RNL Standard Application Service Provider Terms and Conditions

Ruffalo Noel Levitz, LLC ("RNL") has developed certain Software (defined below), which it provides as part of its ASP Services (defined below). The following terms and conditions ("Terms & Conditions") apply to all Subscribers who have purchased subscription ASP Services from RNL. RNL reserves the right to modify these terms at any time.

A. **Definitions.** Capitalized terms shall have the meanings set forth in this section, or in the section where they are first used. Capitalized terms used in these Terms & Conditions but not defined in these Terms & Conditions shall have the meanings set forth in the Master Services Agreement ("MSA"), or other agreement, governing the subscription, purchase or provision of ASP Services, and any documentation attached thereto or incorporated therein, including without limitation any Statement of Work, Statement of Services or Change Order (the "Purchase Documents").

   i. **"ASP Services"** means the Software and Documentation described below, and on the Purchase Documents, and on any agreement subsequently signed by the Parties and incorporated by reference into the Purchase Documents, as both may be made available by RNL to Subscriber for use as a service in accordance with the Agreement.

   ii. **"RNL Engage"** (f/k/a CAMPUSCALL) means RNL's proprietary, Internet-accessible advancement software.

   iii. **"Documentation"** means the technical materials provided by RNL to Subscriber in hard copy or electronic form describing the use and operation of the Software.

   iv. **"Error"** means a reproducible failure of the Software to substantially conform to the Documentation.

   v. **"Error Corrections"** means bug fixes or workarounds intended to correct Errors in the Software.

   vi. **"Named User"** means each person or fixed calling station, as applicable to the particular ASP Services, described on applicable Purchase Documents, which Subscriber identifies in writing to RNL by name as being authorized to use the Software in accordance with the Purchase Documents and these Terms & Conditions. Named Users are the only persons Subscriber licensed to access and use the Software. Where a Subscriber that is an individual purchases a single Named User license, the Subscriber is also the Named User.

   vii. "**Open Source Software**" means software licensed under "open source" or "free software" licenses.

   viii. "**Product Schedule**" means the attached numbered Schedule or Schedules which describe the ASP Services.

   ix. **"Subscriber"** means the person identified in the Purchase Documents as purchasing the ASP Services.

   x. **"Subscriber Content"** means any content developed by or on behalf of Subscriber and used with the Software.

xi. **"Subscriber Data"** means data provided by Subscriber to RNL or collected by RNL as part of, or in connection with, the ASP Service.

xii. **"Software"** means the RNL's proprietary software offered to client institutions and described further on the applicable attached Schedule.

xiii. **"Start Date"** means the date provided in the Purchase Documents for Subscriber to begin use of the ASP Services.

xiv. **"Supported Environment"** means the minimum hardware, software, and connectivity configuration specified from time to time by RNL as required for use of the ASP Services. The current requirements are described in an attached Schedule.

xv. **"Term"** means the time when Subscriber is authorized to use the ASP Services as further described in the Purchase Documents.

B. **ASP Service Provision.**

i. **Usernames and Passwords.** RNL will provide a username and password to enable each Named User to access the Software and Documentation pursuant to this Agreement. RNL reserves the right to change or update usernames and passwords in RNL's sole discretion from time to time. Each username and password may only be used to access the Software and Documentation during one (1) concurrent login session. Subscriber acknowledges and agrees that only Named Users are entitled to access the Software and Documentation. Subscriber (a) will provide to RNL information and other assistance as necessary to enable RNL to establish usernames for Named Users; (b) will verify all Named User requests for account passwords; (c) will ensure that each username and password issued to a Named User will be used only by that Named User; (d) is responsible for maintaining the confidentiality of all Named Users' usernames and passwords; (e) is solely responsible for all activities that occur under these usernames and during use of the ASP Services by any person Subscriber allows to use the ASP Services; (f) agrees not to allow a third party to use its account, usernames or passwords at any time; and (g) agrees to notify RNL promptly of any actual or suspected unauthorized use of its account, usernames or passwords, or any other breach or suspected breach of this Agreement. RNL reserves the right to terminate any username and password that RNL reasonably determines may have been used by an unauthorized third party. If the ASP Services involve the use of RNL Engage, each Named User is associated with one single calling station, and the Named Users are the only fixed calling stations which are licensed to use the Software and for clarity, the license authority assigned to a Named User and single calling station is not transferrable. Named User licenses cannot be shared among multiple individuals and separate Named User licenses must be purchased for each individual and, where applicable, each fixed calling station. Subscriber is responsible for monitoring and maintaining its use within the foregoing parameters. RNL or its agents may audit applicable records in order to verify Subscriber's compliance with the Named User parameters. Subscriber permits RNL to publicly reference Client as a RNL client from this date through the end of the Term set forth herein.

ii. **Support:** During the Term, support provided to Subscriber shall comprise the following:

   a. **Error Corrections.** RNL will use commercially reasonable efforts to correct all Errors in the Software reported by Subscriber in writing to RNL. RNL will utilize remote diagnostic procedures whenever possible for Error diagnosis and Error Correction. RNL may not issue Error Corrections for all Errors.
   b. **Improvements/Fixes.** During the Term, RNL may, in its sole discretion, provide

Subscriber with Error Corrections, updates, upgrades, enhancements, and any other improvements that RNL then generally offers to other subscribers to the ASP Service.

iii. **Exclusions.** RNL shall have no responsibility or liability of any kind, whether for breach of warranty or otherwise, arising or resulting from: (a) Subscriber's or Named Users' use of any version of the Software or the ASP Services other than the then-current unmodified version provided to Subscriber; (b) any problems which are not Errors; (c) problems caused by failed Internet connections or other hardware, software or equipment which is not owned, controlled or operated by RNL; (d) nonconformities resulting from misuse, abuse, negligence, or improper or unauthorized use of all or any part of the ASP Services, Software, or Documentation; (e) problems or Errors caused by Subscriber's, Named Users', or other third party's products, services or equipment; or (f) modification, amendment, revision, or change to the Software or the ASP Services by any party other than RNL or RNL-authorized representatives. Any use of or reliance on data or data output contained in the Software or the ASP Services is Subscriber's or Named User's sole responsibility.

iv. **Subscriber Responsibilities.** It shall be Subscriber's sole responsibility to perform those specific services that are necessary to establish Subscriber's or Named Users' use of the Software, Documentation, and ASP Services. This includes, but is not limited to: (a) providing employee lists to setup Named User accounts (b) designating Named Users to participate in training; and (c) undertaking all necessary internal measures to maintain independent archival and backup copies of Subscriber Data.

v. **Acceptance.** The Software will be deemed accepted upon the delivery of the first username and password to Subscriber as set forth below unless Subscriber gives notice of objection or rejection within five (5) business days. If usernames and passwords have been issued to Subscriber prior to the Start Date, the Software will be deemed accepted on the Start Date.

vi. **Environment.** Unless waived in advance in writing by RNL, Subscriber must maintain the following Supported Environment to use the ASP Services:

   a. If Subscriber elects integrated payment processing, Subscriber must provide RNL with a knowledgeable resource for Subscriber's payment system and unfettered access to a testing environment to develop against.
   b. Subscriber must configure DNS CNAME record within Subscriber domain space to point to designated RNL domain.

C. **Ownership and License to Use.**

i. **License Grant.** Subject to the terms and conditions of this Agreement, RNL grants to Subscriber a non-exclusive, non-transferable, time-limited, scope-restricted license during the Term, solely for Subscriber's internal business purposes and in accordance with the limitations set forth in the Purchase Documents and these Terms & Conditions: (a) to access the features and functions of the ASP Services; (b) to access, use, perform, and digitally display the Software as required for use of the ASP Services and in accordance with the Documentation; and (c) to use and reproduce a reasonable number of copies of the Documentation solely to support Subscriber's use of the ASP Services.

ii. **Limitations.** The ASP Services, Software, Documentation, and all other materials provided by RNL hereunder, including but not limited to all manuals, reports, records, programs, data and other materials, and derivatives thereof (the "**RNL Property**") and all

patents, copyrights, trademarks, service marks, trade dress, software, processes, materials, inventions, designs, code and works of authorship, including derivatives therefrom or thereof ("**Intellectual Property Rights**") in each of the foregoing, are the exclusive property of RNL and its suppliers. Subscriber agrees that it will not, and will not permit any Named User or other party to: (a) permit any party to access the Software or Documentation or use the ASP Services, other than the Named Users authorized under this Agreement; (b) modify, adapt, alter or translate the Software or Documentation, except as expressly allowed herein; (c) sublicense, lease, rent, loan, distribute, or otherwise transfer the Software or Documentation to any third party; (d) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Software; (e) use or copy the Software or Documentation except as expressly allowed under this subsection; or (f) disclose or transmit any data contained in the Software to any individual other than a Named User, except as expressly allowed herein. Notwithstanding the foregoing, decompiling the Software is permitted to the extent the laws of Subscriber's jurisdiction require RNL to give Subscriber the right to do so to obtain information necessary to render the Software interoperable with other software; *provided*, *however*, that Subscriber must first request such information from RNL in writing and RNL may, in its discretion, either provide such information to Subscriber or impose reasonable conditions, including a reasonable fee, on such use of the source code for the Software to ensure that RNL's and its suppliers' proprietary rights in the source code for the Software are protected. Subscriber acknowledges and agrees that the ASP Services, Software, and Documentation will not be used, and are not licensed for use, in connection with any of Subscriber's time-critical or mission-critical functions. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Subscriber regarding the ASP Services, Software, Documentation, or any part thereof, including any right to obtain possession of any source code, data or other technical material relating to the Software.

iii. **Ownership.** The ASP Services, Software, Documentation, and all worldwide Intellectual Property Rights in each of the foregoing, are the exclusive property of RNL and its suppliers. All rights in and to the ASP Services, Software and Documentation not expressly granted to Subscriber in this Agreement are reserved by RNL and its suppliers. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Subscriber regarding the Software, Documentation, and ASP Services or any part thereof, including any right to obtain possession of any source code, data or other technical material related to the Software.

iv. **Open Source Software.** Nothing in this Agreement limits Subscriber's rights under, or grants Subscriber rights that supersede, the terms and conditions of any applicable end user license for the Open Source Software. If required by any license for particular Open Source Software, RNL makes such Open Source Software, and RNL's modifications to that Open Source Software, available by written request at the notice address specified below.

v. **Data**. In connection with the operation of the ASP Services, RNL may collect and/or receive Subscriber Data. Subscriber Data may be (a) used to provide services to Subscriber in accordance with the terms of this Agreement; (b) used for internal business purposes by RNL, including but not limited to optimization, forecasting and analytics (Subscriber Data may be disclosed to a third party, such as Google Analytics, to perform such optimization, forecasting and analytics, subject to the confidentiality provisions

herein); and (c) used and disclosed externally on an anonymous or aggregated basis, for consulting purposes or as part of case studies or similar published materials.

D. **Subscriber Content.**

    i. **License; Ownership.** Subscriber grants RNL a non-exclusive, non-transferable, time-limited, scope-restricted, worldwide, royalty-free and fully paid license to use (a) the Subscriber Content as necessary for purposes of providing the ASP Services and to use (b) the Subscriber trademarks, service marks, and logos as required to provide the ASP Services. The Subscriber Content hosted by RNL as part of the ASP Services, and all worldwide Intellectual Property Rights in it, is the exclusive property of Subscriber. All rights in and to the Subscriber Content not expressly granted to RNL in this Agreement are reserved by Subscriber.

    ii. **Subscriber Warranty.** Subscriber represents and warrants that any Subscriber Content hosted by RNL as part of the ASP Services shall not (a) infringe any copyright, trademark, or patent; (b) misappropriate any trade secret; (c) be deceptive, defamatory, obscene, pornographic or unlawful; or (d) contain any viruses, worms or other malicious computer programming codes intended to damage RNL's system or data. RNL is not obligated to back up any Subscriber Content; the Subscriber is solely responsible for creating backup copies of any Subscriber Content at Subscriber's sole cost and expense. Subscriber agrees that any use of the ASP Services contrary to or in violation of the representations and warranties of Subscriber in this section constitutes unauthorized and improper use of the ASP Services.

E. **Warranties and Disclaimers.**

    i. **Limited Warranty.** RNL warrants that:

        a. Notwithstanding anything in the Purchase Documents to the contrary, and in addition to any warranty in the Purchase Documents, the RNL will provide the ASP Service and perform its other obligations under this Agreement in a professional and workmanlike manner substantially consistent with general industry standards for substantially similar providers of substantially similar services.

        b. The Software will not infringe on the Intellectual Property Rights of any third-party ("**Infringement Warranty**").

    ii. **Limited Remedies.**

        a. Provided that Subscriber notifies RNL in writing of any breach of the foregoing warranty during the Term hereof, as Subscriber's sole and exclusive remedy, Subscriber may either (a) accept the support provided as set forth in these Terms & Conditions, or (b) terminate the ASP Services and receive a pro-rata refund of the fees paid by Subscriber ("**Limited Remedy**"). This warranty gives Subscriber specific legal rights, and Subscriber may also have other rights which vary from jurisdiction to jurisdiction.

        b. Provided that Subscriber does not terminate the ASP Services, then in addition to the provisions of these Terms & Conditions, subject to the limitations of the Purchase Documents and applicable to the Infringement Warranty only, RNL agrees at its own expense, to defend or, at its option, to settle any claim, suit or proceeding brought against Subscriber on the issue of infringement of any United States patent, copyright, trade secret or other proprietary right with respect to the Software furnished by RNL to Subscriber as part of purchased ASP Services; and in the event that the Software should be determined to be subject to the proprietary rights of a

third-party, RNL agrees, as its option, to: (1) procure for Subscriber the right to continue using the Software; or (2) replace or modify the Software to make it non-infringing while retaining original functionality; or (3) discontinue access to the Software, or a portion thereof, and refund to Subscriber the annual Subscription Fee paid for the Software, less a reasonable charge for use to termination date.

    iii.   **Disclaimer.** THE LIMITED WARRANTY SET FORTH IN THIS SECTION IS MADE FOR THE BENEFIT OF SUBSCRIBER ONLY. ASP SERVICESMAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. COMPANY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE DOCUMENTATION, AND ASP SERVICES ARE PROVIDED "AS IS," AND COMPANY MAKES NO (AND HEREBY DISCLAIMS ALL) OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, COURSE OF DEALING, TRADE USAGE OR PRACTICE, MERCHANTABILITY, TITLE, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE USE, MISUSE, OR INABILITY TO USE THE SOFTWARE DOCUMENTATION, OR ASP SERVICES (IN WHOLE OR IN PART) OR ANY OTHER PRODUCTS OR SERVICES PROVIDED TO SUBSCRIBER BY COMPANY. COMPANY DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF THE SOFTWARE AND ASP SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE.

F. **Miscellaneous.**

    i.   **Export.** Subscriber agrees not to export, re-export, or transfer, directly or indirectly, any U.S. technical data acquired from RNL, or any products utilizing such data, in violation of the United States export laws or regulations.

    ii.   **Remedies.** Except as provided in the section titled **Warranties and Disclaimers**, the parties' rights and remedies under this Agreement are cumulative. Subscriber acknowledges that the ASP Services, Software, and Documentation contain valuable trade secrets and proprietary information of RNL, that any actual or threatened breach of the section titled **Ownership and License to Use** or any other breach by Subscriber of its obligations with respect to Intellectual Property Rights of RNL will constitute immediate, irreparable harm to RNL for which monetary damages would be an inadequate remedy. In such case, RNL will be entitled to immediate injunctive relief without the requirement of posting bond, including an order that any Software, Documentation, or any portions thereof that Subscriber attempts to import into any country or territory be seized, impounded and destroyed by customs officials. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

    iii.   **No Assignment.** Subscriber shall not assign, subcontract, delegate, or otherwise transfer the ASP Services nor these Terms & Conditions, or its rights and obligations herein, without obtaining the prior written consent of RNL, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void; provided, however, that either party may assign this Agreement in connection with a merger, acquisition, reorganization or sale of all or substantially all of its assets, or other operation of law, without any consent of the other party. The terms of these Terms & Conditions shall be binding upon the respective successors and permitted assigns.

iv. **Audit**. Subscriber will permit RNL or its representatives to review Subscriber's relevant records and inspect Subscriber's facilities to ensure compliance with this Agreement. RNL will give Subscriber at least ten (10) days advance notice of any such inspection and will conduct the same during normal business hours in a manner that does not unreasonably interfere with Subscriber's normal operations. If any such audit should disclose any underpayment of fees, Subscriber shall promptly pay RNL such underpaid amount, together with interest thereon at the rate specified in this section. If the amount of such underpayment exceeds five percent (5%) of fees actually paid during the audited period, Subscriber shall also pay RNL for RNL's expenses associated with such audit.