





**MASTER SERVICES AGREEMENT**

<u>Party Information:</u>		
	<b>Client</b>	<b>RNL</b>
<i>Legal Entity Name:</i>	Board of Trustees of the Nebraska State Colleges dba Wayne State College	Ruffalo Noel Levitz, LLC
<i>Address:</i>	1111 Main Street Wayne, NE 68787	1025 Kirkwood Pkwy SW Cedar Rapids, IA 52404
<i>Email:</i>	marames1@wsc.edu	<a href="mailto:RNLContracts@RuffaloNL.com">RNLContracts@RuffaloNL.com</a>
<i>Tax ID #:</i>	05-10363394	48-1289593

This Master Services Agreement (“**Agreement**”) is entered into by and between Ruffalo Noel Levitz, LLC (“**RNL**”) and Client as identified above (“**Client**”), each a “**Party**” or together referred to as “**Parties**,” and sets forth the terms and conditions for RNL to provide Client with Services. Client agrees to purchase, and RNL agrees to provide, the services (“**Services**”) set forth on each Statement of Work (“**SOW**”), attached to and incorporated herein by reference. Each SOW will also include the applicable terms of the SOW, including term, pricing, and payment schedule. This Agreement is dated September 15, 2022 (“**Effective Date**”) and will continue through September 15, 2025 unless terminated in accordance with the terms of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**Client (2 separate signatories required):**

By:

By:

Name: Dr. Marysz Rames

Name: Dr. Paul Turman

Title: President, Wayne State College

Title: Chancellor, Nebraska State College System

Date:

Date:

**Ruffalo Noel Levitz, LLC**

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

Please return signed contracts to [RNLContracts@RuffaloNL.com](mailto:RNLContracts@RuffaloNL.com)

## Terms & Conditions

1. **Materials and Delivery of Services.** Client will fulfill the responsibilities and take all actions required of it as described on the applicable SOW. Client will provide its data, materials, Client IP (defined below) and information necessary for RNL to perform the Services (collectively the "**Client Materials**"). Client represents it has all consent(s) and authority necessary to use, and to allow RNL to use, in connection with the delivery of the Services and all Client Materials, and that Client's Materials will be accurate in all material respects.

2. **Termination.** This Agreement may be terminated by either Party by providing sixty (60) days advance written notice to the other Party. If this Agreement terminates or is terminated while one or more SOWs remain outstanding, the SOW(s) will not terminate, and the terms of this Agreement will continue to apply to the SOW(s).

3. **Warranties, Limitation of Liability, and Indemnification.**

A. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, AND TO THE MAXIMUM EXTENT PROVIDED BY LAW, THE SERVICES PROVIDED HEREUNDER ARE PROVIDED "AS-IS" AND RNL MAKES NO OTHER EXPRESS WARRANTIES OR GUARANTEES OF ANY TYPE OR NATURE, AND MAKES NO IMPLIED WARRANTIES OF ANY TYPE OR NATURE, AS TO THE QUALITY, MERCHANTABILITY, COMPLETENESS OR FITNESS FOR ANY PURPOSE OF ANY PRODUCT OR SERVICE. EXCEPT AS EXPRESSLY MANDATED BY ENFORCEABLE LAW, WHICH WOULD BE CONTRARY TO THE PARTIES' INTENTION AND DESIRES, RNL MAKES NO WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY FINANCIAL RESULTS OR OUTCOMES FROM OR RELATED TO ANY OF THE SERVICES PROVIDED BY RNL PURSUANT TO THIS AGREEMENT.

B. In no event will either Party be liable for any special, consequential, exemplary, incidental or similarly designated damages arising out of or in connection with this Agreement. RNL's liability for any alleged or actual breach of, or third-party claims arising from or related to, this Agreement or any SOW, will be limited as follows: (i) in the event any such liability or claim is covered by an insurance policy secured by RNL, then such liability or claim will be limited to amount of coverage as determined by the issuer of such policy; and, (ii) in the event any such liability or claim is not covered by an insurance policy secured by RNL, then the liability and claims will be limited to an amount equal to the amount of fees actually paid by Client to RNL for the services giving rise to such liability or claim; provided, however, that the foregoing clause (ii) is not intended, and will not be deemed, to limit or restrict in any way any coverage or benefits provided under any applicable insurance policy secured by RNL. Client may be added as an additional insured on RNL's certificate of insurance upon request and payment of a nominal fee, if incurred. Except as expressly stated in a SOW, RNL will not be responsible for collection of any funds, nor have or assume any custody or control over any Client funds. Notwithstanding the foregoing, in the event any funds are delivered to RNL in error, then such funds will be promptly forwarded to Client.

C. Subject to the limitations of this Agreement, each Party will defend, indemnify, and hold the other harmless from any and all loss, penalties, damage, deficiency, claim, or liability to the extent arising out of the indemnifying Party's actions, and any and all actions, suits, proceedings, demands, assessments, judgments, costs and expenses, including reasonable attorney fees, incident to the foregoing.

4. **Intellectual Property.** Unless otherwise expressly provided in a SOW, all right, title, and interest in and to any patents, copyrights, trademarks, service marks, trade dress, software, processes, materials, inventions, designs, code and works of authorship, including all derivatives, ("**IP**") now owned, or subsequently created, licensed, or acquired, by RNL ("**RNL IP**") will be and remain the sole and exclusive property of RNL, and this Agreement does not transfer any title to any RNL IP to Client. Any IP now owned by Client or subsequently created or acquired by Client in a manner unrelated to this Agreement ("**Client IP**") will be and remain the sole and exclusive property of Client, and this Agreement does not transfer any title to any Client IP to RNL. RNL grants ownership of any IP created by RNL in the performance of this Agreement ("**Services IP**") to the Client, to the extent that it does not include any RNL IP. To the extent that the Services IP does include any

RNL IP, RNL grants to Client a limited, perpetual, royalty-free, non-exclusive, non-sublicensable, worldwide license to use the RNL IP contained in the Services IP, but not derivatives thereof, nor of any other RNL IP, for Client's sole and exclusive, non-commercial, non-profit use. Each Party agrees that it will not reverse engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets from any IP owned by the other. Client represents that it will not reproduce, disclose or use RNL IP for any purpose, or in any manner, other than as provided in this Agreement. RNL represents that it will not reproduce, disclose or use Client IP for any purpose, or in any manner, other than in the performance of this Agreement.

5. **Payment Terms.** The fees and payment schedule for the Services will be described in each SOW and are due within thirty (30) days from the date of invoice, with late charges the lower of 1.5% per month or the highest rate allowable by law. Applicable taxes will be added to each invoice, unless Client provides a tax exemption certificate. Payment will be remitted to RNL per the instructions on the invoice or as otherwise instructed by RNL.

6. **Confidentiality.**

A. "**Confidential Information**" means all information disclosed by a Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that should reasonably be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of each Party includes but is not limited to business and marketing plans, financial information, software code or functionality, technology and technical information, product plans, strategies and designs, and business methods or processes disclosed by such Party. However, Confidential Information does not include any information that (i) was known to the receiving Party prior to receipt under this Agreement, as demonstrated by the Receiving Party's records; (ii) was publicly known or available prior to receipt under this Agreement, or later becomes publicly known or available through no fault of the Receiving Party; (iii) is disclosed to the Receiving Party by a third-party having the legal right to disclose the same; or (iv) was independently developed by the Receiving Party. For the avoidance of doubt, the non-disclosure obligations set forth in this Confidentiality section apply to Confidential Information exchanged between the Parties in connection with the evaluation of additional Services.

B. The Parties agree to use reasonable efforts to maintain the confidentiality of Confidential Information, but in no event lesser than is used with like material of the Receiving Party. Both Parties will maintain the confidentiality of all Confidential Information received under this Agreement, and will not disclose or use the Confidential Information except for the purpose for which it is disclosed or authorized under this Agreement. Each Party will limit dissemination of the Confidential Information received by it, except to those of its employees, agents, and contractors whose duties justify the need for access to the Confidential Information provided that such individuals are subject to confidentiality obligations not less than those contained in this Agreement. The Parties acknowledge that certain personal information and records may be protected by applicable laws relating to privacy and the processing of personal data, including without limitation, the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), Title XIII of the American Recovery and Reinvestment Act of 2009 ("**ARRA**") also known as the Health Information Technology for Economic Clinical Health Act ("**HITECH**"), the Family Educational Rights and Privacy Act of 1974 ("**FERPA**") and the Financial Services Modernization Act of 1999 also known as the Gramm-Leach-Bliley Act ("**GLB**") (collectively, "**Privacy Laws**").

C. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior written notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a Party, and the Disclosing Party is not contesting the disclosure, the

Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

D. Upon written request of a Disclosing Party, the Receiving Party will return or destroy all Confidential Information disclosed in written or tangible form, other than copies on back-up tapes stored off-site which will be over-written by RNL in accordance with its disaster recovery and business continuity practices and procedures.

7. Notices. All notices given pursuant to or in connection with this Agreement will be in writing, and provided to the addresses in the Party Information on page 1 by (1) U.S. Postal Service, certified mail, return receipt requested, or equivalent; (2) overnight express courier (charges prepaid); or (3) electronic mail with delivery receipt or acknowledgment. Notices will be deemed received and effective (a) as of the fifth (5th) day subsequent to deposit in a U.S. Postal Service mail depository, postage fully prepaid, if so deposited, or (b) on the date of confirmed or acknowledged delivery by any other method; whichever is earlier.

8. Independent Contractor Relationship. In performing any and all of the Services to be provided under this Agreement, RNL will at all times and for all purposes be and remain an independent contractor and in no case and under no circumstances will RNL or any of its employees, including but not limited to those of its employees directly performing any of the Services, be considered or otherwise deemed to be employees or agents of Client for any purpose whatsoever. Accordingly, neither RNL nor any of its employees or agents will have the authority to enter into any contract for or on behalf of the Client or otherwise bind the Client in any manner whatsoever.

9. Compliance with Laws. Each Party will comply, at its own expense, with applicable laws, ordinances, regulations, and orders pertaining to this Agreement and performance of this Agreement ("**Laws**"). If either Party (the "**Complying Party**") requires information from the other Party (the "**Supplying Party**") in order to comply with any of the Laws, then the Supplying Party will supply the required information promptly to the Complying Party following a reasonable request from the Complying Party in writing. The Complying Party will not be deemed to be in breach of this Agreement based on its failure to comply with any Laws if such failure was the result of the Supplying Party's failure or refusal to provide requested information.

10. Equal Employment Opportunity. In connection with the performance of the Services under this Agreement, RNL agrees that it will not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, sexual orientation, gender identity, national origin, genetic information, disability, or because he or she is a disabled veteran or veteran of the Vietnam Era.

11. Covered Information Security.

A. "**Covered Information**" will mean any personally identifiable financial information that is not publicly available, including social security numbers, credit information and payment card information ("**PCI**") such as account and card numbers, verification numbers, and expiration dates, whether in paper, electronic, or other form utilized in the performance of this Agreement.

B. Each Party will implement appropriate technical and organizational measures to protect Covered Information that is obtained, handled, accessed, or maintained by RNL on behalf of Client, or exchanged between Client and RNL, in the performance of this Agreement. Each Party will provide the other with non-proprietary information concerning safeguards, practices, and procedures it has implemented and maintained to protect Covered Information as the other Party may reasonably request.

C. If, and to the extent that, a Party, or its employees, contractors, and agents is processing, storing, caching, and initiating or engaging in transmission of PCI on such Party's network, or servers located on such Party's network, then that Party is responsible for maintaining compliance with the then current Payment Card Industry Data Security Standard ("**PCIDSS**"). RNL acknowledges that it is responsible for the security of all cardholder data it possesses or otherwise stores, processes or transmits on behalf of Client, and to the extent that RNL could impact the security of Client's cardholder data

environment. To the extent any review or inspection of either Parties' records or facilities is required for either Party to comply with the requirements of this clause, then the Parties agree that they will reasonably cooperate with each other in connection with any such review or inspection. The Parties agree further that unless expressly proved on an applicable SOW: (i) neither Party will have any obligations or responsibility regarding or related to the other Party's network, servers or equipment, or the management of any of them, and (ii) RNL does not provide payment card processing services, RNL will not possess, store, or process cardholder data on behalf of the Client, and the Services do not involve the possession, or the storing or processing of cardholder data.

D. In the event a Party identifies a confirmed incident of unauthorized disclosure of any Covered Information, then such Party will, to the maximum extent possible, take immediate action to limit the disclosure and will notify the other without undue delay.

12. Dispute Resolution, Governing Law & Jurisdiction. This Agreement will be construed and interpreted in accordance with the laws of a US state where the Client is located. Prior to the instigation of any litigation (other than an action for equitable relief), and as a condition to the voluntary submission to the jurisdiction of any state, a meeting will be held and attended by individuals with decision-making authority regarding the dispute to attempt in good faith to negotiate a resolution of the dispute. If within forty-five (45) days after such meeting the Parties have not succeeded in resolving the dispute, either Party may proceed at law, or in equity, in a court of the jurisdiction described above.

13. Force Majeure. No Party will be responsible to the other, and such will not be grounds to terminate this Agreement, for disruptions in the delivery of the Services caused by events beyond the reasonable control of the Party (a "**Force Majeure Event**"); provided that the Parties will have a duty to mitigate any such disruptions to the extent possible. To the extent that Client's use of the Services is disrupted by a Force Majeure Event, RNL's obligation to deliver the Services will be suspended or reduced, as applicable, without such disruption constituting a material breach of this Agreement.

14. Severability & Assignment. If any term, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, all other terms, conditions, and provisions of this Agreement will remain in full force and effect and will not be affected, impaired, or invalidated. Other than assignment to a corporate affiliate or successor by RNL, neither Party may assign this Agreement without prior written consent of the other Party, which will not be unreasonably withheld.

15. Entire Agreement. The supplemental terms of all attached SOWs, as well as any attachment, exhibit, or addendum expressly incorporated herein or in a SOW, are made a part of this Agreement. This Agreement constitutes the entire agreement between the Parties hereto and replaces all other agreements between the Parties relating to the same subject matter, whether written or oral. No amendment, modification, or addition to this Agreement will be effective unless set forth in writing and executed by both Parties. No non-conforming terms of Client's purchase order, request for proposal, bid request, or other documentation will control over the terms and conditions of this Agreement and all such documents are hereby amended and superseded.

16. New Employee Work Eligibility Status. RNL is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee. RNL understands and agrees that lawful presence in the United States is required and RNL may be disqualified or the Agreement terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

17. Unavailability of Funding. Due to possible future reductions in state and/or federal appropriations, the Client cannot guarantee the continued availability of funding for this Agreement beyond the current fiscal year. In the event funds to finance this Agreement become unavailable either in full or in part due to reductions in appropriations for a future fiscal year, the Client may terminate the Agreement or reduce the consideration by notice in writing to RNL. The notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The Client shall be the final authority as to the availability of funds. The effective date of Agreement termination or reduction in consideration shall be the actual effective date of the elimination or reduction of appropriations. In the event of a reduction in consideration, RNL may cancel this Agreement as of the effective date of the proposed reduction by written notice to the College.

18. Technology Access. All Agreements, that include provisions of technology products, systems, and services, including data, voice, and video technologies, as well as information dissemination methods, shall comply with the Nebraska Technology Access Standards adopted

pursuant to Neb. Rev. Stat. §73-205. These Standards are available for viewing on the Web at <http://nitc.nebraska.gov/standards/2-201.pdf>, and are incorporated into this Agreement as if fully set forth herein.

19. Access to Records. RNL agrees to maintain complete records regarding the expenditures of funds provided by the Client under this Agreement. RNL agrees to allow authorized representatives of the College, the Board, the funding Federal Agency, if any, and the United States Comptroller General, if appropriate, free access at reasonable times to all records generated or maintained as a result of this Agreement for a period of three (3) years after the termination of this Agreement.

20. Designated Client Representative. The designated Client representative for purposes of monitoring and oversight of this Agreement is: Dr. Marysz Rames; Phone: 402-375-7218; Email: [marames1@wsc.edu](mailto:marames1@wsc.edu)



## Statement of Work – Strategic Enrollment Planning

### 1 OVERVIEW

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This Statement of Work (“**SOW**”) describes services to be provided by Ruffalo Noel Levitz, LLC (“**RNL**”), to Board of Trustees of the Nebraska State Colleges dba Wayne State College (“**Client**”) (together referred to as the “**Parties**”) and is made pursuant to the September 15, 2022 Master Services Agreement between the Parties (“**MSA**,” and collectively with this SOW the “**Agreement**”).

### 2 TERM

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A. The term of this SOW starts on October 3, 2022 (“**Start Date**”) and ends on October 2, 2023 (“**End Date**”) (the “**Term**”).

### 3 SERVICES

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During the Term, RNL will provide the following services (“**Services**”):

- A. Strategic Enrollment Planning Consulting (“**SEP Consulting**”) to develop a graduate-focused strategic enrollment plan. SEP Consulting includes up to 4 (four) two-day, on-site or remote visits and up to 8 (eight) service days that may be comprised of a combination of travel, report generation, analysis, and telephone support. The SEP Consulting includes:
- i. Preparation, including organization for SEP and identification of key performance indicators, and data analysis of Client-provided enrollment and market data;
  - ii. Strategy development and prioritization of potential SEP initiatives, including consideration of return on investment for each potential initiative;
  - iii. Enrollment goal setting and plan finalization; and
  - iv. Advising on plan implementation and modification.
- B. All Services purchased must be consumed within the Term.

### 4 CLIENT RESPONSIBILITIES

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- A. The provision of Services by RNL is conditioned upon Client providing the following (“**Client Responsibilities**”):
- i. Identification of a person who will serve as the client’s on-site lead for the project.
  - ii. Timely coordination with RNL for implementation of Services.
  - iii. Client Materials necessary for the Services.
  - iv. Client must have an appropriate privacy policy which addresses the use of data by its service providers both in general and with regard to the services RNL will provide. Client will instruct RNL to link to privacy policy, if necessary.

### 5 FEES & PAYMENT SCHEDULE

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- A. Client shall pay RNL \$68,000.00 (Sixty-eight Thousand Dollars) for Services.
- B. Client shall pay for Services in accordance with the following payment schedule:

<u>Payment due date</u>	<u>Amount</u>
October 3, 2022	\$34,000.00
December 3, 2022	\$20,400.00
February 3, 2023	<u>\$13,600.00</u>
<b>TOTAL:</b>	<b>\$68,000.00</b>

- C. Sales tax is not included in the pricing and will be added where applicable unless an exemption certificate is provided to RNL.
- D. **Prompt Payment Act.** In the event any amount due under this Contract remains unpaid for forty-five (45) days after the due date, the unpaid amount shall bear interest from the 31st day after the due date at the rate specified in the Prompt Payment Act, Neb. Rev. Stat. §§81-2401 to 81-2408.

## 6 CLIENT INFORMATION

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- A. Client primary contact for SOW:

Name: Steven Elliott  
Title: Vice President for Academic Affairs  
Wayne State College  
Phone: 402-375-7208  
Email: stellio1@wsc.edu

- B. Invoices shall be sent to the following address:

Name: Steven Elliott  
Title: Vice President for Academic Affairs  
Address: Wayne State College  
1111 Main Street, Wayne, NE, 68787  
Phone: 402-375-7208  
Email: stellio1@wsc.edu

Client may revise the above contact information at any time upon written notice to RNL.

## 7 GENERAL PROVISIONS

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- A. **Amendments.** Any amendments to this SOW will require a change order (“CO”) signed and dated by both Parties. No services are required to be rendered or provided beyond the scope of



services described in this SOW, without a CO or separate SOW.

- B. **Service Conditions.** If any of the Client Responsibilities or payment obligations described above (the “**Service Conditions**”) are not satisfied, then RNL may suspend provision of the Services and may terminate this SOW without penalty to RNL. Any decision by RNL to forego suspension or termination of this SOW in the event of an unsatisfied Service Condition shall not be construed as a waiver of RNL’s right to later terminate this SOW if the unsatisfied Service Condition remains uncured, or for any other unsatisfied Service Condition, all in RNL’s sole discretion. Notwithstanding any term in the Agreement to the contrary, this SOW may not be terminated without cause.
- C. **Other Provisions.** If there is any conflict between the terms of this SOW and the MSA, the terms of the SOW shall govern and control. This SOW, the MSA, and invoices arising under them (“**Relevant Documents**”) are the Parties' entire agreement relating to the subject matter of the Relevant Documents. Any modifications to the Relevant Documents or Change Orders must be in writing, signed and dated by both Parties, and specifically reference this SOW. Obligations in the MSA or this SOW which by their nature are continuing, shall survive termination or expiration of the Agreement. The Parties agree that additional, conflicting, or different terms on existing or future Client or third-party purchasing documents are expressly rejected and shall be void.

**[SPACE INTENTIONALLY LEFT BLANK.  
SIGNATURES FOLLOW ON NEXT PAGE.]**

**Board of Trustees of the Nebraska State Colleges dba Wayne State College**

By:

Name: Dr. Marysz Rames

Title: President, Wayne State College

Date:

**Board of Trustees of the Nebraska State Colleges dba Wayne State College**

By:

Name: Dr. Paul Turman

Title: Chancellor, Nebraska State College System

Date:

**Ruffalo Noel Levitz, LLC**

By:

Name:

Title:

Date:

**Please return signed contracts to [RNLContracts@RuffaloNL.com](mailto:RNLContracts@RuffaloNL.com)**