Pearson VUE Authorized Test Center Agreement

Will there be a PVTC at the below address? Yes ☐ No ☐.
If "No" skip to the signature block below and complete all a separate Exhibit B for the PVTC.

Commercial Name San Leandro Unified School District
Legal Name San Leandro Unified School District
Physical Address 835 East 14th Street
City San Leandro State/Prov/Country CA Postal Code 94577
Contact Name Jessica Bonduris Email Address jbonduris@slusd.us
Telephone (510) 667-6201 Fax Web Address www.SLUSD.us

On-site Technical/Installation Contact Name
Phone , Ext Cell Email Address

PVTC Administrator Contact Name
Phone Email Address

Business Office / Accounting Contact Name
Phone Email Address
Address City State/Prov/Country Postal Code

NCS Pearson, Inc., with offices located at 5601 Green Valley Drive, Bloomington, Minnesota 55437 ("Pearson VUE"), contracts for and Company agrees to provide the facilities and services of a testing center in accordance with this PVTC Agreement and any attached Exhibits, including but not limited to Exhibit A and Exhibit B, if applicable, which are incorporated in and made a part of this Pearson VUE Authorized Center Agreement ("Agreement").

Company acknowledges it has read, understands and is bound by this Agreement.

Signature _____
Print Name _____
Title _____ Date _____
Email Address _____

NCS Pearson, Inc.

Signature _____
Print Name _____
Title _____ Date _____

Site ID # _____
(Pearson VUE INTERNAL USE ONLY)

Proprietary and Confidential
Pearson VUE • Attn: Channel Sales

Pearson VUE Authorized Test Center Agreement

OBJECT OF THE AGREEMENT

Pearson VUE is in the business of contracting to provide various services for the benefit of organizations known as Sponsors which have established certain levels of education, training and/or testing experience necessary to qualify for a specified certification or other form of recognized position, title or status. Sponsors require that dependable, high quality, secure, and uniform testing be available to be delivered electronically throughout the world. Pearson VUE furnishes testing services to Sponsors by contracting with companies which provide one or more testing centers. The testing centers provide a secure and uniform testing environment, high quality service and dependability.

Company is an organization which provides facilities for electronic testing. This Agreement sets forth the terms and conditions, responsibilities, rights and remedies which Company and Pearson VUE accept and intend to govern their relationship. Company will use Pearson VUE software and applications appropriately, operate its PVTC(s) responsibly, deliver the electronic Tests successfully, and upload Candidate results proficiently. Company shall perform Services in accordance with this Agreement, which includes, but is not limited to, the Guide.

DEFINITIONS

1. DEFINITIONS

These definitions apply to this Agreement:

a. **Administrator**– PVTC employee(s) who has been certified under Pearson VUE's Certified Administrator Program.
b. **Agreement** –This PVTC Agreement which includes the Guide, the Exhibits, Schedules and other related documents referred to herein.
c. **Candidate** – An individual who registers for a Test.
d. **Company** – The organization contracting with Pearson VUE to provide facilities for the electronic delivery of Tests and who may be engaged by Pearson VUE to collect Candidate Personal Data on behalf of Pearson VUE in accordance with Pearson VUE's instructions, and the terms of this Agreement.
e. **Data Processor** – is Pearson VUE and Company.
f. **Effective Date** – The date signed by both parties and will be effective by the date the earliest party signed.
g. **Enhanced Equipment** – Signature pad, digital camera, camera stand, or any additional equipment as required by Pearson VUE for delivery of Tests by Company.
h. **Guide(s)** – *Pearson VUE Authorized Test Center Policies and Procedures Guide; PVTC Policies and Procedures Guide; Regulatory Policies and Procedures Guide; and Exam Sponsor Procedures for Pearson VUE Authorized Test Centers and Regulatory Exam Sponsor Documentation*, all of which are inclusive, and, that set forth the testing policies and procedures, the Sponsors' requirements, and explains the use of Pearson VUE's applications. The Guides will change at Pearson VUE's sole discretion upon reasonable notice to Company. The Guides and changes to the Guides shall be found at https://vss.pearsonvue.com, or other site as communicated by Pearson VUE in writing. If there is a conflict between this Agreement and the Guide with respect to a nonmaterial change, the Guide(s) will govern.
i. **Mobile Site** – PVTC that is not a fixed location and is furnished by Company for delivery of electronic testing.
j. **Personal Data or Candidate Personal Data** - Any information relating to an identified or identifiable Candidate.
k. **Processing** - Any operation or set of operations which is performed upon Candidate Personal Data, whether or not by automatic means, such as collection, use, recording, organization, storage, retrieval, or disclosure by transmission, ("Process", "Processes" and "Processed" shall have the same meaning).
l. **PVTC** – The facilities furnished by Company for delivery of electronic testing at a specific and fixed location**.**
m. **RMA** – Pearson VUE Remote Maintenance Agent software that allows for the transfer of data (registrations, Tests, scores) to and from Pearson VUE.
n. **Services** – Those actions and obligations which are to be performed by Company as specifically described in this Agreement.

o. **Site Manager** – Pearson VUE software application that provides Candidate scheduling and site information.
p. **Software** – All or any part of Pearson VUE owned proprietary software or non-restricted third party software, including any updates and related documentation thereto, that is licensed or sublicensed to Company.
q. **Sponsor or Data Controller**– Organizations that determines the purpose and means of the Processing of Candidate Personal Data and have established certain levels of education, training and/or testing experience necessary to qualify for a specified certification or other form of recognized position, title or status and who have contracted with Pearson VUE to provide electronic testing services to Candidates who are seeking to demonstrate those qualifications. In addition Pearson VUE delivers computer based Tests on behalf of itself and may from time to time be the Sponsor or Data Controller and a Data Processor.
r. **System** – Pearson VUE's computerized system, Software and applications designed for registration, scheduling, delivery of Tests and testing. The System includes the Software, test drivers, test files, documentation and other related materials and information as specified and described in this Agreement including any documentation made a part of this Agreement.
s. **Test** – A computer administered exercise, authorized by a Sponsor, designed to examine a Candidate's progress or test qualification or knowledge.

RESPONSIBILITIES OF THE PARTIES

A. COMPANY RESPONSIBILITIES

1. READINESS FOR TEST DELIVERY

To begin offering testing to Candidates at the earliest possible date, Company agrees to make best efforts to see that all elements of its PVTC are installed and the PVTC is fully ready for Test delivery within 30 days from receipt of the installation kit. If the PVTC is not installed within 30 days, or as otherwise mutually agreed upon in writing, Pearson VUE will have the right to terminate this Agreement.

2. PVTC/CANDIDATE OPERATIONS

a. Company will (i) furnish facilities and Services including, but not limited to, furnished building(s), testing equipment, facilities management, Candidate orientation, Test delivery, and provide testing for a variety of Candidates and Pearson VUE's Sponsors and (ii) operate its PVTC, all in accordance with this Agreement and the requirements of the most recent version of the Guide. Further, Company will comply with the Software License in this Agreement.
b. PVTC may be located at Company's street address indicated on the signature page of this Agreement and/or the additional location(s) shown on Exhibit B, if applicable, which will be attached to this Agreement by the mutual written agreement of the parties. Each PVTC will be operated and equipped as required in this Agreement and the Guide. Company must notify Pearson VUE in writing at least 30 days in advance of any intended relocation of a PVTC or for any name change.
c. Company acknowledges that it shall only be authorized to deliver Tests as approved by Pearson VUE and/or its individual Sponsors. The parties may mutually agree to only deliver Tests for certain Sponsors. Tests can be can be added and deleted by Pearson VUE or Sponsor, at their sole discretion at any time.
d. PVTC must have a minimum of one PVTC Administrator certified and trained for Test delivery at all times. An Administrator must pass a Pearson VUE required administration certification exam and recertify **annually**, maintain strict security, follow all instructions from Pearson VUE, and adhere to the Rules of Conduct and Certification Agreement. Administrator is responsible for fulfilling all duties associated with the operation of the PVTC in accordance with the Guide.
e. Sponsors prohibit PVTC Administrator's serving as a PVTC Administrator for a Test that they hold a Sponsor certification or will be taking a Sponsor certification. Consult the *Exam Sponsor Guide* for specific Sponsor requirements and restrictions, including but not limited to, GED Testing Service LLC, Microsoft, Cisco and Adobe. One such example is an Administrator shall not administer a Cisco exam if they hold a Cisco certification or are a Cisco certified instructor, including those that intend to pursue such certification.
f. PVTC will provide and continually update its own testing availability schedule using Pearson VUE'S Site Manager. PVTC(s) will be open during the business hours Company establishes for testing. In addition, PVTC must notify Pearson VUE in Site Manager as follows: (i) any certified Test Administrator

is added or deleted personnel, (ii) any Test Administrator is added or deleted personnel, (iii) any on-site technical and installation personnel, and (iv) any business office and accounting personnel.

g. If PVTC anticipates changing its time(s) and/or date(s) of Test delivery, PVTC is responsible for determining whether there are any Candidates scheduled during that time(s) and/or date(s), and making the necessary arrangements to deliver such Tests or to reschedule such Tests accommodating reasonable Candidate's requests. All such accommodations must be undertaken promptly to the reasonable satisfaction of the Candidate.
h. PVTC will regularly check the Pearson VUE website and run the PVTC Report Card report detailing Candidate feedback on their testing experience. Company will make every effort to improve areas that do not meet Pearson VUE's criteria.
i. PVTC will continuously monitor Candidates during the entire testing process by having the Administrator be able to view all Candidates directly, or by video, **at all times**. The Administrator must be aware of all activities in the test room and be alert for any misconduct. Further, Company will not facilitate and will discourage any actions by Candidates that could be construed as cheating and will not allow any Candidate to copy or misuse the Systems or Software, applications, and any related Test materials or documentation. PVTC will monitor and administer the delivery of Tests as specified in the Guide.
j. Pearson VUE furnished Test exhibits and/or erasable noteboards, (if required) will be given to Candidates before testing begins and will be collected at the end of the Test. Company will keep the exhibits and/or erasable noteboards in good condition and use its best efforts to prevent loss or theft of any such exhibits, including compact disks, and/or erasable noteboards.
k. PVTC will provide each Candidate with a score report upon completion of the testing session, if applicable.
l. To provide for Candidate's testing needs and meet the Sponsors' requirements, PVTC will meet or exceed the minimum specifications in the Guide.
m. Provide access to testing services by disabled persons at least to levels required by the American with Disabilities Act or similar laws in force in the country where the PVTC is located.
n. PVTC will make all reasonable efforts to resolve Candidate problems, questions or issues, but will not counsel a Candidate on Test content.
o. Within 24 hours of delivery of any Test at either a fixed or mobile PVTC, PVTC will report the results to Pearson VUE by running RMA software provided by Pearson VUE in accordance with the Guide.
p. Pearson VUE, its authorized representatives, or any Sponsor whose Tests are being administered at the PVTC, may periodically inspect and audit the PVTC operations and records during testing hours without advance notice. Company Administrators will cooperate fully with all such inspections and allow complete access to the PVTC and all equipment, software, systems and records. PVTC will refer any questions about the inspection to Pearson VUE Support Services. Pearson VUE may integrity shop or audit PVTC, one or more times during each year. Company understands that it will receive no Test delivery or registration compensation for such integrity shop.
q. PVTC will provide Pearson VUE with remote access to the administrator workstation and/or testing server for the purpose of recovering Test results and related records and supporting or auditing the system, except where explicitly prohibited by law.
r. PVTC will maintain strict security in the storage and distribution of the Systems or Software and any copies to protect the copyright and/or trade secret rights therein, and not provide, permit access to or otherwise make available, the Systems or Software, documentation or related materials (or copies, summaries, notes or modified versions thereof), to any other party or for any other use.
s. Enhanced Equipment will be required to be used to provide Pearson VUE testing services at PVTC. Enhanced Equipment is not to be moved from designated Company or PVTC without Pearson VUE's prior express written consent, as long as this Agreement is valid. Company understands and agrees that Company owns the Enhanced Equipment as described in this Agreement, unless otherwise stated. Notwithstanding anything contained in the Agreement, in no event will any of Pearson VUE's proprietary Software, printed materials, processes, databases, confidential information, enhancements to such information or software, materials, and related information and equipment become the property of Company and the same are expressly excluded from any transfer of ownership, or other arrangement, under the Agreement. Any changes or modifications to the Pearson VUE software or materials suggested or provided by Company are hereby assigned by Company to Pearson VUE, and Pearson VUE will own solely all rights, title, and interest, including copyrights, in such changes and modifications. Company understands and agrees that it will, at Company's expense, keep and maintain Enhanced Equipment in good working order, repair and appearance, and make or arrange any and all necessary

repairs and replacements thereto in order that Enhanced Equipment will continue to fulfill its intended function or use. Should any Enhanced Equipment be damaged for any reason, and be capable of repair, Company will promptly repair the same at Company's expense or replace the Enhanced Equipment.

t. PVTC must open a PVTC Incident in accordance with Pearson VUE's procedures provided in the Guide, or when an unusual situation occurs, including, but not limited to, any cheating, copying or misuse of any Systems or Software, applications and any related Test materials or documentation. Incidents are created using the Pearson VUE Support Services Web page. In addition, Company shall call Pearson VUE Support Services immediately upon discovery of any cheating, copying or misuse of any Systems or Software, applications and any related Test materials or documentation and/or theft or misplacement of any confidential information or materials (exhibits, software, applications and the like) as well as any computer media or hardware.

u. PVTC will be required to obtain parental consent for those Candidates that are considered minor's by the local laws.

v. If PVTC collects Candidate personal information then Company attests that it has obtain or will have obtained the requisite express and explicit consent of each Candidate to create, on behalf of such Candidate, the Candidate's Pearson VUE profile, that contains personal information of such Candidate, for purposes of registering and scheduling the Candidates to take a Test. Company will inform all Candidates and obtain the requisite express and explicit consent of Candidates that they understand, acknowledge, agree, and accept the Pearson VUE , a business of NCS Pearson, Inc.'s, Privacy and Cookies Policy including the collection of their data and the monitoring of their entire testing session through the use CCTV and the Terms and Conditions regarding our use of cookies and the processing operations of their personal data to support their testing experience. Company confirms that all Candidates that it is creating a profile for or will create a profile for have been informed and have provided their express and explicit consent for their personal information to be collected, used, transferred, processed, and stored by Pearson VUE located in the U.S., its authorized third parties which may be located in the U.S. or outside of the country where the Candidate is located, and the Sponsor that may be located outside of the country where the Candidate is located.

3. PVTC SYSTEM SPECIFICATIONS

This Agreement incorporates the then-current technical and system requirements for PVTC sites, located at the following link http://www.pearsonvue.com/pvtc/technical_reqs.pdf, or other site as communicated by Pearson VUE in writing. Company agrees to meet the system requirements and specifications for testing stations, administrator station, shared file storage, software licenses, virus prevention, internet access, printers and other peripherals as provided in the most recent revision of the Guide. Company understands and hereby acknowledges that such incremental enhancements of hardware and software are inherent and essential to the provision of electronic test delivery services and that the system requirements and specifications required at the PVTC will change periodically, in response to Sponsor's and/or Pearson VUE's need to maintain industry standards. Company agrees to update its hardware and software to meet or exceed such requirements.

4. OBLIGATIONS OF COMPANY

Company agrees and warrants:

a. On behalf of the Sponsor and Pearson VUE (when acting in the capacity as the Sponsor), Pearson VUE instructs Company to process Candidate Personal Data (as appplicable) for the purposes of (a) Candidate test registration and scheduling, (b) collection of the test registration fee only as permitted and in compliance with the Agreement, and (c) tranmission of Candidate Personal Data to Pearson VUE. Such processing shall continue for the duration of the PVTC Agreement. Types of Candidate Personal Data may include Candidate name, address, identification, palm vein scan, test scores; and all other Candidate Personal Data as directed by Pearson VUE.

b. Company will process the Candidate Personal Data only on behalf of Pearson VUE and its Sponsors in compliance with Pearson VUE's instructions and as set forth in this Agreement; if Company cannot comply for whatever reasons, Company agrees to promptly inform Pearson VUE of its inability to comply, in which case Pearson VUE may suspend all Services provided by Company.

c. Company confirms that it has no reason to believe that it is prevented, for any reason, from fulfilling its obligations under the Agreement. In the event that Company becomes aware that it is prevented from fulfiling its obligations under the Agreement, Company will promptly notify Pearson VUE, and Pearson VUE may have the right to immediately suspend all Services being provided by Company and Pearson VUE, may in its sole discreation, terminate this Agreement.

d. Notwithstanding anything in the Agreement, Company confirms that it has implemented and will maintain appropriate organizational, administrative, physical, and technical security measures (collectively "technical and organizational security measures") for the protection of Candidates Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and against all other unlawful forms of processing.
e. Company shall ensure that all Company personnel authorised to Process Candidate Personal Data are obligated to keep Candidate Personal Data confidential.
f. To work in good faith and respond properly to all inquiries from Pearson VUE relating to Company's processing of Candidate Personal Data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the Candidate Personal Data transferred.
g. Company understands, acknowledges, and agrees that Candidates will be entitled to take action, against Company, as limited to Company's own processing activities, and to receive compensation from Company arising out of (i) a breach by Company due to Company's violation for not complying with instructions received by Company from Pearson VUE, (ii) Company's violation of applicable international and data protection laws; (iii) failure by Company to implemented or maintain technical and organisational security measures as described in the Agreement; (iv) failure by Company to promptly notify Pearson VUE about any legally binding request for disclosure of Personal Data by law enforcement unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation; (v) any accidental or unauthorised access to Candidate Personal Data; and (vi) failure by Company to disclose promptly to Pearson VUE a request received directly from a Candidate, unless Company has been otherwise authorised to handle (collectively "third party beneficiary rights").

   The Company agrees that if the Candidate invokes against it third-party beneficiary rights and/or claims compensation for damages under the Agreement, the Company will accept the decision of the Candidate: (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority; (b) to refer the dispute to the courts in the Member State in which the Sponsor or Pearson VUE (in the role of the sponsor) is established. The parties agree that the choice made by the Candidate will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.
h. Where requested, the Company shall provide assistance as requested by Pearson VUE and the Sponsor in connection with this Agreement, including but not limited to notifying the appropriate parties of a Candidate Personal Data breach, or, carrying out a data protection impact assessment.
i. The parties agree that on the termination of its data-processing services, the Company shall, at the choice of the Pearson VUE, return, if any, all Candidate Personal Data transferred and any and all copies thereof to Pearson VUE or Company shall destroy all of the Candidate Personal Data and certify to Pearson VUE that it has done so, unless legislation imposed upon Company prevents it from returning or destroying all or part of the Candidate Personal Data transferred. In that case, the Company warrants that it will guarantee the confidentiality of the Candidate Personal Data transferred and will not actively process Candidate Personal Data transferred anymore.

5. TEST FEES

Sponsors determine the maximum testing fees for each of their Tests. Company will not collect from Candidates a sitting fee, administration charge, or any other fee, payment, cost, or charge over and above the testing fee determined by Sponsor, except for a country-wide or regional value added tax (VAT) pursuant to the laws of the applicable jurisdiction.

B. PEARSON VUE RESPONSIBILITIES

1. SUPPORT MATERIALS

Pearson VUE will provide the Tests, operating procedures, Test Administrator training and support for the operation of the PVTC. Pearson VUE will furnish testing exhibits (written and electronic), if any, to Company. Pearson VUE will furnish training materials to Company to provide training to Company's Test Administrators.

2. CANDIDATE SCHEDULE AND INCIDENT REPORTING SYSTEM

Pearson VUE will electronically provide Company with access to Candidate Schedule and provide a browser accessible incident reporting system and report card data.

GENERAL TERMS AND CONDITIONS

1. TERM

The term of this Agreement ("Term") will commence on the Effective Date and will expire twelve months after the Effective Date, unless terminated earlier as provided in this Agreement. Following the initial Term, this Agreement will automatically renew on the same terms and conditions for successive periods of one year each, unless terminated earlier as provided in this Agreement. Nothing in this Agreement shall be interpreted as requiring either party to renew or extend this Agreement.

2. SUSPENSION / DEACTIVATION

If Pearson VUE determines, or has a reasonable basis to believe that Company, or its representatives, have committed or permitted misconduct or failed to comply with responsibilities, specifications, technical specifications, or other requirements in this Agreement or the Guide, Pearson VUE may suspend testing until it is resolved to Pearson VUE's satisfaction.

3. TERMINATION / DEAUTHORIZED

a) Either party may terminate this Agreement, or an Exhibit B (additional or mobile sites), without cause by giving the other at least 30 days prior written notice. For any actual or threatened breach of this Agreement, or with cause of any kind, Pearson VUE may immediately terminate this Agreement. Termination will be in addition to any other remedies either party may have.

b) Subject to any right of set off or other remedy, termination will not affect: (i) payment for Services furnished prior to termination; (ii) Company's and Pearson VUE's compliance with this Agreement for Services actually furnished; or (iii) payment/reimbursement from Company to Pearson VUE for any Candidate Testing Fees collected or vouchers purchased by Company from Pearson VUE.

c) If Company subcontracts, sells, or otherwise transfers or assigns, Company's business, or any part thereof, including responsibility for the Services described in this Agreement, without Pearson VUE's prior written consent, Pearson VUE may, in its sole discretion, temporarily suspend testing, and immediately terminate this Agreement.

d) Notwithstanding any provision contained in this Agreement to the contrary, a party to this Agreement may immediately terminate this Agreement, upon written notice to the other party in the event that the other party makes an assignment for the benefit of its creditors; is unable to pay its debts as they become due; files a voluntary petition in bankruptcy; is adjudicated to be a bankrupt or an insolvent debtor; files a petition seeking for itself any reorganization; or consents to or acquiesces in the appointment of a trustee, receiver or liquidator. In the event a proceeding seeking involuntary reorganization, or similar relief is filed against one of the parties to this Agreement, which is not dismissed within one (1) month after filing, or if any trustee, receiver or liquidator of a party or any substantial part of a party's business assets, or properties is appointed without the party's consent or acquiescence and such appointment is not vacated within one (1) month after such appointment, then in such event, the other party shall have the right to terminate without notice.

e) At the expiration or termination of this Agreement, Company agrees to abide by the expiration or termination steps in the Guide.

4. CONFIDENTIALITY

Company acknowledges and agrees that: (a) confidentiality and security of Tests, exhibits and other materials related to Tests, and other materials related to Sponsor's standards, requirements and testing is highly confidential to Sponsor and to Pearson VUE; and (b) information and data identifying or describing Candidates, Candidates' scores and performance, Candidates' participation in testing and other information relating to each Candidate is private, confidential information of Candidate and is highly confidential to Candidate, Sponsor and Pearson VUE; and (c) the System, software, applications, Test files, manuals, the Guide, PVTC materials and related materials in any medium provided by Pearson VUE are private and confidential business information of Pearson VUE, and accordingly, Company will scrupulously maintain the security of the Tests, testing information and Candidate data and information described in (a) and (b) above, and will undertake all necessary and appropriate efforts, but never less than reasonable care, to protect the confidentiality of all of the information and materials described in this Section and to prevent any unauthorized use or disclosure. Confidential information also includes other information that should reasonably have been understood because of legends or other markings, the circumstances of disclosure, or the nature of the information itself, to be confidential information. Confidential information shall expressly include any and all information derived from a party's proprietary information and the terms and conditions of this Agreement. Pearson VUE's confidential information shall include any software provided hereunder. No information or materials provided under and pursuant to this Agreement will be used, disclosed or permitted to be used by Company for any purpose not expressly provided for in this Agreement. Company

acknowledges and agrees that the requirements set forth in this Section are of the most critical importance to Pearson VUE, Sponsors and Candidates and that any breach will likely result in severe damage. Each party acknowledges that it acquires only the right to use the confidential information of the other party under the terms and conditions of this Agreement for as long as this Agreement is in effect and does not acquire any rights of ownership or title in the confidential information. Each party agrees not to use such confidential information for any purpose not reasonably required by this Agreement. The requirements of this Section are perpetual and will survive the termination or expiration of this Agreement for any reason. The receiving party shall protect the disclosing party's Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination, or publication of the Confidential Information as the receiving party uses to protect its own Confidential Information of a like nature. Except as may be authorized by the disclosing party in writing, the receiving party will (a) not disclose Confidential Information to any person who is not a party to this Agreement; (b) limit dissemination of Confidential Information only to its employees or agents having a "need to know"; and (c) have an appropriate written agreement with its employees and agents requiring that they comply with all of the provisions of this Agreement.

If Company or PVTC is required by law or court order to disclose Personal Data or Candidate Personal Data, Company or PVTC agrees to provide Pearson VUE prompt written notice of such requirement so that an appropriate protective order of other relief may be sought prior to any disclosure. In the event that the receiving party or its agents are compelled or believed to be compelled to disclose any Confidential Information pursuant to a valid order of a court or other government body, the receiving party will promptly notify the disclosing party and provide reasonable cooperation to the disclosing party in connection with the disclosing party's efforts to lawfully avoid or limit disclosure and preserve the confidentiality of the Confidential Information in such circumstances.

Company recognizes and acknowledges that any use or disclosure of any confidential information by Company in a manner inconsistent with the provisions of this Agreement may cause Pearson VUE irreparable damage for which remedies other than injunctive relief may be inadequate, and Company agrees that in any request by Pearson VUE to a court of competent jurisdiction for injunctive or other equitable relief seeking to restrain such use or disclosure, Company will not maintain that such remedy is not appropriate under the circumstances. The parties further agree that in the event such equitable relief is granted in the United States, they will not object to courts in other jurisdictions granting provisional remedies enforcing such United States judgments.

5. USE OF MARKS, ETC.

Company may use or make reference to Pearson VUE or any trade names, trademarks, service marks, logos or other designations of Pearson VUE only to the extent and in the manner which is expressly provided for in writing by Pearson VUE, which will be subject to modification or rescission by Pearson VUE at any time. All use which is not in the exact manner provided by Pearson VUE will be submitted to Pearson VUE for prior approval in writing before any publication thereof. Use by Company of any trade names, trademarks, service marks, logos or other designations of Sponsors will be strictly subject to express prior written permission of the Sponsor or Pearson VUE. Upon expiration or termination of this Agreement, Company will cease any reference to Pearson VUE permitted by this Agreement and any reference to, or use of, any Pearson VUE trade names, trademarks, service marks, logos or other designations.

6. INSURANCE COVERAGE

a. General Liability. During the Term, and any renewals or extension, Company will maintain a Commercial General Liability Insurance policy with a limit for each occurrence of at least $1,000,000 USD. The policy will include Pearson VUE as an additional insured.
b. Evidence of Insurance. Prior to commencing any performance under this Agreement, Company will provide Pearson VUE with a standard Certificate of Insurance as evidence that the insurance coverage required herein is in full force and effect. If any such insurance renews or is terminated during the Term, Company will provide Pearson VUE with certificates of insurance as evidence that such coverage has been renewed or replaced with insurance that complies with these provisions.
c. Insurers, Policies. All policies of insurance required of Company hereunder will be issued by financially responsible insurers, with an A.M. best rating of A- or better.

7. LIABILITY

Notwithstanding anything contained in this Agreement, in no event shall Pearson VUE be liable to Company for any incidental, consequential, special, exemplary or other indirect damages, or for lost profits, lost revenues, or loss of business arising out of this Agreement, regardless of the cause of action, even if Pearson VUE has been advised of the likelihood of damages. Pearson VUE's aggregate liability for any

claim arising under this Agreement shall not in any event exceed an amount equal to the Test delivery and registration fees paid by Pearson VUE to Company during the twelve months preceding the date of the claim.

8. EXCLUSION OF WARRANTIES

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR A SPECIFIC PURPOSE. SOFTWARE PROVIDED BY PEARSON VUE IS NEITHER WARRANTED NOR EXPECTED TO BE FREE FROM ERRORS.

9. MONITORING PERFORMANCE

Company hereby acknowledges and agrees that Pearson VUE may monitor Company's compliance with this Agreement directly, or through subcontractors, by using Candidates instructed to intentionally engage in activities requiring Company to perform certain functions as part of its obligations under this Agreement. Company authorizes either Pearson VUE, or Pearson VUE's subcontractors, to use Candidates for such purposes and further agrees that using such Candidates, either directly or through subcontractors, is a valid method of monitoring Company's compliance with this Agreement.

10. GENERAL PROVISIONS

a. Company may not assign, subcontract or otherwise transfer its rights or obligations under this Agreement without Pearson VUE's prior written consent. Any prohibited assignment will be void. Company will advise Pearson VUE promptly of any anticipated transfer or other material change in the status of Company or the PVTC. Subject to the foregoing limitations, this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs and assigns.

b. This Agreement will be governed by and construed and enforced in accordance with the laws of the state of Minnesota, USA. Any action to enforce this Agreement will be brought in the State or Federal courts in Hennepin County, Minnesota, USA. If any provision of this Agreement is found to be invalid, illegal or unenforceable in any respect, the court may modify such provision to make it valid, legal, and enforceable. All remaining provisions of this Agreement shall remain in full force and effect to the maximum extent possible. Failure of either party to enforce its rights on one occasion will not operate as a waiver of said rights or any other rights on any other occasion.

c. This Agreement shall not be deemed or construed to be modified, amended, rescinded, cancelled, or waived in whole or in part, except by written amendment duly executed by the parties hereto.

d. This Agreement is the entire agreement of the parties and supersedes all prior oral or written proposals and communications related to this Agreement. Company acknowledges it has not been induced to enter into this Agreement by any oral or written representations or statements not contained in this Agreement.

e. Neither party is responsible for failure to fulfill its obligations under this Agreement due to causes beyond its control and without its fault or negligence, provided that, as promptly as reasonably possible: (i) notice of any actual or anticipated failure is given; and (ii) such cause is eliminated and failure cured.

f. Payment of Taxes

   i) Taxes on Sales by Company - Company has the sole responsibility for the collection and remittance of all applicable taxes (including any sales tax, use tax, value-added tax, consumption tax, goods and services tax, gross receipts tax and any other tax lawfully imposed on fees or other amounts associated with Company's sales transactions) based on any sales by Company, including the sale of Tests.

   ii) Taxes on Fees paid by Pearson VUE to Company - It is Company's responsibility to invoice Pearson VUE, if Pearson VUE is required to pay any applicable tax on any fee Pearson VUE pays to Company under this Agreement, (including any sales tax, use tax, value-added tax, consumption tax, goods and services tax, gross receipts tax and any other tax lawfully imposed on fees or other amounts associated with Pearson VUE's payment of fees to Company).

g. Company warrants:

   i) they will comply with all applicable laws, regulations and standards (including, but not limited to, the United States Office of Foreign Asset Control ("OFAC") regulations, Specially Designated Nationals or Blocked Persons ("SDN") list or similar federal, state or other countries' legislation on international trade law, and the American with Disabilities Act or similar federal, state or other countries' disability or human rights laws), and with industry safety and security rules when performing services;

ii) that its performance under this Agreement will not compromise any relationships or create a conflict of interest for Company, nor, to the best of Company's knowledge and belief, for Pearson VUE or any other party. Company will notify Pearson VUE of any potential conflicts of interest;
iii) that its Services under this Agreement will be performed in accordance with all applicable United States federal, state, and local laws and regulations, and with all applicable laws and regulations in the country where the PVTC is located;
iv) it shall (a) conduct business in conformance with sound ethical standards of integrity and honesty and in compliance with all applicable laws; (b) conduct business in such a way as to not give the appearance of impropriety, even when the behavior or activity is in compliance with the law; (c) not achieve business results by illegal acts or unethical conduct; (d) comply with U.S. and local anti-bribery laws, such as the United States Foreign Corrupt Practices Act, United Kingdom Bribery Act, and any other similar local laws, regulations or rules; (e) prohibit the Company, its employees, agents and subcontractors (and all contractors of the Company) from directly or indirectly offering, paying or authorizing financial or other advantage to be given to any official or employee of any government or political party, political candidates or employees of government enterprises (each, an Official) for the purposes of (1) obtaining an improper business advantage; (2) influencing such Official to take, or not to take, any action or decision; or (3) inducing such Official to use his or her influence to affect any act or decision of a government; and (f) provide employees and any contracted individuals engaged by a party with a work environment free of coercion and harassment (These laws include, but are not limited to, laws governing international business, trade embargoes, boycotts, import and export administration, housing and health, processing or transmission of personal data, laws guaranteeing nondiscrimination against persons based on sex, race, creed, physical disability or other protected category.);
v) that all software, excluding Pearson VUE Software, used in performing its obligations under this Agreement will have been legally obtained from legitimate sources; and
vi) Company will indemnify, defend, and hold Pearson VUE harmless from all claims of other parties for breach of these warranties in Subsections i-v above.

h. Company will indemnify, defend and hold Pearson VUE harmless against, all claims or demands of any nature brought by others against Pearson VUE, (including, but not limited to, reimbursement of reasonable costs incurred by Candidates scheduled but unable to take a Test), unless and to the extent the failure to test is due to the fault of Pearson VUE, the Candidate, the Sponsor or Force Majeure, which may arise from alleged or actual acts, representations, or omissions which, if proven, would constitute Company's breach of its duties under this Agreement.
i. Company will indemnify, defend and hold Pearson VUE harmless against any liability for injury or damage caused by Company to persons or property during the performance of this Agreement and all claims of loss or damage arising from Company's or Candidate's use of the PVTC. Neither the existence of, nor the assent of Pearson VUE to, the types or limits of insurance carried by Company will be considered a waiver or release of Company's liability or responsibility under this Agreement.
j. Any notice to be given under this Agreement will be in writing and will be deemed given and effective (i) when delivered personally, by fax, or telex, or (ii) when received if sent by overnight express or mailed by certified, registered mail, postage prepaid, return receipt requested, addressed to a party at its address indicated on the signature page, or to such other address as such party may designate by written notice in accordance with the provisions of this Section. Email notice may be considered written notice if receipt of such notice is confirmed by reply email or other electronic means.
k. Company and Pearson VUE are independent contractors under this Agreement and are not part of a partnership, employment, principal-agent, franchisor-franchisee or similar relationship.
l. The prevailing party in any legal proceedings arising out of this Agreement will be entitled to recover reasonable attorneys' fees and costs from the other party.
m. No Third Party Beneficiaries. This Agreement is solely for the benefit of the parties hereto and no provision of this Agreement shall be deemed to create any rights in, be deemed to have been executed for the benefit of, nor confer upon any other person or entity not a party hereto any remedy, claim, liability, reimbursement, cause of action or other rights.
n. In the event there are translated versions of the Agreement, the parties understand and agree that the English version of the contract will control and govern if there are any discrepancies between the English and translated versions.

SOFTWARE LICENSE

1. **GRANT**
   Pearson VUE grants Company, who hereby acknowledges and accepts, a personal, non-transferable, non-sublicenseable, non-assignable and nonexclusive limited term license or sublicense ("License") to use one copy of the Software provided by Pearson VUE to Company, on a single or multiple processor within Company's PVTC and to store in, transmit through or display the Software on peripheral units directly associated with Company's delivery of Services to Candidates.
2. **TERM OF AGREEMENT**
   The Software License term is concurrent with Company's appointment as a PVTC for Pearson VUE under this Agreement and all rights and privileges hereunder will terminate when such appointment terminates or expires. If Company or PVTC received the software in advance of the execution of this Agreement, the parties understand, agree, and ratify that by signing this Agreement, it will be considered effective from the date the software was received to the date Pearson VUE signed this Agreement.
3. **TITLE**
   Software title and ownership, including any modifications, will remain at all times with Pearson VUE or Pearson VUE's licensor.
4. **PROVIDING SOFTWARE**
   Pearson VUE shall provide to Company a copy of the Software in machine-readable object code and user documentation. Revisions deemed appropriate by Pearson VUE will be provided by Pearson VUE to Company at no additional cost.
5. **USE**
   Company agrees to the following restrictions on its use of the licensed or sublicensed Software:
   a. To use the Software exclusively to administer Tests provided by Pearson VUE as described in and subject to the terms and conditions of this Agreement.
   b. To limit the use of all Software copies and versions thereof to the use provided for herein.
   c. To include appropriate copyright notices on all copies of the Software and documentation, and to explicitly follow Pearson VUE's additional instructions, if any, relating to copyright protection of the Software, documentation and related materials.
   d. To maintain strict security in the storage and distribution of the Software and any copies to protect the copyright and/or trade secret rights therein, and not provide, permit access to or otherwise make available, the Software, documentation or related materials (or copies, summaries, notes or modified versions thereof), to any other party or for any other use.
   e. Not to reverse engineer, decompile, disassemble, create derivative works from, alter, modify or otherwise vary the Software without the express, written consent of Pearson VUE (such authorized alteration or modification not to limit or alter the copyright or trade secret rights).
6. **TERMINATION**
   If Company attempts to sell, remove, duplicate without authorization, transfer, encumber, part with possession of, or sublet the Software, or any portion thereof, or any modification or version thereof; or upon discontinuance of the use of the Software by Company, the Software License granted by this Agreement shall terminate automatically and all copies of the Software and documentation (in any medium and including summaries, notes and the like) shall be immediately removed, destroyed, deleted or returned to Pearson VUE at Company's sole cost and expense, including reasonable attorney's fees, if any. Upon termination for any reason by either party, and within ten days of such termination, all copies of the Software and documentation (in any medium and including summaries, notes and the like) shall be returned to Pearson VUE by Company without delay by delivering all such items to Pearson VUE's place of business, complete and in good order and condition, removed, destroyed, or deleted and proof provided to Pearson VUE upon request. If Company fails to return such Software or documentation, Pearson VUE may take such action as may be reasonably necessary to recover such Software or documentation and Company shall reimburse Pearson VUE's reasonable costs and expenses.
7. **LIABILITY**
   Company, having possession of and control over the Software, shall be responsible for its use, operation, storage, management and safety. Consequently, except to the extent that damage or injury is caused by Pearson VUE's negligence or the intentional misconduct of Pearson VUE's employees, Company assumes the risk and sole responsibility for damage or injury to equipment, Software, personal property or to third parties caused by Company's use or possession of the Software, and Company shall be obligated to protect itself and Pearson VUE against any such occurrences, including claims by Company's employees or any

other persons or organizations with which Company does business, all at Company's sole cost and expense.

8. PEARSON VUE REMEDIES

It will be a default and breach of the Agreement if Company fails to perform any of its obligations under this Software License, or if Company becomes insolvent or makes any assignment for the benefit of its creditors, or if any proceeding under the bankruptcy laws or comparable statute is commenced by or against Company, or a writ of attachment or execution is levied on any item of the Software and such proceeding is not terminated or such writ is not satisfied or released within 15 days after attachment of levy. On Company's default, Pearson VUE may require Company to return any or all copies of the Software and documentation (in any medium and including summaries, notes and the like) and pursue any other remedy at law or in equity. Any taking of possession of the Software shall not release Company from any of its obligations hereunder unless Pearson VUE, or its assignee, notifies Company in writing. If it is necessary for Pearson VUE to enforce this Software License or any of its terms, Company shall pay all costs related to such enforcement, including reasonable attorneys' fees.

9. GENERAL

Without Pearson VUE's prior written consent, Company will not sell, assign, sublet, pledge, otherwise encumber or permit a lien to exist against any interest in this Software License, or remove the Software from its place of installation.