



**ANTHOLOGY INC. OF NY LICENSE AGREEMENT**

This Anthology Inc. of NY License Agreement (this “Agreement”) is entered into by and between:

**West Texas A&M University**

located at

**2501 4th Ave**

**Canyon, TX 79016**

(“the Institution”)

and

**Anthology Inc. of NY**

(“Anthology”)

Located at

**298 Main Street, Suite 600**

**Buffalo, NY 14202**

(Each a “Party” and collectively, “Parties”)

**Effective Date:**

**October 15, 2022**

**1. Definitions.**

“**Agreement**” means this License Agreement is prepared jointly by the parties, including the fee and license schedules (“Schedules”), any exhibit (“Exhibits”), or purchase order as mutually agreed upon (“Purchase Order”) to the Agreement that are attached hereto as of the Effective Date (and any subsequent amendments that are mutually agreed to in writing by the parties). In the event of any conflict between the documents as mentioned herein, the order of precedence to resolve such conflict shall be the same as the document order set forth above. The License Agreement shall not accept other terms and conditions unless mutually agreed upon and signed by both parties.

“**Institution Data**” means any electronic data, information or material provided or submitted to Anthology through the Program(s) by Institution, or by Users (as the terms are defined below).

“**Government Rules**” means all applicable laws, regulations and rules promulgated by a state or the federal government, or any agency or department thereof.

“**License Term**” means the term during which Anthology will provide the Program(s) to Institution, as specified in this Agreement.

“**License Schedule(s)**” means the order documents representing the initial purchase of the Program(s) that are made a part of the Schedule(s) to this Agreement, specifying, among other things, licenses ordered during the License Term and the fees therefore.

“**Program(s)**” means the assessment, accreditation, planning, analytics, retention, and/or any other modules/programs and their specific components and assistance that are specified and selected on the License Schedule attached herein, which may include additional Licenses.

“**Users**” means Institution’s employees, representatives, consultants, contractors, volunteers, student, or agents who are authorized to use the Program(s) through user identification and passwords supplied by Institution (or by Anthology at Institution’s direction).

**2. Institution’s Use of Program(s) and Responsibilities.**

**2.1 Access to Program(s).** During the License Term, Institution shall have access to the Program(s) set forth in the License Schedules, subject to this Agreement and the terms and conditions contained therein.

**2.2 License Grants.** Anthology grants Institution and its Users a non-exclusive, non-transferable, non-sublicensable right to access and use the Program(s) for the purpose for which it is made available to Institution and otherwise in accordance with the terms of this Agreement.

**2.3 Use of the Program(s).** Anthology shall make the Program(s) available to Institution on the terms set forth in this Agreement and the License Schedules attached hereto. This Agreement grants Institution certain rights to access to the Program(s) as described herein. By accessing the software or otherwise using the Program(s), Institution agrees to be bound by the terms of this license. The Program(s) are designed for collective reporting of Institution Data. This data is reported online to a database hosted and maintained by Anthology that provides secure access for Institution via Institution username(s) and password(s), and in some cases, is designed to be combined with other institutional datasets.

**2.4 Institution Use.** The Program(s) may only be used for lawful purposes, and any posting or transmission of data or other use of the Program(s) in violation of any applicable state, federal or other law is strictly prohibited. Anthology reserves the right to remove material that it deems harmful, obscene or in any way threatening to the safety, security, and enjoyment of its subscribers. Institution’s licensed Users may use the Program only to access Institution’s own data and to fulfill Institution’s internal information processing needs. Institution may not sublicense, resell, publish, transmit, broadcast or otherwise distribute all or any portion of the Program to any person or entity, except as expressly set forth herein, or use it to process the data of a third party.

**2.5 Institution Responsibilities.**

[www.anthology.com](http://www.anthology.com)

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**2.5.1 Institution Use of Product.** Institution is responsible for all activities that occur under Institution's User accounts. Institution shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Institution Data; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Program(s), and notify Anthology promptly of any such unauthorized use; (iii) be responsible for acquiring and maintaining the software, equipment and communications Programs necessary to connect to the Program(s) and to download, print and otherwise process data delivered by the Program(s), and (iv) comply with all applicable local, state, federal, and foreign laws in using the Program(s); and (v) Pursuant to Section 4.2, Institution Data; acknowledges and understands that neither Anthology's Product, Technology, or systems are configured to directly or indirectly receive and store Institution Data, or any other information relating to: (a) government issued identifications, including, but not limited to, Social Security Numbers (in whole or in part) and Individual Taxpayer Identification Numbers; (b) unauthorized third party content; or

(c) personal health information ("PHI"), and that Anthology is neither a "Covered Entity" nor a "Business Associate." As those terms are defined in Health Insurance Portability and Accountability Act ("HIPAA"). Institution agrees that Anthology may terminate this Agreement immediately, if Institution is found to be in violation of any party of any part of this provision.

**2.5.2 Institution Use Restriction.** Institution shall not: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violate third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or Program(s); or (iv) interfere with or disrupt the integrity or performance of the Program(s) or the data contained therein.

**2.5.3 Institution Intellectual Property Restriction.** Institution shall not (i) modify, copy or make derivative works based on the Anthology Technology; (ii) disassemble, reverse engineer, or decompile any of the Anthology Technology; or (iii) "frame" or "mirror" any of Anthology's content which forms part of the Program(s) (other than on Institutions' own internal intranets). Institution shall have the limited right to create Internet links to or from the Program(s); however, Anthology reserves the right, at its reasonable discretion, to terminate the use of any and all link(s) to and from its Program(s).

**2.6 Technical & Support Program(s).** During the License Term, the Institution will have access to technical support and support Programs ("Standard Programs"). Included in Standard Programs are telephone and online support and consulting, professional development webinars, and available Program updates.

**2.7 Additional Programs.** Support Programs that are beyond the scope of Standard Programs may call for significant consultations, research, development, analysis, and/or on-site training ("Additional Programs"), unless otherwise specified in the License Schedule, will be charged to Institution as fees for such Program(s). In cases where requests made by Institution are not Standard Programs, but rather Additional Programs, such requests will be clearly identified as Additional Programs to Institution for approval before any fees are incurred.

### 3. Fees & Payment.

**3.1 Annual Fees.** Institution agrees to pay Anthology an annual subscription fee for the Program(s) in an amount specified in the attached License Schedules, and any subsequent amendments for the purchase of additional products. The initial annual subscription fee is invoiced and due net 30 upon execution of this Agreement. Thereafter, for the term of the Agreement, Institution agrees to pay Anthology the annual subscription fee on or before the anniversary of the Effective Date of each respective calendar year.

**3.2 Invoicing & Payment.** Anthology shall invoice Institution for any and all fees relating to the Program, including any late charges, in accordance with the terms of the relevant License Schedule. Institution's payment shall be made in accordance with Chapter 2251, *Texas Government Code*, commonly known as the Texas Prompt Payment Act, which shall govern remittance of payment and remedies for late payment and non-payment.

**3.3 Suspension of Program(s).** If Institution's account is thirty (30) days or more overdue, in addition to any of its other rights or remedies, Anthology reserves the right after notice of overdue payment to Institution to suspend the Program provided to Institution, without liability to Institution, until such amounts are paid in full. Interest will accrue, to the extent allowed by law at 1% per month from the date of invoice on all invoices over 30 days past due. Furthermore, Institution shall reimburse Anthology for reasonable out of pocket expenses for administrative, servicing, collection and other costs incurred as a result of Institution's delinquency.

**3.4 Taxes.** Anthology's fees are exclusive of all local, state, federal and foreign taxes, levies, or duties of any nature ("Taxes"), and Institution is responsible for payment of all Taxes, excluding only taxes based on s' net income. If Anthology has the legal obligation to pay or collect taxes for which Institution is responsible pursuant to this Section 3.4, the appropriate amount shall be billed to and paid by Institution unless Institution provides Anthology with a valid tax exemption certificate authorized by the appropriate taxing authority. As an agency of the state of Texas, Institution is tax-exempt. Tax exemption certification will be furnished to Anthology.

**3.5 Billing & Contact Information.** Institution shall maintain complete, accurate and up-to-date Institution billing and contact information with Anthology.

### 4. Proprietary Rights.

**4.1 Reservation of Rights.** Institution acknowledges that in providing the Program(s), Anthology utilizes: (i) the Campus Labs, OrgSync, Chalk and Wire, and Academic Management Systems/CoursEval Online, Anthology names, the campuslabs.com, orgsync.com, chalkandwire.com, and course-evaluation.com domain names, the product names associated with the Program(s), Campus Labs, OrgSync, CoursEval, Anthology and other trademarks; (ii) certain audio and visual information, documents, software and other works of authorship; (iii) any work product; including, but not limited to, any suggestions, ideas, enhancement requests,



feedback, recommendations or other information provided to you in relation to the Program(s); and (iv) other technology, software, hardware, products, processes, algorithms, user interfaces, know-how and other trade secrets, techniques, designs, inventions, pre-existing or independently developed materials which are used in connection with the Program(s), and other tangible or intangible technical material or information (collectively, “Anthology Technology”) and that the Anthology Technology is covered by intellectual property rights owned or licensed by Anthology, and derivatives thereof (“Anthology IP Rights”). Other than as expressly set forth in this Agreement, no license or other rights in the Anthology IP Rights are granted to Institution and all such rights are hereby expressly reserved.

**4.2 Institution Data.** As between Anthology and Institution, all Institution Data, whether posted by Institution or by third parties, remains the sole property of Institution. To the extent that Institution grants Anthology access to Institution Data, Institution shall restrict Anthology’s access to such Institution Data except as necessary for Anthology to perform the Programs. Furthermore; Anthology may, solely for the purposes of performing the Program(s) under this Agreement, adapt, modify, add to, translate, manipulate, restructure, and reformat the Institution Data as necessary to create, modify, and maintain the course of using the Program(s). Institution Data shall be considered Confidential Information, as outlined in Section 5 and subject to the terms of this Agreement. Anthology may access Institution’s User accounts, including without limitation Institution Data, to respond to Program(s) or technical problems. At all times during and after the License Term, all data generated by Institution shall remain the exclusive property of Institution. If Institution should choose to utilize data sets to participate in any group or “benchmarking” projects, ownership of the resulting data sets will be governed by the written agreements associated with that project.

INSTITUTION IS SOLELY RESPONSIBLE FOR ALL INSTITUTION DATA AND OTHER DATA AND INFORMATION PROVIDED TO ANTHOLOGY OR RECEIVED BY OR COLLECTED FROM THE PROGRAM(S). ANTHOLOGY SHALL NOT BE LIABLE TO INSTITUTION OR ANY OF INSTITUTION’S USERS FOR ANY DAMAGES OR CLAIMS ARISING OUT OF, RELATED TO OR IN CONNECTION WITH SUCH INSTITUTIONAL DATA, AND OTHER INFORMATION PROVIDED TO ANTHOLOGY.

**4.3 Ownership of Contacts.** During and after the License Period, all Institution-specific contact sets (including, but not limited to, personal identifiers such as name, phone numbers, address, email address, identification numbers or identities of students or other Institution constituents, or date of birth) shall remain the exclusive property of the Institution and qualify as “Confidential” as defined below and subject to the restrictions of the Family Educational Rights and Privacy Act and regulations promulgated thereunder (“FERPA”). Institution and Anthology acknowledge that, by Anthology’s provision of the Program(s), Anthology is a “school official” with “legitimate educational interests” under FERPA and Institution may disclose personally identifiable information (“PII”) of students, as that term is defined under FERPA, to Anthology for limited use in connection with operating the Program(s). Anthology will not disclose student PII to third parties or use it for any purpose other than performing its obligations hereunder.

## 5. Confidentiality.

**5.1 Definition of Confidential Information.** As used herein, “Confidential Information” means all information of a party (“Disclosing Party”) which the Disclosing Party designates in writing as being confidential when it discloses such information to the other party (“Receiving Party”), including without limitation the terms and conditions of this Agreement, Institution Data, the Anthology Technology, the Program, business and marketing plans, technology and technical information, product designs, and business processes (whether in tangible or intangible form, in written or in machine readable form, or disclosed orally or visually). Institution Data shall be deemed Confidential Information regardless of its written designation. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without the Receiving Party’s breach of any obligation owed to the Disclosing Party; (ii) was independently developed by the Receiving Party without the Receiving Party’s breach of any obligation owed to the Disclosing Party; or (iii) is received from a third party who obtained such Confidential Information without any third party’s breach of any obligation owed to the Disclosing Party.

**5.2 Confidentiality.** The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except as may be required to be disclosed under Government Rules or to comply with legal processes.

**5.3 Protection.** Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event shall either party exercise less than reasonable care in protecting such Confidential Information.

**5.4 Remedies.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of this Section 5, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

## 6. Warranties & Disclaimers.

**6.1 Warranties.** Each party represents and warrants that: (i) it has the legal power to enter into this Agreement; and (ii) it is the owner of, has a license to use, or has secured necessary rights or permissions from any third party use of copyrights, patents, trademarks, trade secrets, or other intellectual property granted or conveyed herein, and that any rights, licenses, or other uses granted by such party do not infringe or misappropriate any right of any third party. Anthology represents and warrants that the Program(s) will perform substantially in accordance with the online Anthology help documentation under normal use and circumstances.



**6.2 Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, ANTHOLOGY MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. ANTHOLOGY HEREBY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

## **7. Mutual Indemnification.**

**7.1 Indemnification by Anthology.** Subject to this Agreement, Anthology shall defend, indemnify and hold harmless Institution and its affiliates, and each respective officers, directors, employees, agents, independent contractors, successors and assigns from and against any liability for any third party claims (“Claims”) based upon: (i) a Claim that the Program(s) infringes a U.S. copyright or existing U.S. patent issued as of the Effective Date; or (ii) bodily injury, death and tangible property damage resulting from the grossly negligent or willful acts or omissions of its officers, agents, employees or representatives acting within the scope of their work; provided, that Institution (a) promptly gives written notice of the Claim to Anthology; (b) gives Anthology sole control of the defense and settlement of the Claim (provided that Anthology may not settle or defend any Claim unless it unconditionally releases Institution of all liability); and (c) provides to Anthology, at Anthology’s cost, all reasonable assistance. Anthology shall have no obligations to Institution under this Section 7.1 Claims which arise from Institution’s or its User’s breach, negligence or willful misconduct of this Agreement, or from the unauthorized combination of the Program(s) with any of Institution’s products, Programs, hardware or business processes. If a Claim has occurred, or in Anthology’s opinion is likely to occur, Institution agrees to permit Anthology, at its option and expense, either to: (a) procure for Institution the right to continue using the Program(s); (b) replace or modify the Program(s) so that it becomes non-infringing; or (c) cease to provide the Program(s), and refund to Institution any prepaid fees for the discontinued Program(s) for the current annual term, reduced by one-twelfth of the amount thereof for each one-month period or part thereof during which Institution had use of the Program(s).

**7.2 Indemnification by Institution.** Subject to this Agreement, and to the extent authorized by the Constitution and laws of the state of Texas, Institution shall defend, indemnify and hold harmless Anthology and its affiliates, each representative officers, directors, employees, agents, independent contracts, successors and assigns from and against any liability for any third party Claims based upon: (i) on allegation that Institution Data, or the use thereof by either party, has caused harm to a third party or infringes the intellectual property rights of a third party; (ii) or relating to the Institution Data or the Institution’s breach of the obligations, set forth in Sections 2 above or otherwise relating to the Users use or misuse of the Program(s); or (iii) bodily injury, death and tangible property damage resulting from the grossly negligent or willful acts or omissions of its officers, agents, employees or representatives acting within the scope of their work; provided, that Anthology (a) promptly gives written notice of the Claim to Institution; (b) gives Institution sole control of the defense and settlement of the Claim (provided that Institution may not settle or defend any Claim unless it unconditionally releases Anthology of all liability); and (c) provides to Institution, at Institution’s cost, all reasonable assistance. Institution shall have no obligations to Anthology under this Section 7.2 to the extent such Claims arise from Anthology’s negligence or willful misconduct of this Agreement, Anthology’s negligent use of Institution’s Data, or Institution’s use of Institution Data as authorized and contemplated by this Agreement. The foregoing indemnity shall not apply to any infringement arising out of any use of the Program(s) in any manner not authorized herein.

**7.3 Security Breach.** In the event that the failure of either party (the “breaching party”) to implement and maintain appropriate safeguards results in a breach of the security of Institution Information, the breaching party shall, at its expense, provide any consumer notification required by Government Rules.

## **8. Limitation of Liability.**

**8.1 Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AGGREGATE AMOUNT OF ANNUAL SUBSCRIPTION FEES PAYABLE OVER THE CURRENT TERM OF THIS AGREEMENT.

**8.2 Exclusion of Consequential and Related Damages.** TO THE EXTENT AUTHORIZED BY THE GOVERNING LAWS OF TEXAS; IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, LOSS OF DATA, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR PROGRAMS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

**8.3 Limitation of Action.** Except for actions for non-payment or breach of either party’s intellectual property rights, no action (regardless of form) arising out of this Agreement may be commenced by either party more than two (2) years after the cause of action has accrued.

**8.4 External, Third Party Technology.** During the License Term, Institution may choose to leverage technical platforms, tools and support from independent third parties to enhance the Programs, such as offerings from Apple, Palm, Facebook, and others (the “Third Parties”). In these cases, certain information provided by Institution to these Third Parties may be transmitted, posted, and/or used by these Third Parties in accordance with the respective Terms of Programs of such Third Parties and may be governed under these separate agreements. Anthology is independent of any such Third Parties and makes no representation or warranty concerning them or





their actions or technology; all of which shall remain Institution's sole risk and responsibility and Anthology disclaims any and all responsibility or liability in connection therewith.

## 9. License Term & Termination.

**9.1 License Term of Agreement and Renewal(s).** The initial term of this Agreement will end on the Expiration Date as specified in Schedule A and subsequent amendments thereto. This Agreement may be renewed upon mutual written agreement of the parties.

**9.2 Term of Use.** Institution agrees that the License Term for each respective module listed in the License Schedule attached hereto as Schedule A or in any additional License Schedule(s), shall commence on the Effective Date. Institution agrees to pay Anthology the annual Institution fee for each respective module by each anniversary of the Effective Date during the Term of this Agreement. Anthology will invoice Institution for the annual Institution fee(s) no later than thirty (30) days prior to the anniversary of the Effective Date of this Agreement. Institution licenses shall continue for the License Term specified in the relevant License Schedule.

**9.3 Termination for Cause.** A party may terminate this Agreement for cause upon thirty (30) days written notice of a material breach to the other party, provided such breach remains uncured at the expiration of the notice period. Upon any termination for cause by Institution, Anthology shall refund Institution any prepaid fees for the period after the date of termination.

**9.4 Return of Institution Data.** Upon termination or expiration of the Agreement, Anthology shall destroy all Institution Data and Confidential Information within thirty (30) days of the following quarter, after termination or expiration from Anthology's main server. Data deletion shall not apply to the extent: (i) Anthology is required by applicable law to retain some or all of the Institution Data; or (ii) Institution Data archival and back-up files except in line with Anthology's data deletion schedule, as permitted under the Data Protection Law.

**9.5 Surviving Provisions.** The following provisions shall survive the termination or expiration of this Agreement for any reason and shall remain in effect after any such termination or expiration: Sections 3, 4, 5, 6, 7, 8, 9 and 10.

## 10. General Provisions

**10.1 Notices.** All notices under this Agreement shall be in writing and delivered in person, by courier, by facsimile (receipt acknowledged), by postage prepaid first class, certified or registered mail, electronic mail, and addressed as provided below the signatures to this Agreement.

**10.2 Waiver & Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. Institution is an agency of the state of Texas and under the Constitution and the laws of the state of Texas possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has authority as is granted to it under the Constitution and the laws of the state of Texas. Anthology expressly acknowledges that Institution is an agency of the state of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by Institution of its right to claim such exemptions, remedies, privileges, and immunities as may be provided by law.

**10.3 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the remainder of this Agreement shall not be impaired, and each provision shall continue in full force, and shall be enforceable to the fullest extent permitted by Texas law and consistent with the present goals and intent of the parties.

**10.4 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior express written consent of the other party. Any attempted assignment or delegation in contravention of this Section shall be null and void. Notwithstanding the foregoing, either party may assign this Agreement without consent of the other party to any person who succeeds by merger, acquisition or otherwise. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

### 10.4.1 Dispute; Jurisdiction; Venue.

**10.5.1 Dispute Resolution.** (Intentionally Omitted).

**10.5.2 Governing Law.** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.

**10.5.3 Venue.** Notwithstanding any other provision of this Agreement, pursuant to Section 85.18, Texas Education Code, venue for any suit filed against Institution shall be in the county in which the primary office of the chief executive officer of Institution is located.

**10.5 Force Majeure.** Neither party shall be in default nor liable for any failure in performance or loss or damage under this Agreement due to any cause beyond its control.

**10.6 Entire Agreement & Construction.** This Agreement, License Schedules, and subsequent Amendments constitute the entire agreement between the parties as to its subject matter, and supersede all previous and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter of this Agreement. This Agreement was prepared jointly by the parties and not by one party to the exclusion of the other. Furthermore, this Agreement may not be amended, except by an agreement in writing which is signed by authorized representatives of Anthology and Institution.

**10.7 Loss of Funding.** Performance by Institution under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, Institution will issue written notice to Anthology 60 days prior to the start of the next annual term of that year and Institution may terminate this Agreement without further duty or obligation hereunder. Institution's written notice of termination will include a signed statement from



the President, or an authorized individual of Institution confirming termination due to insufficient funding for services as described in Schedule B of the Agreement, and such statement will ensure Institution will not purchase such related services for the remaining year. Anthology acknowledges that appropriation of funds is beyond the control of Institution.

#### **10.8 Public Information.**

(a) Anthology acknowledges that Institution is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.

(b) Upon Institution's written request, and to the extent required under applicable law, Anthology will provide specified public information exchanged or created under this Agreement that is not otherwise accepted from disclosure under chapter 552, Texas Government Code, to Institution in a non-proprietary format. As used in this provision, "public information" has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which Institution has a right of access.

(c) Anthology acknowledges that Institution may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a) (1), Texas Government Code.

#### **10.9 Required Certifications.**

**10.9.1 Delinquent Child Support Obligations.** "Under Section 231.006, Texas Family Code, Anthology or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."

**10.9.2 Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, Texas Government Code, Anthology agrees that any payments owing to Anthology under this Agreement may be applied directly toward certain debts or delinquencies that Anthology owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

**10.9.3 Certification Regarding Debarment, Suspension, and Other Responsibility Matters.** Institution is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's Excluded Parties List System (EPLS, <http://www.epls.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Anthology certifies that it is eligible to participate in this Agreement and has not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Anthology is in compliance with the State of Texas statutes and rules relating to procurement and that Anthology is not listed on the federal government's terrorism watch list as described in Executive Order 13224.

**10.9.4 Conflict of Interest.** By executing this Agreement, Anthology and each person signing on behalf of Anthology certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.

**10.9.5 Prohibition on Contracts with Companies Boycotting Israel.** By executing this Agreement, Anthology certifies it does not and will not, during the performance of this contract, boycott Israel. Anthology acknowledges this Agreement may be terminated if this certification is inaccurate.

**10.9.6 Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Anthology certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Anthology acknowledges this Agreement may be terminated if this certification is inaccurate.

**10.9.7 Cloud Computing Services.** As of the Effective Date, Anthology represents and warrants that, as long as the Institution requests the provisional certification for the Products set forth in Schedule A, it will comply with the then-current requirements of the risk and authorization management program established by the Texas Department of Information Resources ("RAMP"). Pursuant to Section 2054.0593, Texas Government Code, Anthology shall maintain RAMP compliance and certification, as may be amended from time to time, throughout the Term, including any renewal term of this Agreement. Anthology shall provide Institution with evidence of its RAMP compliance and certification within thirty (30) days of Institution's request and at least thirty (30) days prior to the start of any renewal term of this Agreement.

*[Signatures located on following page.]*



**Effective Date:**  
**October 15, 2022**

**IN WITNESS WHEREOF**, the parties have caused this License Agreement for the components listed above, to be executed on, the date first written below by their authorized officers.

**West Texas A&M University**

*Bryon McCafferty*

By: \_\_\_\_\_

**Name:** Bryon McCafferty

**Title, Department:** Director of Procurement & Contracts

**Date:** 9.7.22

**Anthology Inc. of NY**

DocuSigned by:

By: \_\_\_\_\_

*Michael Pohorylo*

**Name:** Michael Pohorylo

**Title:** Deputy General Counsel

**Date:** September 15, 2022





## Product and Licensing Information - Schedule B

Streamline the self-study process with pre-loaded accreditation templates and the ability to author narratives with embedded supporting documents and assessment data.

Anthology offers a comprehensive accreditation solution that provides institutions with an online, customizable site that can be made accessible to internal and external reviewers for national, regional, and program-level accreditation processes. Your institution can use Accreditation to more effectively manage responsibilities for narrative authoring, submission deadline-driven workflow, and embedded hyperlink or source document references.

### Benefits and Features:

- Integrate with campus-wide authentication systems for single sign-on capabilities using a variety of protocols and methods
- Ensure accreditation progress by collecting narratives, uploading evidence, and managing submission workflow
- Upload self-study reports, faculty credentials, and all supporting documentation to a private and secure website
- Utilize up-to-date and pre-loaded templates for regional, national, or program-specific agencies for accreditation submission
- Grant user-specific permissions to specific reports or entire areas of the site
- Assign due dates and track progress
- Customize workflow statuses and narrative review judgements
- Enable internal and external reviewers to view self-study reports and documentation anytime, anywhere
- Preview your report and all associated artifacts by downloading a local archival copy
- Provide accreditation agencies or evaluators with a USB flash drive loaded with an archival copy of your report and all associated artifacts
- Promote the upkeep of internal standards by requiring departments to submit interim reports as a part of maintaining compliant practices and procedures between renewal years



### Billing Information

#### Accounts Payable Contact Information (REQUIRED)

Accounts Payable Email: purchasing@wtamu.edu

Will a PO be issued? Yes PO Number

#### Primary Contact Information

Primary Contact Name: Melissa White

Primary Contact Title: AVPAA

Primary Contact Email: mwhite@wtamu.edu

#### Billing Contact Information (if additional contact necessary)

Billing Contact Name: Brandy Pacheco

Billing Contact Title: Executive Administrative Associate

Billing Contact Email: bpacheco@wtamu.edu