



Vendor:

H00006288
 Ellucian Company L P
 4375 Fair Lakes Court
 Fairfax VA 22033

PO Number:	P0042238
Issue Date:	08/22/24
Request No:	R0040676
Fiscal Year:	25

<p>Billing Address: Horry Georgetown Technical College Attn: Accounts Payable PO Box 261966 Conway, SC 29528</p> <p>Or Email To: AccountsPayable@hgtc.edu</p> <p style="text-align: center;">PO NUMBER MUST BE ON YOUR INVOICE</p>	<p>Ship to: Terry Quaresimo Horry-Georgetown Tech College 2050 Hwy 501 E Conway SC 29526</p> <p>Requestor: Lindsey Moore/Terry Quaresimo</p>
--	---

<p>HGTC Shipping and Receiving Hours ALL CAMPUSES 8AM - 4PM: Mon-Thurs 8AM - Noon: Friday</p>	<p>Terms NET 30</p>
---	---------------------

Description	Quantity	Unit Cost	Total Cost
Sole Source letter and justification are attached Ref. Invoice # 90422326 Term: 9/1/2024 - 8/31/2025 Purpose: Ellucian ILP subscription renewal for D2L			
Intelligent Learning Platform Enterprise	1.00 YR	29,967.0000	29,967.00
Tax:	Pay 8	tax to vendor	2,397.36
		Item Subtotal:	32,364.36

Email: contract-purchase-orders@ellucian.com	TOTAL: 32,364.36
--	-------------------------

PRICING IS DEEMED TO BE FAIR AND REASONABLE	
Account Codes	
10000-52200-7103-	\$32,364.36
Purchasing Agent: <u>Toni Richardson</u>	



Ellucian Company LLC
 4 Country View Road
 Malvern, PA 19355-1408
 USA

20040676

INVOICE

Bill To:

Horry-Georgetown Tech College
 Accounts Payable
 PO Box 261966
 Conway, SC 29528-6066
 USA

Invoice Number:	90422326
Invoice Date:	08/15/2024
Invoice Due Date:	09/14/2024
Customer Number:	100609
SAP Order Number:	58685
Customer PO Number:	P0040198
Invoice Amount:	USD 32,364.36

Remittance Information

Remit To:

Ellucian Company LLC
 62578 Collections Center Drive
 Chicago, IL 60693-0625
 USA

Tax Summary

Total Taxable:	USD 29,967.00
Total Non Taxable:	USD 0.00
Total Tax:	USD 2,397.36

ACH Information:

Bank of America
 100 West 33rd Street
 New York, NY 10001
 ABA# 071000039
 Beneficiary Name: Ellucian Company LLC
 Account # 81880-91099
 Email: electronic-payment-info@ellucian.com

Please reference invoice number on all payment remittance.

Questions or concerns regarding this invoice? Contact accountsreceivable@ellucian.com

Invoice Details

Item	Description	Unit Price	Tax Rate	Tax	Total
60	Intelligent Learning Platform Enterprise Subscription Term: From 09/01/2024 To 08/31/2025	29,967.00	8%	2,397.36	32,364.36

SUBTOTAL	USD 29,967.00
Tax	USD 2,397.36
TOTAL	USD 32,364.36

**** A late fee will be imposed on past due payments per your contract. ****



CLOUD SOFTWARE ORDER FORM

This Cloud Software Order Form (the "Order Form") is between **ELLUCIAN COMPANY L.P.** ("Ellucian") and **HORRY-GEORGETOWN TECHNICAL COLLEGE** (the "Client"). This Order Form amends the Master Agreement dated September 23, 2014 between the parties (the "Agreement") and, collectively, the Agreement and this Order Form constitute the entire understanding of the parties regarding the subject matter of this Order Form. If any terms of this Order Form conflict with any other terms of the Agreement, the terms of this Order Form will control. The transaction provided for in this Order Form is non-cancelable, and the amounts paid under this Order Form are nonrefundable, except as provided in this Order Form.

By the execution of this Order Form below, each party represents and warrants that it is bound by the signature of its respective signatory. Except as amended by this non-cancelable Order Form, the terms of the Agreement remain unchanged and in full force and effect; any fees due under this Order Form are in addition to and not in lieu of fees already due or scheduled to come due under the Agreement. Client has not relied on the availability of either any future version of any Cloud Software or any future Software product or service.

The pricing contained in this Order Form is valid only if the Execution Date occurs on or before August 14, 2020.

Ellucian

By:

Lydia Turberville
Authorized Signature

Name:

Lydia Turberville
Printed

Title:

Manager, Order Management

Date:

August 19, 2020

Client

By:

Dianna Cecala
Authorized Signature

Name:

Dianna Cecala
Printed

Title:

Procurement Manager

Date:

8-14-2020

The later date of signature above is the "Execution Date" of this Order Form.
Client's Billing Contact Information appears below.

Client
Billing Contact Information

Name:

Brenda Gresh

e-mail
Address:

brenda.gresh@hgtc.edu

Phone
City, State, Zip:

843-349-

1. **Additional Definitions.** Each term defined below has the meaning given to that term below whenever the term is used in this Order Form. Capitalized terms that have been defined in the parties' Agreement shall have the same meaning in this Order Form as was ascribed to such terms in the Agreement. Other capitalized terms may be defined below or elsewhere in this Order Form.

"Client Data" means all electronic data or information submitted by Client to the Cloud Software.

"Cloud Contract Year" means each period of twelve (12) consecutive months beginning on the Beginning Date or any anniversary thereof during the Cloud Software Term.

"Cloud Software" means the Software or Component System identified in Exhibit A as "Cloud Software."

"Defect" means a material deviation between the Cloud Software and its Documentation for which Client has provided Ellucian with reasonably detailed information such that Ellucian can replicate the deviation.

"Documentation" means the on-line and hard copy functional and technical specifications that Ellucian provides for the Cloud Software and that describe the functional and technical capabilities of the Cloud Software.

"Full Time Equivalent" or "FTE" is determined based on the U.S. Department of Education Institute of Education Sciences National Center for Education Statistics Integrated Postsecondary Education Data System ("IPEDS") client-reported Fall Total Full-time and Part-time Student Enrollment headcounts. The calculation of FTE students uses a fall student headcount model defined by IPEDS to derive a single value.

"Maintenance" means providing Client with avoidance procedures or corrections for Defects. The details and procedures relating to the provision of Maintenance for the Cloud Software (collectively, the "Maintenance Standards") are specified in Exhibit B.

"New Releases" means new editions (*i.e.*, major and minor releases) of the Cloud Software.

"Software Supplement" means additional terms and conditions applying to particular Cloud Software, as specified in Exhibit A.

"Software Support Services" means, collectively, Maintenance and New Releases.

"Third Party Component Providers" means third parties utilized by Ellucian to provide components of the Cloud Software.

2. **License to Access and Use Cloud Software; Cloud Software Term.**

- 2.1 **Cloud Software.** For the Cloud Software identified in Exhibit A, and only during the Cloud Software Term (as defined below), Ellucian grants Client a non-exclusive, non-transferable license to access and use the Cloud Software for Client's internal use only. This license is further subject to the usage parameters identified in each instance in Exhibit A.

- 2.2 **Cloud Software Term.** The period commencing on the Beginning Date and continuing until the Expiration Date (each as specified in Exhibit A) is the "Initial Cloud Software Term." Following the Initial Cloud Software Term, Client's license to access and use the Cloud Software as provided in Section 2.1 will automatically renew for consecutive Cloud Contract Years on a year-to-year basis (each a "Renewal Cloud Contract Year"), unless either party notifies the other in writing of its intent not to effect such a renewal at least ninety (90) days prior to the Expiration Date, or, for any Cloud Contract Year subsequent to the Expiration Date, at least ninety (90) days prior to the expiration of the then-current Cloud Contract Year. The Initial Cloud Software

Term combined with any Renewal Cloud Contract Year(s) is referred to herein as the "Cloud Software Term."

3. Client Responsibilities and Prohibitions.

- Client's authorized users will be provided with passwords, and Client must hold the passwords in strict confidence and not transfer, exchange, misuse or abuse the passwords in any way or attempt in any way to disable, deactivate, or render ineffective the password protection of the Cloud Software.
- Client will be responsible for its users' compliance with this Order Form.
- Client will be responsible for the accuracy, completeness, quality, and legality of Client Data and of the means by which it acquired Client Data.
- Client will use commercially reasonable efforts to prevent unauthorized access to or use of the Cloud Software and will notify Ellucian promptly of any such unauthorized access or use.
- Client will use the Cloud Software only in accordance with this Order Form, the Documentation, and applicable laws.
- Client will not make the Cloud Software available to anyone other than its authorized users.
- Client will not sell, resell, rent, or lease the Cloud Software.
- Client will not create any derivative works based on the Cloud Software.
- Client will not use the Cloud Software to store or transmit any viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents, or programs.
- Client will not attempt to gain unauthorized access to the Cloud Software or related systems or network.
- Client will not use the Cloud Software to communicate, by way of electronic communication or otherwise, any message, data or material that: (i) is libelous, harmful to minors, obscene or constitutes pornography; (ii) infringes the copyrights, patents, trade secrets, trademarks, trade names or other proprietary or privacy rights of a third party or is otherwise unlawful; or (iii) would otherwise give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation.
- Certain Cloud Software is subject to additional terms and restrictions as set forth in Software Supplements attached to Exhibit A. Further, Ellucian may utilize certain Third Party Component Providers. With respect to the use of the Third Party Component Providers' services, Client agrees to comply with any third party contractual provisions outlined in the Software Supplements. In all cases, if any terms of a Software Supplement conflict with any other terms of this Order Form, the terms of the Software Supplement will control.

4. Software Support Services for Cloud Software; Backup and Disaster Recovery. During the Cloud Software Term, as part of the annual subscription fees set forth in Exhibit A, Ellucian will provide Software Support Services for the Cloud Software in accordance with the Maintenance Standards in the attached Exhibit B. The application of Software Support Services by Ellucian may result in changes in the form, timing, or other features of the Cloud Software. Ellucian will apply the Software Support Services to the Cloud Software to include Maintenance and New Releases.

Ellucian will conduct regular backup of Client Data. Backups will adhere to Ellucian's internal backup controls. Ellucian will not be responsible for the accuracy of Client Data but will only be responsible for appropriately backing up the Client Data contained in the Cloud Software. The retention of this backup data is separated into the following components:

- *Database* – backups will be retained for three (3) months
- *Point in Time* – backups will be retained for one (1) week

At the end of these durations, the oldest copies of files will be deleted.

Client may request copies of database backups for archival purposes. Upon such request, Ellucian will make a

copy of the database available to Client for secure download on a monthly basis. Each database backup made available in this manner will replace the previously available file. It will be the Client's responsibility to retrieve those files in a timely manner.

Ellucian will maintain a disaster recovery plan for the Cloud Software. If the Cloud Software production environment is damaged in whole or in part preventing Ellucian from securely delivering the Cloud Software, Ellucian will failover the primary Cloud Software environment to Ellucian's disaster recovery environment. Ellucian's recovery time objective (RTO) is twenty-four (24) hours, measured from the time the Cloud Software is declared to have become unavailable until such services become available and operational in accordance with applicable service levels, as measured by Ellucian. Ellucian's recovery point objective (RPO) is two (2) hours, measured from the time the first transaction is lost or from the time the Cloud Software became unavailable. Ellucian will test its disaster recovery plan annually and will, upon Client's written request, provide Client with a summary of the most recent results. Note: Any Cloud Software downtime in excess of the aforementioned objectives will contribute towards the calculation of the SLA as defined below.

5. **Cloud Software – Service Level Agreement.** Except as otherwise expressly provided for in any Software Supplement, Ellucian will provide the Cloud Software consistent with the Service Level Agreement (the "SLA") in the attached Exhibit C.
6. **Personal Data.** To affect the purposes of an Order Form, Client may from time to time provide Ellucian with certain personal data (Client representing that it has the right to do so in each such instance) of Client's students, prospective students, parents of students, alumni, faculty members and employees that is regulated by various laws and regulations ("Client Personal Data"). Ellucian confirms that for so long as it processes Client Personal Data in respect of the relevant Order Form, Ellucian will adhere to the provisions for the protection of Client Personal Data set forth in Exhibit D.
7. **Payment Terms; Suspension of Cloud Software; Delivery; Services Delivery.**
 - 7.1 **Payment Terms.** For the Cloud Software licensed pursuant to this Order Form, subscription fees for each Cloud Contract Year will be specified by Ellucian in an annual invoice issued in advance of each such Cloud Contract Year (except that the invoice for the initial Cloud Contract Year will be issued on or after the Execution Date and will be prorated, if applicable, for a partial initial Cloud Contract Year depending upon the Beginning Date specified below). Client's payments will be due and payable within thirty (30) days from the date of invoice(s).
 - 7.2 **Annual Subscription Fee Increases.** The Total Annual Subscription Fee shown in Exhibit A represents the subscription fee for the initial Cloud Contract Year. During the Initial Cloud Software Term, annual subscription fees payable will increase by 3% per Cloud Contract Year over the annual subscription fees payable for the immediately preceding Cloud Contract Year. For any Renewal Cloud Contract Year following the Initial Cloud Software Term, annual subscription fees will increase by not more than seven percent (7%) over the annual subscription fee payable for Cloud Software for the immediately preceding Cloud Contract Year.
 - 7.3 **Current FTE; Fee Adjustments for FTE and Technology Capacity Increases.**
 - 7.3.1 **FTE** – The fee for certain Cloud Software allows Client to use such Cloud Software for not more than the "Contracted FTE" number where specified in Exhibit A. Ellucian reserves the right to perform an annual review of Client's then-current FTE. If Client's actual FTE exceeds the then-current Contracted FTE, Ellucian will have the right to charge additional fees associated with the increase or variation for the time that such increase or variation was in effect, based on Ellucian's then-current standard fees in effect at the time of such increase. Upon the payment by Client of such fee, Client's Contracted FTE will be increased to equal the then-current next tier for Contracted FTE. For avoidance of doubt,

Client will in no event be due a credit, refund or fee reduction in the event that Client's actual FTE decreases below the Contracted FTE at any time during the Software Term. Client agrees to provide Ellucian with reasonable access to its personnel, facilities, and documentation during normal business hours and with reasonable, prior notice, for purposes of ascertaining Client's then-current FTE.

7.3.2 3rd Party Escalators – Additional fees charged by 3rd party providers due to changes in the fee calculator applied to Cloud Software will be added to the annual fees payable hereunder. By way of example, if a 3rd party database license fee calculator is changed during the Software Term resulting in increased fees for the applicable configuration for Cloud Software, then such fee increase(s) will be added to the annual fees payable hereunder.

7.3.3 Extraordinary Resource Requirements – Cloud Software is provisioned to maintain reasonable application performance levels under normal usage. Application performance may be impacted if Client does not disclose relevant information during the discovery process or if Client does not implement practices recommended by Ellucian. Ellucian is not responsible for application performance issues caused by Client's failure to provide proper discovery or Client's failure to implement recommended practices. Additional resources will not be provided under this Amendment to remedy such application performance issues without the execution of a subsequent amendment by duly authorized representatives of each party and the payment by Client of the applicable associated fees.

7.4 Suspension of Cloud Software. If Client fails to pay to Ellucian within thirty (30) days after Ellucian makes written demand for subscription fees due for Cloud Software, and payment of the amount in question is not the subject of a *bona fide* dispute, then, in addition to preserving its rights to collect payment of the past-due amount and all accompanying late fees, and all other rights and remedies that Ellucian may have at law or in equity, Ellucian may, in its sole discretion and without further notice to Client, suspend its performance of the Cloud Software.

7.5 Delivery. Ellucian will, as soon as reasonably practical following the Execution Date, provide the necessary process and procedure for Client's access to the Cloud Software in accordance with this Order Form (the date on which Client is provided with this access is the "Delivery Date" for the purposes of the Cloud Software). In providing the Cloud Software under this Order Form, Ellucian may use a combination of remote services, centralized services, and onsite services, using personnel worldwide.

8. Post Termination Actions. Upon termination or expiration of the Cloud Software Term, Client access and use of the Cloud Software will immediately cease, and Client will have no further access to or use of the Cloud Software. Provided that Client has provided Ellucian with a written request at least thirty (30) days prior to the end of the Cloud Software Term, Ellucian will, at no additional charge to Client, promptly provide Client with a copy of all Client Data then in Ellucian's possession, in a commercially reasonable format. Such Client Data will then be securely deleted by Ellucian in accordance with Ellucian's then-current data security, retention, and disposal policies.

9. Limited Warranty; Exclusive Remedy. Except as otherwise expressly provided for in any Software Supplement, Ellucian warrants that, during the Cloud Software Term, the Cloud Software will operate without Defects. For each Defect, Ellucian, as soon as reasonably practicable and at its own expense, will provide Client with an avoidance procedure or a correction of the Defect (in accordance with the Software Support Services provisions of this Order Form and the associated Maintenance Standards attached hereto as Exhibit B). If, despite its reasonable efforts, Ellucian is unable to provide Client with an avoidance procedure for or a correction of a Defect, then, subject to the limitations set forth in the Limitation of Liability Section of this Order Form, Client may pursue its remedy at law to recover direct damages resulting from the breach of this limited warranty. These remedies are exclusive and are in lieu of all other remedies, and Ellucian's sole obligation for breach of

this limited warranty is contained in this Section. ELLUCIAN MAKES NO OTHER WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, AND ELLUCIAN EXPLICITLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. ELLUCIAN EXPRESSLY DOES NOT WARRANT THAT THE CLOUD SOFTWARE, IN WHOLE OR IN PART, WILL BE ERROR FREE OR WILL OPERATE WITHOUT INTERRUPTION.

- 10. LIMITATION OF LIABILITY.** FOR THE CLOUD SOFTWARE LICENSED PURSUANT TO THIS ORDER FORM, ELLUCIAN'S CUMULATIVE LIABILITY WILL NOT EXCEED THE SUBSCRIPTION FEES THAT CLIENT ACTUALLY PAID TO ELLUCIAN FOR THE CLOUD SOFTWARE GIVING RISE TO THE LIABILITY FOR THE SIX (6) MONTH PERIOD PRECEDING THE DATE ON WHICH SUCH LIABILITY FIRST AROSE. IN NO EVENT WILL ELLUCIAN BE LIABLE TO CLIENT FOR ANY PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR ANY LOST BUSINESS OR LOST PROFITS, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT ELLUCIAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS AND EXCLUSIONS IN THIS LIMITATION OF LIABILITY WILL ALSO SPECIFICALLY SURVIVE A FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDIES THAT MAY BE PROVIDED IN THIS ORDER FORM OR THE AGREEMENT.
- 11. Third Party Components.** Third party owners of Software licensed or provided for use by Ellucian are third party beneficiaries of this Order Form with regard to each such owner's respective products. Ellucian's obligation to provide Client with access to and use of Cloud Software that includes third party services or software ("Third Party Component(s)") is limited to providing Client with the Third Party Component portion of the Cloud Software to the extent the applicable third party owner provides it to Ellucian. If an agreement authorizing Ellucian to resell or sublicense a Third Party Component, prior to the Expiration Date set forth in the applicable Order Form or prior to the expiration of any renewal, is terminated or expires, or if the terms of the relevant agreement are substantially modified so as to prevent Ellucian from providing the Third Party Component(s) of the Cloud Software in a commercially reasonable manner under the existing terms, then Ellucian's obligation to provide Client with access to and use of and Client's obligation to pay Ellucian for the applicable Cloud Software will, as applicable, automatically terminate upon the effective date of the termination, expiration, or material modification.
- 12. Use of Aggregated Data.** Ellucian shall have the right to (a) use, store, process, modify, reproduce, distribute and display client data, and to grant sublicenses to third parties, solely for the purposes of providing the Software, performing Ellucian's obligations under this Order Form, and complying with applicable law or legal requirements; (b) to use, store, process, modify and reproduce Client Data for Ellucian's internal business purposes, including development, diagnostic, forecasting, planning, analysis and corrective purposes in connection with the Software and Services, and for otherwise improving and enhancing the Software and Services; and (c) to use, store, process, modify, reproduce, display, perform, distribute, disclose and otherwise exploit Aggregated Data in any manner for Ellucian's business purposes, including disclosure within its public statements and marketing materials describing and/or promoting Ellucian and/or the Software and Services. "Aggregated Data" means any data obtained or generated by Ellucian, including data pertaining to the Software and Services, Ellucian's systems and Software and Services, and the use of any of the foregoing, and includes data derived from client data and data that has been combined into databases which include third party data, which in all instances (i) does not identify any individual and (ii) is not attributed or attributable to a specific customer. Aggregated Data includes data that has been combined into databases which include third party data.
- 13. Termination of On Premises Maintenance Services.** Client's obligation to pay Maintenance fees for the Banner Integration for eLearning on-premise software (only) will end effective the first day of the month following the Execution Date. Client has a continuing license to use the Banner Integration for eLearning on-premise software, in accordance with the terms and conditions contained in the Agreement, but Ellucian will continue to provide maintenance support upon such Banner Integration for eLearning on-premise software for a period of only six (6) months (the "Transition Period") from the Beginning Date specified in the Cloud Software Table in Exhibit A

below. Client acknowledges and agrees that Ellucian's obligations to provide Maintenance (sometimes referred to elsewhere as Software Support Services and/or Improvements) during the Transition Period will be limited to telephone support, regulatory releases and defect corrections only. Specifically, Client will not be entitled to use any new product enhancements that may become available during the Transition Period (including, without limitation, provision of updates, telephone support, and error corrections) for Banner Integration for eLearning on-premise software, as provided-for under the Agreement.

EXHIBIT A TO THE CLOUD SOFTWARE ORDER FORM

Ellucian Cloud Software

CLOUD SOFTWARE TABLE:

Cloud Software ¹	Beginning Date	Expiration Date	Software Supplement	Annual Subscription Fee
ELLUCIAN INTELLIGENT LEARNING PLATFORM for D2L ^{2,3,4} <i>Includes:</i> <ul style="list-style-type: none"> Two (2) Ellucian Intelligent Learning Platform environments (one production and one non-production) 	The first day of the next month following the Execution Date	The last day of the sixtieth (60 th) month after the Beginning Date	None	Included
TOTAL ANNUAL SUBSCRIPTION FEE:				\$26,625

Notes:

- ¹ The Annual Subscription Fee(s) shown in the table above do not include implementation/setup services. For the additional fees set forth in the Services Order Form attached hereto as Exhibit E, Ellucian shall provide to Client the additional services identified in the table(s) contained within that Exhibit on the terms and conditions set forth in the Agreement as modified by this Order Form.
- ² Ellucian currently utilizes Amazon Web Services ("AWS") for the provision of hosting services associated with this Cloud Software. In this regard, Client shall ensure that all Client authorized users comply with the Acceptable Use Policy and other applicable services terms currently available at <http://aws.amazon.com/legal>.
- ³ Pricing in this Order Form for Cloud Software allows for up to a tier threshold of 4,499 FTE ("Contracted FTE"); annual pricing is subject to increase in accordance with the FTE terms contained herein.
- ⁴ Ellucian ILP for D2L includes use of Ellucian ILP with a D2L learning management system. Ellucian ILP currently supports integration to the D2L, Canvas, Blackboard, and Moodle learning management systems. During the Cloud Software Term, Client may change the learning management system that it uses with Ellucian ILP at no additional charge, or Client may connect to additional learning management system(s) for an additional annual fee payable for each added learning management system. Such changes must be documented in a written agreement, signed by both parties.

EXHIBIT B TO THE CLOUD SOFTWARE ORDER FORM
Maintenance Standards (Subscription Advantage Level)

1. Ellucian's Action Line will be available to Client for Defect reporting five (5) days per week, Monday through Friday (excluding national holidays and Ellucian-observed holidays), from 8:00 AM to 8:00 PM (Eastern U.S. Time). However, production outages will be supported 24x7x365 as long as Client contacts Ellucian's Action Line via the telephone number provided to Client.
2. The priority of an active incident is indicated at the time the incident is first reported to Ellucian. Client must report the priority of the incident using the definitions below. Ellucian will review and validate the priority for open incidents and may adjust the priority to better align with these definitions.

Ellucian uses reasonable commercial efforts to respond to Client's Notifications in accordance with the following guidelines:

Priority Levels	Definition	Target Response Times
Priority 1 - Critical	A Notification that the production Cloud Software instance is not available for remote access by Client or that Client believes that a Defect has caused: (i) a full failure (i.e., "crash") of its computer system; (ii) a full failure of the Cloud Software; or (iii) a failure of its computer system or the Cloud Software which, in either case, prevents Client from performing data processing which is critical to Client's operations on the day on which the alleged Defect is reported.	1 hour or less
Priority 2 - High	A Notification that Client believes that a Defect has caused a partial failure of the Cloud Software or a failure that significantly hinders Client's ability to perform data processing which is critical to Client's operations on the day on which the alleged Defect is reported	4 hours or less
Priority 3 - Medium	A Notification that Client believes that a Defect has caused an intermittent failure of, or problem with, the Cloud Software, or that causes a significant delay in Client's ability to perform data processing on the day on which the alleged Defect is reported, but where the processing is <u>not</u> critical to Client's operations	1 business day or less
Priority 4 - Low	A Notification that Clients believes that a Defect exists, but it does not significantly affect critical processing	3 business days or less

For purposes of these targets, a "response" will mean an initial contact from an Ellucian representative to Client to begin evaluation of the problem reported under one of the categories of calls identified above. As a prerequisite to Ellucian's obligation to respond to Client's Notification(s), Client must follow Ellucian's policies and procedures (such as the dialing of a particular phone number, the categorization of a particular problem, etc.) when submitting a Notification.

A "Notification" means a communication to Ellucian by means of: (i) Ellucian's Action Line; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with Ellucian's then-current policies and procedures for submitting such communications.

3. Response times listed in this Exhibit reflect targets and should not be construed as contractual obligations. Response time commitments do not promise a complete resolution within the stated time frames. Rather, the time commitment is intended to indicate the estimated target time interval in which Ellucian will contact Client after triaging and routing. Ellucian will begin working the request to seek a resolution of the issue once communication with Client has been established to verify the request and depending on the priority level as described above.

EXHIBIT C TO THE CLOUD SOFTWARE ORDER FORM**Service Level Agreement****1. Coverage and Terminology.**

This Service Level Agreement (the "SLA") applies to the production Cloud Software Instance supported under this Order Form.

Availability: "Availability" means the percentage of a particular month (based on 24-hour days for the number of days in the subject month) that the production Cloud Software is available for remote access by Client as measured by Ellucian pursuant to the Service Level Objectives defined in the Service Level Objective section below.

Measurement: Availability is measured as the ratio of actual Availability to expected Availability resulting in an "Achieved Availability" percentage. Achieved Availability is determined by calculating the aggregate minutes, during the periods the production Cloud Software instance is scheduled to be available ("Scheduled Uptime"), that the production Cloud Software instance is unavailable for use by Client ("Unscheduled Outage"), divided by the total aggregate minutes of scheduled Availability for the month which is Scheduled Uptime minus the time the production Cloud Software is scheduled to be unavailable with Client agreement ("Scheduled Downtime"), and rounded to the nearest 10th (tenth) unless otherwise indicated in the specific SLA definition. The "Achieved Availability" calculation is expressed as:

$$\text{Achieved Availability} = 1 - (\text{Unscheduled Outage} / (\text{Scheduled Uptime} - \text{Scheduled Downtime}))$$

For the avoidance of doubt, the unavailability of the production Cloud Software instance as a result of scheduled maintenance and emergency maintenance windows will not be considered a service outage and will not give rise to Service Level Credits.

2. Service Level Objective.

Ellucian aims to achieve one hundred percent (100%) Availability for the production Cloud Software instance. Subject to the terms in this SLA, Ellucian will provide ninety-nine and one half percent (99.5%) Availability for the production Cloud Software instance.

A monthly Availability report will be made available within ten (10) business days following Client's written request.

3. Service Level Credits.

Except under the conditions mentioned in the Conditions section below, if the Availability of the production Cloud Software instance is less than ninety-nine and one-half percent (99.5%), Ellucian will issue a credit (a "Service Level Credit") to Client according to the following tables.

<i>Production Cloud Software</i>	
Availability	Service Level Credit Issued by Ellucian *
>= 99.50%	None
99.00% - 99.49%	5% of applicable monthly fee
97.00% - 98.99%	10% of applicable monthly fee
95.00% - 96.99%	15% of applicable monthly fee

Production Cloud Software	
Availability	Service Level Credit Issued by Ellucian *
92.00% - 94.99%	20% of applicable monthly fee
<92%	25% of applicable monthly fee; plus 7% for each additional 3.3% of total downtime in the applicable calendar month, up to a maximum of 100% of the applicable monthly fee

* For the avoidance of doubt, and without limitation, Service Level Credits are subject to the terms and conditions provided for in Section 6 ("Service Level Credit Request, Payment Procedures") of this SLA.

4. Maintenance Procedure.

- 4.1 Ellucian will schedule maintenance windows to perform upgrades to new releases of Cloud Software. Clients will receive notification at least two weeks in advance for any maintenance windows requiring production environments to be unavailable.
- 4.2 Ellucian reserves the right to perform emergency maintenance (for example, to restore Cloud Software or remediate security vulnerabilities) without any prior notification, should it be deemed necessary to protect and maintain the security, availability or integrity of the Cloud Software.

5. Conditions.

5.1 Client will not receive any Service Level Credits under this SLA in connection with any failure or deficiency caused by or associated with any of the following:

- Outages, delays, or latency elsewhere on the Internet (including but not limited to upstream internet service providers (ISPs)) that hinder access to the Cloud Software;
- Scheduled maintenance, to the extent provided herein, and emergency maintenance and upgrades;
- Domain Name Server (DNS) issues and DNS propagation outside the direct control of Ellucian;
- Browser or DNS caching that may make the production Cloud Software appear inaccessible when others can still access it;
- False SLA breaches reported as a result of outages or errors of any Ellucian measurement system;
- File transfer, email or webmail delivery and transmission;
- Circumstances beyond Ellucian’s reasonable control;
- Any issues caused by the action of third party software, contractors, or vendors (other than third parties authorized by Ellucian); or
- Functional Cloud Software setup, configuration, or functionality outside the scope of the Order Form.

5.2 Ellucian is not responsible for localized incidents affecting a subset of the population. Further, Ellucian is not responsible for intermittent availability issues such as those that cannot be documented, measured or repeated.

6. Service Level Credit Request, Payment Procedures.

- 6.1 As part of Ellucian's obligation to provide the Cloud Software, Ellucian will provide oversight for monitoring this SLA utilizing the availability metrics information provided through the use of an industry standard monitoring tool (such tool will be the authoritative system for service level measurement under this SLA). Utilizing this output, and in order to receive a Service Level Credit, Client must make all Service Level Credit requests via email or Ellucian's ticketing system. Each Service Level Credit request in connection with this SLA must include Client's account name and the dates and times of the unavailability of the production Cloud Software and must be received by Ellucian within thirty (30) days after such production Cloud Software was not available as defined herein. If Ellucian can confirm the unavailability, and after Ellucian performs a root cause analysis which identifies that the production Cloud Software was the cause of the unavailability, then Service Level Credits will be applied within two (2) months after Ellucian's receipt of Client's Service Level Credit request.
- 6.2 The Service Level Credit percentage will be based on the amount of the Cloud Software fee paid by Client for Cloud Software for the month being measured. Notwithstanding anything to the contrary herein, the total amount credited to Client in a particular month under this SLA will in no event exceed the total Cloud Software fee paid by Client for such month. Service Level Credits are exclusive of any applicable taxes charged to Client or collected by Ellucian. Such Service Level Credits are Client's sole and exclusive remedy with respect to any failure or deficiency in the production Cloud Software. No Service Level Credits will be issued for non-production environments.
- 6.3 Note: Service Level Credits are not refundable and can be used only towards future billing charges for the Cloud Software. Provided, however, if a Service Level Credit is due in the last billing cycle of the Cloud Software Term, then the Service Level Credit will be applied against the fees due in the last billing cycle of the Cloud Software Term or refunded, as the case may be.

EXHIBIT D TO THE CLOUD SOFTWARE ORDER FORM

Data Protection

“Data Protection Law” means all laws and regulations relating to the processing of Client Personal Data by Ellucian, each as and when applicable, including but not limited to regulation (EU) 2016-679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (“GDPR”) and any applicable national implementing law as amended from time to time.

In order to adduce adequate safeguards with respect to the protection of Client Personal Data, the parties agree to the following clauses:

Data Protection

1. Ellucian confirms that for so long as it processes Client Personal Data in performing its obligations under an Order Form, it will:
 - (a) maintain appropriate technical and organizational data security measures, including a written information security policy to protect the Client Personal Data consistent with applicable laws and regulations;
 - (b) maintain the confidentiality of Client Personal Data in accordance with the Master Terms and the relevant Order Form;
 - (c) process the Client Personal Data only in accordance with the Client’s instructions. The parties agree that the relevant Order Form contains instructions from Client to Ellucian to process Client Personal Data as reasonably required to perform the obligations described therein. Client hereby authorises Ellucian to take such steps in the processing of Client Personal Data on behalf of Client as are reasonably necessary for the performance of Ellucian’s obligations under the applicable Order Form. Additional instructions outside of the scope of the applicable Order Form, including instructions regarding assisting Client with its requirements under Articles 32 to 36 of GDPR or other Data Protection Law, will be agreed by the parties in writing, including any additional fees payable by Client to Ellucian for carrying out instructions that require Ellucian to change or supplement its existing business process and technical and organisational data security measures;
 - (d) limit access to the Client Personal Data to Ellucian’s employees, agents and subcontractors (including Ellucian group companies) who have a need to access such Client Personal Data to perform Ellucian’s obligations under the relevant Order Form. Client agrees that Ellucian may use subcontractors to fulfill its obligations under the applicable Order Form so long as Ellucian’s relationship with such subcontractors complies with clause (e) below;
 - (e) require that its employees, agents and subcontractors who have access to the Client Personal Data agree to abide by substantially similar restrictions and conditions that apply to Ellucian with regard to such Client Personal Data;
 - (f) implement appropriate administrative, technical and physical safeguards designed to ensure the security or integrity of the Client Personal Data and protect against unauthorized access to or use of such Client Personal Data that could result in substantial harm or inconvenience to the Client;
 - (g) notify Client of a Information Security Breach as soon as reasonably practicable and without undue delay after Ellucian becomes aware, and take reasonable steps to mitigate the effects of the Information Security Breach. An “Information Security Breach” is an event that is known to have resulted in unauthorized access to, or unauthorized use or disclosure of, Client Personal Data;
 - (h) make available to Client such information as is strictly necessary for the Client to demonstrate its compliance with applicable data protection law at no cost to Ellucian. Any costs arising in connection with Ellucian’s obligations under this clause shall be promptly reimbursed to Ellucian by the Client upon reasonable request. Ellucian uses independent third party auditors to verify the adequacy of its security measures for Cloud Software and Cloud Services. No more than once per calendar year, Client may request

- and Ellucian will provide: (i) subject to Client executing a non-disclosure agreement, a copy of the most recent independent security attestation report associated with the provision of Cloud Software or Cloud Services as applicable, and (ii) a copy of Ellucian's then-current information security policies and standards that relate to security controls associated with the Cloud Software or Cloud Services as applicable; and
- (i) not transfer the Client Personal Data from within the European Economic Area ("EEA") to locations outside the EEA unless it takes such measures as are necessary to ensure the transfer is in compliance with applicable data protection law. Such measures may include (without limitation) transferring the Client Personal Data to a recipient in a country that the European Commission has decided provides adequate protection for personal data (including, but not limited to, as a result of adherence to the EU-US Privacy Shield Framework), to a recipient that has achieved binding corporate rules authorization in accordance with applicable data protection law, or to a recipient that has executed standard contractual clauses adopted or approved by the European Commission.
2. As applicable, the parties may agree to specify in individual Order Forms the subject-matter and duration of processing of Client Personal Data, the nature and purpose of the processing, the type of personal data and categories of data subjects, the obligations and rights of the Client as controller and any specific processing instructions.
3. The parties agree that on the termination or completion of the provision of the relevant Software or services the subject of an Order Form, Ellucian and its subcontractors shall, at the Client's request, return all the Client Personal Data in their possession (if any) and the copies thereof to the Client or shall destroy all the Client Personal Data and certify to the Client that it has done so, unless legal obligations imposed upon Ellucian prevent it from returning or destroying all or part of the Client Personal Data transferred. In the latter case, Ellucian warrants that it will maintain the confidentiality of the Client Personal Data transferred and will not actively process (except for storage and deletion) such Client Personal Data.

EXHIBIT E TO THE CLOUD SOFTWARE ORDER FORM**PROFESSIONAL SERVICES**

Ellucian agrees to provide to Client the additional Professional Services identified in the table(s) below for the additional fees set forth in the table(s) and on the terms and conditions set forth in the Agreement as modified by this Order Form. In performing the additional services under this Order Form, Ellucian may use a combination of remote services, centralized services, and onsite services, using personnel worldwide.

TIME AND MATERIALS SERVICES TABLE:

Description	Estimated Hours	Hourly Rate ¹	Fee ^{2,3}
Intelligent Learning Platform (ILP) 5 Implementation	8	\$250	\$2,000
Banner Project Management Services	2	\$220	\$440
TOTAL TIME AND MATERIALS SERVICES FEE:			\$2,440

Notes to Time and Materials Services Table:

- ¹ Hourly rates and Professional Services specified in this table will be held in place for this project for a period beginning on the Execution Date and ending eighteen (18) months later. Requests for any Professional Services beyond the eighteen (18) month period will need to be negotiated under separate order form and signed by both parties.
- ² Client is advised that Ellucian personnel rendering services bill for travel time, preparation time, and follow-up time, as applicable.
- ³ Where a number of hours is specified in the table with an associated hourly rate, the "Fee" is a good faith estimate based on the information available to Ellucian at the time of execution of this Agreement. The total amount that Client will pay for these services (i.e., the TOTAL TIME AND MATERIALS SERVICES FEE) will vary based on the actual number of hours of services required to complete the services and the rate that is applicable during that year in which the services are rendered.

Payment Terms – Time and Materials Services: Ellucian will invoice Client monthly for all time and materials services on an as-incurred basis in arrears, and payments will be due within thirty (30) days from the date of invoice.

Payment Terms – Expenses and Other Charges: Travel expenses and living expenses are additional. Ellucian will invoice Client monthly for such reimbursable expenses and other applicable charges on an as-incurred basis in arrears, and payments will be due within thirty (30) days from the date of invoice.

Cancellation of Scheduled Professional Services. The parties agree that once Client and Ellucian have scheduled a specific time during which Ellucian will provide Professional Services, Ellucian will be obligated to perform and Client will be obligated to obtain and pay Ellucian for such scheduled Professional Services, in accordance with the agreed upon schedule. If Client desires to cancel or postpone scheduled Professional Services, Client must provide Ellucian with notice of such cancellation or postponement (a "Services Cancellation Notice"). For the purposes of this Section, Services Cancellation Notices must be provided by sending an email to: services@ellucian.com. When cancelling scheduled Professional Services, Client will be subject to the following cancellation fees as liquidated damages and not as penalties:

- (a) If Ellucian receives the Services Cancellation Notice more than thirty (30) calendar days prior to the date on which Professional Services are scheduled to commence, Client will not be assessed a services cancellation fee;
- (b) If Ellucian receives the Services Cancellation Notice less than thirty-one (31) calendar days, but more than fourteen (14) calendar days, prior to the date on which Professional Services are scheduled to commence, Client will be assessed a services cancellation fee in an amount equal to fifty percent (50%) of the total anticipated fee for the scheduled Professional Services; and

- (c) If Ellucian receives the Services Cancellation Notice less than fifteen (15) calendar days prior to the date on which Professional Services are scheduled to commence, Client will be assessed a services cancellation fee in an amount equal to one hundred percent (100%) of the total anticipated fee for the scheduled Professional Services.

In addition to cancellation fees due under this Section, Client will be assessed the full amount of any airline- or hotel-imposed cancellation charges associated with previously purchased non-refundable fares or reservations (as applicable) incurred by Ellucian as a result of the cancellation.

Project Assumptions

As applicable, the following assumptions will apply to Professional Services provided under this Order Form:

- Client will assign a project leader who will lead the project based on the mutually agreed-upon plan, lead the teams at the Client's site, and be the main point of contact for Ellucian throughout the Implementation.
- Client will identify and provide access to the appropriate IT and application staff members to work with and assist Ellucian throughout the engagement. Client staff will have knowledge of their business area(s), provide relevant documentation, and complete preparation activities prior to all service engagements.
- Services will be provided remotely unless otherwise determined during project planning.
- Training provided by Ellucian follows a 'train-the-trainer' methodology for project teams, will be provided at a single site designated by Client for onsite training, and will limit all training and consulting sessions to no more than 12 participants per session unless otherwise stated in this Order Form.
- Client will commit to changing/modifying business processes to conform to Ellucian recommended practices and Ellucian common business process models. Client is responsible for managing staff expectations around Ellucian recommended practices for staff, faculty and students.
- Client will document processes, decisions and end user training materials unless otherwise indicated.
- Except as outlined in the Statement of Work, the development, modification, and/or completion of any rules, reports, integrations/interfaces, subroutines, and customizations is the responsibility of Client.
- Client will ensure that the software release on the Client system is up-to-date and all updates released by Ellucian have been loaded into the appropriate environments as required by the project. No major upgrades will be introduced into the environment during the course of the implementation except as agreed during project planning activities.
- Prior to the commencement of applicable services, Client will provide Ellucian access to applicable on-premise Ellucian Software, will have all necessary hardware onsite and operational, and have all required software installed, other than software to be installed by Ellucian.
- Client will provide Ellucian with access to appropriate software and functionality in compliance with Client's security and access policies and provide Ellucian access to their servers via a Virtual Private Network ("VPN") connection that is supplied by SecureLink. Client will notify Ellucian of any firewall/connection issues that could cause a delay in the delivery of the service.
- All Professional Services to be provided hereunder are based on the implementation of the Baseline version of the Ellucian Software available as of the Execution Date.
- Any tasks, deliverables or services which are not described in this Order Form are out of scope and will not be provided by Ellucian.
- Any changes or additions to the scope of the mutually agreed upon Professional Services will be managed through the Ellucian Project Manager and Client's contact through a mutually agreed upon change order process.

JUSTIFICATION FOR
SOLE SOURCE PROCUREMENT # SS-0201

Agency: Horry Georgetown Technical College

Sole Source Vendor: Ellucian Company L.P.

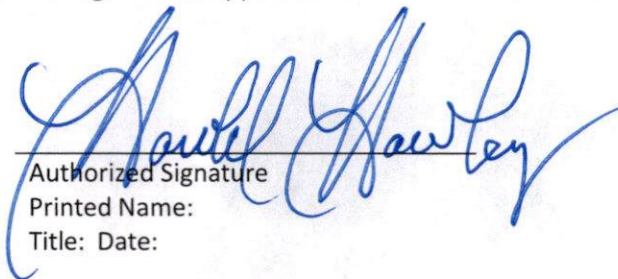
Based upon the following determination, Agency proposes to acquire the supplies, construction, information technology, and/or services described herein from the Vendor named above per S.C. Code Ann. §11-35-1560 and S.C. Regulation 19-445.2105, Sole Source Procurement.

Description of the Agency need that this procurement meets: Horry-Georgetown Technical College (HGTC) requires an eLearning integration module between the on-premises Ellucian Banner Enterprise Resource Planning (ERP) system and the hosted Brightspace (D2L) eLearning environment. The solution must be able to provide two-way synchronization of student events and grades from Ellucian Banner and D2L Brightspace. This integration must leverage the Ellucian Ethos platform, which the College currently owns, to provide a secure method of integrating student data to and from Banner and D2L.

Description of market research Agency performed to determine the availability of products or services that would meet the Agency's needs: Contacted Ellucian, please see the attached sole source letter.

Description of supplies, construction, information technology, and/or services Vendor will provide under the contract: Ellucian ILP annual license.

Detailed explanation why no other vendor's supplies, construction, information technology, and/or services will meet the needs of the Agency: HGTC's previous eLearning management integration software was a legacy product that will no longer work or be supported by the vendor as of December 31, 2020, due to Adobe Flash Player being end of life. Also, HGTC implemented a new student information system (SIS) to replace Ellucian Luminis SIS. Luminis currently hosts the legacy integration software which cannot be installed on our new SIS (Ellucian Experience). Without the eLearning integration software, data will no longer be synchronized from Banner to Brightspace (D2L). Ellucian ILP is Ellucian's updated eLearning integration software to replacement to our current legacy integration software. Ellucian ILP Integration • Integrates Ellucian Banner ERP with Brightspace (D2L) via two-way communication. • Ellucian ILP leverages Ellucian Ethos which is required for integration of the two systems. • Ellucian ILP provides real time automatic data synchronization of student events, grades, and course information. • Ellucian ILP does not rely on our existing Luminis environment or custom programming to existing Ellucian applications.


Authorized Signature
Printed Name:
Title: Date:

Notes:

Authorized signature is the agency head unless the agency head has delegated that authority. Delegation of authority must be submitted to the Materials Management Officer in writing.

The Agency must obtain a Drug-free Workplace certification from the Vendor if the sole source procurement is \$50,000 or greater.



August 14, 2024

Lindsey Moore
Horry Georgetown Technical College
2050 Highway 501 East
Conway, SC 29526

Dear Ms. Moore:

We at Ellucian appreciate the opportunity to serve the technology requirements of Horry Georgetown Technical College and look forward to continuing and strengthening our technology relationship in the coming years.

Ellucian does not currently maintain a service provider certification program, and Ellucian is the only authorized vendor to provide maintenance and support services for which it is the exclusive licensor of numerous software products for the higher education marketplace. These products, collectively referred to as the "Ellucian Software," includes Ellucian Intelligent Learning Platform. The Ellucian Software is fully developed, is integrated, and is licensed and maintained exclusively by Ellucian. Ellucian protects its intellectual property interests by carefully safeguarding distribution of the Ellucian Software, in whole or in part. Licensees are required to execute a license agreement pursuant to which the users, at an institution level, agree to use Ellucian Software only for the purpose of conducting in-house, non-commercial computing operations and further agree to limit use of Ellucian Software to those employees with a need to know.

The Ellucian Software is protected under the copyright laws of the United States and the trade secret laws of several states. Ellucian employs industry-standard measures, both legal and technical in nature, to protect the investment that licensees make in the Ellucian Software. Accordingly, Ellucian is also the only authorized provider of installation, customization, training and educational services for the Ellucian Software. We have no authorized services providers or distributors that provide the Ellucian-approved installation, customization, training and educational services in the United States.

We hope that this information assists Horry Georgetown Technical College. If I can be of further assistance, please do not hesitate to call.

Many thanks for your consideration.

Sincerely,

Bill McCallion

DESIGN OUTREACH

Bill McCallion
Sr. Director, Renewals

2003 Edmund Halley Drive, Suite 500
Reston, Virginia 20191, USA
Toll Free: +1800.328.2835


www.ellucian.com

OPEN TRADE REPRESENTATION

(S.C. Code Ann. §§ 11-35-5300)

The following representation, which is required by Section 11-35-5300(A), is a material inducement for the State to award a contract to you.

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor identified below, and, as of the date of my signature, the vendor identified below is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

Vendor Name (Printed) Ellucian Company LLC	XXXXXXXXXX FEIN# 45-3767548
By (Authorized Signature)  <small>BOX SIGN 487028VW14056PLJ8</small>	Date Executed 8/19/2024
Printed Name and Title of Person Signing Matthew Fell, Sr. Director and Assistant Treasurer	[Not used]