereto including all intellectual property rights associated therewith. ASU shall not, by virtue of this Agreement or by virtue of its access to the CL Content, obtain any proprietary rights in or to the CL Content except the rights specifically granted to ASU herein. ASU shall not use or transmit the CL Content in any manner except as specifically authorized by this Agreement. CL shall ensure that it has obtained all necessary permissions and/or copyright ownership in and to all CL Content.
- 4.2 **ASU Proprietary Interest.** CL acknowledges and agrees that ASU has proprietary rights in and to the ASU Content and to the Course to the extent that ASU Content is incorporated therein, and that ASU owns all right, title and interest thereto including all intellectual property rights associated therewith. CL shall not, by virtue of this Agreement or by virtue of its access to the ASU Content, obtain any proprietary rights in or to the ASU Content except the rights specifically granted to CL herein. CL shall not use or transmit the ASU Content in any manner except as specifically authorized by this Agreement. ASU shall ensure that it has obtained all necessary permissions and/or copyright ownership in and to all ASU Content.
- 4.3 **Cessation of Use.** Each party agrees and covenants to cease to reproduce, market and distribute the other party's Content, or portions thereof, and the Course, or portions thereof, immediately upon written notice from the other party in the event that the other party (a) ceases to have sufficient rights in the applicable Content to grant the rights granted under this Agreement, (b) is required by judicial or governmental order to cease or suspend publication of such Content, or (c) decides in its reasonable judgment to cease or suspend distribution of such Content due to a threat of legal action or liability.
- 4.4 **Copyright Notice.** When making the Course available to End-Users as permitted by this Agreement, the Course shall contain a notice comprised of the following elements to be conspicuously displayed to protect each party's intellectual property rights: (a) the word "Copyright" or the symbol © (the letter c in a circle), (b) the year of first publication of such document as specified by the party which owns the Content, (c) the name of the copyright holder, and (d) the words "All Rights Reserved."
- 4.5 **Trademarks.** Subject to the terms and conditions of this Agreement, each party hereby grants to the other party a non-exclusive, non-transferable, limited license to reproduce and display such party's trademarks, trade names and logos (collectively, "Marks") provided by such party to the other party hereunder solely for the purposes contemplated in this Agreement; provided, however, that neither party shall make any specific use of the other party's Marks without, prior to each specific use first obtaining such other party's prior written consent. Each party hereby acknowledges and agrees that all use of the other party's Marks shall inure to the benefit of the party who owns such Marks and

shall not create any rights, title or interest in the other party; all Marks of the other party are, and shall remain, the sole and exclusive property of such other party; each party shall not hold itself out as having any ownership rights with respect thereto or, except as specifically granted hereunder, any other rights therein; and each party shall cause to appear with any use of the other party's Marks any label or symbol reasonably required by such other party to preserve its rights in and to its Marks.

ARTICLE V – TERM AND TERMINATION:

- 5.1 Term.** The initial term of this Agreement shall commence on the Effective Date and continue through March 19, 2018. Thereafter, this Agreement shall renew automatically for two (2) one (1) year renewal periods, unless either party terminates this Agreement at the end of the initial term or either of the renewal periods by giving the other party written notice of termination at least sixty (60) days prior to the end of the initial term or the then current renewal period. The initial term and the renewal periods shall be referred to, collectively, herein as the "term" of this Agreement.
- 5.2 Failure to Perform.** Either party has the right to terminate this Agreement if the other party materially breaches any representation, warranty, covenant or agreement made by it hereunder or otherwise fails to perform any of its material obligations hereunder which breach or failure has not been cured within thirty (30) days after receipt of written notice of default from the non-breaching party (or such additional cure period as the non-breaching party may authorize).
- 5.3 Bankruptcy and Business Termination.** Either party may immediately terminate this Agreement upon written notice to the other party if the other party has a receiver or similar party appointed for all or substantially all of its property, is declared insolvent by a court of competent jurisdiction, ceases to do business, files a petition in bankruptcy or a petition is filed against it in bankruptcy, becomes the subject of any court or administrative proceeding related to its liquidation or insolvency (whether voluntary or involuntary) which is not dismissed within sixty (60) days, or makes an assignment for the benefit of its creditors.
- 5.4 Conduct Upon Termination.** Upon expiration or termination of this Agreement for any reason, each party shall immediately cease all use, distribution and sale of the Course and the other party's Marks, and each party shall promptly pay to the other party any fees or other payments due hereunder that have accrued but have yet to be paid at the time of the termination. Notwithstanding anything contained herein to the contrary, in the event that this Agreement is terminated (except for an Exempted Termination (as defined below) and at ASU's option and expense, CL shall continue providing the services contemplated herein and providing End-Users access to the Course for sufficient time that all End-Users using the Course have completed their coursework for which fees have been paid, but in no event shall such period exceed six (6) months (the post termination services are referred to as the "Transition Services", and the period during which such Transition Services are

provided are herein referred to as the "Transition Period"). Any fees for any Transition Services beyond what has already been paid for the Course shall be as agreed between CL and ASU, and shall be payable in full on the first day of the Transition Period. The Transition Services will be provided at least at the same levels of quality and timeliness of performance as such services were provided prior to the termination, and in a professional manner, with high quality and in accordance with industry standards. CL represents that it will have the ability to provide such Transition Services. ASU may, upon written notice to CL, modify the specific Transition Services to be provided to a subset of the services provided under this Agreement and may reduce the term for the Transition Period to less than that specified above, provided that CL shall not be obligated to refund to ASU any fees paid by ASU nor shall ASU be relieved of any obligation to pay any fees accrued on or prior to the date this Agreement is terminated. The parties may also mutually agree in writing to extend the Transition Period, subject to the parties mutually agreeing on the fees to be paid by ASU for such Transition Services during such extended period. Upon termination of this Agreement, to the extent ASU elects to have CL provide Transition Services, the parties agree to work in good faith, at ASU's sole reasonable cost and expense, to effectuate an orderly transition of the services contemplated herein. As used herein, an "Exempted Termination" means either: (a) a termination of this Agreement by CL pursuant to Section 5.2 for a breach by ASU; or (b) a termination of this Agreement pursuant to Section 4.2 under circumstances where either (i) the provision of the Course has been or may reasonably be enjoined or (ii) the continued provision of the Course would expose either of the parties to monetary damages.

ARTICLE VI – WARRANTIES, INDEMNIFICATION AND LIMITATION OF LIABILITY:

- 6.1 Warranty.** Each party represents and warrants to the other party as follows: (a) such party has full power, authority and rights to enter into this Agreement and to perform the obligations and/or to grant the licenses set forth hereunder; and (b) the execution, delivery and performance of this Agreement do not, and will not, conflict with or violate (i) any other agreement or instrument applicable to such party, (ii) any applicable law, rule or regulation, or (iii) any rights of a third party.
- 6.2 DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, CL MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONTENT OR THE COURSE, AND CL EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.
- 6.3 Limitation of Liability.** UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF THAT

PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM BREACH OF THIS AGREEMENT OR ARISING FROM ANY OTHER PROVISION OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS

ARTICLE VII – CONFIDENTIALITY

- 7.1 **Confidentiality.** Each party acknowledges that, from time to time, it may be exposed to certain information, which is the other party's confidential and proprietary information and not generally known to the public ("Confidential Information"). Each party agrees that it will take appropriate steps to protect the other party's Confidential Information from unauthorized disclosure, that it will not disclose such Confidential Information to any third party, and that it will not use any such Confidential Information other than as authorized by this Agreement, without the prior written consent of the other party. The term "Confidential Information" does not include information that (a) is or becomes generally available to the public other than as a result of disclosure by the recipient or anyone to whom the recipient transmits the information, (b) becomes available to the recipient on a non-confidential basis from a source other than the disclosing party who is not bound by a confidentiality agreement with the disclosing party, (c) was known to the recipient or in its possession prior to the date of disclosure by the disclosing party, or (d) is independently developed by the recipient without reference to the Confidential Information of the disclosing party.

ARTICLE VIII – MISCELLANEOUS

- 8.1 **Publicity.** Neither party shall publicly use the other party's or each of its affiliates' name or Marks in any publicity, promotion, news release, website posting, announcement, client list, marketing materials or other disclosure or otherwise refer to the other party or its affiliates in any way in or with the media with respect to this Agreement or the transactions contemplated hereunder, unless such party has obtained the prior written consent of the other party in each case.
- 8.2 **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona without reference to its conflict of laws principles which would require the application of the laws of another jurisdiction.
- 8.3 **Force Majeure.** Except for the obligation to make payments hereunder, neither party shall be liable for any delay or failure in performing its obligations hereunder if caused by a factor beyond such party's reasonable control, including, without limitation, acts of God, acts of terrorism, acts of government, fire or other casualty, provided the affected party makes every effort to promptly resume performance. In the event that the affected party cannot resume performance within thirty (30) days, then the other party may, without penalty or liability, terminate this Agreement upon written notice.

- 8.4 **Assignment.** Neither party may assign, sublicense or otherwise transfer (voluntarily, by operation of law, or otherwise) this Agreement, in whole or in part, or any right, interest, benefit or obligation under this Agreement, without the prior written consent of the other party. Any attempt to assign this Agreement other than in accordance with this Section shall be null and void.
- 8.5 **Prevailing Terms.** Except for Exhibit C attached hereto and made a part hereof, in the event of a conflict between the terms and conditions set forth in the body of this Agreement and any attachment hereto, the terms and conditions of this Agreement shall take precedence over any conflicting terms and conditions in any attachment hereto, provided that if a particular attachment expressly amends by section a term of this Agreement, such amendment shall take precedence and be valid. The terms and conditions on the attached Exhibit C are part hereof.
- 8.6 **Waiver.** The failure by either party to insist upon strict enforcement of any terms and conditions of this Agreement shall not be construed as a waiver of such right or of any other right hereunder.
- 8.7 **Remedies Cumulative.** Except as expressly limited herein, the rights and remedies set forth hereunder are cumulative and in addition to any other remedies available at law or in equity.
- 8.8 **Relationship of the Parties.** Nothing in this Agreement shall be construed to make either party the agent of the other for any purpose whatsoever; neither party is authorized to enter into any contract or assume any obligation for the other. Nothing in this Agreement shall be construed to establish a partnership, joint venture or employer-employee relationship between CL and ASU.
- 8.9 **Headings.** The headings of the various sections of this Agreement have been inserted only for purposes of convenience; such headings are not part of this Agreement and shall not be deemed, in any manner, to modify, enlarge or restrict any of the provisions of this Agreement.
- 8.10 **Notices.** Any and all notices and other communications to either party hereunder shall be in writing and deemed delivered (i) upon receipt if by hand, email (where expressly provided herein) or overnight courier and (ii) three (3) days after mailing by first class, certified mail, postage prepaid, return receipt requested, to the addresses set forth on the first page hereof or to such other address for a party as shall be specified by like notice.
- 8.11 **Severability.** If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect.
- 8.12 **Entire Agreement.** This Agreement and any exhibits, addenda and amendments hereto, constitute the entire understanding between the parties with respect to the subject matter

hereof and supersede all prior and contemporaneous agreements and understandings, whether oral or written, regarding such subject matter. There are no other understandings, agreements, representations or warranties relied upon by either party with respect to the subject matter herein, which are not included herein. This Agreement may be modified only in writing signed by both parties.

- 8.13 Survival of Obligations.** Sections 5.4, 8.2, Articles IV, VI and VII, and all terms on Exhibits B and C for the periods provided for in Section 5.4 above, together with all provisions herein necessary or appropriate to interpret and enforce the same, will survive the termination or expiration of this Agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

CENGAGE LEARNING, INC.

By: _____

Printed Name: _____

Title: _____

ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY

By: _____

Printed Name: _____

Title: _____

EXHIBIT A

CL shall supply Content via materials including text, video, animations, and activities to support ASU's Course: Introduction to Psychology – PSY 101. CL shall deliver these materials through an online course management system that utilizes the Platform.

The underlying architecture and design of the Course system shall be completed by CL with input and guidance from ASU. In addition to the Content provided by CL, ASU may provide ASU-provided materials as desired by the parties.

ASU shall supply personnel, as mutually agreed, to assist CL in the appropriate design and content selection for the Course.

Schedule:

12/31/2014 – Content inventory complete by ASU staff.

5/31/2015 – Delivery of operational platform by CL for testing.

8/15/2015 – Delivery of functional pilot Course.

5/31/2016 – Delivery of final online Course.

EXHIBIT B

The price for each ASU student End-User to access the Course shall be one hundred dollars (\$100.00). During the period from summer 2015 through fall 2016 (the "Pilot Period"), for every ASU student End-User who is enrolled in the Course as of each add/drop date for the Course, ASU shall charge each such ASU student End-User one hundred dollars (\$100.00). For each such sale, ASU shall retain twenty-five dollars (\$25.00) and shall remit seventy-five dollars (\$75.00) to CL. Following the Pilot Period, for every ASU student End-User who is enrolled in the Course as of each add/drop date for the Course, ASU shall charge each such ASU student End-User one hundred dollars (\$100.00). For each such sale, ASU shall retain five dollars (\$5.00) and shall remit ninety-five dollars (\$95.00) to CL. Thirty (30) days following each add/drop date of the Course, during the term of this Agreement, ASU shall submit a report to CL, including the number of ASU student End-User enrollments in the Course as of such add/drop date and the amount owed CL. ASU shall submit payment for such enrollments, to an address to be advised by CL, at the same time as ASU submits its report to CL.

Following are the numbers of anticipated ASU student End-User enrollments:

Time Period	Summer 2015- Fall 2016	Spring 2017 - Summer 2017	Fall 2017 – Fall 2018
Enrollments	2000	4000	6000

Following are the three methods of delivery and payment that shall apply:

1. ASU shall provide ASU student End-Users access to the Course via the Platform where the Course shall be hosted. ASU student End-Users shall have access to the Course for the first semester in which each such End-User takes the Course and up to two (2) subsequent semesters. If access is provided for a period beyond such period by ASU, ASU shall pay CL fifty dollars (\$50) for each additional semester.
2. Non-ASU adoption and direct purchase by student:
 - a. CL shall host the Course on CL's platform where students shall access the Course directly or via a link on the adopting school's learning management system ("LMS") for up to two (2) semesters;
 - b. CL shall create printed access codes ("PACs"), instant access codes ("IACs") or ePins, which the students may obtain from their institution, their institution's bookstore or CL's website;
 - c. Students shall pay \$100-150 for the Course via the adopting institution, the adopting institution's bookstore or the CL's website; and
 - d. CL shall pay ASU according to the provisions of Section 4 below.
3. Non-ASU adoption, course fee model:

- a. CL shall host the Course on CL's platform where students shall access the Course directly or via a link on the adopting school's learning management system ("LMS") for up to two (2) semesters;
 - b. The adopting institution will notify CL of the total number of students enrolled in the Course after each semester's drop/add period ends;
 - c. The price to the adopting institution shall be \$100-150 per student;
 - d. CL shall bill the adopting school for the numbers of students so enrolled;
 - e. The adopting school will pay CL's invoice; and
 - f. CL shall pay ASU according to the provisions of Section 4 below.
4. CL shall pay ASU, at a location to be advised by ASU, for use of the Course by non-ASU End-Users on all new business. New business is defined as brand new business to CL, or if the non-ASU is currently using CL materials, then new business shall be comprised of the net difference between what CL is currently recognizing in sales at the non-ASU institution and the amount that is recognized hereunder.
- A revenue share of two percent (2%) on new business until a threshold of two hundred fifty thousand dollars (\$250,000) in sales for non-ASU End-Users is reached (0-\$250,000)
 - A revenue share of three percent (3%) on new business on the next two million (\$2,000,000) in sales for non-ASU End-Users (\$250,001-\$2,250,000)
 - A revenue share of five percent (5%) on new business above \$2,250,000 in sales for non-ASU End-Users (\$2,250,001+).
 - CL shall pay ASU a revenue share of two percent (2%) on business that was closed under this Agreement, the first time such business is renewed. Thereafter, shall be paid a revenue share of one percent (1%) shall be paid on all such renewable business at the time of renewal.

Funding and Support of Joint Development Project

In support of this Project, CL, at its expense, shall bear the capital costs of deploying the Active, Adaptive Psychology Course- Powered by the Mindtap at ASU, including the provision of CL products and offerings (including software) necessary for the desired rollout, deployment and use, as well as the highest-level of service expected from a strategic partner.

In particular, CL shall handle/provide (at no cost to ASU, unless otherwise agreed):

- Project Management: CL shall provide project management for the rollout and ongoing support to ASU as needed. CL shall provide one (1) main project management resource,

who would work as a partner to ASU's project manager, to coordinate deployment, provide support and serve as a resource for training. It is understood that this will need to be a dedicated resource during rollout and other designated times when necessary.

- White –glove support and customer service (done remotely if needed) to manage ASU Adaptive Mindtap deployment

In support of the Project, ASU shall handle/provide (at no cost to CL):

- Instructional Design and project management support to help with (1) instructional design, evangelizing, developing marketing strategies, participating on milestone conversations and managing overall deliverables with CL and Knewton (2) supporting research on the pedagogical and other measurable benefits of the Mindtap Adaptive Psychology Platform at ASU.

In connection with the Project, CL and ASU shall each bear the costs of their respective personnel engaged in the Project. Except as set forth above, each party shall bear its own expenses relating to the project.

EXHIBIT C
ARIZONA STATE UNIVERSITY SUPPLEMENTAL TERMS AND CONDITIONS

To the extent any provisions of the foregoing contract with the Arizona Board of Regents, a body corporate, for and on behalf of Arizona State University ("ASU") conflict with any of the provisions of this Exhibit, the provisions of this Exhibit will control. References to this "Contract" include the foregoing contract and this Exhibit. All provisions of this Contract that by their terms anticipate performance after the termination of this Contract, and all provisions necessary or appropriate to interpret and enforce such provisions, will survive termination of this Contract.

1. **Nondiscrimination.** The parties will comply with all applicable state and federal laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and nondiscrimination, including the Americans with Disabilities Act. **If applicable, the parties will abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**
2. **Conflict of Interest.** In accordance with Arizona Revised Statutes ("A.R.S.") § 38-511, ASU may cancel this Contract within three years after the execution of this Contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Contract on behalf of ASU, at any time while this Contract or any extension thereof is in effect, is an employee or agent of any other party to this Contract in any capacity or a consultant to any other party with respect to the subject matter of this Contract.
3. **Arbitration in Superior Court.** In the event of litigation, as required by A.R.S. § 12-1518, the parties agree to make use of arbitration in all contracts that are subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.
4. **Records.** To the extent required by A.R.S. § 35-214, the non-ASU parties to this Contract (jointly and severally, "Entity") will retain all records relating to this Contract. Entity will make those records available at all reasonable times for inspection and audit by ASU or the Auditor General of the State of Arizona during the term of this Contract and for a period of five years after the completion of this Contract. The records will be provided at Arizona State University, Tempe, Arizona, or another location designated by ASU on reasonable notice to Entity.
5. **Failure of Legislature to appropriate.** In accordance with A.R.S. § 35-154, if ASU's performance under this Contract depends on the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then ASU may provide written notice of this to Entity and cancel this Contract without further obligation of ASU. Appropriation is a legislative act and is beyond the control of ASU.

6. **Weapons, Explosive Devices and Fireworks.** ASU prohibits the use, possession, display or storage of any weapon, explosive device or fireworks on all land and buildings owned, leased, or under the control of ASU or its affiliated or related entities, in all ASU residential facilities (whether managed by ASU or another entity), in all ASU vehicles, and at all ASU or ASU affiliate sponsored events and activities, except as provided in A.R.S. § 12-781, or unless written permission is given by the Chief of the ASU Police Department or a designated representative. Notification by Entity to all persons or entities who are employees, officers, subcontractors, consultants, agents, guests, invitees or licensees of Entity ("Entity Notification Parties") of this policy is a condition and requirement of this Contract. Entity further agrees to enforce this contractual requirement against all Entity Notification Parties. ASU's policy may be accessed through the following web page: <http://www.asu.edu/aad/manuals/pdp/pdp201-05.html>.

7. **Confidentiality.** ASU is a public institution and, as such, is subject to A.R.S. §§ 39-121 through 39-127 regarding public records. Accordingly, notwithstanding any other provision of this Contract to the contrary, any provision regarding confidentiality is limited to the extent necessary to comply with the provisions of Arizona law.

8. **Indemnification by ASU; Limitation.** ASU will indemnify and hold harmless Entity and its owners, officers, directors, members, managers, agents, employees or subcontractors for, from, and against any and all third party claims, actions, liabilities, damages, losses, or expenses actually incurred (including reasonable court costs, attorneys' fees, and costs of claim processing, investigation, and litigation) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property to the extent caused, or alleged to be caused, by (i) the negligent acts or omissions of ASU; or (ii) failure to comply with any applicable law. ASU is a public institution and, as such, any indemnification, liability limitation, or hold harmless provision will be limited as required by Arizona law, including without limitation Article 9, Sections 5 and 7 of the Arizona Constitution and A.R.S. §§ 35-154 and 41-621. Therefore, notwithstanding any other provision of this Contract to the contrary, ASU's liability under any claim for indemnification is limited to claims for property damage, personal injury, or death to the extent caused by acts or omissions of ASU.

9. **Indemnification by Entity.** Entity will indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities, and its and their officials, agents and employees (collectively, "Indemnitee") for, from, and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation, and litigation) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property to the extent caused, or alleged to be caused, by (i) the negligence, acts or omissions of Entity or any of its owners, officers, directors, members, managers, agents, employees or subcontractors; (ii) a breach of this Contract; or (iii) failure to comply with any applicable law. Entity will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Contract, Entity waives all rights of subrogation against Indemnitee for losses arising from the services performed or deliverables provided by Entity under this Contract.

10. **Student Educational Records.** Student educational records are protected by the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g ("FERPA"). Entity will comply with FERPA and will not access or make any disclosures of student educational records to third parties without prior notice to and consent from ASU or as otherwise provided by law. If this Contract contains a scope of work or any provision that requires or permits Entity to access or release any student records, then, for

purposes of this Contract only, ASU hereby designates Entity as a "school official" for ASU under FERPA, as that term is used in FERPA and its implementing regulations. As such, Entity will comply with FERPA and will not make any disclosures of ASU students' educational records to third parties without prior notice to, and consent from, ASU or as otherwise permitted by law. In addition, any access or disclosures of student educational records made by Entity or its employees and agents must comply with ASU's definition of legitimate educational purpose, which definition can be found at: SSM 107-01: Release of Student Information (<http://www.asu.edu/aad/manuals/ssm/ssm107-01.html>). If Entity violates the terms of this section, Entity will immediately provide notice of the violation to ASU.

11. **Authorized Presence Requirements.** As required by A.R.S. § 41-4401, ASU is prohibited from awarding a contract to any contractor or subcontractor that fails to comply with A.R.S. § 23-214(A) (verification of employee eligibility through the e-verify program). Entity warrants that it and its subcontractors comply fully with all applicable federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A). A breach of the foregoing warranty will be deemed a material breach of this Contract that is subject to penalties up to and including termination of the Contract. ASU retains the legal right to inspect the papers of any contractor or subcontractor employee who works hereunder to ensure that the contractor or subcontractor is complying with the warranty stated above.

12. **Tobacco-Free University.** ASU is tobacco-free. For details visit www.asu.edu/tobaccofree.

13. **Information Security.** All systems containing ASU data must be designed, managed and operated in accordance with information security best practices and in compliance with all applicable federal and state laws, regulations and policies. In addition, systems must be managed in such a way that they are in compliance or are consistent with ASU's policies and standards regarding data usage and information security. In an effort to diminish information security threats, Entity will (or will require the third party host appointee to):

(a) **Security Reviews:** Complete SSAE 16 or substantially equivalent reviews in accordance with ASU policies, as the same may be amended from time to time, which reviews are subject to review and approval by ASU. At the present time no more than two reviews per year are required.

(b) **System Scanning and Penetration Tests:** Perform periodic scans, including penetration tests, for unauthorized applications, services, code and system vulnerabilities on the delegated services network and systems at regular intervals in accordance with ASU's policies and standards. Weaknesses must be corrected within a specified period of time as defined in ASU's policies and standards as amended from time to time.

(c) **Secure Development:** Use secure development and coding standards including secure change management procedures in accordance with ASU's policies and standards as the same may be amended from time to time. Internal standards and procedures are to be provided to ASU for review and approval a minimum of one time annually.

(d) **Patch Management:** Carry out updates and patch management in a timely manner and to the satisfaction of ASU. Updates and patch management must be deployed using an auditable process that can be reviewed by ASU upon request.

(e) **Access Control:** Control access to ASU's resources, including sensitive data, limiting access to legitimate business need based on an individual's job-related assignment. Access should be approved and tracked by the system owner to ensure proper usage and accountability and shall be subject to review by ASU upon request.

- (f) **Incident Reporting:** Report information security incidents immediately (including, but not limited to those that involve information disclosure incidents, network intrusions, successful virus attacks, unauthorized access or modifications, and threats and vulnerabilities).
- (g) **Off Shore:** Direct services under this Contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve Arizona State University and may involve access to secure or sensitive data or personal client data or development or modification of software for the University shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the Contract. This provision applies to work performed by Subcontractors at all tiers.
- (h) **Notifications:** Notify ASU immediately if you receive any kind of subpoena for or involving ASU data, or if any third-party requests ASU data, or if you have a change in the location or transmission of ASU data.

14. **Americans with Disabilities Act and Rehabilitation Act.** Entity will comply with all applicable provisions of the Americans with Disabilities Act, the Rehabilitation Act, and all applicable federal regulations. All electronic and information technology and products and services to be used by ASU faculty/staff, students, program participants, or other ASU constituencies must be compliant with the Americans with Disabilities Act as amended and the Section 508 of the Rehabilitation Act of 1973. Compliance means that a disabled person can acquire the same information, engage in the same interactions, and enjoy the same services as a nondisabled person, in an equally effective and integrated manner, with substantially equivalent ease of use.

15. **Data Ownership.** ASU will own, or retain all of its rights in, all data and information that ASU provides to Entity, as well as all data managed by Entity on behalf of ASU, including all output, reports, analyses, and other materials relating to or generated by the Services, even if generated by Entity as well as all data collected, extracted, or received through ASU's or Entity's use of the Services or Deliverables (collectively, the "ASU Data"). The ASU Data shall be considered ASU's Confidential Information. Entity shall not use, access, disclose, or license or provide to third parties, any ASU Data, or any materials derived therefrom, except, in each case, as authorized in writing by ASU. Without limiting the generality of the foregoing, Entity may not use any ASU Data, whether or not aggregated or de-identified, for product development, marketing, profiling, benchmarking, or product demonstrations, without, in each case, ASU's prior written consent.

16. **Warranties.** Entity represents and warrants that: (i) all of the Services will be performed in a professional and workmanlike manner and in conformity with industry standards by persons reasonably suited by skill, training and experience for the type of Services they are assigned to perform; (ii) Entity will comply, and will be responsible for ensuring Entity Parties comply, with all applicable federal, state and local laws in the performance of the Services; (iii) Entity's performance of the Services will not result in a breach of any other Contract to which Entity is a party; (iv) all Entity owns or has sufficient rights in and to all CL Content, and such CL Content will not infringe upon or violate any Intellectual Property of any third parties; (v) any software developed under this Contract by CL will not contain any viruses, worms, Trojan Horses, or other disabling devices or code.

17. **Insurance Requirements.** Without limiting any liabilities or any other obligation of Entity, Entity shall purchase and maintain (and cause its subcontractors to purchase and maintain), in a company or companies lawfully authorized to do business in the State of Arizona, and rated at least A- VII in the current A.M. Best's, the minimum insurance coverage below.

Entity and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Entity, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. ASU in no way warrants that the minimum limits contained herein are sufficient to protect Entity from liabilities that might arise out of the performance of the work under this Contract by Entity, its agents, representatives, employees or subcontractors.

(a) **Minimum Scope and Limits of Insurance.** Entity shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability -- Occurrence Form.** Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability – Written and Oral	\$1,000,000
Fire Legal Liability	\$50,000
Each Occurrence	\$1,000,000

A. The policy shall be endorsed to include the following additional insured language:
"The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of Entity."

B. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of Entity.

2. **Worker's Compensation and Employers' Liability** – statutory limits, as amended from time to time and in each case no less than the amounts specified below:

Worker's Compensation
Employer's Liability

Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

A. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of Entity.

B. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor /Independent Contractor) form.

3. Technology/Network Errors and Omissions Insurance.

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

Coverage to include:

- Hostile action or a threat of hostile action with the intent to affect, alter, copy, corrupt, destroy, disrupt, damage, or provide unauthorized access/unauthorized use of a computer system including exposing or publicizing confidential electronic data or causing electronic data to be inaccessible;
- Computer viruses, Trojan horses, worms and other types of malicious or damaging code;
- Dishonest, fraudulent, malicious, or criminal use of a computer system by a person, whether identified or not, and whether acting alone or in collusion with other persons, to affect, alter, copy corrupt, delete, disrupt, or destroy a computer system or obtain financial benefit for any party or to steal or take electronic data;
- Denial of service for which the insured is responsible that results in the degradation of or loss of access to internet or network activities or normal use of a computer system;
- Loss of service for which the insured is responsible that results in the inability of a third party, who is authorized to do so, to gain access to a computer system and conduct normal internet or network activities;
- Access to a computer system or computer system resources by an unauthorized person or an authorized person in an unauthorized manner;
- Loss or disclosure of confidential information no matter how it occurs;
- Systems analysis;
- Software Design;
- Systems programming;
- Data processing;
- Systems integration;
- Outsourcing including outsourcing development and design;
- Systems design, consulting, development and modification;
- Training services relating to computer software or hardware;
- Management, repair and maintenance of computer products, networks and systems;
- Marketing, selling, servicing, distributing, installing and maintaining computer hardware or software; and
- Data entry, modification, verification, maintenance, storage, retrieval or preparation of data output.

- A. If the professional liability insurance required by this Contract is written on a claims-made basis, Entity warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning at the time work under this Contract is completed.
- B. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

(b) **Additional Insurance Requirements:** The policies shall include, or be endorsed to include, the following provisions:

- A. Entity's insurance coverage shall be primary insurance with respect to all other available sources.
- B. Coverage provided by Entity shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- C. The State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by Consultant, even if those limits of liability are in excess of those required by this Agreement.

(c) **Notice of Cancellation:** With the exception of ten day notice of cancellation for non-payment of premium, any changes material to compliance with this Contract in the insurance policies above shall require 30 days written notice to the State of Arizona. Such notice shall be sent directly to Arizona State University, Risk Management, PO Box 876512, Tempe, Arizona 85287 and shall be sent by certified mail, return receipt requested.

(d) **Verification of Coverage:** Entity shall furnish ASU with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by ASU before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract. All certificates required by this Contract shall be sent directly to Arizona State University, Risk Management, PO Box 876512, Tempe, Arizona 85287. The ASU project/contract number and project description shall be noted on the certificate of insurance. ASU reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

(e) **Subcontractors:** Entity's certificate(s) shall include all subcontractors as insureds under its policies or Entity will furnish to ASU separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

18. **Notices.** All notices and communications required or permitted under this Contract shall be in writing and shall be given by personal delivery against receipt (including private courier service such as Federal Express), or certified United States Mail, return receipt requested. All notices and

communications shall be sent to the addresses set forth below or to such other address as the parties may specify in the same manner:

To ASU:

Philip Regier
Arizona State University
Tempe, AZ 85281
Attn: CEO EdPlus

With a copy to:

To Entity:

Cengage Learning, Inc.
Maxwell Drive
Clifton Park, NY 12065
Attn: VP - Legal

Notices, if delivered, and if provided in the manner set forth above, shall be deemed to have been given and received on the date of actual receipt or upon the date receipt was refused. Any notice to be given by any party may be given by legal counsel for such party.

19. **Termination.** ASU may terminate this Contract with or without cause upon 30 days written notice to Entity. If this Contract is terminated, the University shall have no further obligations other than payment for services already rendered and for expenses previously incurred.

20. **Leased Employees.** Entity shall determine and inform ASU if any leased employees are retired members of the Arizona State Retirement System prior to the leased employee performing any work under this Contract.

21. **Governing Law and Venue.** This Contract will be governed by the laws of the State of Arizona without regard to any conflicts of laws principles. ASU's obligations hereunder are subject to the regulations/policies of the Arizona Board of Regents. Any proceeding arising out of or relating to this Contract will be conducted in Maricopa County, Arizona. Each party waives any objection it may now or hereafter have to venue or to convenience of forum.

Exhibit 12

PRIVACY ([HTTPS://WWW.CENGAGE.COM/PRIVACY](https://www.cengage.com/privacy)) PIRACY ([HTTPS://WWW.CENGAGE.COM/PIRACY](https://www.cengage.com/piracy))

Exhibit 13

5-year averages

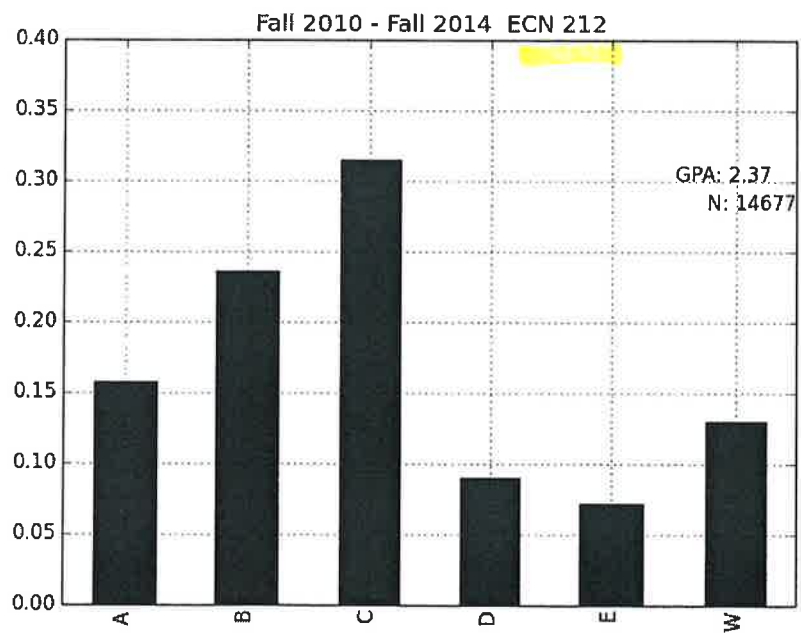
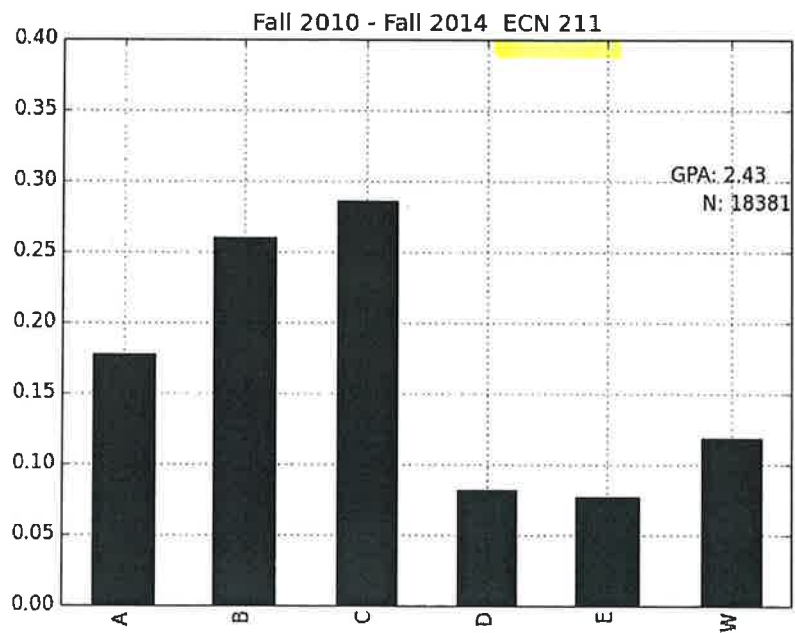


Exhibit 14

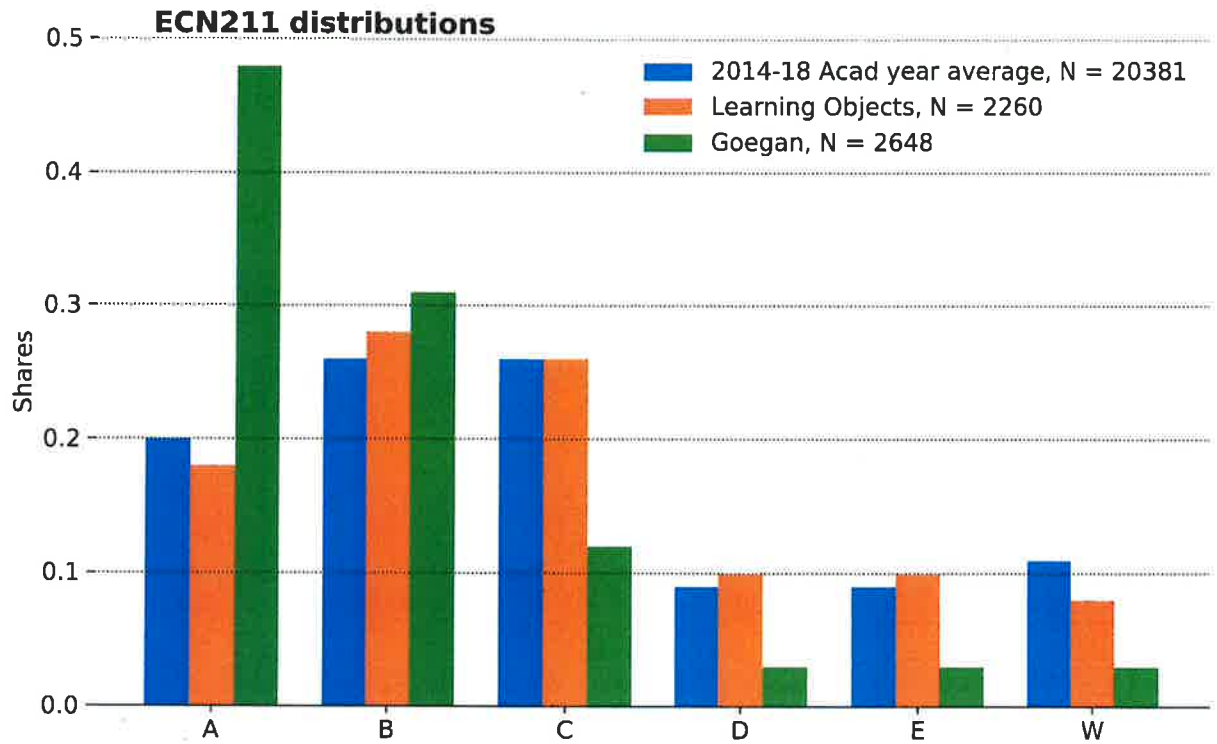


Table 1: ECN 211 - Tempe Campus

	A	B	C	D	E	W	GPA	DEW	N
2014-18 Acad year ave	0.20	0.26	0.26	0.09	0.09	0.11	2.44	0.29	20381
Learning Objects	0.18	0.28	0.26	0.10	0.10	0.08	2.39	0.28	2260
Goegan	0.48	0.31	0.12	0.03	0.03	0.03	3.27	0.09	2648

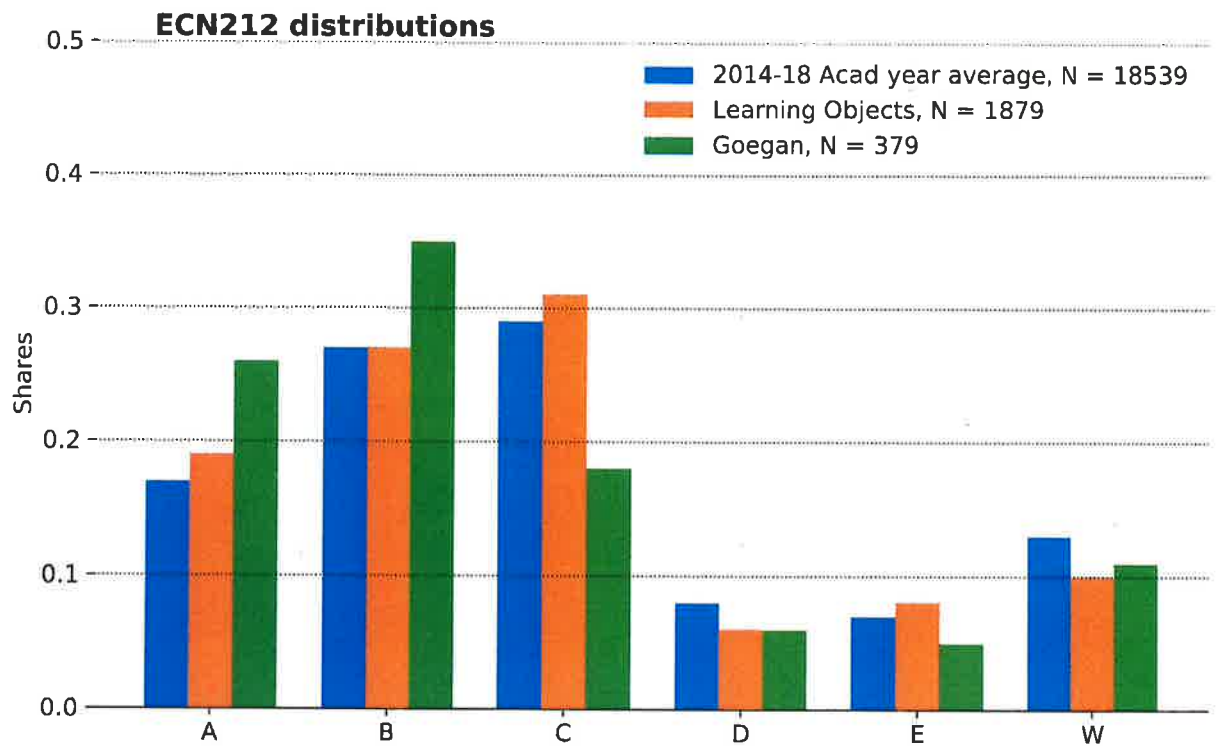


Table 2: ECN 212 - Tempe Campus

	A	B	C	D	E	W	GPA	DEW	N
2014-18 Acad year ave	0.17	0.27	0.29	0.08	0.07	0.13	2.49	0.27	18539
Learning Objects	0.19	0.27	0.31	0.06	0.08	0.10	2.51	0.24	1879
Goegan	0.26	0.35	0.18	0.06	0.05	0.11	2.83	0.21	379

Exhibit 15

MTH 117: Success Rate (A,B or C)						
FALL (in-person)	2013	2014	2015	2016	2017	2018
	pre-ALEKS			Adaptive w/ ALEKS		
	65%	59%	62%	78%	78%	79%
				Stretch	Stretch	Stretch data (85%) ^P

Exhibit 16

BIO 100 - Withdrawal Rate and Performance (in %)

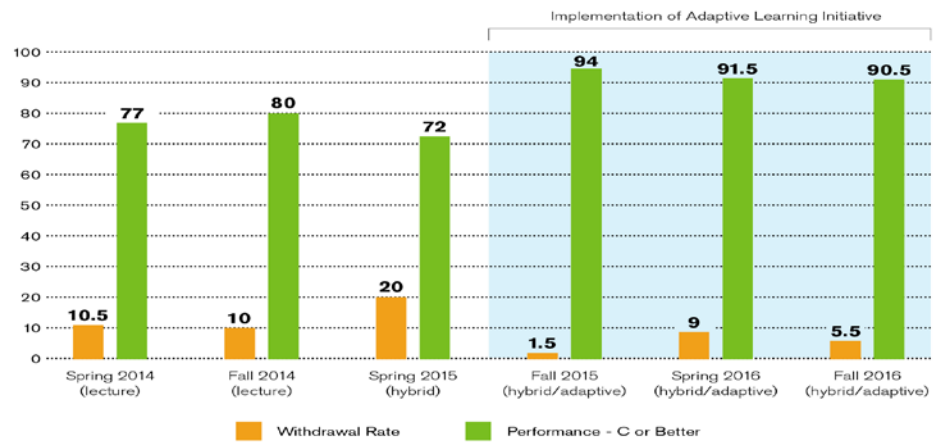


Exhibit 17

BIO 100 Success Rates									
	Fall 18	Sp 18	Fall 17	Sp 17	Fall 16	Sp 16	Fall 15	Sp 15	Fall 14
Instructor 1	87%	89%	87%	87%	91%	91%	94%	70%	80%
Instructor 2	93%	84%	87%	86%	85%	79%	80%	83%	75%
Instructor 3	n/a	n/a	n/a	n/a	n/a	83%	77%	71%	n/a

Exhibit 18

PSY 101: Success Rate (A,B or C)					
FALL (in-person)	2014	2015	2016	2017	2018
Adaptive	-	93%	88%	96%	86%
Lecture	83%	79%	82%	82%	86%
SPRING (in-person)					
Adaptive		-	-	-	95%
Lecture		76%	80%	85%	84%

Exhibit 19

									Date Current Fee / Budget Approved	Fee Purpose (Personnel, Technology, etc)	Expenses compliant with ABOR Guidelines and approved purpose of class fee (Dropdown List with Option to Enter Another Response) Yes. All expenses are compliant with ABOR guidelines and the approved purpose of the class fee	Class Fee expenses align with approved budget and expense distribution outlined in budget (Dropdown List with Option to Enter Another Response) For each class fee account it has been confirmed that the expenses align with the approved budget and the expense distribution outlined in the budget.	Approved budget provides adequate detail to support class fees expenses.	Class fee has been evaluated to determine if fee should be increased, reduced, deleted or if a rebudget is required. (Dropdown List with Option to Enter Another Response)	Notes / Action / Planned Improvements
College	Course Prefix	Number	Course Title	Special Topics	Campus	Location	Agency Org	Fee Amount							
WP Carey School of Business	ECN	211	Macroeconomics Principles	0	All campuses	All locations	NHS1902	100.00	10/6/2016	adaptive learning courseware			Yes	Yes. Class fee accounts have been evaluated and it has been determined that some class fees may need to be rebudgeted, increased, reduced or deleted. (in comments section below, please describe plan to resolve issues and planned improvements).	A rebudget request will be submitted by the Provost Office to move the funds and future class fees collected to a Provost account. The justification for the fee will also be updated.
WP Carey School of Business	ECN	212	Macroeconomics Principles	0	All campuses	All locations	NHS1901	100.00	10/6/2016	adaptive learning courseware	Class fee accounts have been evaluated and class fee expenses are compliant with ABOR guidelines and the approved purpose of the class fee	For each class fee account it has been confirmed that the expenses align with the approved budget and the expense distribution outlined in the budget.	Yes	Yes. Class fee accounts have been evaluated and it has been determined that some class fees may need to be rebudgeted, increased, reduced or deleted. (in comments section below, please describe plan to resolve issues and planned improvements).	A rebudget request will be submitted by the Provost Office to move the funds and future class fees collected to a Provost account. The justification for the fee will also be updated.
WP Carey School of Business	AGB	422	Consumer Behavior	0	POLY	All locations	NRS7909	50.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Spring 2013. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Spr'13. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	AGB	429	Marketing Research	0	POLY	All locations	NRS7910	50.00	N/A, fee deactivation in progress	N/A, fee deactivation in process	Class has not been offered since Spring 2008. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	N/A, fee deactivation in process	N/A, fee deactivation in process	Fee deactivation in process	CCM form to be processed to deactivate old fee. No fees assessed since pre-Spr'08.
WP Carey School of Business	AGB	435	Commodity Future and Opt Mkts	0	POLY	All locations	NRS7911	50.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Fall'12. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	100	PGA/PGM Introduction	0	POLY	All locations	NRS7903	560.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Spr'11. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	110	Player Development I	0	POLY	All locations	NRS7907	50.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Spr'11. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	111	Player Development II	0	POLY	All locations	NRS7907	50.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Spr'12. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	112	Player Development III	0	POLY	All locations	NRS7907	50.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Fall'12. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	113	Player Development IV	0	POLY	All locations	NRS7907	50.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Fall'12. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	130	PGA/PGM Level 1	0	POLY	All locations	NRS7903	1185.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Fall'11. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.

WP Carey School of Business	PGM	150	Teaching Golf I	0	POLY	All locations	NR57908	50.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Spr'13. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	200	PGA/PGM Level 2	0	POLY	All locations	NR57903	1085.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Spr'13. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	300	PGA/PGM Level 3	0	POLY	All locations	NR57903	900.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since Fall'13. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	363	Landscape and Turf Irrigation	0	POLY	All locations	NR57912	25.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since pre-Spr'08. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	PGM	367	Landscape Plants and Design	0	POLY	All locations	NR57913	25.00	N/A, fee no longer exists	N/A, fee no longer exists	Class has not been offered since Fall 2013 term or older due to dissolution of PGM program. Any prior remaining balance (if any) has been returned to the student(s), and the account has a \$0 balance.	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	No additional action is necessary. No fees assessed since pre-Spr'08. Fee deletion submitted 6/15/18. 8/13/18 Class fee deleted effective F'18.
WP Carey School of Business	WPC	494	Special Topics	DU: Immersive Entrepreneurial Experience	TEMPE	Other	FY51912	7000.00	5/17/2017	To cover payments made to Draper University per Collaboration Agreement	Yes. All expenses are compliant with ABOR guidelines and the approved purpose of the class fee	Yes. The expenses and percentage of distribution align with the approved budget.	Yes	Yes. All class fees have been evaluated and the current fee amounts support instructional needs as outlined in the approved class fee budget. No action is necessary.	No additional action is necessary.
WP Carey School of Business	MGT	303	Honors Org Strategies/Leadership	0	TEMPE	All locations	FY51902	35.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	310	Collaborative Team Skills	0	TEMPE	All locations	FY51903	35.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	320	Organizational Behavior	0	TEMPE	All locations	FY51904	45.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	400	Cross-Cultural Management	0	TEMPE	All locations	FY51905	30.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	411	Leading Organizations	0	TEMPE	All locations	FY51906	30.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	420	Human Resource Management	0	TEMPE	All locations	FY51907	35.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	440	Entrepreneurship	0	TEMPE	All locations	FY51908	75.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	459	International Management	0	TEMPE	All locations	FY51909	35.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	460	Strategic Management	0	TEMPE	All locations	FY51910	45.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	445	Business Model Development	0	TEMPE	All locations	FY51911	75.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17
WP Carey School of Business	MGT	430	Negotiations	0	TEMPE	All locations	GA51901	30.00	N/A, fee no longer exists	N/A, fee no longer exists	N/A, fee no longer exists	Not applicable. Fee has been deactivated.	N/A, fee no longer exists	Fee has been deactivated. No further action is necessary.	Class fee deleted effective Su '17

Exhibit 20

COURSEWARE DEVELOPMENT AND PUBLISHING AGREEMENT

This Courseware Development and Publishing Agreement (this "*Agreement*") is made as of June 16, 2015 (the "*Effective Date*") by and between CogBooks Ltd, a corporation organized under the laws of Scotland ("*CB*") and the Arizona Board of Regents, a body corporate, for and on behalf of Arizona State University ("*ASU*").

WHEREAS, ASU and CB desire to incorporate educational Content (hereafter defined) into the CB courseware (the "*Courseware*") to be distributed by CB on its proprietary technology platform (the "*Platform*,") to ASU's students and non-ASU students and share in the revenue therefrom.

WHEREAS, ASU will provide educational Content (the "*ASU Content*") for the Courseware and CB may provide its own, or third party, educational content (the "*CB Content*" and together with ASU Content, "*Content*").

WHEREAS, ASU and CB desire to work together to build and distribute the Courseware on the terms and conditions below.

WHEREAS, the parties intend that at all times, as between the parties, ASU will remain the sole owner of the ASU Content and CB will be the sole owner of (i) the CB Content and, (ii) the Courseware, subject to the licenses set forth herein with respect to the ASU Content.

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties agree as follows:

ARTICLE I - LICENSE GRANTS:

1.1 ASU Content. ASU, while retaining all rights, including copyright, to the ASU Content, and subject to the other restrictions set forth herein, hereby grants to CB, an irrevocable (except as expressly provided herein), non-exclusive, non-transferable, non-sublicensable, royalty-bearing (as set forth in Article III), limited license to: (a) incorporate the ASU Content to be delivered in the Courseware; and (b) distribute the ASU Content as part of the Courseware, as hereinafter provided. Except as set forth herein or as otherwise permitted by applicable law or contract, CB shall make no other use of the ASU Content. For the avoidance of doubt, ASU acknowledges that the Platform is not part of the Courseware.

1.2 CB Content. CB, while retaining all rights, including copyright, to the CB Content, hereby grants to ASU, a non-exclusive, non-transferable, non-sublicensable, limited license to incorporate the CB Content into the Courseware in accordance with each applicable Exhibit A (as provided in Section 2.1). ASU shall make no other use of the CB Content. ASU acknowledges that certain of the CB Content may be proprietary third party content ("*Third Party Content*") and that such content will be subject to proprietary licensing models ("*Third Party Licenses*"). ASU further acknowledges that the Third Party Content will be incorporated in the Courseware only in accordance with the applicable Third Party Licenses.

1.3 Platform. CB, while retaining all rights, including copyright and patent rights, to the Platform, hereby grants to ASU, a non-exclusive, non-transferable, non-sublicensable, limited license to access and use the authoring features of the Platform in order to convert the Content into Courseware, as set forth on each applicable Exhibit A, and subject in each case to the restrictions set forth in this Agreement.

1.4 Right to Inspect. For the purpose of ensuring compliance with the licenses set forth herein, as and when reasonably requested by a party, the other party will provide the requesting party with information and samples regarding use of any materials licensed by the requesting party. In addition, each party will allow the other reasonable access to any inventory of items that incorporate any licensed materials.

ARTICLE II – DUTIES OF CB AND ASU:

2.1 Courseware Development. CB and ASU shall mutually agree on the Content to be included in the Courseware, the design of the Courseware (the “*Configuration*”), and subject matter experts (“*SMEs*”) for development of the Courseware. Each time the parties have agreed upon the Content, Configuration and SMEs, the parties shall enter into an exhibit to this Agreement, each to be numbered Exhibit A-1, A-2, etc. which shall contain an outline of the work to be performed by each party as well as a schedule for the work to be performed. Each exhibit shall be attached hereto and governed by this Agreement. CB and ASU shall mutually agree on a cycle for reviewing and updating the Courseware.

2.2 CB Duties. CB, at its expense, shall bear the capital costs of deploying the Courseware via the Platform, including the provision of the Courseware and the Platform (including software) necessary for the desired rollout, deployment and use, as well as the industry standard level of service necessary to support such Courseware and the Platform. In particular, CB shall handle/provide (at no cost to ASU, unless otherwise agreed in writing):

- a. Project Management: CB shall provide project management for the rollout and ongoing support to ASU. CB shall provide one main project management person, to work with ASU’s project manager, to coordinate deployment, provide support and serve as a resource for training. CB’s project manager will need to be a dedicated resource during rollout of the Courseware and other mutually acceptable designated times.

2.3 ASU Duties. ASU shall handle/provide:

- a. A project manager to help with instructional design, evangelizing, developing marketing strategies, participating on milestone conversations and managing overall Courseware with CB.
- b. Faculty experts on Content, Configuration and instruction.
- c. Such other duties as set forth on each Exhibit A.

2.4 Joint Duties. CB and ASU shall mutually agree in writing on other responsibilities associated with the development of the Courseware including work to be performed, other duties of the parties and the Courseware to result, as well as a schedule for the work to be performed.

ARTICLE III - REVENUE SHARING AND COMMERCIALIZATION.

3.1 The Courseware. The Courseware shall be distributed by CB (i) to students (“*ASU Students*”), faculty and administrators of ASU in accordance with a separate end-user license agreement (“*EULA*”) to be executed by the parties, and (ii) to students, faculty and administrators of non-ASU educational institutions (including primary, secondary, college, university and other educational institutions), all in accordance with CB’s standard agreements or as CB may otherwise determine (collectively, “*End-*

Users"). ASU shall not be responsible for any ASU Student's compliance with the EULA or the student's use of the Courseware.

3.2 Revenue Share. In consideration of the licenses granted hereunder, for so long as the ASU Content is included in the Courseware, revenue from CB's distribution of the Courseware shall be shared by the parties and payment shall be made to ASU as provided on Exhibit B.

ARTICLE IV - INTELLECTUAL PROPERTY:

4.1 Definition. For purposes of this Agreement, "*Intellectual Property*" means any and all inventions, designs, original works of authorship, Content, formulas, processes, compositions, programs, databases, data, technologies, discoveries, ideas, writings, improvements, procedures, techniques, know-how, and all patent, trademark, service mark, trade secret, copyright and other intellectual property rights, goodwill and derivative works relating to the foregoing.

4.2 Background Intellectual Property. Intellectual Property owned by ASU or CB that was created, invented, first reduced to practice or writing, or first fixed in a tangible medium of expression by the party prior to the Effective Date or arising outside the scope of this Agreement ("*Background Intellectual Property*") will continue to be owned by the applicable party. Except as provided herein, neither party transfers, by operation of this Agreement, to the other party any right in or license to any Background Intellectual Property. For the avoidance of doubt, the Platform will at all times constitute Background Intellectual Property of CB.

4.3 ASU Proprietary Interest. As between the parties, ASU owns and will continue to own any and all right, title and interest in and to any and all ASU Content and ASU will have the exclusive right to patent, copyright, publish, distribute, disclose, license, use or disseminate in whole or in part any such ASU Content, subject to the licenses granted in favor of CB herein. ASU shall ensure that it has obtained all necessary rights and ownership interests (including copyright ownership and/or permissions) in and to all ASU Content to use and license the Content as set forth herein.

4.4 CB Proprietary Interest. As between the parties, CB owns and will continue to own any and all right, title and interest in and to any and all Intellectual Property developed, created, or invented by CB, either solely or jointly with others, in its performance under this Agreement, or otherwise, and CB will have the exclusive right to patent, copyright, publish, distribute, disclose, license, use or disseminate in whole or in part any such Intellectual Property. For the avoidance of doubt, CB-Owned Intellectual Property includes the CB Content and Platform. CB shall ensure that it has obtained all necessary rights and ownership interests (including copyright ownership and/or permissions) in and to all CB Content, Third Party Content, and the Platform to use and license the Content and Platform as set forth herein.

4.5 Assignment of Copyright in Courseware. ASU hereby assigns, and shall cause all applicable ASU personnel to assign, to CB all right, title and interest ASU or its personnel may have had, now have, or hereafter may have in and to the Courseware, including without limitation, the copyright rights therein, including any and all renewals, revisions, revivals, reversions and extensions thereof, now existing or hereafter created or discovered, together with any and all accrued rights of action (including without limitation the right to sue for past infringements), to have and to hold the same for the full life of each such right in each territory throughout the Universe. ASU hereby waives and shall cause all of its applicable personnel to waive any so-called "droit moral" rights, "moral rights of authors" and all other similar rights however denominated throughout the world with respect to the Courses. ASU authorize

and shall cause all of its applicable personnel to authorize CB to register the copyright for the Courses in CB's or any other name it designates in any and all countries. ASU and its personnel may not use, or allow others to use, the Courseware, except as provided in the separate internal use license agreement to be executed by the parties.

At CB's request, ASU shall execute and deliver and shall cause its personnel to execute and deliver any documents necessary or useful to give effect to the provisions of this Section 4.5 and, at CB's request and sole expense, ASU shall reasonably cooperate with respect to any action taken by CB to secure or protect its rights in and to the Courseware.

4.6 Copyright Notice. When making the Courseware available to End-Users as permitted by this Agreement, the Courseware shall contain a notice comprised of the following elements to be conspicuously displayed to protect each party's intellectual property rights: (a) the word "Copyright" or the symbol © (the letter c in a circle), (b) the year of first publication of such document as specified by the party that owns the Content, (c) the name of the copyright holder(s), and (d) the words "All Rights Reserved."

4.7 Trademarks. Each party's trademarks, trade names, service marks, logos and symbols (the "Marks") are, and will remain, that party's sole and exclusive property. ASU has not acquired, and will not acquire (by operation of law, this Agreement or otherwise), any right, title or interest in any of CB's Marks. CB has not acquired, and will not acquire (by operation of law, this Agreement or otherwise), any right, title or interest in any of ASU's Marks. Each party recognizes the value of the goodwill associated with the other party's Marks and acknowledges that all rights therein belong exclusively to such other party. Any and all goodwill and rights under trademark and copyright law, and all other intellectual property rights that arise in favor of CB's Marks, as a result of this Agreement or otherwise, will inure to the sole and exclusive benefit of CB. Any and all goodwill and rights under trademark and copyright law, and all other intellectual property rights that arise in favor of ASU's Marks, as a result of this Agreement or otherwise, will inure to the sole and exclusive benefit of ASU. Neither party will attack, dispute or challenge the other party's right, title and interest in and to another party's Marks or assist others in so doing.

4.8 Licenses to Use Marks; No Endorsement. Each party hereby grants to the other party, as of the Effective Date and during the Term of this Agreement, a revocable, non-exclusive, non-transferable and non-sublicensable license to use the party's Marks solely in connection with the Courseware. Each party may use such Marks only in conformity with the other party's specific written instructions as may be provided from time to time. Except as provided in this paragraph, neither party will imply the endorsement of the other or use publicly for publicity, promotion or otherwise, any Mark of the other party, or any simulation, abbreviation, or adaptation of the same, or the name of any employee or agent of the other party, without the other party's prior written, express consent. Each party may withhold such consent in its sole and absolute discretion.

4.9 Consent Required to Use Intellectual Property. Neither party will make Intellectual Property of the other party available to third parties (including through any sub-licensing) without the other party's prior written consent. Such consent will be subject to the explicit acknowledgment of CB and ASU proprietary rights in the Intellectual Property or any work based thereon, such acknowledgement to figure prominently in all documents communicated to third parties. For the avoidance of doubt, nothing herein will restrict or limit CB's right to make ASU Content available to End Users as part of the Courseware.

4.10 Reasonable Assistance. ASU will provide CB all reasonable assistance in the application, filing, and securing of Intellectual Property rights and protections. To this end, ASU will execute and deliver, at any time and from time to time (both during and after the Term) upon CB's request, such further instruments, papers or documents as may be necessary or appropriate to effectuate the purposes of this Agreement.

ARTICLE V – TERM AND TERMINATION:

5.1 Term. This Agreement shall be effective for an initial term beginning on the Effective Date and shall continue for a term of five (5) years unless sooner terminated by either party in accordance with this Section 5 (the "Term").

5.2 Failure to Perform. Either party has the right to terminate this Agreement if the other party materially breaches any representation, warranty, covenant or agreement made by it hereunder or otherwise fails to perform any of its material obligations hereunder which breach or failure has not been cured within 30 days after receipt of written notice of default from the non-breaching party (or such additional cure period as the non-breaching party may authorize).

5.3 Bankruptcy and Business Termination. Either party may immediately terminate this Agreement upon written notice to the other party if the other party has a receiver or similar party appointed for all or substantially all of its property, is declared insolvent by a court of competent jurisdiction, ceases to do business, files a petition in bankruptcy or a petition is filed against it in bankruptcy, becomes the subject of any court or administrative proceeding related to its liquidation or insolvency (whether voluntary or involuntary) which is not dismissed within 60 days, or makes an assignment for the benefit of its creditors.

5.4 Termination by CB. CB may terminate this Agreement at any time following the third anniversary of this Agreement upon six (6) months advance written notice to ASU.

5.5 Conduct Upon Termination. Upon termination of this Agreement for any reason, CB shall discontinue the use of the ASU Content, subject to applicable law and other agreements that may then be in existence. In addition, each party shall promptly pay to the other party any fees or other payments due hereunder that have accrued but have yet to be paid at the time of the termination, and such other payments that may become due thereafter. Notwithstanding anything contained herein to the contrary, in the event that this Agreement is terminated (except for an Exempted Termination (as defined below)) upon termination of this Agreement, and at ASU's option and expense, CB (i) shall continue providing ASU End-Users access to the Courseware via the Platform for sufficient time that all End-Users using the Courseware as of the date of such termination, have completed their coursework for which fees have been paid, but in no event shall such period in any instance exceed six months (the post termination services are referred to as the "Transition Services", and the period during which such Transition Services are provided are herein referred to as the "Transition Period"). Any fees for any Transition Services to be provided to ASU and the ASU Students beyond what has already been paid for the Courseware shall be as agreed between CB and ASU, and shall be payable in full on the first day of the Transition Period. CB will provide The Transition Services at least at the same levels of quality and timeliness of performance as such services were provided prior to the termination, and in a professional manner, with high quality and in accordance with industry standards. ASU may, upon written notice to CB, modify the specific Transition Services to be provided to a subset of the services provided under this Agreement and may reduce the term for the Transition Period to less than that specified above,

provided that CB shall not be obligated to refund to ASU any fees paid by ASU nor shall ASU be relieved of any obligation to pay any fees either accrued or invoiced on or prior to the date this Agreement is terminated. The parties may also mutually agree in writing to extend the Transition Period, subject to the parties mutually agreeing on the fees to be paid by ASU for such Transition Services during such extended period. Upon termination of this Agreement, the parties agree to work in good faith. As used herein, an "Exempted Termination" means either: (a) a termination of this Agreement by CB pursuant to Section 5.2 for a breach by ASU; or (b) a termination of this Agreement under circumstances where either (i) the provision of the Courseware has been or may reasonably be enjoined or (ii) the continued provision of the Courseware would expose either of the parties to monetary damages. In addition, upon termination of this Agreement, CB may continue to provide third party customers with access to the ASU Content (as part of the Courseware) for sufficient time that all such customers using the Courseware have completed their coursework for which fees have been paid.

ARTICLE VI – WARRANTIES, AND LIMITATION OF LIABILITY:

6.1 Warranty. Each party represents and warrants to the other party as follows: (a) such party has full power and authority to enter into this Agreement and to perform the obligations and/or to grant the licenses set forth hereunder; (b) the execution, delivery and performance of this Agreement do not, and will not, conflict with or violate (i) any other agreement or instrument applicable to such party, (ii) any applicable law, rule or regulation, or (iii) any rights of a third party; and (c) its respective Content, and with respect to CB, the Third Party Content, does not and will not infringe any intellectual property right of any third party or violate any right of privacy, publicity or other personal right of any third party.

6.3 DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH HEREIN, CB AND ASU MAKE NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONTENT OR THE COURSEWARE, AND CB AND ASU EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

6.4 Limitation of Liability. UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM BREACH OF THIS AGREEMENT OR ARISING FROM ANY OTHER PROVISION OF THIS AGREEMENT, SUCH AS, LOSS OF REVENUE, PROFITS, OR BUSINESS.

ARTICLE VII – CONFIDENTIALITY

7.1 Confidentiality. Each party acknowledges that, from time to time, it may be exposed to certain information, which is the other party's confidential and proprietary information and not generally known to the public ("*Confidential Information*"). Each party agrees that it will take appropriate steps to protect the other party's Confidential Information from unauthorized disclosure, that it will not disclose such Confidential Information to any third party, and that it will not use any such Confidential Information other than as authorized by this Agreement, without the prior written consent of the other party. The term "Confidential Information" does not include information that (a) is or becomes generally available to the public other than as a result of disclosure by the recipient or anyone to whom the recipient transmits the information, (b) becomes available to the recipient on a non-confidential basis from a source other than the disclosing party who is not bound by a confidentiality agreement with the disclosing party, (c) was known to the recipient or in its possession prior to the date of disclosure by the disclosing party, or (d) is independently developed by the recipient without reference to the Confidential Information of the

disclosing party. In addition, either party may disclose Confidential Information of the other party when required to do so pursuant to applicable law, rule or regulation.

7.2 Confidentiality. ASU is a public institution and, as such, is subject to A.R.S. §§ 39-121 through 39-127 regarding public records. Accordingly, notwithstanding any other provision of this Agreement to the contrary, any provision regarding confidentiality is limited to the extent necessary to comply with the provisions of Arizona law.

ARTICLE VIII – MISCELLANEOUS

8.1 Publicity. Neither party shall publicly use the other party's or each of its affiliates' name or Marks in any publicity, promotion, news release, website posting, announcement, client list, marketing materials or other disclosure or otherwise refer to the other party or its affiliates in any way in or with the media with respect to this Agreement or the transactions contemplated hereunder, unless such party has obtained the prior written consent of the other party in each case.

8.2 Force Majeure. Except for the obligation to make payments hereunder, neither party shall be liable for any delay or failure in performing its obligations hereunder if caused by a factor beyond such party's control, including, without limitation, acts of God, acts of terrorism, acts of government, fire or other casualty, provided the affected party makes every effort to promptly resume performance. In the event that the affected party cannot resume performance within 30 days, then the other party may, without penalty or liability, terminate this Agreement upon written notice.

8.3 Assignment. Except in the case of an assignment to the purchaser of all or substantially all of a party's assets or voting stocks, or to the surviving entity in the event of a business combination involving a party, neither party may assign, sublicense or otherwise transfer (voluntarily, by operation of law, or otherwise) this Agreement, in whole or in part, or any right, interest, benefit or obligation under this Agreement, without the prior written consent of the other party. All of the provision of this Agreement shall be binding upon and inure to the benefit of each party's successors in interest and permitted assigns. Any attempt to assign this Agreement other than in accordance with this Section shall be null and void.

8.4 Prevailing Terms. In the event of a conflict between the terms and conditions set forth in the body of this Agreement and any attachment hereto, the terms and conditions of this Agreement shall take precedence over any conflicting terms and conditions in any attachment hereto, provided that if a particular attachment expressly amends by section a term of this Agreement, such amendment shall take precedence and be valid.

8.5 Waiver. The failure by either party to insist upon strict enforcement of any terms and conditions of this Agreement shall not be construed as a waiver of such right or of any other right hereunder.

8.6 Remedies Cumulative. Except as expressly limited herein, the rights and remedies set forth hereunder are cumulative and in addition to any other remedies available at law or in equity.

8.7 Relationship of the Parties. Nothing in this Agreement shall be construed to make either party the agent of the other for any purpose whatsoever; neither party is authorized to enter into any

contract or assume any obligation for the other. Nothing in this Agreement shall be construed to establish a partnership, joint venture or employer-employee relationship between CB and ASU.

8.8 INTENTIONALLY OMITTED

8.9 Severability. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect.

8.10 Entire Agreement. This Agreement and any exhibits, addenda and amendments hereto, constitute the entire understanding between the parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings, whether oral or written, regarding such subject matter. There are no other understandings, agreements, representations or warranties relied upon by either party with respect to the subject matter herein, which are not included herein. This Agreement may be modified only in writing signed by both parties.

8.11 Survival of Obligations. All provisions of this Agreement that by their terms anticipate performance (including payment) after the termination of this Agreement, and all provisions necessary or appropriate to interpret and enforce such provisions, will survive termination of this Agreement.

ARTICLE IX – ASU AND ARIZONA REQUIRED TERMS

9.1 Nondiscrimination. The parties will comply with all applicable state and federal laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, and nondiscrimination, including the Americans with Disabilities Act. **If applicable, the parties will abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**

9.2 Conflict of Interest. In accordance with Arizona Revised Statutes (“A.R.S.”) § 38-511, ASU may cancel this Agreement within three years after the execution of this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of ASU, at any time while this Agreement or any extension thereof is in effect, is an employee or agent of any other party to this Agreement in any capacity or a consultant to any other party with respect to the subject matter of this Agreement.

9.3 Arbitration in Superior Court. In the event of litigation, as required by A.R.S. § 12-1518, the parties agree to make use of arbitration in all contracts that are subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

9.4 Records. To the extent required by A.R.S. § 35-214, CB will retain all records relating to this Agreement. CB will make those records available at all reasonable times for inspection and audit by ASU or the Auditor General of the State of Arizona during the term of this Agreement and for a period of five years after the completion of this Agreement. The records will be provided at Arizona State University, Tempe, Arizona, or another location designated by ASU on reasonable notice to CB.

9.5 Failure of Legislature to appropriate. In accordance with A.R.S. § 35-154, if ASU's performance under this Agreement depends on the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then ASU may provide written notice of this to CB and cancel this Agreement without further obligation of ASU. Appropriation is a legislative act and is beyond the control of ASU.

9.6 Weapons, Explosive Devices and Fireworks. ASU prohibits the use, possession, display or storage of any weapon, explosive device or fireworks on all land and buildings owned, leased, or under the control of ASU or its affiliated or related entities, in all ASU residential facilities (whether managed by ASU or another entity), in all ASU vehicles, and at all ASU or ASU affiliate sponsored events and activities, except as provided in A.R.S. § 12-781, or unless written permission is given by the Chief of the ASU Police Department or a designated representative. Notification by CB to all persons or entities who are employees, officers, subcontractors, consultants, agents, guests, invitees or licensees of CB ("*CB Notification Parties*") of this policy is a condition and requirement of this Agreement. CB further agrees to enforce this contractual requirement against all CB Notification Parties. ASU's policy may be accessed through the following web page: <http://www.asu.edu/aad/manuals/pdp/pdp201-05.html>.

9.7 Indemnification by ASU: Limitation. ASU will indemnify and hold harmless CB and its owners, officers, directors, members, managers, agents, employees or subcontractors for, from, and against any and all third party claims, actions, liabilities, damages, losses, or expenses actually incurred (including reasonable court costs, attorneys' fees, and costs of claim processing, investigation, and litigation) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property to the extent caused, or alleged to be caused, by (i) the negligent acts or omissions of ASU; (ii) failure to comply with any applicable law, or (iii) the ASU Content's infringement or alleged infringement of any intellectual property right of any third party. ASU is a public institution and, as such, any indemnification, liability limitation, or hold harmless provision will be limited as required by Arizona law, including without limitation Article 9, Sections 5 and 7 of the Arizona Constitution and A.R.S. §§ 35-154 and 41-621. Therefore, notwithstanding any other provision of this Agreement to the contrary, ASU's liability under any claim for indemnification is limited to claims for property damage, personal injury, or death to the extent caused by acts or omissions of ASU.

9.8 Indemnification by CB. CB will indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities, and its and their officials, agents and employees (collectively, "*Indemnitee*") for, from, and against any and all claims, actions, liabilities, damages, losses, or expenses (including reasonable court costs, attorneys' fees, and costs of claim processing, investigation, and litigation) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property to the extent caused, or alleged to be caused, by (i) the negligence, acts or omissions of CB or any of its owners, officers, directors, members, managers, agents, employees or subcontractors; (ii) a breach of this Agreement; or (ii) failure to comply with any applicable law. CB will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Agreement, CB waives all rights of subrogation against Indemnitee for losses arising from the services performed or deliverables provided by CB under this Agreement.

9.9 Student Educational Records. Student educational records are protected by the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g ("*FERPA*"). CB will comply with FERPA and will not access or make any disclosures of student educational records to third parties without prior notice to

and consent from ASU or as otherwise provided by law. If this Agreement contains a scope of work or any provision that requires or permits CB to access or release any student records, then, for purposes of this Agreement only, ASU hereby designates CB as a "school official" for ASU under FERPA, as that term is used in FERPA and its implementing regulations. As such, CB will comply with FERPA and will not make any disclosures of ASU students' educational records to third parties without prior notice to, and consent from, ASU or as otherwise permitted by law. In addition, any access or disclosures of student educational records made by CB or its employees and agents must comply with ASU's definition of legitimate educational purpose, which definition can be found at: SSM 107-01: Release of Student Information (<http://www.asu.edu/aad/manuals/ssm/ssm107-01.html>). If CB violates the terms of this section, CB will immediately provide notice of the violation to ASU.

9.10 Authorized Presence Requirements. As required by A.R.S. § 41-4401, ASU is prohibited from awarding a contract to any contractor or subcontractor that fails to comply with A.R.S. § 23-214(A) (verification of employee eligibility through the e-verify program). CB warrants that it and its subcontractors comply fully with all applicable federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A). A breach of the foregoing warranty will be deemed a material breach of this Agreement that is subject to penalties up to and including termination of the Agreement. ASU retains the legal right to inspect the papers of any contractor or subcontractor employee who works hereunder to ensure that the contractor or subcontractor is complying with the warranty stated above.

9.11 Tobacco-Free University. ASU is tobacco-free. For details visit www.asu.edu/tobaccofree.

9.12 Americans with Disabilities Act and Rehabilitation Act. CB will comply with all applicable provisions of the Americans with Disabilities Act, the Rehabilitation Act, and all applicable federal regulations. All electronic and information technology and products and services, including the Platform, to be used by ASU faculty/staff, students, program participants, or other ASU constituencies must be compliant with the Americans with Disabilities Act as amended and the Section 508 of the Rehabilitation Act of 1973. Compliance means that a disabled person can acquire the same information, engage in the same interactions, and enjoy the same services as a nondisabled person, in an equally effective and integrated manner, with substantially equivalent ease of use.

9.13 Warranties. CB represents and warrants that: (i) all of the services will be performed in a professional and workmanlike manner and in conformity with industry standards by persons reasonably suited by skill, training and experience for the type of services they are assigned to perform; (ii) CB will comply, and will be responsible for ensuring CB's employees comply, with all applicable federal, state and local laws in the performance of the services; (iii) CB's performance of its obligations under this Agreement will not result in a breach of any other contract to which CB is a party; (iv) CB owns or has sufficient rights in and to all CB Content, Third-Party Content, and the Platform and such CB Content, Third party Content, and the Platform will not infringe upon or violate any Intellectual Property of any third parties; (v) the Platform will not contain any viruses, worms, Trojan Horses, or other disabling devices or code.

9.14 Insurance Requirements. Without limiting any liabilities or any other obligation of CB, CB shall purchase and maintain (and cause its subcontractors to purchase and maintain), in a company or companies lawfully authorized to do business in the State of Arizona, and rated at least A- VII in the current A.M. Best's, the minimum insurance coverage set forth on Exhibit C. Because CB is a foreign entity, insurance requirements may change.

9.15 Notices. All notices and communications required or permitted under this Agreement shall be in writing and shall be given by personal delivery against receipt (including private courier service such as Federal Express), or certified United States Mail, return receipt requested. All notices and communications shall be sent to the addresses set forth below or to such other address as the parties may specify in the same manner:

To ASU:

Office of the University Provost
PO Box 877805
Tempe, AZ 85287
Attn: University Provost

With a copy to:

Arizona State University
ASU Online and Extended Campus
Attn: Exec Vice Provost & Dean
P.O. Box 870101
Tempe AZ 85287-0101

To CB:

CogBooks, Ltd.
3 Lady Lawson Street
Floor L
Edinburgh, UK EH3 9DS
Attention: President

With copies to:

CogBooks, Ltd.
P.O. Box 270623
Louisville, Colorado 80027
Attention Steve Ernst

And to:

David G. Mitchell, PA
Suite 500
7380 Sand Lake Road
Orlando, Florida 32819
Attention: David G. Mitchell

Notices, if delivered, and if provided in the manner set forth above, shall be deemed to have been given and received on the date of actual receipt or upon the date receipt was refused. Any notice to be given by any party may be given by legal counsel for such party.

9.16. Foreign Corrupt Practices Act/UK Bribery Act/ Local Anti-corruption Law Compliance. CB warrants that it is familiar with the U.S. laws prohibiting corruption and bribery under the U.S. Foreign

Corrupt Practices Act and the United Kingdom laws prohibiting corruption and bribery under the UK Bribery Act. In connection with CB's work under this Contract, CB will not offer or provide money or anything of value to any governmental official or employee or any candidate for political office in order to influence their actions or decisions, to obtain or retain business arrangements, or to secure favorable treatment in violation of the Foreign Corrupt Practices Act, the UK Bribery Act, or any other local anti-corruption law, either directly or indirectly. Any breach of the U.S. Foreign Corrupt Practices Act, the UK Bribery Act, or other local anti-corruption law, will be a material breach of this Contract.

9.17. Export Controls. Interactions between U.S. nationals and non-U.S. nationals might be subject to U.S. laws and regulations controlling the transfer or sharing of information or technical data, computer software, laboratory prototypes and other commodities ("Technology"), as defined and restricted by the U.S. Export Administration Regulations, U.S. International Traffic in Arms Regulations, and through the sanctions and embargoes established through the Office of Foreign Assets Control (collectively, the "Export Control Laws"). None of the work undertaken pursuant to this Contract will require either party to take or fail to take any action that would cause a violation of any of the Export Control Laws. If any of the work to be undertaken pursuant to this Contract requires, in ASU's sole judgment and discretion, a license or other authorization from any agency or authority of the U.S. government and/or any written assurances that the party receiving any Technology will not re-export, transfer, or otherwise share such Technology to or with certain other foreign nationals or destinations without the prior approval of the U.S. Government, no such work will be required unless and until the appropriate license or written assurance is obtained. The parties will cooperate with each other to facilitate compliance with any applicable requirements of the Export Control Regulations.

9.18 Governing Law and Venue. This Agreement will be governed by the laws of the State of Arizona without regard to any conflicts of laws principles. ASU's obligations hereunder are subject to the regulations/policies of the Arizona Board of Regents. Any proceeding arising out of or relating to this Agreement will be conducted in Maricopa County, Arizona. Each party waives any objection it may now or hereafter have to venue or to convenience of forum.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date.

COGBOOKS LTD., A SCOTTISH CORPORATION

By: Ian Marshall

Printed Name: IAN MARSHALL

Title: CFO / DIRECTOR

ARIZONA BOARD OF REGENTS FOR AND ON BEHALF OF ARIZONA STATE UNIVERSITY

By: Mark Searle

Printed Name: MARK SEARLE

Title: Interim University Provost

EXHIBIT A-1

1. CB shall supply the Courseware to support ASU's Course: HST110 – United States Since 1865. The underlying architecture and design of the Courseware shall be completed by CB with input and guidance from ASU.
2. ASU shall supply the Content and Configuration recommendations to create the Courseware. In addition to the Content provided by ASU, CB may provide Content as agreed to by the parties.
3. ASU shall supply personnel, as mutually agreed, to assist CB in the appropriate design and content selection for the Courseware.

4. Schedule:

6/1/2015 – Content inventory and Configuration recommendations completed by ASU staff.

7/1/2015 – Delivery of Courseware by CB for testing.

8/1/2015 – Delivery of functional pilot version of the Courseware.

12/31/2015 – Delivery of final Courseware product for commercial use.

EXHIBIT A-2

1. CB shall supply the Courseware to support ASU's Course: BIO100 – The Living World. The underlying architecture and design of the Courseware shall be completed by CB with input and guidance from ASU.
2. ASU shall supply the Content and Configuration recommendations to create the Courseware. In addition to the Content provided by ASU, CB may provide Content as agreed to by the parties.
3. ASU shall supply personnel, as mutually agreed, to assist CB in the appropriate design and content selection for the Courseware.
4. Schedule:

6/1/2015 – Content inventory and Configuration recommendations completed by ASU staff.

7/1/2015 – Delivery of Courseware by CB for testing.

8/1/2015 – Delivery of functional pilot version of the Courseware.

12/31/2015 – Delivery of final Courseware product for commercial use.

EXHIBIT A-3

1. CB shall supply the Courseware to support ASU's Course: HST109 – United States to 1865. The underlying architecture and design of the Courseware shall be completed by CB with input and guidance from ASU.
2. ASU shall supply the Content and Configuration recommendations to create the Courseware. In addition to the Content provided by ASU, CB may provide Content as agreed to by the parties.
3. ASU shall supply personnel, as mutually agreed, to assist CB in the appropriate design and content selection for the Courseware.
4. Schedule:

11/1/2015 – Content inventory and Configuration recommendations completed by ASU staff.

12/1/2015 – Delivery of Courseware by CB for testing.

1/1/2016 – Delivery of functional pilot version of the Courseware.

5/31/2016 – Delivery of final Courseware product for commercial use.

EXHIBIT B

I. ASU student End-Users financial and usage terms

- a. During the first three (3) years of the contract, the price of the Courseware for each ASU student End-User shall be fifty dollars (\$50.00) per student, per course, per course section. After that period, CB shall set the ASU student End-User price for the Courseware in consultation with ASU.
- b. During the initial course section of use (the "*Pilot Period*") for each ASU Course, the Courseware shall be free for each ASU student End-User who is enrolled in the Course.
- c. For each such sale to each ASU End-User, CB will pay ASU five percent (5%) of the gross revenue derived from those sales.
- d. Thirty (30) days following each add/drop date of the Course, during the term of this Agreement, CB shall submit a report to ASU, including the number of ASU student End-Users who have paid for the access to as of such add/drop date and the amount owed to ASU. CB shall submit payment for such enrollments, to an address to be advised by ASU, at the same time as CB submits its report to ASU. ASU shall have the right to audit the number of student End-Users.

II. Non-ASU student End-User financial terms

- a. CB shall set the End-User price for the Courseware for non-ASU students in consultation with ASU.
- b. CB shall pay ASU for use of each Courseware license by non-ASU End-Users on all new business, on a per End User, per semester basis. New business is defined as brand new business to CB, or if the non-ASU institution is currently using other CB materials, then new business shall be comprised of the net difference between what CB is currently recognizing in sales at the non-ASU institution and the amount that is recognized hereunder.
- c. For each such sale to each non-ASU End User, CB will pay ASU five percent (5%) of the gross revenue derived from those sales.
- d. During the term of this Agreement, CB shall remit to ASU a report on the total number of End-Users using each Courseware every six (6) months for the periods ending on June 30th and December 31st. That report shall be accompanied by the payment for the amount owed to ASU during that period.

III. Funding and Support of Courseware Development

- a. For the Courseware development services described in this Agreement, CB shall pay ASU \$149,732.60.

- i. \$91232.60 shall be paid at the signing of this Agreement for work on the BIO100 Courseware and HST110 Courseware.
 - ii. \$58,500.00 shall be paid at the commencement of the work on the HST109 Courseware.
- b. CB, at its expense, shall bear the capital costs of deploying the Courseware developed with ASU, including the provision of CB products and offerings necessary for the desired rollout, deployment and use.

EXHIBIT C -- REQUIRED INSURANCE

CB and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by CB, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. ASU in no way warrants that the minimum limits contained herein are sufficient to protect CB from liabilities that might arise out of the performance of the work under this Agreement by CB, its agents, representatives, employees or subcontractors.

(a) **Minimum Scope and Limits of Insurance.** CB shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability -- Occurrence Form.** Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

General Aggregate	\$2,000,000
Products Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability -- Written and Oral	\$1,000,000
Fire Legal Liability	\$50,000
Each Occurrence	\$1,000,000

A. The policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of CB."

B. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of CB.

2. **Worker's Compensation and Employers' Liability** -- statutory limits, as amended from time to time and in each case no less than the amounts specified below:

Worker's Compensation	
Employer's Liability	
Each Accident	\$1,000,000
Disease -- Each Employee	\$1,000,000
Disease -- Policy Limit	\$1,000,000

A. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of CB.

B. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor /Independent Contractor) form.

3. **Technology/Network Errors and Omissions Insurance.**

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

Coverage to include:

- Hostile action or a threat of hostile action with the intent to affect, alter, copy, corrupt, destroy, disrupt, damage, or provide unauthorized access/unauthorized use of a computer system including exposing or publicizing confidential electronic data or causing electronic data to be inaccessible;
- Computer viruses, Trojan horses, worms and other types of malicious or damaging code;
- Dishonest, fraudulent, malicious, or criminal use of a computer system by a person, whether identified or not, and whether acting alone or in collusion with other persons, to affect, alter, copy corrupt, delete, disrupt, or destroy a computer system or obtain financial benefit for any party or to steal or take electronic data;
- Denial of service for which the insured is responsible that results in the degradation of or loss of access to internet or network activities or normal use of a computer system;
- Loss of service for which the insured is responsible that results in the inability of a third party, who is authorized to do so, to gain access to a computer system and conduct normal internet or network activities;
- Access to a computer system or computer system resources by an unauthorized person or an authorized person in an unauthorized manner;
- Loss or disclosure of confidential information no matter how it occurs;
- Systems analysis;
- Software Design;
- Systems programming;
- Data processing;
- Systems integration;
- Outsourcing including outsourcing development and design;
- Systems design, consulting, development and modification;
- Training services relating to computer software or hardware;
- Management, repair and maintenance of computer products, networks and systems;
- Marketing, selling, servicing, distributing, installing and maintaining computer hardware or software; and
- Data entry, modification, verification, maintenance, storage, retrieval or preparation of data output.

A. If the professional liability insurance required by this Agreement is written on a claims-made basis, CB warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning at the time work under this Agreement is completed.

B The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

(b) **Additional Insurance Requirements:** The policies shall include, or be endorsed to include, the following provisions:

A. CB's insurance coverage shall be primary insurance with respect to all other available sources.

B. Coverage provided by CB shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

C. The State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by Consultant, even if those limits of liability are in excess of those required by this Agreement.

(c) **Notice of Cancellation:** With the exception of ten day notice of cancellation for non-payment of premium, any changes material to compliance with this Agreement in the insurance policies above shall require 30 days written notice to the State of Arizona. Such notice shall be sent directly to Arizona State University, Risk Management, PO Box 876512, Tempe, Arizona 85287 and shall be sent by certified mail, return receipt requested.

(d) **Verification of Coverage:** CB shall furnish ASU with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by ASU before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Agreement shall be sent directly to Arizona State University, Risk Management, PO Box 876512, Tempe, Arizona 85287. The ASU project/contract number and project description shall be noted on the certificate of insurance. ASU reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

(e) **Subcontractors:** CB's certificate(s) shall include all subcontractors as insureds under its policies or CB will furnish to ASU separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

Exhibit 21

RELEASE OF EXHIBIT PENDING PURSUANT TO CONTRACTUAL CONFIDENTIALITY PROVISION

Exhibit 22

Cengage License Payments									
Semester	Subject	Catalog Nbr	Class Nbr	Session Code	Count of Enrollment 21st Day	Cengage Invoice	Unit Price	Total	Account
Fall 2016	PSY	101			75	60147013	\$ 75.00	\$ 6,080.63	FA51028
								\$ 6,080.63	
Fall 2017	PSY	101	89032	C	75	62168294	\$ 95.00	\$ 7,125.00	FA51028
Spring 2017	PSY	101	30443	C	73	62168294	\$ 95.00	\$ 6,935.00	FA51028
								Tax \$ 1,138.86	
								\$ 15,198.86	
Fall 2017	ECN	212	91870	C	72	63472035	\$ 95.00	\$ 6,840.00	NH51901
Fall 2017	PSY	101	81777	C	230	63472035	\$ 95.00	\$ 21,850.00	FA51917
Fall 2017	PSY	101	84071	C	230	63472035	\$ 95.00	\$ 21,850.00	FA51917
					532				
								\$ 50,540.00	
Spring 2018	PSY	101	25535		188	63345989	\$ 95.00	\$ 17,860.00	FA51917
Spring 2018	PSY	101	31962		99	63345989	\$ 95.00	\$ 9,405.00	FA51917
					287				
								\$ 27,265.00	
Spring 2018	ECN	212	28474		94	63472028	\$ 95.00	\$ 8,930.00	NH51901
Spring 2018	ECN	212	30744		82	63472028	\$ 95.00	\$ 7,790.00	NH51901
					176				
								\$ 16,720.00	
Spring 2018	ECN	211	20720		374	63472030	\$ 50.00	\$ 18,700.00	NH51902
Spring 2018	ECN	211	28467		329	63472030	\$ 50.00	\$ 16,450.00	NH51902
					703				
								\$ 35,150.00	
Fall 2018	ECN	212	88975		75	65373261	\$ 95.00	\$ 7,125.00	CC0719 PG07513
Fall 2018	ECN	212	88976		72	65373261	\$ 95.00	\$ 6,840.00	CC0719 PG07513
Fall 2018	ECN	212	91503		47	65373261	\$ 95.00	\$ 4,465.00	CC0719 PG07513
					194				
								\$ 18,430.00	
Fall 2018	ECN	212	88807	C	221	65373261	\$ 95.00	\$ 20,995.00	CC0719 PG07513
Fall 2018	ECN	212	88857	C	69	65373261	\$ 95.00	\$ 6,555.00	CC0719 PG07513
Fall 2018	ECN	212	88858	C	263	65373261	\$ 95.00	\$ 24,985.00	CC0719 PG07513
Fall 2018	ECN	212	88859	C	213	65373261	\$ 95.00	\$ 20,235.00	CC0719 PG07513
					766				
								\$ 72,770.00	
Fall 2018	PSY	101	79330		247	65373261	\$ 95.00	\$ 23,465.00	CC0543 PG05291

Fall 2018	PSY	101	79331		248	65373261	\$ 95.00	\$ 23,560.00	CC0543 PG05291
Fall 2018	PSY	101	82021		248	65373261	\$ 95.00	\$ 23,560.00	CC0543 PG05291
Fall 2018	PSY	101	85310		248	65373261	\$ 95.00	\$ 23,560.00	CC0543 PG05291
Fall 2018	PSY	101	90280		249	65373261	\$ 95.00	\$ 23,655.00	CC0543 PG05291
Fall 2018	PSY	101	90281		240	65373261	\$ 95.00	\$ 22,800.00	CC0543 PG05291
Fall 2018	PSY	101	90284		235	65373261	\$ 95.00	\$ 22,325.00	CC0543 PG05291
Fall 2018	PSY	101	90285		177	65373261	\$ 95.00	\$ 16,815.00	CC0543 PG05291
Fall 2018	PSY	101	90286		248	65373261	\$ 95.00	\$ 23,560.00	CC0543 PG05291
Fall 2018	PSY	101	90940		240	65373261	\$ 95.00	\$ 22,800.00	CC0543 PG05291
					2380		\$ 226,100.00		
Fall 2018	ECN	211	70727		100	65359380	\$ 95.00	\$ 9,500.00	CC0719 PG08027
Fall 2018	ECN	211	84005		99	65359380	\$ 95.00	\$ 9,405.00	CC0719 PG08027
Fall 2018	ECN	211	88855		97	65359380	\$ 95.00	\$ 9,215.00	CC0719 PG08027
Fall 2018	ECN	211	91501		96	65359380	\$ 95.00	\$ 9,120.00	CC0719 PG08027
							\$ 37,240.00		
Fall 2018	AST	111	73757	A	339	65493629	\$ 55.00	\$ 18,645.00	CC0497 PG04469
Fall 2018	AST	111	74469	A	205	65493629	\$ 55.00	\$ 11,275.00	CC0497 PG04469
							\$ 29,920.00		
Fall 2018	AST	113	75542	B	436	65547321	\$ 40.00	\$ 17,440.00	CC0497 PG04471
Fall 2018	AST	113	75543	B	186	65547321	\$ 40.00	\$ 7,440.00	CC0497 PG04471
							\$ 24,880.00		
Fall 2017	PSY	101	89032	C	75	62168294	\$ 95.00	\$ 7,125.00	CC0543 PG05291
Spring 2019	AST	111	15161		471	66579386	\$ 55.00	\$ 25,905.00	CC0497 PG04469
Spring 2019	AST	111	15162		163	66579386	\$ 55.00	\$ 8,965.00	CC0497 PG04469
Spring 2019	AST	113	16794		475	66579386	\$ 40.00	\$ 19,000.00	CC0497 PG04471
Spring 2019	AST	113	16795		178	66579386	\$ 40.00	\$ 7,120.00	CC0497 PG04471
Spring 2019	ECN	212	18631	C	243	66579386	\$ 95.00	\$ 23,085.00	CC0719 PG07513
Spring 2019	ECN	212	21930	C	105	66579386	\$ 95.00	\$ 9,975.00	CC0719 PG07513
Spring 2019	ECN	212	29270	C	105	66579386	\$ 95.00	\$ 9,975.00	CC0719 PG07513
Spring 2019	ECN	212	29271	C	74	66579386	\$ 95.00	\$ 7,030.00	CC0719 PG07513
Spring 2019	ECN	212	29272	C	90	66579386	\$ 95.00	\$ 8,550.00	CC0719 PG07513
Spring 2019	ECN	212	29273	C	38	66579386	\$ 95.00	\$ 3,610.00	CC0719 PG07513
Spring 2019	ECN	211	19335	C	378	66579386	\$ 95.00	\$ 35,910.00	CC0719 PG08027
Spring 2019	ECN	211	19336	C	378	66579386	\$ 95.00	\$ 35,910.00	CC0719 PG08027

[illegible]

Exhibit 23

Subject: FW: End of Semester Meeting
From: Jose Mendez
Date: 4/22/2019, 3:33 PM
To: GUSTAVO VENTURA

From: Jose Mendez <jose.mendez@asu.edu>
Sent: Monday, April 22, 2019 3:05 PM
To: Jose Mendez <jose.mendez@asu.edu>
Subject: FW: End of Semester Meeting

From: Cara McDaniel <Cara.McDaniel@asu.edu>
Sent: Monday, April 22, 2019 3:01 PM
To: Jose Mendez <jose.mendez@asu.edu>
Subject: FW: End of Semester Meeting

Cara McDaniel, PhD
Clinical Associate Professor



From: Jose Mendez <jose.mendez@asu.edu>
Date: Friday, March 27, 2015 at 3:48 PM
To: Cara McDaniel <Cara.McDaniel@asu.edu>, Joana Girante <jgirante@asu.edu>
Subject: RE: End of Semester Meeting

Okay, I am glad you all came to a decision. I also think its best especially in light of all the extra support such as videos that can be used for the online course.

From: Cara McDaniel
Sent: Friday, March 27, 2015 3:39 PM

To: Joana Girante; Jose Mendez
Subject: Re: End of Semester Meeting

Joana,

Given the support materials that are available with Mankiw, I agree it is the best selection for a text.

--
Dr. Cara McDaniel
Clinical Associate Professor
Department of Economics
Arizona State University

From: Joana Girante <jgirante@asu.edu>
Date: Friday, March 27, 2015 at 9:41 AM
To: Cara McDaniel <Cara.McDaniel@asu.edu>, Jose Mendez <jose.mendez@asu.edu>
Subject: Fwd: End of Semester Meeting

Good morning,

Given this, I think it is best if we adopt Mankiw for the macro i/oCourses. What do you think?

Joana

----- Forwarded message -----

From: Claudiney Pereira <Claudiney.Pereira@asu.edu>
Date: Fri, Mar 27, 2015 at 9:33 AM
Subject: RE: End of Semester Meeting
To: Stefan Ruediger <sruedige@asu.edu>, Jose Mendez <jose.mendez@asu.edu>
Cc: Brian Goegan <bgoegan@asu.edu>, Joana Girante <jgirante@asu.edu>, Cara McDaniel <Cara.McDaniel@asu.edu>, Adriana Dornelles <Adriana.Dornelles@asu.edu>, Nancy Roberts <Nancy.Roberts@asu.edu>, Richard Cox <rgcox2@asu.edu>, Daniel Marburger <Daniel.Marburger@asu.edu>, Patricia De La Vina <patricia.a.delavina@gmail.com>

Hi All,

I just heard from our Cengage rep (see it below).

Best,

Claudiney

Hi Claudiney,

The rumor you are hearing is correct. At this time, the Hall-Lieberman text is not scheduled to be revised, however, we have no plans to discontinue printing the current edition.

Is it a problem that the Hall-Lieberman text isn't schedule to be revised? If so, I have other textbooks that are comparable.

Best,

Lynnia Bastyr

Cengage Learning

Learning Consultant, Business & Computing

(m) [815.790.6110](tel:815.790.6110) | (e) lynnia.bastyr@cengage.com

Claudiney M. Pereira

Clinical Associate Professor

W.P. Carey School of Business

Arizona State University

CPCOM 415G

Phone: [480-965-8421](tel:480-965-8421)

Fax: [480-965-0748](tel:480-965-0748)

From: Stefan Ruediger [sruedige@asu.edu]

Sent: Wednesday, March 25, 2015 4:07 PM

To: Jose Mendez

Cc: Brian Goegan; Joana Girante; Cara McDaniel; Claudiney Pereira; Adriana Dornelles; Nancy Roberts; Richard Cox; Daniel Marburger; Patricia De La Vina

Subject: Re: End of Semester Meeting

Hi all,

That day and time works for me.

I might have bad news about Hall and Lieberman. It does not look like the authors will work on another edition. I will try to gather more information about this.

Stefan

On Wed, Mar 25, 2015 at 12:54 PM, Jose Mendez <jose.mendez@asu.edu> wrote:

Hey all,

I am trying to set up a time when we could all meet together, especially before the end of the semester (which is a crazy time) and before everyone takes off for the summer. Patricia would like in part to meet everyone, but to also ask questions and get your advice on teaching in the large lectures. I would also like for us to discuss the choice of textbook: Mankiw versus Hall and Lieberman.

Would it work for everyone if we met from 1:30 – 2:30 pm on Wednesday, April 15? We would have the meeting here and we could have lunch ordered even if it is a little late.

Thanks,

Jose

Jose A. Mendez
Professor of Economics
Assistant Department Chair

--
Stefan Ruediger, PhD
Clinical Associate Professor
Department of Economics
Arizona State University
www.sruediger.com

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Joana Girante, Ph.D.
Arizona State University | W. P. Carey School of Business
Clinical Assistant Professor