BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 15-08-18-03

IN THE MATTER OF AWARDING A CONTRACT TO LEARNSHARE, L.L.C. TO PROVIDE A LEARNING MANAGEMENT SYSTEM TO SERVE COUNTY EMPLOYEES.

WHEREAS, Lane County Human Resources initiated a competitive process to select a Learning Management System provider for the County; and

WHEREAS, in March of 2015, the Board of County Commissioners approved soliciting proposals for a contract of five (5) years, with annual extensions; and

WHEREAS, the proposer can guarantee pricing for the initial 5 year contract period; and

WHEREAS, the Board of County Commissioners must approve any contract that exceeds 3 years in term;

NOW, THEREFORE, the Board of County Commissioners of Lane County ORDERS as follows:

1. That a contract be awarded to LearnShare, L.L.C., in an amount not to exceed $150,000 over the 5-year term of the contract, as the provider for the County's Learning Management System and

2. That the County Administrator be authorized to execute the contract, in substantially the form attached as Exhibit A, on behalf of the County.

ADOPTED this 18th day of August, 2015.

Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 8/6/15

Office of Legal Counsel

Lane County
This License Agreement (the "Agreement") is made and entered into by and between LearnShare, L.L.C., a Delaware limited liability company, located at 1900 Indian Wood Circle, Suite 201, Maumee, Ohio 43537-4039 ("LearnShare") and Lane County, a political subdivision of the State of Oregon, Public Service Building, 125 East 8th Avenue, Eugene, OR 97401 ("Licensee").

WHEREAS, LearnShare's mission is to broker, create and supply value-added learning products and services and facilitate benchmarking, collaboration, and research for subscribing companies through focused product and membership strategies;

WHEREAS, LearnShare pursues its mission through the operation and licensing of the LearnShare System (as defined below) which includes and is not limited to the supply of a configurable Learning Management System (LMS) (as defined below).

WHEREAS, LearnShare owns or is authorized to grant, for purposes of this Agreement, a license to access and use the LearnShare System (as defined below), and Licensee desires to obtain from LearnShare a license to access and use the LearnShare System; and,

WHEREAS, LearnShare encourages its licensees to participate with other licensees in the collaboration and benchmarking opportunities available through LearnShare, and Licensee desires to participate in the collaboration and benchmarking opportunities.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree that the foregoing recitals are incorporated herein and as follows:
1. **GENERAL DEFINITIONS.**

1.1 "**Associated Entity**" means a corporation, partnership or venture, a majority of whose voting stock or ownership interest is owned directly or indirectly by Licensee. Additional fees may be required to support Associated Entities.

1.2 "**Commencement Date**" means the commencement date of the term hereof as set forth at the end of this Agreement.

1.3 "**LearnShare Talent Management System (TMS)**" means an integrated group of software modules consisting of more than one module and related tools; developed, supported and offered by LearnShare to clients to manage; Learning Management, Performance Management, Talent and Succession planning, Social learning, Competencies and Skills.

1.4 "**LearnShare System**" means the courses, tutorials, LearnShare best practices, information, research, and other materials set forth and more particularly described on Exhibit A and all media containing such materials, whether hardcopy, downloadable, Online documents, software or otherwise.

1.5 "**LearnShare Web Site**" means the web server accessible Online, owned and hosted by LearnShare, at http://www.learnshare.com.

1.6 "**Licensee**" means only Licensee for the delivery of LearnShare products and services to Licensee or Licensee’s Associated Entities.

1.7 "**Licensee Internal Systems**" means any workstation, network, server, personal remote device, or other computer hardware, including any method of electronic storage such as disk, tape, or CD-ROM, owned or leased by Licensee or Licensee’s employees.

1.8 "**Learning Management System (LMS)**" means a software application for the administration, documentation, tracking, reporting and delivery of electronic educational technology (also called e-learning) education courses or training programs, including capability for hosting and tracking multiple types of learning objects and creation of user friendly course catalogs.

1.9 "**Online**" means any system under which the LearnShare System may be accessed for use from a location that is remote from the central processing unit on which the LearnShare System is principally used or stored, such as an online service or delivery service over cable television lines, telephone lines, microwave signals, radio waves, satellite, wireless cable or any other service or method now known or hereinafter invented for the delivery, publishing, performance or transmission of material in a like manner.

1.10 "**Term**" has the meaning assigned to it in Section 5.1 hereof.
1.11 "User" means an employee, whether full-time, part-time or temporary; an employee of a related public agency; or a customer of Licensee or Associated Entities.

1.12 "Third Party Vendor" means third party vendors who contract with LearnShare to provide courseware and other resources for sale through the LearnShare System.

2. GRANT OF LICENSE TO LICENSEE

2.1 License. Subject to the terms and conditions of this Agreement, LearnShare hereby grants to Licensee, for and during the Term, a terminable, non-exclusive, non-transferable license to use and access the LearnShare System solely for the purpose of training and educating Licensee Users. Towards this purpose, Licensee may:

(a) Permit the use and access of the LearnShare Web Site by Licensee Users provided each User first registers on the LearnShare Web Site in accordance with Section 8.1 prior to using or accessing any portion of the LearnShare System.

(b) Copy and distribute to its Users portions of the LearnShare System for the purpose of conducting internal training and education.

(c) Modify and prepare derivative works of the LearnShare System, provided Licensee:

(1) Procures the prior written consent of LearnShare;

(2) Executes a written assignment to LearnShare of all ownership rights of any modification or derivative work, including, but not limited to any and all copyright, trademark, patent, and intellectual property;

(3) Provides one (1) copy of any modification or derivative work to LearnShare;

(4) Executes any additional documentation deemed reasonably necessary by LearnShare to ensure LearnShare's exclusive right of ownership of any modification or derivative work; and

(5) Acknowledges that any modification or derivative work shall be considered part of the LearnShare System and subject to the terms and conditions of this Agreement.
(d) To the extent that Licensee utilizes the LearnShare System to deliver, host, or otherwise provide Licensee's proprietary user data, materials or coursework ("Licensee Materials") to Licensee's Users, Licensee shall retain all ownership rights, including any derivative works, of Licensee Materials and Licensee LMS. Furthermore, absent a written agreement between Licensee and LearnShare providing for such, LearnShare shall have no right to license, use, or otherwise make available Licensee Materials or any user data to any other licensees, individuals, or entities.

2.2 Restrictions on use of the LearnShare System. Except as otherwise provided in this Agreement, and except for Licensee Materials, Licensee shall not:

(a) Copy or distribute any portion of the LearnShare System;

(b) Rent, loan, lease or sublicense any portion of the LearnShare System;

(c) Modify, translate, distribute or prepare derivative works based on any portion of the LearnShare System;

(d) Grant access to or permit the use of any portion of the LearnShare System;

(e) Reverse engineer, de-compile or disassemble any portion of the LearnShare System; or

(f) Remove any proprietary notices, labels, or marks from any portion of the LearnShare System.

3. BENEFITS OF LICENSE

During the Term of this Agreement and subject to the terms and conditions of this Agreement, Licensee shall have access to the following benefits:

3.1 Purchase of Third Party Materials/Discounts. Through the LearnShare System, Licensee shall receive discounts on courses, materials, tutorials, and other training services available through Third Party Vendors' agreements with LearnShare. Any other purchase of any courses, materials, tutorials, research or other information purchased directly through Third Party Vendors shall constitute a separate contract between the Licensee and the Third Party Vendor, and such materials shall not be considered part of the licensed LearnShare System or this Agreement.

3.2 Access to Programs and Materials Provided by Third Party Vendors. Licensee shall receive access to all Third Party Vendors of LearnShare and
their programs and materials. Licensee has the right to negotiate and contract with any Third Party Vendor and use said product through the LearnShare System. Additional integration costs may exist.

3.3 **Online Forums.** LearnShare may offer to Licensee the opportunity to participate in online forums or discussions through the LearnShare Website. Licensee agrees to adhere to and follow all terms and conditions for its participation in any online forum or discussion as posted on the LearnShare Web Site from time to time.

3.4 **Conferences and Seminars.** LearnShare may offer to Licensee the opportunity to attend seminars, presentations and conferences, from time to time presented or sponsored by LearnShare.

3.5 **Benefit Cost.** The benefits offered by LearnShare to Licensee in this Section 3 may require additional payment to either LearnShare or a Third Party Vendor of LearnShare, as directed by the particular transaction. Any payment due to LearnShare for any benefit provided in this Section 3 shall be considered an additional charge as described in Section 10.7, including any payment due to LearnShare acting as a billing/collection agent for Third Party Vendors. Any benefits requiring additional payment are optional and shall not require Licensee to purchase such benefits unless otherwise desired by Licensee.

4. **Products and Services Provided by LearnShare**

4.1 **Products and Service.** During the term of this Agreement, LearnShare shall provide the services and deliverables as set forth in the attached Exhibits A, C, and E.

4.2 **Support.** LearnShare shall provide the support as set forth in the attached Exhibit F.

5. **TERM AND TERMINATION**

5.1 **Term.** The term of this Agreement shall commence on the Commencement Date, and shall continue for a period of Five (5) years (the "Initial Term"), subject to earlier termination as provided herein. The County may renew this Agreement for additional one (1) year periods by giving written notice to LearnShare not less than sixty (60) days prior to its expiration.

5.2 **Termination for Cause.** Either party may terminate this Agreement if the other party materially breaches any term or condition of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice thereof.
5.3 **Survival.** Licensee's payment obligations under this Agreement shall survive termination of this Agreement. The County certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Agreement for the period within the County's current budget; however, LearnShare understands and agrees that the County's agreement for future years' services under this Agreement is contingent on the County's having available budgeted funds sufficient to allow the County to continue to make payments under this Agreement. In the event that such funds are not available or sufficient, County shall have the right to terminate this Agreement upon sixty (60) days' written notice to LearnShare without penalty or further payment obligation.

5.4 **Effect of Termination.** Upon termination of this Agreement

5.4.1, Licensee:

(a) Shall not retain any rights in or to the LearnShare System, or the Licensee LMS, other than the right to retain purchased hardcopy or printed materials for use as personal reference materials by employees who utilized the materials during the term of this Agreement, courses and other materials developed by Licensee, and the data identified in Section 8.2 (a); and

(b) Shall remove integration of any portion of the LearnShare System that resides on Licensee Internal Systems.

5.4.2 LearnShare:

(a) Shall not retain any rights in or to any Licensee employee data, marks, branding, materials, and course content developed by Licensee or by any third parties for Licensee or any and all information provided by Licensee that is hosted or accessed through the LMS; and

(b) Shall return or destroy all employee/user data, course content or other Licensee proprietary materials and information. Upon Licensees' election employee data and other materials will be returned to Licensee within thirty (30) days of termination in a MS Excel, Access, or SQL data base.

5.5 **Terminated Employees.** Licensee agrees to take reasonable commercial actions to take possession of all documentation with respect to the LearnShare System, whether in hard copy form or as downloaded electronic documents, from each employee whose employment with Licensee or any Associated Entity is, for any reason, terminated. Licensee further agrees to take reasonable commercial actions to eliminate access to the LMS by Licensee Customers' Users whose employment, for any reason, has terminated.
5.6 **Suspension.** In the event that either party possesses a reasonable basis to conclude that the LearnShare System, the Licensee LMS, the Licensee's internal systems and data bases, or the intellectual property rights of any of the foregoing, are being compromised or endangered due to theft, virus, worm, or other similar damaging occurrence or misappropriation through the other party, such party shall immediately notify the other party, and the parties agree to jointly take measures to cease and prevent further damage.

5.7 **Service Level.** LearnShare and Licensee agree that the Service Level Agreement, attached hereto as Exhibit D, is hereby incorporated into this agreement as if rewritten within.

6. **REPRESENTATIONS AND WARRANTIES**

6.1 **By LearnShare.** LearnShare represents, warrants and covenants that (a) it has the right, power and authority to enter into this Agreement and to fully perform its obligations hereunder, (b) it possesses all rights necessary to permit Licensee to access and use the LearnShare System, the LearnShare LMS, and the Licensee LMS as provided by this Agreement, (c) the LearnShare System, the LearnShare LMS, and the Licensee LMS will not infringe any U.S. patents, trademark, copyright, privacy rights, publicity rights or other proprietary right of any third party, (d) that LearnShare shall timely eliminate any and all errors, bugs, viruses or other technical problems with the LearnShare System, LearnShare LMS and the Licensee LMS that interferes with its performance or that contaminates Licensee's IT systems, (e) that LearnShare shall obey all applicable laws and regulations, (f) LearnShare shall adhere to and comply with Licensee's Standards of Business Conduct, as amended from time to time provided Licensee promptly furnishes LearnShare a written or online copy of any modifications to such standards, and (g) no LearnShare user extraneous to Licensee's organization can or will impermissibly hack or intrude into Licensee's IT systems. In addition to all other remedies that may, immediately be available, Licensee may terminate this Agreement upon written notice to LearnShare at any time after a material inaccuracy of any representation or warranty set forth in Section 6.1.

6.2 **By Licensee.** Licensee represents and warrants that it has the right, power and authority to enter into this Agreement and to fully perform its obligations hereunder.

6.3 **Disclaimer.** Except as expressly set forth elsewhere in this Agreement, Licensee expressly acknowledges and agrees that use of the LearnShare System, LearnShare LMS, and the Licensee LMS is at Licensee's sole risk. The LearnShare System, LearnShare LMS and the Licensee LMS and any related documentation or materials are provided "AS IS" and without warranty of any kind. LEARNSHARE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LEARNSHARE DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE
LEARNSHARE SYSTEM WILL MEET LICENSEE REQUIREMENTS, OR THAT THE OPERATION OF THE LEARNSHARE SYSTEM WILL BE UNINTERRUPTED OR ERROR-FREE

6.4 Notwithstanding the foregoing, LearnShare will pass on to Licensee any warranties attending the products or services of any third parties that Licensee acquires through LearnShare, which warranties will run directly to Licensee.

7. CONFIDENTIAL INFORMATION.

7.1 Except as provided in this Agreement or a required by law, regulation, legal process or stock exchange rule, Licensee shall not use or permit its employees to use (for Licensee's own benefit or for the benefit of another), divulge or convey to others any Confidential Information of LearnShare or of third parties obtained by Licensee pursuant to this Agreement. Licensee shall be liable for any breach of this Agreement by its employees and users, irrespective of whether the act or omission of such employee or user was known, consented to or foreseeable by the Licensee. "Confidential Information" shall mean all information concerning the LearnShare System or LMS furnished or otherwise made available, intentional or unintentional, by LearnShare to Licensee, whether written, oral, or in electronic form, including, but not limited to:

7.1.1 Materials accessible through the LearnShare System, LMS;

7.1.2 Technical information, methods, processes, know how, formations, compositions, discoveries, inventions, software, computer systems and programs and similar items of LearnShare, or third parties licensed or provided through LearnShare;

7.1.3 Trade secrets, data or documentation; or

7.1.4 Other information disclosed during the course of this Agreement, in each case which is in written, graphic, machine readable or other tangible form and is marked "Confidential," "Proprietary" or in some other manner to indicate its confidential nature.

7.2 Any and all identifying information of Licensee's Users (including but not limited to personal names, addresses, e-mail addresses, telephone and social security numbers or other identifying information) obtained from Licensee is confidential. LearnShare shall not sell, or otherwise use for LearnShare's benefit, the personally identifiable information of Licensee's Users to any third party, except as specifically consented to by Licensee. In addition LearnShare shall strictly hold confidential any data it may receive in relation to Licensee's operations, policies, procedures,
techniques, accounts, personnel, customers, and employees. LearnShare shall return to Licensee upon written request any of the confidential information and materials described in this Section 7.2 and destroy any notes, copies or derivative material in its possession or control. In the event of a breach or a threatened breach of this Section 7.2 Licensee will be entitled to an injunction restraining such breach or threatened breach without having to prove actual damages. Such injunctive relief as Licensee may obtain shall be in addition to all rights and remedies available at law and equity.

7.3 Any other provisions hereof notwithstanding, no obligations of confidentiality or restrictions on use shall apply to information: (a) which is already in a party’s possession when disclosed hereunder or which becomes available to such party from a third party without an obligation of confidentiality, (b) which is or without violation of this Agreement becomes publicly available, or (c) is developed independently by a party.

7.4 The parties’ obligations under this Section 7 shall survive expiration or other termination of this Agreement for a period of three years, except with respect to any personally identifiable information obtained from Licensee, which shall be subject to the provisions of Section 7.2 above without limitation of time.

7.5 The requirements of Section 7.1 through 7.4 notwithstanding, LearnShare understands that all records held by the County are public records and subject to public disclosure unless a statutory exemption applies, and agrees that County shall have no liability for the disclosure of any Confidential Information in response to a public records request where such disclosure is required by court or District Attorney Order, or by County’s good faith interpretation of its statutory requirements. Contractor also understands and agrees that the Contract documents and all records of Contractor’s fees and charges may not be considered Confidential Information, and are public records for which no exemption to public disclosure applies.

8. COVENANTS.

8.1 Covenants of Licensee. Licensee agrees to and shall:

(a) Cause Users of Licensee accessing the LearnShare Web Site to register individual user identification on the LearnShare Web Site by providing true and uniquely identifying information, including a correct Licensee company email address, if the Licensee has supplied an e-mail address to the User, prior to the User’s access to and use of the LearnShare System.

(b) Safeguard the LearnShare System from access or use by third parties, excluding any affiliates; subsidiaries or parent entities of Licensee.
(c) Promptly notify LearnShare of any unauthorized use, disclosure or modification to the LearnShare System.

(d) Adhere to the Licensee Responsibilities as set forth in Section 2 of Exhibit E. Licensee understands that these are guidelines that will help LearnShare perform its obligations under this Agreement; and as such, Licensee’s non-performance of those guidelines may negatively impact LearnShare’s ability to perform its obligations in the time frame outlined in Exhibit E; but those guidelines are not otherwise binding on Licensee.

8.2 **Covenants of LearnShare.** LearnShare agrees to and shall:

(a) On a daily basis, make a backup of Licensee’s information and data created or entered in connection with Licensee’s use of the Licensee LMS. LearnShare shall provide a copy of any backup data or information to Licensee in a readable electronic format accessible through common media within five (5) business days of Licensee’s request, the termination of this Agreement, or LearnShare’s cessation of business.

(b) Take commercially reasonable actions to ensure the products offered by third party providers through LearnShare are of reasonable quality and workmanship.

(c) Act on behalf of Licensee with Licensee consent and use the best efforts of LearnShare in the event that a disagreement arises between Licensee and any third party provider.

9. **INTELLECTUAL PROPERTY.**

Licensee agrees that the LearnShare System, LMS and TMS contain copyrights, trademarks, trade names, service marks, trade secrets, and other proprietary rights of LearnShare and third parties, and that this Agreement does not grant any ownership, license, interest or other right in any copyrights, trademarks, trade names, service marks, trade secrets, and other proprietary rights, except as expressly set forth herein for the allowable purposes. Licensee agrees that it shall not violate any rights of LearnShare or any third party in any copyrights, trademarks, trade names, service marks, trade secrets, or other proprietary property.

10. **FEES AND PAYMENT**

10.1 **Fees.** Licensee shall pay the fees as set forth on the attached Exhibit E and G in accordance with the payment terms set forth therein. Payments will be made upon acceptance of a good invoice for payment.
10.2 Taxes. All fees and charges assessed hereunder shall be net of all sales, use and other taxes which may be imposed upon such payments other than taxes imposed upon the net income of LearnShare; except that LearnShare represents and covenants that no sales tax will be due or collected in connection with the transactions described in this Agreement.

10.3 Increase of Fees. After the Initial Term of this Agreement, LearnShare may increase the applicable hourly rate for any of the fees set forth on Exhibit F, by giving written notice to Licensee at least thirty (30) days prior to any increase; however, any increase in fees shall be limited to five percent (5%) in any twelve (12) month period. Notwithstanding the foregoing, the Base License Fee and the Hosting Fees may be increased based on the number of Users accessing the TMS / LMS. The number of active Users will be reviewed by LearnShare and Licensee thirty (30) days prior to the annual License, Hosting, Maintenance and Support Fees billing by LearnShare. Billing fees will be based on the User level stated in the Chart in Exhibit G. Licensee will not be back billed for any Users accessing the system in a prior period.

10.4 Invoice. LearnShare shall direct all invoices to the Licensee Payables Contact set forth on Exhibit B.

10.5 Refund. If Licensee terminates this Agreement for cause pursuant to Section 5.2, Licensee shall receive a refund for a pro-rated amount equal to the unexpired Term of then applicable Base License Fee and Hosting Fee as forth in Exhibit G.

10.6 Additional Charges. Some portions of the LearnShare System require an additional charge to access or receive, including but not limited to, hardcopy materials, selected tutorials, courses, downloadable documents, as well as materials offered to Licensee by third party vendors utilizing LearnShare as their billing agent. Licensee agrees to pay to LearnShare all additional charges incurred for these materials and services within thirty (30) days of Licensee's receipt of an invoice from LearnShare. Invoices will be sent on a monthly basis.

11. INDEMNITY AND EXCLUSION OF CERTAIN DAMAGES

11.1 To the extent permitted by the Oregon Constitution, and to the extent permitted by the Oregon Tort Claims Act, each party will defend, indemnify, save and hold harmless the other party, its affiliates, and their officers, directors, agents, and employees (collectively, "Indemnitees") from any and all claims, demands, losses, liabilities, judgments, damages, costs or expenses, including reasonable attorney's fees ("Liabilities"), resulting from the indemnifying party's breach of any material duty, term, condition, representation, or warranty contained in this Agreement, except there shall be no obligation to indemnify, defend, save and hold harmless to the extent Liabilities result from the negligence or knowing and willful misconduct of the other party. Each party agrees to (i) promptly notify the other party in writing of an indemnifiable claim and (ii) give the other party the opportunity to defend or negotiate a settlement of any such
claim at such other party's expense and cooperate fully with the other party, at that other party's expense, in defending or settling such claim. Each party reserves the right, at its own expense, to participate in the defense of any matter otherwise subject to indemnification by the other party. Neither party shall settle or dispose of any proceeding in any manner, which involves a remedy other than the payment of money damages by such party without the prior written consent of the other.

11.2 ANY PROVISION HEREOF TO THE CONTRARY NOTWITHSTANDING, HOWEVER, NEITHER PARTY SHALL BE RESPONSIBLE FOR ANY CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT OR THE PERFORMANCE THEREOF WHICH SUCH PARTY MAY HAVE AGAINST THE OTHER PARTY OR THE OTHER PARTY'S OFFICERS, DIRECTORS, AGENTS OR EMPLOYEES.

12. MISCELLANEOUS

12.1 Advertisement. Any public statements or press releases referencing the terms of this Agreement shall require written consent of both parties. LearnShare agrees not to use Licensee’s trademark or trade name without prior written permission (except as otherwise required by law, regulation, legal process or stock exchange rule). No Press Release will be issued.

12.2 Waiver. Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time shall not be construed and shall not be deemed to be a waiver of such party's rights under this Agreement and shall not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action.

12.3 Severability. If any term, condition, or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision shall be severed from the remaining terms, conditions and provisions, which shall continue to be valid and enforceable to the fullest extent permitted by law.

12.4 Notice. All notices required by this Agreement shall be in writing to the Main Contact of Licensee or LearnShare by personal delivery or certified mail, return receipt requested.

12.5 Amendment. This Agreement may not be amended, except by a writing signed by both parties.
12.6 **Governing Law.** This Agreement will be interpreted and construed in accordance with the laws of Oregon without regard to conflict of law principles.

12.7 **Jurisdiction; Venue.** Any disputes under this Agreement shall be subject to the non-exclusive jurisdiction and venue of the state and federal courts sitting in Lane County, Oregon and the parties hereby consent to the personal and exclusive jurisdiction and venue of these courts and waive any claim of forum non conveniens.

12.8 **Non-assignment/Binding Agreement.** Neither party shall transfer this Agreement or any of its rights without the written consent of the other party. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

12.9 **Entire Agreement.** This Agreement (including all Exhibits hereto and any addenda hereto signed by both parties) contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, whether oral or written, between the parties with respect to said subject matter.

12.10 **Force Majeure.** Neither party shall be liable to the other for any delays in performance or nonperformance of any obligations hereunder to the extent that such performance is prevented or delayed by Force Majeure acts, events, or occurrences unless they could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party, and no default hereunder shall result therefrom, provided that the affected party shall have given prompt notice to the other party of the date of the commencement, and the nature, of the Force Majeure; however, if the event of Force Majeure affects LearnShare's performance of this Agreement for more than five days, Licensee may terminate this Agreement, without any obligation for prior notice and period to cure.

12.11 **Schedule of Exhibits.** The following Exhibits are attached to this Agreement, and are incorporated into the Agreement as referenced in the Sections above:

- **Exhibit A:** The LearnShare System (1 page)
- **Exhibit B:** Support Contact Information (2 pages)
- **Exhibit C:** LMS Configuration (1 page)
- **Exhibit D:** Service Level Agreement (1 page)
- **Exhibit E:** Learning Management System Response Sheet – LearnShare Response (13 pages)
- **Exhibit F:** Standard Maintenance, Hosting and Support Agreement (13 pages)
- **Exhibit G:** Fees and Billing Schedule (8 pages)
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

LICENSEE:

By: ________________________________
   (signature)
   Steve Mokrohisky
   (print name)
   County Administrator
   (title)
   ________________________________
   (date)

This Subscription and Licensing Agreement is hereby accepted by LearnShare effective as of the

COMMENCEMENT DATE OF:

LEARNSHARE, L.L.C.:
a Delaware limited liability company

By: ________________________________
   (signature)
   ________________________________
   (print name)
   ________________________________
   (title)
EXHIBIT A

The LearnShare System

The "LearnShare System" consists of the LearnShare Web Site, LearnShare LMS, Best Practices, Research, LearnShare Courses, and all materials, information, content courses, tutorials, practices, seminars and documents located on the LearnShare Web Site owned by or licensed to LearnShare.

Website

The website, or "LearnShare Portal", is the hub of our communications with member companies. Members use the website to search for and order training programs, view and download shared information on benchmarking/collaborative issues, best practices and research, as well as find out what's happening within the LearnShare community of members and the training industry.

Best Practices:

Best Practices means selected information and materials on business practices, methods, knowhow and other processes compiled and authored by the members of LearnShare, L.L.C., and made available, in the discretion of LearnShare, to Licensee through the LearnShare Web-Site or otherwise.

Research:

Research means selected research, white papers, reports, studies, analysis, newsletters, memoranda and other materials on various business topics compiled and authored by the members of LearnShare, L.L.C., and made available, in the discretion of LearnShare, to Licensee through the LearnShare Web-Site or otherwise.
EXHIBIT B
Support Contact Information

LearnShare Office 419.327.4160

LearnShare Office Manager
(Billing)
Dianne Rowe
Phone: (419) 327-4160 ext. 501
1900 Indian Wood Circle, Suite 201Maumee, Ohio 43537-4039
Fax: 419.327.4169
Email: Dianne.rowe@learnshare.com

Project Implementation Manager
Kym Manglona
1900 Indian Wood Circle, Suite 201
Maumee, Ohio 43537-4039
Phone: (419) 327-4160 ext. 504 or (770).573.9688
Email: kym.manglona@learnshare.com

Account Representative
Randy Consolo
1900 Indian Wood Circle, Suite 201
Maumee, Ohio 43537-4039
Phone (419) 327-4160 ext. 511
Email: randy.consolo@learnshare.com

Manager, Application Support
Jon Dwyer
1900 Indian Wood Circle, Suite 201
Maumee, Ohio 43537-4039
Phone: 419.327.4160 ext. 521
Email: jon.dwyer@learnshare.com

Vice President of Business Development
(Contract Support)
Randy Consolo
1900 Indian Wood Circle, Suite 201
Maumee, Ohio 43537-4039
Phone: 419.327.4160 ext. 511
Email: randy.consolo@learnshare.com
LICENSEE

Licensee Central Phone Number

Licensee Main Contact
Name:
Address 1:
Address 2:
City, State:
Phone:
Fax:
Email:

Licensee Payables Contact
Name:
Address 1
Address 2:
City, State:
Phone:
Fax:
Email:

Licensee I.T. Contact
Name:
Address 1:
Address 2:
City, State:
Phone:
Fax:
Email:

Licensee Help Desk Contact
Name:
Address 1:
Address 2:
City, State:
Phone:
Fax:
Email:
EXHIBIT C

LMS Configuration
Licensee will select the LMS configuration selection during the implementation process. The selection process is part of the LMS implementation. The final configuration of the agreed document will be incorporated into this Agreement as Exhibit C.
EXHIBIT D

Service Level Agreement

1. Availability of LearnShare.com. The LearnShare website shall be available for http access by Users 99.5% of each calendar day each year. (the "Service Level").

2. Extension of Term. In the event that LearnShare fails to meet the Service Level for any day or days, and upon written notice to LearnShare by Licensee within five (5) days of such failure, and with reasonable confirmation by LearnShare of such failure, LearnShare shall extend the Term of this Agreement by an equal number of days. Further, three (3) or more Service Level failures within two (2) months shall be grounds for immediate termination by Licensee, without any obligation for prior notice and period to cure. Service Levels are measured daily.

3. Restrictions. The Service Level does not include unavailability of the LearnShare website resulting from: (i) scheduled maintenance [not during regular business hours – (Monday through Friday, 8:00am through 5:00pm Eastern Time)], that LearnShare provides at least twenty-four (24) hours in advance to Licensee; (ii) Licensee's behavior or the performance or failure of Licensee's equipment, facilities or application; or, (iii) circumstances set forth in Section 12.10 or the Agreement.

4. Notification. LearnShare shall give Licensee at least twenty-four (24) hours advance notice of scheduled maintenance, or other expected downtime or unavailability of the LearnShare System.

5. Service Level. LearnShare shall use best reasonable efforts to rectify any unavailability of the LearnShare System Monday through Friday, 8:00am through 5:00pm Eastern Time.

6. Data Backup Services. Licensees’ data will be backed up twice daily throughout the term of the agreement and all renewal periods thereafter.
EXHIBIT F

Standard Maintenance, Hosting and Support Agreement

The purpose of this Support Service Level Agreement (SLA) is to formalize an arrangement between LearnShare and Licensee to deliver specific support services, at specific levels of support, and at an agreed-upon cost. This document is intended to provide details of the provision of application support services to Licensee. This SLA will evolve over time, with additional knowledge of the Licensee requirements, as well as the introduction of new applications and services into the support portfolio provided to Licensee.

Scope:

The following services are provided in response to the transfer of trouble tickets from Licensee to LearnShare in accordance with Licensee’s case management process.

Services Automatically Provided Under This SLA

The following services are provided in response to the transfer of trouble tickets for level 2 support from Licensee to LearnShare:

1. Corrective maintenance—Defined as activities associated with root-cause analysis and bug-fix isolation and resolution:
   - Root-cause analysis—Analysis of the root causes of problems. Problems will be reviewed to determine their root causes, measures will be taken to correct the sources of the problems, and reports will be prepared and distributed in a timely fashion.
   - Bug fixes—defined as the repair of any system operation that does not comply with the current signed and approved system specification. This includes system errors, "hung" or halted screens, or unexpected results within the system that render it unusable for the purpose for which it was designed.

2. Ticket status updates—LearnShare will provide direct access for Licensee’s problem tickets from its case tracking system location through the web.

Requests for Support Specifically Covered Under This SLA

The following application-related services are provided under this agreement:

1. Application monitoring—every effort will be made to conduct periodic monitoring of production applications to assess application availability.
2. **Enhancements to production application software**—when an enhancement to an existing production application is required and the level of effort is less than five days. This includes changes to the application only. Should the volume and timing of enhancements impact the timely resolution of support requests, then LearnShare’s support manager shall inform Licensee’s support manager with the intent of assigning enhancement work to another LearnShare resource.

3. **Transition of new or modified applications**—When a new or modified application is ready to be transitioned into support, planning and coordination of the necessary activities between the LearnShare or Licensee development team and the LearnShare support team will be conducted. Other requirements include:
   - Support will commence for a new or modified application after deployment.
   - The development team is expected to help support the new or modified application for the first 30 days after deployment.

4. **Preventative maintenance**—For applications considered critical (i.e., a criticality level of high) by Licensee, and when corrective maintenance activities are low, work will be conducted up to the level of effort identified, to analyze and take steps to prevent potential problems.

5. **Level 2 support**—to the extent possible by LearnShare support staff in assisting Licensee administration team members with diagnosing problems and working in partnership to their resolution.

6. **Change management**—New or changed processes, practices, or policies that affect the LearnShare support team and that require support team members to understand, learn, and follow.

7. **Status reporting**—weekly and monthly status reports will be completed by LearnShare support specialists and submitted to Licensee via the LearnShare Case Tracking System for their application supported. Monthly status reports will be discussed by the LearnShare support manager with Licensee management to ensure that Licensee is aware of the support issues and risks faced by the support team.

8. **Knowledge management**—Recording, storing, and retrieval of information to assist in the resolution of problems will be accomplished through the LearnShare Case Tracking System. Using this approach, the speed for Licensee to transfer problems to LearnShare for level 2 application support will be increased, thus saving time and resources, and increasing satisfaction and quality.
Requests for Services NOT Covered Under This Agreement

This agreement does not cover the following requests. However, LearnShare would be pleased to provide a separate statement of work in proposing services to address any of the following:

1. **Evaluation of new software**—Evaluation or approval of new software for use with or within Licensee’s LMS. This includes systems developed outside of Licensee, such as third-party systems, or systems developed by Licensee.

2. **Procurement of new software**—Procurement of new software for use with or within Licensee’s LMS.

3. **On-call LearnShare support management**—LearnShare’s support managers are not required to be on call. If at a later date Licensee requires the support manager to be on call for a specific purpose, or on a longer-term basis, then the LearnShare support managers will be compensated at the standard on-call rate for level 3 support staff, and Licensee shall be charged for this service.

4. **Level 1 support**—Level 1 (help desk) shall be provided by Licensee for each production application to be supported, and they shall perform their assigned duties, such as Web server, authentication software, WebObjects’ Monitor, desktop software installation, non LMS application installation on desktops, for the duration of this agreement.

5. **Software licensing**—LearnShare will not provide software or licensing for software that is required outside the LMS application. Licensee will provide all software and licensing for software that is required outside the LMS application.

6. **Specific training**—LearnShare will provide training for an associated cost, for Licensee administration staff in software specific to the LMS application.

7. **Assistance with application usage when unsupported or nonstandard software is involved**—Use of unsupported or nonstandard software often results in unexpected behavior of otherwise reliable systems.

8. **New development**—any change in a database or system that involves functionality not within the currently signed and approved release specification, even if the new functionality would seem to be an improvement over the old one.

9. **Modifications to original application specification**—any functionality not specified in the current approved design specification. Changes in Licensee’s organization or business needs (such as a reorganization or change in business practice) may make the current specification obsolete. When this occurs, Licensee should initiate a request for enhancement to update the system. It is highly recommended that Licensee administrative manager and LearnShare work closely
together to anticipate future needs and prepare timely update of systems to accommodate Licensee's constantly changing business.

10. **Enhancements requiring greater effort**—Additional services not covered by this SLA:

- New or added interfaces to other systems.
- Intranet "front ends" to existing systems.
- Adding new screens or modifications to existing screens.
- Report generation, if reporting tools exist for application.
- Addition of data fields.
- Business rules changes (such as pricing rules changes, distributor alignment, etc.).
- Training requests.

**Applications Covered**

This SLA is for services related to support requests concerning the production applications detailed in the Statement of Work.

**Processes and Procedures Related to This SLA:**

**Call Management Process**

LearnShare's case tracking system will be used by all support team levels (where approval and technical access has been granted) to record and track all problem reports, inquiries, or other types of calls received by level 2 support. This provides Licensee with the ability to provide metrics with regard to this SLA. A special case should be created to track each Licensee support case that has been created in LearnShare's case tracking system.

**SLA Funding**

Billing for services provided under this agreement will be accomplished through direct billing to Licensee under the terms and conditions of the appropriate Work Order raised for these services.

**Metrics Reporting**

Regular reporting will be provided from Licensee to LearnShare on available metrics as related to target performance. These reports are expected to be produced by LearnShare's problem-ticket system, which will detail ticket management performance against SLA targets in Licensee's case management process.
Support Metrics Package

Metrics reporting against the SLA resolution targets identified in Licensee's case management guidelines will focus on the time to resolve tickets by application and severity. This metric will include only the support requests that are transferred to LearnShare for resolution. They will not include support requests that are resolved by other organizations. The metrics will be reported via existing standard problem-ticket system reports as available.

General Terms and Conditions:

Term of SLA

This SLA is in effect upon the Commencement Date and will end on such terms as outlined in section 5.1 of this Agreement.

Organizations

This SLA is between LearnShare and Licensee, as named on the cover of this SLA.

Dependence on Other Organizations

LearnShare is dependent on other internal groups within Licensee of services (i.e., help desk, database services, etc.), and external suppliers in providing application support services to Licensee. Licensee will manage the interface into those suppliers as it relates to the provision of services under this agreement.

The list of organizations and vendors that LearnShare is dependent on may change during the term of this SLA.

Hosting Response Time

Hardware and network capacity will be provided to ensure good performance for the stated number of Users accessing the application. Ninety percent (90%) of the transactions will exhibit 5 seconds or less response time, defined as the duration between the time the User presses a key (or clicks on the page) and the time he or she sees a response over a connection that is not experiencing network delays.

Security

All LearnShare servers are protected by CheckPoint Firewall appliances, that are configured to ensure that access to the LearnShare Web Site can only be made by the Licensee’s IP Domains and authorized Users.
LearnShare shall also ensure that, with respect to the services provided hereunder, all servers are installed and maintained with the latest security patches and are hardened as per manufacturer's recommendations. Hardening standards recommendations. A virus protection software is installed updating its virus database regularly.

**Notification of A Security Breach**

LearnShare agrees that in the event any misuse and/or unauthorized access is suspected or discovered, LearnShare will notify Licensee promptly upon becoming aware of such suspected or discovered misuse and/or unauthorized access, and commence an investigation within two (2) business days of becoming aware of any suspected or uncovered misuse or unauthorized access, and provide subsequent notification to Licensee that the suspected or discovered misuse or unauthorized access has been confirmed and cured, or confirm that there was no misuse or unauthorized access.

**Definitions:**

**Support Request**

For the purposes of this SLA, a Support Request is generally defined as a request for support to fix a defect in existing application code or a request for support that involves no modifications to application code, such as a question.

**Feature Request**

For the purposes of this agreement, a Feature Request is generally defined as any request to make modifications to the functionality of an existing system or any request to add functionality to an existing system.

**Levels of Support**

There are three levels of support, only one of which (level 1) is not provided under this agreement. These levels, which are integrated into the Licensee’s support process, are defined as follows:

- **Level 1**—this is support provided by the appropriate Licensee help desk when it receives the Support Request from their licensee. This represents generalist and infrastructure support. If this level of support cannot resolve the problem, the Support Request is passed to LearnShare’s level 2 support, which are the application support specialists.

- **Level 2**—this is support provided by a LearnShare application support or subject matter specialist. This level of support does not perform code modifications, if required to resolve the problem. Operational issues will be resolved at this level.
resolution requires code modification, the Support Request is passed to LearnShare's level 3 support.

Support Requests are taken by the appropriate level 2 help desk as follows:

<table>
<thead>
<tr>
<th>Help Desks</th>
<th>Hours</th>
<th>Phone Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard Tier 1 coverage</td>
<td>8:00 A.M.-6:00 P.M. EST, Monday through Friday (After hours, create case through Customer Support Portal for processing the following business day.)</td>
<td>(419) 327-4160 option 1</td>
</tr>
<tr>
<td>Tier 2 coverage</td>
<td>Same hours as Tier 1. Add Administrative Support to supplement / replace internal system admin duties</td>
<td>Same</td>
</tr>
<tr>
<td>Gold coverage</td>
<td>8:00 A.M.-9:00 P.M. EST, Monday through Friday (After hours, create case through Customer Support Portal for processing the following business day.)</td>
<td>N/A</td>
</tr>
<tr>
<td>Platinum coverage</td>
<td>24 hours a day, 7 days a week</td>
<td>N/A</td>
</tr>
</tbody>
</table>

- **Level 3**—this is support provided by a LearnShare application development specialist. This level of support does perform code modifications, if required to resolve the problem.

### Severity Codes

The following characteristics are used to identify the severity of a problem report:
- Business and financial exposure
- Work outage
- Number of Users affected
- Workaround
- Acceptable resolution time

It is not necessary (nor is it likely) to have perfect match of each characteristic to categorize a problem report at a particular severity level. A given problem must be judged against each of the characteristics to make an overall assessment of which severity level best describes the problem. The Licensee administrator will determine the initial severity rating for the report. Level 2 and level 3 support personnel may then negotiate with Licensee to modify this severity after the report is elevated to them.

The characteristics below do not cover work requests. Severity levels for work requests may carry a different set of characteristics and weightings.
<table>
<thead>
<tr>
<th>Severity 1 (Urgent)</th>
<th>Severity 2 (High)</th>
<th>Severity 3 (Medium)</th>
<th>Severity 4 (Low)</th>
<th>Severity 5 (Non-Urgent)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business and financial exposure</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The application failure creates a serious business and financial exposure.</td>
<td>The application failure creates a low business and financial exposure.</td>
<td>The application failure creates a minimal business and financial exposure.</td>
<td>The application failure creates no business and financial exposure.</td>
<td></td>
</tr>
<tr>
<td><strong>Work Outage</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The application failure causes the licensee to be unable to work or perform some significant portion of their job.</td>
<td>The application failure causes a degradation resulting in the licensee unable to work or perform some significant portion of their job.</td>
<td>The application failure causes the licensee to be unable to perform <em>some small</em> portion of their job, but they are still able to complete most other tasks. May also include questions and requests for information.</td>
<td>The application failure causes the licensee to be unable to perform a <em>minor</em> portion of their job, but they are still able to complete most other tasks.</td>
<td>The application failure does not cause the licensee to be able to perform any portion of their job, and they are still able to complete most other tasks.</td>
</tr>
<tr>
<td><strong>Number of Licensees Affected</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The application failure affects all of the licensees.</td>
<td>The application failure affects a <em>large</em> number of licensees.</td>
<td>The application failure affects a <em>small</em> number of licensees.</td>
<td>The application failure may only affect one or two licensees.</td>
<td>The application failure does not affect any licensees.</td>
</tr>
<tr>
<td><strong>Workaround</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>[This bullet carries the heaviest weighting of the characteristics for Severity 1 and 2.]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>There is no acceptable workaround to the problem (i.e., the job cannot be performed in any other way).</td>
<td>There is an acceptable and implemented workaround to the problem (i.e., the job can be performed in some other way).</td>
<td>There may or may not be an acceptable workaround to the problem.</td>
<td>There is likely an acceptable workaround to the problem.</td>
<td>There is no need for a work around.</td>
</tr>
<tr>
<td><strong>Response Time</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Within one hour.</td>
<td>Within two hours.</td>
<td>Within eight hours or by next business day (EST).</td>
<td>Within eight hours or by next business day (EST).</td>
<td>Within eight hours or by next business day (EST).</td>
</tr>
</tbody>
</table>
### Levels of Service

The service levels offered by LearnShare to Licensee are described below. Exceptions may apply for specific applications and will be documented in an individual application detail section within this agreement. It is the goal of LearnShare to meet, and even exceed when possible, the levels of services documented in Licensee’s case management guidelines. Any variation from the coverage defined below can carry a premium add-on cost to the application requesting variance.

<table>
<thead>
<tr>
<th>Service Level</th>
<th>Severity 1</th>
<th>Severity 2, 3, 4</th>
</tr>
</thead>
</table>
| Business Hours | - Requests taken 24/7 by Licensee’s level 1  
- Handoff to LearnShare’s level 2 immediate within LearnShare’s support coverage hours, otherwise through the case tracking system  
- Level 2, 3 coverage—Business Hours support for all applications stated in this SLA | - Requests taken 24/7 by Licensee’s level 1  
- Handoff to LearnShare’s level 2 is through case reporting system  
- Level 2, 3 coverage—normal support day  
- Target resolution:  
Severity 2—two normal support days  
Severity 3—5 normal support days  
Severity 4—28 calendar days  
Severity 5—56 calendar days |

### Levels of Effort

The service levels offered by LearnShare to Licensee are described in the Statement of Work provided under a separate cover. For applications considered critical by Licensee, the level of effort will be exercised in full, either through corrective maintenance activities or through preventative maintenance activities. The level of effort for all remaining applications will only be exercised for corrective maintenance activities.
Application Criticality

The criticality of an application determines the support activities to be performed. The Licensee can select a criticality level that best suits their service expectations or budget. These levels can be best described as follows:

<table>
<thead>
<tr>
<th>Level</th>
<th>Description</th>
</tr>
</thead>
</table>
| High  | • Support activities must be performed to at least the level of effort indicated for an application.  
     | • Should identified problems consume less than the level of effort, then the balance is taken up with preventative maintenance activities.  
     | • Should identified problems consume more than the level of effort, then no preventative maintenance activities will be conducted. |
| Medium| • Support activities can be performed as required to provide an acceptable level of service.  
     | • Should identified problems consume less than the level of effort, then no preventative maintenance activities will be conducted. |
| Low   | • Support activities may be performed as required.  
     | • Minimum support activities will be performed. |

Roles and Responsibilities

Licensee

Licensee has the following general responsibilities under this SLA:

- Licensee will conduct business in a courteous and professional manner with LearnShare.
- Licensee Users, licensees, and/or suppliers using the applications stated in the Statement of Work will use the appropriate help desk to request support.
- Licensee will use their own appropriate help desk to provide level 1 support, including creating problem tickets and Feature Requests and assigning responsibility to the appropriate Licensee resource.
- Licensee will use their own appropriate IS group to provide server, network, firewall, and infrastructure support services, including internal Web server, authentication software, WebObjects’ Monitor, software installation, application installation on production servers, database connections, and database changes.
- Licensee will provide all information when opening a support request through the Customer Support Portal.
- Licensee will assign severity codes adhering to the correct usage of these codes as defined in Licensee’s case management process.
• Once a support request has been submitted, Licensee will make themselves available to work with the LearnShare support resource assigned to the support request.
• Licensee end users do not contact LearnShare support resources directly to report a problem. All problem calls must be logged through the appropriate LMS administrator.

LearnShare

LearnShare has the following general responsibilities under this agreement:

• LearnShare will conduct business in a courteous and professional manner with Licensee.
• LearnShare will provide Licensee two licenses for the Customer Support Portal (supplied by the LearnShare Case Tracking System) required for Licensee to document the nature of the problem, and two backup licenses for access by alternate staff in the event Licensee’s licensed staff are unavailable.
• LearnShare will attempt to resolve problems through the Customer Support Portal.
• LearnShare will escalate support request to next level of internal support within LearnShare upon approach of established resolution targets.
• LearnShare will provide Licensee an opportunity for approval before ticket closure.
• LearnShare will be the interface on behalf of the Licensee to development and other organizations as appropriate.
• LearnShare will continue to utilize their Customer Support Portal problem-ticket system for updating, tracking, and closing trouble tickets as assigned.

There are several roles deployed within LearnShare that are integral to the provision of support services to Licensee. These roles include the following:

Support Manager

The LearnShare support manager will provide the overall direction of the activities of the support specialists, participate directly in the production of the associated deliverables, and will negotiate with Licensee’s support manager regarding the classification of enhancements and the scheduling of tasks. This individual will report to the LearnShare practice manager. His or her duties will include:

• Included in standard support fee:
  - Ensuring SLA targets are met (coordinating all activities to ensure all tasks are performed in a consistent manner and on schedule).
  - Ensuring all work is performed according to the agreed-upon work methods and standards that are in effect within LearnShare and Licensee.
  - Acting as point of escalation for issues beyond usual scope (e.g., attending SWAT meetings on application outages, coordination between groups for implementing cross-application solutions, etc.).
  - Participating directly in the production of the associated deliverables.
- Liaising with Licensee’s managers (negotiating with Licensee's support managers regarding the classification of enhancements and the scheduling of tasks, and coordinating the presentation of deliverables to Licensee’s support manager).

- Non-billable services to the Licensee:
  - Ensuring support specialists have all required tools to perform their function.
  - Performing resource management and scheduling, including provision of overall direction of the activities of the support specialists.
  - Creating and implementing standard training program for all support resources.
  - Conducting continuous process improvements.
  - Liaising with other LearnShare groups.
  - Assessing the workload for each support request and assigning work to the team member having the appropriate technical knowledge.

**Support Specialist**

The LearnShare support specialists work as a dynamic team of support professionals who provide level 2 application support for critical Web-based business systems. Reporting to the LearnShare support manager, they are responsible for the timely submission of all deliverables. Their duties include:

- Conducting all root-cause analysis and bug fix isolation and resolution activities, and associated documentation for the individual tasks, as assigned by the LearnShare support manager.
- Acting as a point of contact for all application issues (bugs and enhancements).
- For enhancements, determining the potential high-level effort for all changes, and based on that, either passing it on to a developer or completing it themselves, all bugs are addressed by level 2 support (which may at times consult with a developer).
- Identifying all tasks associated with each support request and deriving estimates for the completion of each task.
- Responsibility for responding to and updating tickets.
- Conducting testing (unit testing to be completed by prime, system/integration/acceptance testing activities should be performed by the backup for all fixes/enhancements developed by the prime).
- Participating in the acceptance testing and implementation activities.
- Providing knowledge transfer to backup support specialist on regular basis.

**Additional Support Fee Schedule**

This Fee Schedule applies to fees incurred above and beyond the annual included support as set forth in Exhibit G of this Agreement. Ongoing Learning Management System technical support is set forth in section 4.2 of the Agreement.

If the Licensee requests additional technical functionality, customization, or systems integration, LearnShare will provide a scope of work to Licensee that will define all
services to be provided and all cost associated with the project. No work will be initiated until Licensee authorizes the scope of work in writing through a Statement of Work executed by the Parties. Except as otherwise provided in a separate Statement of Work between LearnShare and Licensee, any customization will be subject to the terms and conditions of this Agreement.

1. Custom / Development Fee: $ 175 / hour (billed in increments of .25 hours)

2. Technical Support Fee: $ 125 / hour (billed in increments of .25 hours)

3. Consultation Support Fee: $ 175 / hour (billed in increments of .25 hours)

4. Virtual Training Fee: $ 175 / hour, On-site training is available, a separate quote will be provided.
EXHIBIT G
Fees and Billing Schedule

LearnShare Learning Management System Pricing

1. **LMS Implementation program** – Includes:
   a. Initial LMS set up
   b. Branding (simple branding – placement of logos, colors and limited graphics provided by Lane County)
   c. Training of the Lane County LMS administrators & IS department via:
      Virtual or On site instructor-led training (Lane County will be responsible for reasonable travel, lodging, and food for instructors if on-site training is elected by Lane County)
   d. Project planning
   e. Project management
   f. Development of the automated two-way feed to maintain user information from the HR system.
   g. Implementation Consulting -- A LearnShare staff member will work with the Lane County’s internal staff to gain a complete understanding of all the company’s needs and guide the internal team through the implementation process. (Virtual consulting is offered however if Lane County elects, a portion of the consulting can be on-site, Lane County will be responsible for reasonable travel, lodging, and food if on-site is elected).

Consulting will include:

1. Current state assessment, pre implementation working with the Lane County team the consultant will:
   a. Define current learning process
   b. Determine user system requirements
   c. Review the different needs of the individual business units
d. Assess reporting needs and recognize gaps that may exist between needs and reports that are presently available in the LearnShare LMS

e. Identify the implementation team and the roles that The Lane County folks will be taking in the project.

2. Work as an internal person on the Lane County’s implementation team. Work with Lane County internal team along with the LearnShare implementation team to configure the LMS to meet their learning process strategy needs,

a. Keep Lane County’s team well informed of the LMS functionality options

b. Assist in the LMS actual configuration to best meet Lane County’s process needs.

c. Assist with internal testing once configured.

d. Review the system to determine if the configured system meets the learning process and strategy needs

e. Document and assist in configuration changes as needed

3. Align training and work with the Lane County team to create libraries for the different business units.

4. User acceptance, assist in user acceptance testing for both administrators and end employee.

2. User historical training data – LearnShare working with the Lane County team will transfer historical training data from the Lane County present system.
3. LearnShare/Lane County’s end user custom learning tutorial – LearnShare will create an on-line course, in English, that will train The Lane County employees to use the Learning Management System. The course will be The Lane County branded and will be available to all Lane County Global Standards employees’ 24/7. Example: [http://content.learnshare.com/courses/LearnPakDemo/player.html](http://content.learnshare.com/courses/LearnPakDemo/player.html)

4. Host and integrate proprietary or contracted third party courses -- LearnShare will integrate and host third party or Lane County proprietary courses allowing seamless access and tracking of all learning and development resources by the Lane County LMS. Below is a listing of courseware scenarios:

   a. Courses developed outside the LMS by Lane County. --
      i. Administrators can load AICC or SCORM 1.2, 2004 compliant courses, PDFs, Word documents, excel spreadsheets and other knowledge developed by The Lane County directly to the LearnShare system. (LearnShare will furnish a format for the courses and instructions of how to load). The LearnShare trainers will train personnel of Lane County to load their own courses at no charge.
      
      ii. For non-AICC or SCORM compliant courses, LearnShare (as an option) can load Lane County - developed courses for a reasonable fee ($150 per hour). (Non-AICC or SCORM compliant courses do not have the same tracking capabilities as AICC / SCORM compliant courses). (Optional)

b. Third party vendor courses – the LMS will support any vendor’s courses for Lane County; even if the vendor is not part of LearnShare’s offerings. The Lane County LMS can automatically access suppliers’ courses already loaded on LearnShare’s servers.
   i. Suppliers’ courses not already loaded on LearnShare’s servers can be loaded by the Lane County team or for a reasonable one-time fee.
(Complete vendor library integration costs range between $1,600 and $2,500).

5. LearnShare Libraries included -- Lane County will have access to LearnShare’s best-in-class 3rd party courses to support on-going learning programs. The LearnShare team will work with the Lane County learning and development department to carefully select courses that meet your exact needs to support the learning programs. LearnShare integrated third party suppliers offer pay-per-use, bundles or licenses based on the client’s preferences and needs.