

MASTER PRICE AGREEMENT  
BETWEEN  
MIDWESTERN HIGHER EDUCATION COMMISSION  
AND  
RESULTANT, INC.  
EFFECTIVE DECEMBER 1, 2023, through DECEMBER 31, 2026

THIS AGREEMENT, and amendments and supplements thereto, is made between the Midwestern Higher Education Commission (hereinafter MHEC) located at 105 Fifth Avenue South, Suite 450 Minneapolis, MN 55401, for the benefit of the Eligible Organizations located in the MHEC member states, and Resultant (hereafter Resultant or Vendor) 111 Monument Circle Suite 202, Indianapolis, IN 46204. For purposes of this Master Agreement (hereafter Agreement) MHEC and Resultant are referred to collectively as the “Parties” or individually as “Party”.

**Whereas**, the Midwestern Higher Education Compact (Compact) is an interstate compact of twelve Midwestern states, such states being Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin (Member States); and MHEC, a nonprofit 501(c) (3), is a statutorily created governing body of the Compact established for the purposes, in part, of determining, negotiating and providing quality and affordable services for the Member States, the entities in those Member States, and the citizens residing in those Member States; and

**Whereas**, MHEC has established a Technology Initiative for the purpose of which is to determine, negotiate and make available quality and affordable technology services to the not-for-profit and public education related entities in the MHEC Member States; and

**Whereas**, MHEC has entered into separate agreements with the New England Board of Higher Education (NEBHE) and the Southern Regional Education Board (SREB) and the Western Interstate Commission for Higher Education (WICHE) respectively to allow entities in the NEBHE Member States, SREB Member States, and the WICHE Member States access MHEC’s Technology Initiative contracts, including this Agreement; and

**Whereas**, NEBHE Member States refers to any state that is a member, or affiliate member of NEBHE. Current NEBHE Member States are: Connecticut, New Hampshire, Maine, Massachusetts, Rhode Island, and Vermont; and

**Whereas**, SREB Member States refers to any state that is a member or an affiliate member of SREB. Current SREB Member States are: Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; and

**Whereas**, WICHE Member States refers to any state that is a member or an affiliate member of WICHE. Current WICHE Member States are: Alaska, Arizona, California, Colorado, Hawai'i, Idaho, Montana,

Nevada, New Mexico, Oregon, Utah, Washington, Wyoming and U.S. Pacific Territories and Freely Associated States; and

**Whereas**, Resultant offers certain quality technology related services; and

**Whereas**, MHEC conducted a competitive sourcing event for Data Analytics for Student Success, Institutional Efficiencies, and Integration MHEC-RFP-08152022, dated August 15, 2022, and upon completion of the competitive process Resultant received an award; and

**Therefore**, in consideration of mutual covenants, conditions, and promises contained herein, MHEC and Resultant agree as follows:

**1. MASTER AGREEMENT TERM**

The MHEC Master Agreement shall be effective on December 31, 2023, and shall remain in effect until June 30, 2026, (Term Ending Date). This Agreement may be mutually renewed for four (4) additional years, unless one party terminates in writing ninety (90) days prior to the Term Ending Date anniversary. Eligible Organizations may procure services from the technology solution Vendor under the terms of this Agreement at any time during the duration of this Agreement.

**2. ELIGIBLE ORGANIZATIONS**

This Agreement shall be the framework under which Eligible Organizations can acquire solution offerings consisting as defined in section Services from Resultant. Eligible Organizations shall include:

- A. All not-for-profit private and public institutions and/or systems of higher education (colleges, universities, community colleges, technical institutions, and equivalent institutions;
- B. All K-12 schools and school districts;
- C. All city, county, and other local governments;
- D. All state governments and their departments; and
- E. Located in MHEC Member States.

Eligible Organizations shall also include all not-for-profit private and public institutions and/or systems of higher education; K-12 schools and districts; city, county, and other local governments; and state governments and their departments located within the Member States of the following other education Compacts in the country; the New England Board of Higher Education (NEBHE), the Southern Regional Education Board (SREB), and the Western Interstate Commission for Higher Education (WICHE).

**3. PROCURING ELIGIBLE ORGANIZATION**

Refers to an Eligible Organization which desires to purchase under this Agreement and has executed an Order.

**4. ORDER**

Refers to an Eligible Organization's purchase order or other ordering document evidencing its intent to procure Services from Vendor pursuant to this Agreement.

## 5. STATEMENT OF WORK (SOW)

Refers to a formal document between a Procuring Eligible Organization and Vendor. This document details the precise Services that the Vendor will carry out. It encompasses comprehensive details such as the extent of the Services, the tangible outcomes to be provided, the established timeline for execution, the corresponding financial charges, and any other terms and conditions agreed to by Procuring Eligible Organization and Vendor. Within this SOW, there is a delineation of the specific modules of the Campus Analytics Engine modules and related Services that will be included, along with supplementary Services, and level of support. This description encompasses a thorough account of the scope of work, the tangible outcomes to be delivered, and the associated costs. A sample of the SOW is attached to this Agreement as Exhibit B.

## 6. SERVICES

Refers to the comprehensive range of data analytics solutions offered by the Vendor, designed to address the following key areas: a) Student Success: Solutions aimed at enhancing student outcomes and success. b) Institutional Efficiencies: Solutions focused on improving institutional processes and efficiency. c) Integration: Solutions facilitating seamless integration between various systems and processes. These Services are made available for purchase by Eligible Organizations under the terms of this Agreement. The Vendor retains the right to introduce modifications to their service portfolio, provided that such changes remain aligned with the scope of the Data Analytics for Student Success, Institutional Efficiencies, and Integration MHEC-RFP-08152022 award. Examples of these Services encompass, but are not limited to, the following categories:

- A. Campus Analytics Engine: This offering encompasses four distinct components:
  - 1. Data Lakehouse: Acts as a foundational element, laying the groundwork for subsequent components.
  - 2. Self-Service Analytics Platform: Empowers users to engage in independent data analysis.
  - 3. Student Matriculation Module: Facilitates student enrolment and progression monitoring.
  - 4. Student Retention: Aids in identifying and addressing factors affecting student retention.

Each component stands as an independent component, available for separate or combined acquisition. Embedded consulting services are defined with each component, and a year of support is included. Campus Analytics Engine components may require Third-Party Software and/or Third-Party Services. All Third-Party Software and Third-Party Services required must be sourced by the Procuring Eligible Organization.

- B. Technology Services: Comprising a team of technology engineers, analysts, and leaders, this service assists organizations in conceiving, implementing, operating, and optimizing technology solutions.
- C. Advanced Data Analytics: This service involves teams of skilled data engineers, analysts, and subject matter experts, who implement data-driven solutions within your organization.

- D. Next-Gen Products: Adopting a solution-agnostic approach, this service aids in selecting the most suitable Third-Party Software and Third-Party Services that align with the technology requirements of the Eligible Organization.
- E. Digital Transformation: Delivered by a team of consultants, subject matter experts, and change management professionals, this service ensures the realization of your organization's future roadmap.
- F. Managed Services: Offering ongoing strategic and day-to-day technical support, this service fosters long-term transformation and sustains the technological, data, and organizational aspects.

Services may require additional licensing or contractual terms and conditions of Third-Party Software, or Third-Party Services. Eligible Organizations shall negotiate the terms and conditions of such purchase with the applicable third-party, including, as applicable, service level agreements and/or Statement of Work (SOW).

## **7. SERVICES LIST**

Refers to the complete list of Services and the corresponding prices for those Services made available for purchase by Eligible Organization under this Agreement. The Services List contains a description of the work, roles, level and maximum hourly rates for each Services. For any custom Services that are not included on the Services List, the prices for such Services purchased under this Agreement will be mutually agreed upon by Vendor and Procuring Eligible Organization and as set forth in the Order or an applicable SOW or negotiated agreement. The Services List is set forth as Exhibit A: Services List and may be modified from time to time, any changes must be within the scope of the for Data Analytics for Student Success, Institutional Efficiencies, and Integration MHEC-RFP-08152022 award.

## **8. THIRD-PARTY SOFTWARE**

The terms applicable to any Third-Party Software required for Services are in its license agreement, included with the Software media packaging, or presented to Procuring Eligible Organization during the installation or use of the Software. Procuring Eligible Organization will work with the Third-Party Software provider on any Third-Party Software licensing terms needed to be amended to meet statutory requirements. If a separate license agreement exists between Procuring Eligible Organization and the manufacturer or the owner of the Software, that license agreement will control and will apply according to its terms and conditions.

## **9. THIRD-PARTY SERVICES**

All Third-Party Services will be subject to third party's applicable terms and conditions for such delivery of a variety of hybrid services and applications accessible on demand over the internet including, but not limited to:

- A. Software-as-a-service (SaaS): refers to a software delivery method that provides access to software and its functions remotely as a web-based service.

- B. Infrastructure-as-a-service (IaaS): refers to computer infrastructure, such as virtualization, being delivered as a service.
- C. Platform-as-a-service (PaaS): refers to a computing platform being delivered as a service.
- D. Storage-as-a-service: refers to a storage model where an entity rents or leases storage space.
- E. Disaster recovery-as-a-service (DRaaS) refers to backup and restore data services.

Procuring Eligible Organization shall negotiate the terms and conditions of such Third-Party Services, including, as applicable, service level agreements and/or Statement of Work (SOW). If a separate agreement exists between Procuring Eligible Organization and the Third-Party Services provider, that agreement will control and will apply according to its terms and conditions.

## **10. REIMBURSEMENTS**

Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Vendor in performance of any Service or SOW deliverable may be reimbursed with prior written approval from Procuring Eligible Organization's authorized representative. Provided that Vendor shall be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided for in the current U.S. General Services Administration "GSA" Per Diem Rates or pursuant to Procuring Eligible Organization reimbursement policies.

## **11. DUE DILIGENCE**

Notwithstanding MHEC's role in entering into this Agreement and any additional efforts by MHEC, Eligible Organization acknowledges and agrees that:

- A. Eligible Organization is solely responsible for its own due diligence regarding any Master Agreement;
- B. MHEC is not responsible for, and makes no representation or warranty, regarding the appropriateness of any Master Agreement for the Eligible Organization specifically;
- C. MHEC has not made any legally binding representations regarding Vendors Services and MHEC does not guarantee or warrant the Services of Vendor; and
- D. MHEC is not responsible for the actions or omissions of Vendor.

Issues of interpretation and eligibility for participation are solely within the authority of the procurement and statutory rules and regulations applicable to the Eligible Organization. The Eligible Organization is responsible for assuring it has the authority to place Orders under this Agreement.

## **12. MHEC NOT LIABLE FOR ELIGIBLE ORGANIZATION**

Vendor acknowledges and agrees that:

- A. MHEC does not represent or guarantee that any Eligible Organization will purchase any Services from Vendor or participate in any way under this Agreement;
- B. MHEC will not be obligated to make any affirmative efforts to induce any such participation or purchases;

- C. MHEC is not responsible for the actions or omissions of any Eligible Organization, including related to payments for purchases made by Eligible Organization or fulfillment of any other of Eligible Organizations obligations pursuant to their relationship with Vendor.

### **13. QUANTITY GUARANTEE**

This Agreement is not a purchase order, nor does it guarantee any purchases to be made by any Eligible Organization. MHEC is not obligated to make any affirmative efforts to induce any purchases. The quantity of services that may be purchased is undetermined. An estimate quantity based on history or other means may be used as a guide but shall not be a representation by MHEC or any Eligible Organization. This Agreement is not an exclusive agreement. MHEC and Eligible Organizations may obtain Services from other sources during the term of this Agreement.

### **14. ORDER OF PRECEDENT**

Where the terms and conditions of this Agreement are in conflict with an Eligible Organization's state and/or institutional laws or regulations, the Eligible Organization and Vendor may enter into an addendum to amend the terms and conditions of this Agreement to conform to the Eligible Organization's state and/or institutional laws and regulations. Similarly, the Eligible Organization participating in this Agreement may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this Agreement i.e., invoice requirements, ordering requirements, specialized delivery, etc. Any addendum or supplemental agreement is exclusively between the participating Eligible Organization and Vendor. In the event of any conflict among these documents, the following order of precedence shall apply:

- A. Executed Addendum between Eligible Organization and Vendor
- B. The terms and conditions of this Agreement
- C. Exhibits to this Agreement
- D. The list of products and Services contained in the Order

### **15. PURCHASING UNDER MASTER AGREEMENT**

- A. Services: Any Procuring Eligible Organizations who engages with Resultant for Services shall enter into an individual Statement of Work (SOW) with Resultant, which will be mutually agreed upon between the Procuring Eligible Organization and Resultant. At a minimum the SOW will specify the Campus Analytics Engine components, associate Services, and support offered to be purchased, including the scope of work, deliverables, and applicable fees. The SOW should also include: (i) Procuring Eligible Organization by name and address; (ii) the quantity, and description of the Services that Procuring Eligible Organization desires to purchase; (iii) the price of the Service's in accordance with this Agreement; (iv) the "bill-to" address; (v) the "ship-to" address; (vi) the requested timelines; (vii) a contact name, email, and telephone number; and (viii) reference to this Agreement.
- B. Each Order that is accepted by Vendor will become a part of the Agreement as to the Services listed on the Order only; no additional terms or conditions will be added to this Agreement as a

result of the acceptance of the Order, nor will such terms affect any purchase. An Order from an Eligible Organization accepted by Vendor is binding.

- C. Procuring Eligible Organization may request in writing a change or cancellation of an Order that Vendor has previously accepted up until the time Vendor has begun performing the Services.

## 16. PAYMENT PROVISIONS

- A. **Acceptance.** A Procuring Eligible Organization shall determine whether all Services delivered meet the Vendors published specifications. No payment shall be made for any Services until the Procuring Eligible Organization has accepted the Services. Unless otherwise agreed upon between the Procuring Eligible Organization and Vendor, the Eligible Organization shall within fifteen (15) calendar days from the date of Service, issue a written notice of partial acceptance or rejection of the Services; otherwise, the Services shall be deemed accepted.
- B. **Payment of Invoice.** Invoices shall be submitted to the Procuring Eligible Organization. Payments shall be remitted to Vendor at the address shown on the invoice. Payment shall be tendered to Vendor within forty-five (45) days of the date of the invoice unless there exists a good faith dispute. In the absence of a good faith dispute and after the forty-fifth (45) day from the date of the invoice, unless mutually agreed to, interest shall be paid on the unpaid balance due to Vendor at the rate of one and one-half percent (1½%) per month or the maximum rate allowed by the applicable state laws of Procuring Eligible Organization. The Procuring Eligible Organization shall make a good faith effort to pay within forty-five (45) days after the date of the invoice.
- C. **Dispute Notice.** Procuring Eligible Organization shall make a good faith effort to notify Vendor of any billing discrepancies or disputes about an invoice within fifteen (15) business days after receiving it, specifying with particularity the basis of any such dispute (“Dispute Notice”) or in accordance with the applicable state laws of the Procuring Eligible Organization. Tender of a Dispute Notice does not relieve Procuring Eligible Organization of its obligations to pay the undisputed portion of any invoice subject to a Dispute Notice. Any amounts that were the subject of a Dispute Notice and are subsequently resolved in favor of Vendor will be subject to interest charges accruing from the original due date.
- D. **Payment of Taxes.** The Prices List under this Master Agreement do not include, and Procuring Eligible Organization shall reimburse Vendor for, any and all taxes and/or duties assessed against or payable by Vendor in connection with the sale of Products and Services except for taxes imposed upon Vendor’s net income. Unless the Procuring Eligible Organization provides a proof of tax exemption, taxes will be additive to the contracted price.

## 17. SERVICES LIST AND DISCOUNT GUARANTEES

All Procuring Eligible Organizations shall pay the lowest prices for Services contained in the Exhibit A: Services List . All Services discounts as set forth in Exhibit A shall not decrease throughout the term of this

Agreement. When Eligible Organizations purchase under this Master Agreement, Vendor shall not sell Services to Eligible Organizations at prices higher than those awarded via this Agreement. If available, promotional prices, higher discounts, and volume discounts may be offered under this Agreement to Procuring Eligible Organization at the time of purchase. Eligible Organizations may inquire from Vendor if such promotions are available.

#### **18. LARGE ORDER NEGOTIATED PRICING**

Refers to the prices or additional discounts that may be offered to specific Eligible Organizations under defined additional terms and conditions. Selection and pricing of large order negotiated pricing shall be by mutual agreement of the Eligible Organization and Vendor. Large Order Negotiated Pricing shall apply only to those items that meet the applicable additional terms and conditions negotiated by Vendor and the Eligible Organization.

#### **19. WARRANTY**

Vendor warrants that it will perform Services in a workmanlike manner in accordance with generally accepted industry standards and that all Services will be performed by skilled personnel with the training necessary to perform such Services. Unless otherwise expressly provided, Services provided by the Vendor shall be warranted for a period of ninety (90) days after Acceptance.

#### **20. INTELLECTUAL PROPERTY**

Resultant® is a registered trademark. Customer shall not receive any rights, goodwill, or other interest in Resultant's names, marks, or marketing or advertising materials.

All Intellectual Property, confidential Information, Work Product (as defined in the SOW), and/or tangible materials authored or prepared by Resultant for Procuring Eligible Organization, either as services in a Statement of Work (SOW) or otherwise, including adaptations or derivative works of Pre-Existing Materials (the "Materials"), are the sole and exclusive property of Resultant or its third party licensees and Resultant shall have exclusive Intellectual Property Rights therein. Title to, and ownership of, the Materials and any Pre-Existing Materials or Third Party Materials provided by Resultant shall, at all times, remain with Resultant and its third party licensors, and Procuring Eligible Organization shall acquire no rights to said materials. With regard to the Materials and any Pre-Existing Materials or Third Party Materials, Procuring Eligible Organization shall not modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of those items; rent, lease, lend, sell, sublicense, assign, distribute, publish, or otherwise make available those items; reverse engineer, disassemble, decompile, decode, or adapt those items, or otherwise attempt to derive or gain access to the source code of those items, in whole or in part; bypass or breach any security device or protection used for or contained in those items; remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, terms of those items, warranties, disclaimers, or Intellectual Property Rights, proprietary rights or other symbols, notices, marks, or serial numbers on or relating to any copy of those items; or use those items in any manner or for any purpose that infringes, misappropriates, or

otherwise violates any Intellectual Property Rights or other right of any person or that violates any applicable Law.

Upon payment in full according to this Agreement, Resultant hereby grants Procuring Eligible Organization a perpetual, royalty-free, non-exclusive, non-transferrable license to the Materials. Procuring Eligible Organization must obtain Resultant's prior written consent before distributing a copy of its deliverable(s) to any third party.

## **21. TERMINATION**

This Agreement may be canceled with or without cause by either the Vendor or MHEC at any time during its term upon ninety (90) days written notice to the other party; provided however, neither MHEC nor Procuring Eligible Organization has the right to terminate a specific Order for convenience after it has been issued. Either party may terminate this Agreement for cause based upon material breach of this Agreement by the other Party, provided that the non-breaching Party shall give the breaching Party written notice specifying the breach and shall afford the breaching Party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching Party has not corrected the breach or in the case of a breach that cannot be corrected in thirty (30) days, begun, and proceeded in good faith to correct the breach, the non-breaching Party may declare the breaching party in default and terminate this Agreement immediately.

Procuring Eligible Organization and Vendor may terminate an Order under this Agreement for cause based upon material breach of this Agreement by the other, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching party has not corrected the breach or in the case of a breach that cannot be corrected in thirty (30) days, begun, and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Order.

In the event this Agreement expires or is terminated for any reason, a Procuring Eligible Organization shall retain all of its rights in accordance with the original Order provided the pricing for any subsequent renewal period following expiration or termination of this Agreement will be subject to the mutual agreement of the parties. In the event this Agreement expires or is terminated for any reason, Vendor will continue to provide Services pursuant to any Order executed prior to the termination.

## **22. NON-APPROPRIATIONS**

This provision applies only to publicly funded Eligible Organizations. Any resultant Order is contingent upon sufficient appropriations being made by the legislature or other appropriate governing entity. Procuring Eligible Organization may terminate its obligations if sufficient appropriations are not made by the governing entity to pay amounts due. In the event of non-appropriations, the Vendor shall be notified in writing of such non-appropriation at the earliest opportunity.

## **23. INDEMNITY, GENERAL, AND INTELLECTUAL PROPERTY**

The Vendor shall indemnify, defend and save harmless MHEC and its respective officers, agents and employees from and against any and all third party liabilities and losses whatsoever, including without limitation, costs and expenses in connection therewith, on account of, or by reason of, injury to or death of, any person whatsoever, or loss of or damage to any property whatsoever, suffered or sustained in the case of, or in connection with, the performance of the contract, except for that liability and loss arising from the acts or omissions of MHEC.

The Vendor shall indemnify, defend and save harmless Eligible Organization and its respective officers, agents and employees from and against any and all third party liabilities and losses whatsoever, including without limitation, costs and expenses in connection therewith, on account of, or by reason of, injury to or death of, any person whatsoever, or loss of or damage to any property whatsoever, suffered or sustained in the case of, or in connection with, the performance of the contract, except for that liability and loss arising from the acts or omissions of Eligible Organization. For public entities, Vendor will coordinate with the state's attorney general as required by state law. For public entities, Vendor will coordinate with the state's attorney general as required by state law.

With respect to anything provided to MHEC or Procuring Eligible Organization by the Vendor pursuant to this Master Agreement, the Vendor shall indemnify and defend MHEC and Eligible Organization and their respective officers, agents and employees against liability, including costs and reasonable attorney's fees for infringement of any United States patent, copyright, trade infringement or other intellectual property right arising out of the manufacture, delivery and authorized use of such by Procuring Eligible Organization. For public entities, Vendor will coordinate with the state's attorney general as required by state law.

#### **24. LIMITATION OF LIABILITY**

Resultant is not liable for security breaches or issues caused by ransomware, cyber-attacks, or other technical intrusions. Resultant's total liability for all claims, damages, and costs arising from this Agreement is limited to the lesser of (1) amounts paid to Resultant by the customer for a Statement of Work in the pro-rated twelve (12)-month period prior to the incident giving rise to the claim in question or (2) the actual damages incurred by Procuring Eligible Organization. The foregoing limitation does not apply to any indemnification obligations under this Agreement or to damages resulting from personal injury or tangible property damages. Under no circumstances shall Resultant, MHEC, or Procuring Eligible Organizations be liable for special, incidental, or consequential damages. Procuring Eligible Organization agrees and understands that the limitations and exclusions with respect to the Parties' liability represent Resultant's and Procuring Eligible Organization Order or SOW as to the allocation of risk between the Parties in connection with the obligations hereunder. The fees paid to Resultant under this Agreement reflect, and are set in reliance upon, the allocation of risk and exclusions and limitations of liability set forth in this Agreement.

#### **25. BACKGROUND CHECKS**

Vendor will perform background checks within the scope of the Vendors current standard policies and practices for any Vendor employees or subcontractors entering upon a Procuring Eligible Organizations premises, where legally acceptable and culturally permissible.

## **26. INSURANCE**

Vendor, at its own expense, shall maintain appropriate levels of insurance as required by the Procuring Eligible Organization and if requested, certificates of insurance shall be delivered to Procuring Eligible Organization prior to commencement of any work. The insurance company shall be licensed in the applicable state in which work is being conducted or as otherwise required by Procuring Eligible Organization. Vendors shall give the Procuring Eligible Organization a minimum of thirty (30) days' notice prior to any modifications or cancellation of policies. Unless otherwise agreed to between Eligible Organization and Vendor, Vendor will maintain the following insurance limits while performing any services under this Master Agreement: (a) Workers' Compensation Insurance for Contractor employees, including coverage required under the Eligible Organization's State and Federal Laws; (b) Employer's Liability Insurance with limits of a minimum of: (i) \$1,000,000 for each accident for bodily injury by accident, (ii) \$1,000,000 for bodily injury by disease, and (iii) \$1,000,000 for each employee for bodily injury by disease; (c) General Liability Insurance with limits of: (i) \$1,000,000 per occurrence for bodily injury and property damage, (d) Cyber Insurance with limits of (i) \$2,000,000 per occurrence or claim, and (ii) \$4,000,000 aggregate coverage. The policy should cover a range of liabilities, including data loss, intellectual property infringement, privacy invasion, breach response costs, regulatory fines, penalties, and credit monitoring expenses. Vendor shall provide copies of certificates of insurance to Eligible Organization if requested.

Procuring Eligible Organization is responsible for managing compliance with the requirements of this section 26. Insurance and/or their institutional requirements, and may require additional coverage consistent with applicable law, regulation, or policy. Vendor shall require all subcontractors performing any work to maintain coverage as specified.

## **27. CONFIDENTIALITY**

As an instrumentality of state government, MHEC is subject to Public Record laws. As such, any provision under this Agreement that requires the terms of this Agreement, or specific information obtained during the term of this Agreement, to be kept confidential must be removed or modified to include "to the extent permitted by applicable law." At a minimum, similar modifications may be required for public Eligible Organizations.

## **28. USE OF FEDERAL CONTRACTS OR GRANTS**

Where Federal Contracts or Grants provide funding to Eligible Organizations, it is the responsibility of the Vendor and the Eligible Organization to comply with all Federal Acquisition Regulations (FAR) applicable laws and regulations by completing any certifications and disclosures and any other requirements. When Federal Contract or Grant funds are used by Procuring Eligible Organization purchases under this

Agreement, which exceed \$25,000, certification must be provided in writing that the Vendor is not debarred, suspended, or proposed for debarment by the Federal Government.

## **29. COMPLIANCE WITH APPLICABLE LAWS**

(a) Vendor warrants that in the performance of this Agreement and any Order under this Agreement that Vendor shall comply with federal laws, rules and regulations applicable to Subcontractors of government contracts including those relating to equal employment opportunity and affirmative action in the employment of minorities (Executive Order 11246), women (Executive Order 11375), persons with disabilities (29 USC 706 and Executive Order 11758), and certain veterans (38 USC 4212 formerly [2012]) contracting with business concerns with small disadvantaged business concerns (Publication L. 95-507). Contract clauses required by the Government in such circumstances are incorporated into any resulting agreement by reference. (b) Vendor warrants and agrees to abide by all applicable Federal and state laws, regulations and Executive Orders pertaining to equal opportunity. In accordance with such laws, regulations, and executive orders, Vendor agrees that it does not discriminate on the grounds of race, color, religion, national origin, sex, age, veteran status, or handicap. If Vendor is found to be not in compliance with applicable Federal or state requirements during the life of the Agreement, Vendor agrees to take appropriate steps to correct these deficiencies. (c) Vendor warrants that in the performance of any Agreement and any Order under this Agreement that Vendor will comply with all applicable Federal, state, and local laws, regulations, rules, and/or ordinances.

## **30. FERPA AND OTHER PRIVACY LAWS**

Where applicable to the scope of Services Vendor is providing, and only to the extent directly applicable to Vendor and its Services, Vendor agrees to comply with the Family Education Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPAA), the Gramm-Leach Bliley Act (GLBA) and all other applicable state and federal privacy laws to the extent applicable to any product or service provided to Eligible Organizations. To the extent an Eligible Organization discloses any information to Vendor subject to the aforementioned privacy laws, Eligible Organization agrees to advise Vendor of the disclosure of such information; and Eligible Organization represents and warrants to Vendor that it has obtained any required consents to disclose such information. Eligible Organization may require additional terms and conditions related to privacy laws and protections, and in addition, to the extent that Vendor becomes a Business Associate as defined in HIPAA, both Vendor and Eligible Organization acknowledge that a separate mutually agreeable Business Associate Agreement may be required and will govern according to its terms.

## **31. ACCESSIBILITY**

Vendor agrees to comply with all applicable requirements of the Rehabilitation Act of 1973, as amended, 29 USC 794, including Sections 504 and 508, which prohibits discrimination on the basis of disabilities, and with the Americans with Disabilities Act of 1990 ("ADA"), as amended, 42 USC 12101 et seq., which requires the provision of accessible facilities and services. Goods and services provided by Vendor shall be accessible to individuals with disabilities to the greatest extent practical, but in no event less than the standards set forth by the state in which the Eligible Organization resides and federal accessibility laws.

For web-based environments, services and content must conform to the Web Content Accessibility Guidelines ("WCAG") 2.0 AA (available at <http://www.w3.org/WAI/intro/wcag.php>).

### **32. DATA OWNERSHIP**

Eligible Organization's data shall remain the exclusive property of Eligible Organization and Eligible Organization shall retain all rights, including intellectual property rights in and to such data. Vendor will use Eligible Organization's data only for the purpose of fulfilling its duties under the Agreement or an Order under the Master Agreement, and for Eligible Organization's sole benefit, and will not share such data with or disclose it to any third party without the prior written consent of Eligible Organization or as otherwise required by law.

### **33. DISPUTE RESOLUTION**

MHEC shall reject any arbitration clauses in this Agreement or license.

To avoid litigation and to resolve any conflicts that arise during the performance of the Statements of Work or thereafter, the Parties agree all administrative and contractual disputes arising from or related to this Agreement shall be addressed in the following manner:

If either Party disputes or disagrees with an Agreement term or the other Party's interpretation of an Agreement term or has any other administrative or contractual dispute not addressed in this Agreement, such Party shall promptly give the other Party written notice of said dispute. The Parties hereby agree to notify each other in a timely manner of any claim, dispute, or cause of action arising from or related to this Agreement and to negotiate in good faith to resolve any such claim, dispute, or cause of action.

The Parties shall hold a meeting as soon as reasonably possible, but in no event later than thirty (30) calendar days from the initial written notice of the dispute, attended by persons with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute; provided, however, that no such meeting shall be deemed to vitiate or reduce the obligations and liabilities of the Parties or be deemed a waiver by a Party of any remedies to which such Party would be otherwise entitled unless otherwise agreed to by the Parties in writing.

If within thirty (30) calendar days after such meeting the Parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to non-binding mediation and to bear equally the cost of the mediation.

### **34. DEBARMENT AND SUSPENSION**

Vendor represents and certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction (contract), by any government department or agency. If the Vendor cannot certify this statement, such Vendor must submit a written explanation. Furthermore, Vendor shall provide notice to MHEC if it becomes debarred or suspended at any point during the duration of any resulting agreement.

**35. RECORDS AND AUDIT**

Vendor agrees to maintain records directly related to the Orders, Invoices and Purchase Orders under this Master Agreement for a period of three (3) years or such term as required by applicable law from the date of receipt of final payment after termination of the Master Agreement. These records shall be subject to inspection, which maybe initiated no more than once annually, at an agreed upon time and location, with reasonable advance notice, by Procuring Eligible Organization and appropriate governmental authorities within Procuring Eligible Organization's state. The Procuring Eligible Organization shall have the right to request copies of invoices either before or after payment. Payment under this Master Agreement shall not foreclose the right of the Procuring Eligible Organization to recover excessive or illegal payments.

**36. FORCE MAJEURE**

Neither Vendor nor MHEC nor Procuring Eligible Organization shall be liable to each other during any period in which its performance is delayed or prevented, in whole or in part, by a circumstance beyond its reasonable control, which circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind); fire; war; act of a public enemy or terrorist; act of sabotage; epidemic; strike or other labor dispute; riot; piracy or other misadventure of the sea; embargo; inability to secure materials and or transportation; or, a restriction imposed by legislation, an order or a rule or regulation of a governmental entity. If such a circumstance occurs, the party unable to perform shall undertake reasonable action to notify the other parties of the same.

**37. EXPORT LAW**

Vendor and Eligible Organization acknowledges that any software, technical information, products, or other deliverables provided to Eligible Organization via this Agreement may be subject to the U.S. Export Administration Regulations. Vendor and Eligible Organization agrees to comply with all applicable United States export control laws, and regulations, as from time to time amended, including without limitation, the laws and regulations administered by the United States Department of Commerce and the United States Department of State.

**38. CONFLICT OF INTEREST**

Vendor warrants to the best of its knowledge and belief that it presently has no interest direct or indirect, which would give rise to organizational conflicts of interest. Vendor agrees that if an organizational conflict of interest is discovered during the term of this Agreement, it will provide disclosure to MHEC that shall include a description of the action Vendor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist and is not timely resolved by Vendor, MHEC may, at its sole discretion, cancel this Agreement.

**39. SUBCONTRACTORS**

Vendor shall have the right to use Subcontractors to provide the Services described in this Agreement. If Vendor elects to use Subcontractors in the performance of custom professional Services under this Agreement, upon request, Vendor will provide a list of such Subcontractors in the associated Statement of Work (SOW). Notwithstanding the foregoing, the use of such Subcontractors shall not release Vendor from performing its obligations under this Agreement.

Vendor shall be liable for any damage or loss resulting from personal injury or damage to tangible property arising from the acts or omissions of its subcontractor while performing services pursuant to this Agreement.

#### **40. ASSIGNMENT**

Neither party will assign its rights or delegate its obligations under this Agreement, in whole or in part, without the other party's prior written consent, and, absent such consent, any purported assignment or delegation by that party will be null, void and of no effect; provided, however, that either party may upon written notice assign this Agreement to another successor company pursuant to a corporate merger or reorganization or the sale or transfer of all or substantially all of its stock or assets. This Agreement will be binding upon and inure to the benefit of Vendor and MHEC and their successors and permitted assigns. Nothing in this Section 40 shall preclude Vendor from employing a Subcontractor in carrying out its obligations under this Agreement. Vendor use of such Subcontractors will not release Vendor from its obligations under this Agreement.

#### **41. MHEC NOT LIABLE FOR ELIGIBLE ORGANIZATION**

MHEC is not liable to Vendor for the failure of any Procuring Eligible Organization to make any payment or to otherwise fully perform pursuant to the terms and conditions of an Order and/or the Agreement. Vendor, in its sole discretion, may discontinue selling products or services to any Eligible Organization who fails to make payments or otherwise fully performs pursuant to the terms and conditions of the Agreement. MHEC does not guarantee that any Eligible Organization will utilize or make any purchase under the Agreement. An Eligible Organization shall not be responsible for any other Eligible Organization that executes its own Order under the Agreement.

#### **42. INDEPENDENT CONTRACTORS**

MHEC and Vendor acknowledge and agree that the relationship arising from this Agreement does not constitute or create any joint venture, partnership, employment relationship or franchise between them, and the parties are acting as independent contractors in making and performing this Agreement. Vendor and its agents and employees are independent contractors and are not employees of MHEC or any Eligible Organization. Vendor has no authorization, express or implied to bind MHEC or any Eligible Organization to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent of MHEC or any Eligible Organization, except as expressly set forth herein.

#### **43. VENDOR REPRESENTATIVE**

Vendor shall assign a senior level representative who shall be the primary MHEC contact for all matters related to all sales and marketing efforts of this Agreement.

#### 44. NOTIFICATION

Between the parties: Whenever under the terms of this Agreement any notice is required or permitted to be given by one party to the other, such notice shall be given in writing and shall be deemed to have been sufficiently given for all purposes hereof if given by facsimile, email, or mail, postage prepaid, to the parties at the addresses set forth below, or at such other address as the parties may direct in writing from time to time:

To MHEC:	To Vendor:
105 Fifth Avenue South	111 Monument Circle
Suite 450	Suite 202
Minneapolis, Minnesota 55401	Indianapolis, Indiana 46204
Attn: Nathan Sorensen, Director of government contracts  Email: <a href="mailto:nathans@mhec.org">nathans@mhec.org</a>	Attn: General Counsel  Email: <a href="mailto:contracts@resultant.com">contracts@resultant.com</a>
Fax: 612-767-3353	Fax: N/A

Changes in the above information will be given to the other party in a timely fashion.

Between Eligible Organization: Notices shall be sent to Eligible Organization's business address. The term "business address" shall mean the "Bill to" address set forth in an invoice to Eligible Organization.

#### 45. MARKETING

Vendor will assist MHEC in the development and implementation of appropriate marketing strategies including seminars, printed material, and a full service, online MHEC-specific website to receive information on products, supplies, services, and prices, and to place orders. Mutual review and evaluation of the marketing plans will be done, at a minimum, during annual reviews. The Vendor should exhibit the willingness to develop marketing materials and participate in opportunities that are available.

#### 46. ANNOUNCEMENTS AND PUBLICITY

Any announcements and publicity given to MHEC (or an Eligible Organization) resulting from this Agreement must receive the prior approval of MHEC (or Eligible Organization). Such approval shall not be

unreasonably withheld. Vendor will not make any representations of MHEC's (or an Eligible Organization's) opinion or position as to the quality of effectiveness of the Products or Services that are the subject of this Agreement without prior written consent of MHEC (or Eligible Organization), which shall not be unreasonably withheld.

#### **47. OVERSIGHT COMMITTEE**

An oversight committee comprised of representatives of Eligible Organizations shall be appointed by MHEC to assist and support MHEC and Vendor in developing and refining the implementation of a Agreement in the Compact member states. This shall include, but not be limited to, assistance with marketing strategies, representing the interests of Eligible Organizations in assuring quality and timely products and services; and to advise the successful Vendor on the effectiveness of its implementation progression. There will be an annual meeting between successful Vendor and MHEC (and perhaps members of the oversight committee) to perform a business review. In addition, Vendor must attend on-site meetings on an ad hoc basis if requested by the contract manager to address contract performance issues.

#### **48. CONTRACT ADMINISTRATION FEE (CAF)**

MHEC has incurred, and will continue to incur, costs and expenses in the development, implementation, administration, and marketing of this program. A Contract Administration Fee (CAF) for Services are subject to one-and-one half percent (1.5%). The Vendor will be responsible for submitting the CAF with the Quarterly Report. The Quarterly CAF will be based on the total accumulative net-sales for the reporting period. Payment of the CAF is payable to the Midwestern Higher Education Compact.

#### **49. QUARTERLY REPORT**

Vendor must submit business activity reports each quarter. The Quarterly Report must include, at the minimum, the following information:

- Quarter number and year
- MHEC contract number
- Vendor name
- Name, phone number and email address of person who may be contacted for questions about the report
- Customer Name
- Customer Type (Higher Education, K-12, state agencies, cities, counties, local subdivisions)
- Address
- City
- State
- Zip Code
- Purchase Order Number
- Product Description

- Date Shipped or Delivered to End User
- Quantity
- List Price
- Sale Price
- Administration Fee
- % Discount
- \$ Savings
- Reseller (if applicable)

Quarterly Reports and Contract Administration Fees shall be submitted by end of the preceding month after the end of March, June, September, and December of each calendar year.

Calendar Quarter 1	(January 1 March 31)	Due April 30
Calendar Quarter 2	(April 1 to June 30)	Due July 31
Calendar Quarter 3	(July 1 to September 30)	Due October 31
Calendar Quarter 4	(October 1 to December 31)	Due January 31

#### **50. ENFORCEMENT OF AGREEMENT**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver under this Master Agreement will be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of such waiver is sought. Any such waiver will constitute a waiver only with respect to the specific matter described therein and will in no way impair the rights of the party granting such waiver in any other respect or at any other time. Any delay or forbearance by either party in exercising any right hereunder will not be deemed a waiver of that right.

#### **51. SEVERABILITY**

If any provision of this Agreement is invalid or unenforceable for any reason in any jurisdiction, such provision will be construed to have been adjusted to the minimum extent necessary to cure such invalidity or unenforceability. The invalidity or unenforceability of one or more of the provisions contained in this Agreement will not have the effect of rendering any such provision invalid or unenforceable in any other case, circumstance, or jurisdiction, or of rendering any other provisions of this Master Agreement invalid or unenforceable whatsoever.

#### **52. GOVERNING LAW**

As between MHEC and Vendor, this Agreement shall be construed in accordance with, and its performance governed by, the laws of the State of Minnesota; and venue for all legal proceedings arising out of this Agreement, or breach thereof, shall be in a state or federal court with competent jurisdiction located in the State of Minnesota.

As between Eligible Organization and Vendor, this Agreement or any Order placed under this Agreement shall be construed in accordance with, and its performance governed by, the laws of the state in which Eligible Organization resides. Venue for all legal proceedings arising out of this Agreement or any Order placed under this Agreement, or breach thereof, shall be in a state or federal court with competent jurisdiction located in the state in which the Eligible Organization resides.

As between Eligible Organization, MHEC, and Vendor, this Agreement or any Order placed under this Agreement shall be construed in accordance with, and its performance governed by, the laws of the state in which Eligible Organization resides. Venue for all legal proceedings arising out of this Agreement or any Order placed under this Agreement, or breach thereof, shall be in a state or federal court with competent jurisdiction located in the state in which the Eligible Organization resides.

### **53. SOVEREIGN IMMUNITY**

Notwithstanding anything to the contrary in this Agreement or Order under this Agreement, this Agreement shall not be construed to deprive an Eligible Organization of its applicable sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions, or limitations of liability applying to this Agreement or afforded by Eligible Organizations' state laws applicable to Eligible Organization.

### **54. SURVIVAL**

Certain paragraphs of this Agreement including but not limited to indemnification; and limitation of liability shall survive the expiration of this Agreement. Software license, warranty and service agreements, and non-disclosure agreements that were entered into under terms and conditions of this Master Agreement shall survive this Agreement.

### **55. AMENDMENTS**

Except as provided in Section 14 Order of Precedent; this Agreement shall only be amended by written instrument executed by the parties.

### **56. SCOPE OF AGREEMENT**

This Master Agreement incorporates all of the agreements of the parties concerning the subject matter of this Master Agreement, and all prior agreements have been merged into this Master Agreement. No prior agreements, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Master Agreement.

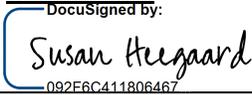
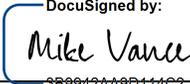
### **57. INVALID TERM OR CONDITION**

If any term or condition of this Master Agreement shall be held invalid or unenforceable, the remainder of this Master Agreement shall not be affected and shall be valid and enforceable.

### **58. MISCELLANEOUS**

All Parties to this Agreement may retain a reproduction (e.g., electronic image, photocopy, facsimile) of this Agreement that shall be considered an original and shall be admissible in any action to enforce this Agreement. Resultant may accept this Agreement either by its authorized signature or a signed Order. Except as provided for in this Agreement, all changes to this Agreement must be made in writing signed by both Parties; accordingly, any additional terms on the Procuring Eligible Organization’s ordering documents shall be of no force or effect.

The Parties, by their representatives signing below, agree with the terms of this Agreement and further certify that their respective signatories are duly authorized to execute this Agreement.

	<u><b>Midwestern Higher Education Commission</b></u>	<u><b>Resultant</b></u>
Signature:		
Name:	<b>Susan Heegaard</b>	Mike Vance
Title:	<b>President</b>	EVP of Professional Services
Address:	<b>105 Fifth Avenue South Suite 450</b>	111 Monument Circle Suite 201
	<b>Minneapolis, Minnesota, 554401</b>	Indianapolis, IN 46204
Date:	17 January 2024	16 January 2024