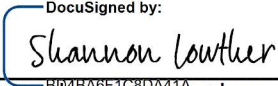

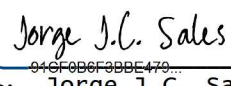


**AWS Enterprise Agreement**

This AWS Enterprise Agreement (this "**Agreement**") is made and entered into by and among the AWS Contracting Parties specified on this Cover Page, any other AWS Contracting Party that is added to this Agreement pursuant to Section 12.14, and the customer specified on this Cover Page ("**Customer**"). The AWS Contracting Parties are collectively referred to herein as "**AWS**."

In consideration of the mutual promises contained in this Agreement, AWS and Customer agree to all terms of the Agreement effective as of June 1, 2022 (the "**Effective Date**").

Defined terms used in this Agreement with initial letters capitalized have the meanings given in Section 13 below.

<p><b>AWS Contracting Party:</b></p> <p><b>Amazon Web Services, Inc.</b></p> <p>DocuSigned by:    By: _____  Name: <u>Shannon Lowther</u>  Title: <u>Authorized Representative</u>  Signature Date: <u>June 21, 2022</u>  Address: _____</p> <p><b>410 Terry Avenue North, Seattle, WA 98109-5210,  U.S.A</b></p>	<p><b>Customer Name: Foundation For California  Community Colleges</b></p> <p>DocuSigned by:    By: _____  Name: <u>Joseph Quintana</u>  Title: <u>COO</u>  Signature Date: <u>June 17, 2022</u>  Address: _____</p> <p><b>Address:</b>  1102 Q Street, Suite 4800  Sacramento, CA 95811  _____  _____</p> <p><b>Attention:</b> _____  <b>Fax:</b> _____</p> <p>DocuSigned by:    By: _____  Name: <u>Jorge J.C. Sales</u>  Title: <u>Vice President of Program Devt.</u>  Signature Date: <u>June 21, 2022</u>  Address: _____</p>
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## 1. Use of the Service Offerings.

**1.1 Generally.** Customer may access and use the Service Offerings in accordance with this Agreement. Service Level Agreements apply to certain Services. Customer's use of the Service Offerings will comply with the terms of this Agreement.

**1.2 AWS Account.** To access the Services, Customer must create one or more AWS Enterprise Accounts. Unless explicitly permitted by the Service Terms, Customer will only create one AWS Enterprise Account per email address. All AWS Enterprise Accounts will be covered by this Agreement. For all AWS Enterprise Accounts, this Agreement supersedes any acceptance of the AWS Customer Agreement by Customer or any of its employees acting on behalf of Customer. If any of Customer's AWS accounts do not meet the definition of an "AWS Enterprise Account," those accounts will be governed by the AWS Customer Agreement.

**1.3 Third-Party Content.** Third-Party Content may be used by Customer at Customer's election. Third-Party Content is governed by this Agreement unless accompanied by separate terms and conditions, which may include separate fees and charges.

**1.4 Customer Affiliates.** Any Customer Affiliate may use the Service Offerings under its own AWS Enterprise Account(s) under the terms of this Agreement by executing an addendum to this Agreement with AWS, as mutually agreed by AWS and the Customer Affiliate.

## 2. Changes.

**2.1 To the Service Offerings.** AWS may change or discontinue any of the Service Offerings, from time to time. For any AWS Enterprise Accounts enrolled in AWS Support at the Developer-level tier or above (or any successor service providing such communications alerts), AWS will provide at least 12 months prior Notice to Customer if AWS decides to discontinue a Service that it makes generally available to its customers and that Customer is using. AWS will not be obligated to provide Notice under this Section 2.1 if the discontinuation is necessary to address an emergency or threat to the security or integrity of AWS, respond to claims, litigation, or loss of license rights related to third-party intellectual property rights, or comply with the law or requests of a government entity.

**2.2 To the Service Level Agreements.** AWS may change Service Level Agreements from time to time, but will provide 90 days' prior Notice to Customer before materially reducing the benefits offered to Customer under any Service Level Agreement(s) that are available as of the Effective Date.

## 3. Privacy and Security.

**3.1 AWS Security.** AWS will implement reasonable and appropriate measures for the AWS Network (as determined by AWS) designed to help Customer secure Customer Content against accidental or unlawful loss, access or disclosure (the "**Security Objectives**") in accordance with the AWS Security Standards. AWS may modify the AWS Security Standards from time to time, but will continue to provide at least the same level of security as is described in the AWS Security Standards on the Effective Date.

**3.2 Data Privacy.** Customer may specify the AWS regions in which Customer Content will be stored. Customer consents to the storage of Customer Content in, and transfer of Customer Content into, the AWS regions Customer selects. AWS will not access or use Customer Content except as necessary to maintain or provide the Service Offerings, or as necessary to comply with the law or a binding order of a governmental body. AWS will not (a) disclose Customer Content to any government or third party, or (b) subject to Section 3.3, move Customer Content from the AWS regions selected by Customer; except in each case as necessary to comply with the law or a binding order of a governmental body (such as a subpoena or court order). Unless it would be in violation of a court order or other legal requirement, AWS will give Customer reasonable Notice of any legal requirement or order referred to in this Section 3.2, to enable Customer to seek a protective order or other appropriate remedy. AWS will only use Account Information in accordance with the Privacy Notice, and Customer consents to such usage. The Privacy Notice does not apply to Customer Content.

**3.3 Service Attributes.** To provide billing and administration services, AWS may process Service Attributes in the AWS region(s) where Customer uses the Service Offerings and the AWS regions in the United States. To



provide Customer with support services initiated by Customer and investigate fraud, abuse or violations of this Agreement, AWS may process Service Attributes where AWS maintains its support and investigation personnel.

**3.4 AWS Information Security Program.** As of the Effective Date, the AWS Information Security Management System (ISMS) is ISO 27001 certified. AWS will maintain an information security program designed to provide at least the same level of protection as evidenced by that certification on the Effective Date.

**3.5 Audits of Technical and Organizational Measures.** Upon Customer's request, and provided that the parties have an applicable NDA in place, AWS will provide to Customer a copy of the AWS System and Organization Controls 1, Type 2 report or such alternative industry standard reports or certifications that are substantially equivalent as reasonably determined by AWS. AWS will make this documentation available to Customer via AWS Artifact (or an alternative means accessible via the AWS Site) and this documentation will be treated as Confidential Information of AWS under the NDA.

#### 4. Customer Responsibilities.

**4.1 Customer Content.** Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Content. Customer agrees that Customer Content will not violate any of the Policies or any applicable law.

**4.2 Customer's Security and Redundancy.** Customers have a variety of options to choose from when configuring their accounts, and for all sensitive or otherwise valuable content AWS recommends that Customer uses strong security and redundancy features, such as access controls, encryption, and backup. Customer is responsible for properly configuring and using the Service Offerings in a manner that provides security and redundancy of its AWS Enterprise Accounts and Customer Content, such as, for example, using enhanced access controls to prevent unauthorized access to AWS Enterprise Accounts and Customer Content, using encryption technology to prevent unauthorized access to Customer Content, and ensuring the appropriate level of backup to prevent loss of Customer Content.

**4.3 Log-In Credentials and Account Keys.** AWS log-in credentials and private keys generated by the Services are for Customer's internal use only and Customer may not sell, transfer or sublicense them to any other entity or person, except that Customer may disclose its private key to its agents and subcontractors (including any of its Affiliates who are acting as an agent or subcontractor of Customer) performing work on behalf of Customer. Except to the extent caused by AWS's breach of this Agreement, as between the parties, Customer is responsible for all activities that occur under its AWS Enterprise Accounts.

**4.4 End Users.** If Customer uses the Services to provide services to, or otherwise interact with, End Users, then Customer, and not AWS, will have the relationships (e.g., via executed contracts between Customer and End Users or via online terms of service) with End Users. Therefore Customer, and not AWS, is responsible for End Users' use of Customer Content and the Service Offerings. To the extent that Customer enables End Users to access the Services or Customer Content, Customer will ensure that all End Users comply with any applicable obligations of Customer under this Agreement and that any terms of any agreement with each End User are not inconsistent with this Agreement. AWS does not provide any support or services to End Users unless AWS has a separate agreement with Customer or an End User obligating AWS to provide support or services to End Users. Customer is responsible for providing customer service (if any) to End Users.

#### 5. Fees and Payment.

**5.1 Service Fees.** Unless otherwise stated on the AWS Site, AWS will invoice Customer at the end of each month for all applicable fees and charges accrued for use of the Service Offerings, as described on the AWS Site, during the month. Customer will pay AWS all invoiced amounts within 30 days of the date of the invoice (other than Disputed Amounts). For any Disputed Amounts, Customer will provide Notice to AWS, including the basis for the dispute (including any supporting documentation), and the parties will meet within 30 days of the date of the Notice to resolve the dispute. If the parties fail to resolve the dispute within such 30 day period, AWS may, at its option, limit (in full or in part) Customer's or any End User's right to access or use the Service Offerings until the dispute is resolved. All amounts payable by Customer under this Agreement will be paid to AWS without setoff or counterclaim and without deduction or withholding, provided that Disputed Amounts will be handled as set forth



above. Fees and charges for any new Service or new feature of a Service will be effective when AWS posts updated fees and charges on the AWS Site, unless expressly stated otherwise in a Notice. AWS may increase or add new fees and charges for any existing Service by giving Customer at least 60 days' prior Notice. AWS may charge Customer interest at the rate of 1.5% per month (or the highest rate permitted by law, whichever is less) on all late payments.

**5.2 Taxes.** Each party will be responsible, as required under applicable law, for identifying and paying all taxes and other governmental fees and charges (and any penalties, interest, and other additions thereto) that are imposed on that party upon or with respect to the transactions and payments under this Agreement. All fees payable by Customer are exclusive of Indirect Taxes, except where applicable law requires otherwise. AWS may charge and Customer will pay applicable Indirect Taxes that AWS is legally obligated or authorized to collect from Customer. Customer will provide such information to AWS as reasonably required to determine whether AWS is obligated to collect Indirect Taxes from Customer. AWS will not collect, and Customer will not pay, any Indirect Tax for which Customer furnishes AWS a properly completed exemption certificate or a direct payment permit certificate for which AWS may claim an available exemption from such Indirect Tax. All payments made by Customer to AWS under this Agreement will be made free and clear of any deduction or withholding, as may be required by law. If any such deduction or withholding (including but not limited to cross-border withholding taxes) is required on any payment, Customer will pay such additional amounts as are necessary so that the net amount received by AWS is equal to the amount then due and payable under this Agreement. AWS will provide Customer with such tax forms as are reasonably requested in order to reduce or eliminate the amount of any withholding or deduction for taxes in respect of payments made under this Agreement.

**6. Temporary Limitation of Access and Use Rights.** AWS may temporarily limit (in full or in part, as set forth in this Section 6) Customer's or any End User's right to access or use the Service Offerings upon Notice to Customer (which will be reasonable prior notice unless AWS reasonably believes immediate limitation is necessary) if AWS reasonably determines that Customer's or an End User's use of the Service Offerings poses a security risk or threat to the function of the Service Offerings, or poses a security or liability risk or threat to AWS, its Affiliates or any third party. AWS will only limit Customer's right to access or use the instances, data or portions of the Service Offerings that caused the security or liability risk or threat. AWS will restore Customer's access and use rights promptly after Customer has resolved the issue giving rise to the limitation. Customer remains responsible for all fees and charges for the Service Offerings during the period of limitation.

## **7. Term; Termination.**

**7.1 Term.** The term of this Agreement will commence on the Effective Date and will remain in effect until terminated pursuant to this Agreement. Any Notice of termination of this Agreement must include a Termination Date.

### **7.2 Termination.**

**(a) Termination for Convenience.** Customer may terminate this Agreement for any reason by providing AWS Notice. AWS may terminate this Agreement for any reason by providing Customer at least two years' Notice.

#### **(b) Termination for Cause.**

**(i) By Customer or AWS.** Either Customer or AWS may terminate this Agreement for cause if the other is in material breach of this Agreement and the material breach remains uncured for a period of 30 days from receipt of Notice by the breaching party.

**(ii) By AWS.** AWS may terminate this Agreement (ii) for cause (a) upon 90 days' Notice to Customer if AWS has the right to limit Customer's or any End User's right to access or use the Service Offerings under Section 6 and Customer has not cured the condition giving rise to that right to limit within such 90 day period, or (b) upon 30 days' Notice to Customer in order to comply with applicable law or requirements of governmental entities.



### 7.3 Effect of Termination.

(a) **Generally.** Upon the Termination Date:

- (i) except as provided in Section 7.3(b), all of Customer's rights under this Agreement immediately terminate;
- (ii) Customer remains responsible for all fees and charges Customer has incurred through the Termination Date;
- (iii) Customer will immediately return or, if instructed by AWS, destroy all AWS Content in Customer's possession (except for AWS Content that is publicly available on the AWS Site); and
- (iv) Sections 4, 5, 7.3, 8.1, 8.3, 8.4, 9, 10.3, 11, 12 and 13 will continue to apply in accordance with their terms.

(b) **Post-Termination Retrieval of Customer Content.** During the 90 days following the Termination Date, AWS will not take action to remove any Customer Content as a result of the termination from any AWS Enterprise Account that is open on the Termination Date. In addition, during such period, AWS will allow Customer to retrieve any remaining Customer Content from the Services, unless (i) prohibited by law or the order of a governmental or regulatory body or it could subject AWS or its Affiliates to liability, or (ii) Customer has not paid all amounts due under this Agreement, other than Disputed Amounts. For any use of the Services during such period, the terms of this Agreement will apply and Customer will pay the applicable fees at the rates under Section 5 (including, without limitation, applicable fees for storage). No later than the end of this 90 day period, Customer will close all AWS Enterprise Accounts.

## 8. Proprietary Rights.

**8.1 Customer Content.** As between Customer and AWS, Customer (or Customer's licensors) own all right, title, and interest in and to Customer Content. Except as provided in this Agreement, AWS obtains no rights under this Agreement from Customer (or Customer's licensors) to Customer Content.

**8.2 Service Offerings License.** AWS or its licensors own all right, title, and interest in and to the Service Offerings, and all related technology and intellectual property rights. Subject to the terms of this Agreement, AWS grants Customer a limited, revocable, non-exclusive, non-sublicensable, non-transferrable license to do the following: (a) access and use the Services solely in accordance with this Agreement; and (b) copy and use the AWS Content solely for Customer's permitted use of the Services. Except as provided in this Section 8.2, Customer obtains no rights under this Agreement from AWS, its Affiliates, or their licensors to the Service Offerings, including without limitation any related intellectual property rights. Some AWS Content may be provided to Customer under a separate license, such as the Apache License, Version 2.0, which will be identified to Customer in the notice file or on the download page, in which case that license will govern Customer's use of that AWS Content.

**8.3 License Restrictions.** Neither Customer nor any End User may use the Service Offerings in any manner or for any purpose other than as expressly permitted by this Agreement. Neither Customer nor any End User may, or may attempt to (a) modify, alter, tamper with, repair, or otherwise create derivative works of any Content included in the Service Offerings (except to the extent Content included in the Service Offerings is provided to Customer under a separate license that expressly permits the creation of derivative works), (b) reverse engineer, disassemble, or decompile the Service Offerings or apply any other process or procedure to derive the source code of any software included in the Service Offerings, (c) access or use the Service Offerings in a way intended to avoid incurring fees or exceeding usage limits or quotas, or (d) resell or sublicense the Service Offerings. Customer may only use the AWS Marks in accordance with the Trademark Use Guidelines. Customer will not misrepresent or embellish the relationship between AWS and Customer (including by expressing or implying that AWS supports, sponsors, endorses, or contributes to Customer or Customer's business endeavors). Customer will not imply any relationship or affiliation between AWS and Customer except as expressly permitted by this Agreement.

**8.4 Suggestions.** If Customer elects to provide any Suggestions to AWS or its Affiliates, AWS and its Affiliates will be entitled to use the Suggestions without restriction.

## 9. Third-Party Claims.



**9.1 Policies and End User Disputes.** Customer will defend, indemnify and hold harmless AWS, its Affiliates, and their respective employees, officers, directors, and representatives against any Losses arising from or related to any third-party claim that arises from a violation of the Policies by Customer or any End User, or that arises from any dispute between Customer and any End User.

**9.2 Intellectual Property.**

(a) Subject to the limitations in this Section 9, AWS will defend Customer and its employees, officers, and directors against any third-party claim alleging that the Services infringe or misappropriate that third party's intellectual property rights, and will pay the amount of any adverse final judgment or settlement.

(b) Subject to the limitations in this Section 9, Customer will defend AWS, its Affiliates, and their respective employees, officers, and directors against any third-party claim alleging that any Customer Content infringes or misappropriates that third party's intellectual property rights, and will pay the amount of any adverse final judgment or settlement.

(c) No party will have obligations or liability under this Section 9.2 arising from infringement by combinations of the Services or Customer Content, as applicable, with any other product, service, software, data, content, or method. In addition, AWS will have no obligations or liability arising from Customer's or any End User's use of the Services after AWS has notified Customer to discontinue such use. The remedies provided in this Section 9.2 are the sole and exclusive remedies for any third-party claims of infringement or misappropriation of intellectual property rights by the Services or by Customer Content.

(d) For any claim covered by Section 9.2(a), AWS will, at its election, either: (i) procure the rights to use that portion of the Services alleged to be infringing; (ii) replace the alleged infringing portion of the Services with a non-infringing alternative; (iii) modify the alleged infringing portion of the Services to make it non-infringing; or (iv) terminate the allegedly infringing portion of the Services or this Agreement.

**9.3 Process.** The obligations under this Section 9 will apply only if the party seeking defense, payment or indemnity from another party: (a) gives that party prompt Notice of the claim; (b) permits that party to control the defense and settlement of the claim; and (c) reasonably cooperates with that party (at that party's expense) in the defense and settlement of the claim. In no event will AWS or Customer agree to any settlement of any claim that involves any commitment, other than the payment of money, without the written consent of the other.

**10. AWS Warranties and Warranty Disclaimers.**

**10.1 AWS Warranties.** AWS represents and warrants to Customer that the Services will perform substantially in accordance with the Documentation.

**10.2 Mutual Warranties.** Customer and AWS each represents and warrants to the other that (a) it has full power and authority to enter into and perform this Agreement, (b) the execution and delivery of this Agreement has been duly authorized, (c) it will comply with all applicable laws, rules, regulations and ordinances in the performance of this Agreement (and, in the case of Customer, the use of the Service Offerings), and (d) its performance hereunder does not breach any other agreement to which it is bound.

**10.3 Warranty Disclaimers.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 10.1 AND SECTION 10.2, AND EXCEPT TO THE EXTENT PROHIBITED BY LAW, AWS, ITS AFFILIATES AND ITS LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE SERVICE OFFERINGS OR THE THIRD-PARTY CONTENT, AND DISCLAIM ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED OR EXPRESS WARRANTIES (A) OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, (B) ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE, (C) THAT THE SERVICE OFFERINGS OR THIRD-PARTY CONTENT WILL BE UNINTERRUPTED, ERROR FREE, OR FREE OF HARMFUL COMPONENTS, AND (D) THAT ANY CONTENT, INCLUDING CUSTOMER CONTENT OR THIRD-PARTY CONTENT, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED.

**11. Limitations of Liability.**



**11.1 Liability Disclaimers.** EXCEPT FOR PAYMENT OBLIGATIONS ARISING UNDER SECTION 9.1, NEITHER AWS NOR CUSTOMER, NOR ANY OF THEIR AFFILIATES OR LICENSORS, WILL BE LIABLE TO THE OTHER UNDER ANY CAUSE OF ACTION OR THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FOR (A) INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, (B) THE VALUE OF CUSTOMER CONTENT, (C) LOSS OF PROFITS, REVENUES, CUSTOMERS, OPPORTUNITIES, OR GOODWILL, OR (D) UNAVAILABILITY OF THE SERVICE OFFERINGS (THIS DOES NOT LIMIT ANY SERVICE CREDITS THAT MAY BE AVAILABLE UNDER SERVICE LEVEL AGREEMENTS).

**11.2 Damages Cap.** EXCEPT FOR PAYMENT OBLIGATIONS ARISING UNDER SECTION 9, THE AGGREGATE LIABILITY UNDER THIS AGREEMENT OF EITHER AWS OR CUSTOMER, AND ANY OF THEIR RESPECTIVE AFFILIATES OR LICENSORS, WILL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER TO AWS UNDER THIS AGREEMENT FOR THE SERVICES THAT GAVE RISE TO THE LIABILITY DURING THE 12 MONTHS BEFORE THE LIABILITY AROSE; PROVIDED, HOWEVER THAT NOTHING IN THIS SECTION 11 WILL LIMIT CUSTOMER'S OBLIGATION TO PAY AWS FOR CUSTOMER'S USE OF THE SERVICE OFFERINGS PURSUANT TO SECTION 5, OR ANY OTHER PAYMENT OBLIGATIONS UNDER THIS AGREEMENT.

## 12. Miscellaneous.

**12.1 Assignment.** Neither Customer nor AWS may assign or otherwise transfer this Agreement or any of its rights and obligations under this Agreement without the prior written approval of the other; except that either Customer or AWS may assign or otherwise transfer this Agreement without the consent of the other (a) in connection with a merger, acquisition or sale of all or substantially all of its assets, or (b) to any Affiliate or as part of a corporate reorganization, or (c) in the case of AWS, with respect to specific AWS Enterprise Accounts, to an Affiliate. Effective upon such assignment or transfer, subject to the assignee/transferee's consent, the assignee/transferee is deemed substituted for the assignor/transferor as a party to this Agreement and the assignor/transferor is fully released from all of its obligations and duties to perform under this Agreement. Subject to the foregoing, this Agreement will be binding upon, and inure to the benefit of the parties and their respective permitted successors and assigns.

**12.2 Counterparts; Facsimile.** This Agreement may be executed by facsimile or by electronic signature in a format approved by AWS, and in counterparts, each of which (including signature pages) will be deemed an original, but all of which together will constitute one and the same instrument.

**12.3 Entire Agreement.** This Agreement incorporates the Policies and the AWS Contracting Party Site by reference and is the entire agreement between Customer and AWS regarding the subject matter of this Agreement. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between Customer and AWS, whether written or verbal, regarding the subject matter of this Agreement (including, as set forth in Section 1.2, any acceptance of the AWS Customer Agreement by Customer or any of its employees acting on behalf of Customer). AWS will not be bound by any term, condition or other provision which is different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) including for example, any term, condition or other provision (a) submitted by Customer in any order, receipt, acceptance, confirmation, correspondence or other document, (b) related to any online registration, response to any Request for Bid, Request for Proposal, Request for Information, or other questionnaire, or (c) related to any invoicing process that Customer submits or requires AWS to complete. If the terms of this document are inconsistent with the terms contained in any Policy or the AWS Contracting Party Site, the terms contained in this document will control, except that (i) the Service Terms will control over this document and (ii) the AWS Contracting Party Site will control over this document with respect to any AWS Enterprise Accounts associated with an AWS Contracting Party that is added to this Agreement pursuant to Section 12.14. No modification or amendment of any portion of this Agreement will be effective unless in writing and signed by the parties to this Agreement.

**12.4 Force Majeure.** Except for payment obligations, no party will be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond its reasonable control, including acts of God, labor disputes or other industrial disturbances, electrical or power outage, utilities or telecommunications failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.



**12.5 Governing Law; Venue.** The laws of the State of Washington, without reference to conflict of law rules, govern this Agreement and any dispute of any sort that might arise between the parties. Any dispute relating in any way to the Service Offerings or this Agreement will only be adjudicated in a state or federal court located in King County, Washington. Each party consents to exclusive jurisdiction and venue in these courts. Notwithstanding the foregoing, any party may seek injunctive relief in any state, federal, or national court of competent jurisdiction for any actual or alleged infringement of such party's, its Affiliates' or any third party's intellectual property or other proprietary rights. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

**12.6 Trade Compliance.** In connection with this Agreement, each party will comply with all applicable import, re-import, sanctions, anti-boycott, export, and re-export control laws and regulations, including all such laws and regulations that apply to a U.S. company, such as the Export Administration Regulations, the International Traffic in Arms Regulations, and economic sanctions programs implemented by the Office of Foreign Assets Control. Customer is solely responsible for compliance with applicable laws related to the manner in which Customer chooses to use the Service Offerings, including (i) Customer's transfer and processing of Customer Content, (ii) the provision of Customer Content to End Users, and (iii) specifying the AWS region in which any of the foregoing occur. Customer represents that Customer and the entities that own or control Customer, and the financial institutions used to pay AWS under this Agreement, are not subject to sanctions or otherwise designated on any list of prohibited or restricted parties, including but not limited to the lists maintained by the United Nations Security Council, the U.S. Government (e.g., the U.S. Department of Treasury's Specially Designated Nationals list and Foreign Sanctions Evaders list, and the U.S. Department of Commerce's Entity List), the European Union or its member states, or other applicable government authority.

**12.7 Independent Contractors.** AWS and Customer are independent contractors, and this Agreement will not be construed to create a partnership, joint venture, agency, or employment relationship. Neither Customer nor AWS, nor any of their respective Affiliates, is an agent of the other for any purpose or has the authority to bind the other.

**12.8 Language.** All communications and Notices made or given pursuant to this Agreement must be in the English language. If AWS provides a translation of the English language version of this Agreement, the English language version of the Agreement will control if there is any conflict.

**12.9 Nondisclosure; Publicity.** If the parties have an NDA, then the NDA is incorporated by reference into this Agreement, except that the security provisions in Section 3, not the NDA, apply to Customer Content. Except to the extent permitted by applicable law, neither Customer nor AWS will issue any press release or make any other public communication with respect to this Agreement or Customer's use of the Service Offerings. AWS and Customer agree that the contents of this Agreement are not publicly known and will not be disclosed by them.

**12.10 Notice.**

(a) **General.** Except as otherwise set forth in Section 12.10(b), to give notice to a party under this Agreement, each party must contact that other party as follows: (i) by facsimile transmission; or (ii) by personal delivery, overnight courier or registered or certified mail. Notices must be sent to the fax number of the other party listed on the Cover Page to this Agreement or addressed to the address of the other party listed on the Cover Page to this Agreement (or in the case of any AWS Contracting Party that is added to this Agreement pursuant to Section 12.14, to such fax number or address provided on the AWS Contracting Party Site), or such other fax number or address as a party may subsequently provide in writing to the other party. Notices provided by personal delivery will be effective immediately. Notices provided by facsimile transmission or overnight courier will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective three business days after they are sent.

(b) **Electronic Notice.** AWS may provide notice to Customer (i) under Sections 2.2 or 5.1 by (A) sending a message to the email address then associated with at least one of Customer's AWS Enterprise Accounts, or (B) posting a notice on the AWS Site, (ii) under Section 6 or Attachment A by sending a message to the email address then associated with Customer's applicable AWS Enterprise Account, and (iii) under Section 2.1 by sending a message to the email address then associated with at least one of Customer's AWS Enterprise Accounts



(or such other email address as agreed upon by the parties) or via a support case. Any notices provided by posting on the AWS Site will be effective upon posting and notices provided by email will be effective when AWS sends the email.

**12.11 No Third-Party Beneficiaries.** Except as set forth in Section 9, this Agreement does not create any third-party beneficiary rights in any individual or entity that is not a party to this Agreement.

**12.12 No Waivers.** The failure by a party to enforce any provision of this Agreement will not constitute a present or future waiver of such provision nor limit such party's right to enforce such provision at a later time. All waivers by a party must be provided in a Notice to be effective.

**12.13 Severability.** If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect. Any invalid or unenforceable portions will be interpreted to give effect to the intent of the original portion. If such construction is not possible, the invalid or unenforceable portion will be severed from this Agreement but the rest of the Agreement will remain in full force and effect.

**12.14 Account Servicing; Addition of AWS Contracting Parties.** The AWS Contracting Party for each AWS Enterprise Account is identified on the AWS Contracting Party Site and is determined based on the geographic location associated with each such account. The AWS Contracting Party for each AWS Enterprise Account is solely responsible for providing the Service Offerings and for all of AWS's obligations under this Agreement for each such account. If the geographic location associated with a new or existing AWS Enterprise Account is set or changed to a location that corresponds to a party on the AWS Contracting Party Site that is not yet a party to this Agreement, then such party independently offers the terms of this Agreement (including any applicable terms that may be specified on the AWS Contracting Party Site) to Customer. Unless Customer is notified otherwise by AWS, such party will be added to this Agreement as an AWS Contracting Party as of the date of the setting or change, without any further action required by the parties.

**13. Definitions.** Defined terms used in this Agreement with initial letters capitalized have the meanings given below:

"**Acceptable Use Policy**" means the policy located at <http://aws.amazon.com/aup> (and any successor or related locations designated by AWS), as it may be updated by AWS from time to time.

"**Account Information**" means information about Customer that Customer provides to AWS in the creation or administration of an AWS Enterprise Account. For example, Account Information includes names, usernames, phone numbers, email addresses and billing information associated with an AWS Enterprise Account.

"**Affiliate**" means any entity that directly or indirectly controls, is controlled by or is under common control with that party.

"**API**" means an application program interface.

"**AWS Content**" means Content that AWS or any of its Affiliates makes available related to the Services or on the AWS Site to allow access to and use of the Services, including APIs; WSDLs; sample code; software libraries; command line tools; proofs of concept, templates, and other related technology (including but not limited to any of the foregoing that are provided by any AWS personnel). AWS Content does not include the Services or Third-Party Content.

"**AWS Contracting Party**" means each party identified on the AWS Contracting Party Site that is or becomes a party to this Agreement.

"**AWS Contracting Party Site**" means <https://aws.amazon.com/legal/aws-contracting-party> (and any successor or related locations designated by AWS), as may be updated by AWS from time to time.

"**AWS Customer Agreement**" means AWS's standard user agreement located on the AWS Site at <http://aws.amazon.com/agreement> (and any successor or related locations designated by AWS), as may be updated by AWS from time to time.



**"AWS Enterprise Account"** means any AWS account that (a) is listed on Attachment A, as that list may be updated from time to time as described in Attachment A, (b) is opened by Customer using a Customer-issued email address (with an email domain name that is owned by Customer), (c) includes Customer's full legal name in the "Company Name" field associated with the AWS account, and (d) is associated with a geographic location that corresponds to an AWS Contracting Party that is a party to this Agreement, as set forth in Section 12.14.

**"AWS Marks"** means any trademarks, service marks, service or trade names, logos, and other designations of AWS and its Affiliates that AWS may make available to Customer in connection with this Agreement.

**"AWS Network"** means AWS's data center facilities, servers, networking equipment, storage media, and host software systems (e.g., virtual firewalls) that are within AWS's control and are used to provide the Services.

**"AWS Security Standards"** means the security standards attached to this Agreement as Attachment B.

**"AWS Site"** means <http://aws.amazon.com> (and any successor or related locations designated by AWS), as may be updated by AWS from time to time.

**"Content"** means software (including machine images), data, text, audio, video, or images.

**"Customer Content"** means Content that Customer or any End User transfers to AWS for processing, storage or hosting by the Services in connection with an AWS Enterprise Account and any computational results that Customer or any End User derive from the foregoing through its use of the Services. For example, Customer Content includes Content that Customer or any End User stores in Amazon Simple Storage Service. Customer Content does not include Account Information.

**"Disputed Amounts"** means amounts disputed by Customer in a Notice and in good faith as billing errors.

**"Documentation"** means the user guides and admin guides (in each case exclusive of content referenced via hyperlink) for the Services located at <http://aws.amazon.com/documentation> (and any successor or related locations designated by AWS), as such user guides and admin guides may be updated by AWS from time to time.

**"End User"** means any individual or entity that directly or indirectly through another user (a) accesses or uses Customer Content, or (b) otherwise accesses or uses the Service Offerings under an AWS Enterprise Account. The term "End User" does not include individuals or entities when they are accessing or using the Services or any Content under their own AWS account, rather than under an AWS Enterprise Account.

**"Indirect Taxes"** means applicable taxes and duties, including, without limitation, VAT, GST, excise taxes, sales and transactions taxes, and gross receipts tax.

**"Losses"** means any damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees).

**"NDA"** means the Mutual Nondisclosure Agreement between Customer and Amazon.com, Inc., dated February 19, 2021.

**"Notice"** means any notice provided in accordance with Section 12.10.

**"Policies"** means the Acceptable Use Policy, Privacy Notice, and the Service Terms.

**"Privacy Notice"** means the privacy notice located at <http://aws.amazon.com/privacy> (and any successor or related locations designated by AWS), as may be updated by AWS from time to time.

**"Service"** means each of the services made available by AWS or its Affiliates for which Customer registers via the AWS Site (or by such other means made available by AWS), including those web services described in the Service Terms. Services do not include Third-Party Content.

**"Service Attributes"** means Service usage data related to an AWS Enterprise Account, such as resource identifiers, metadata tags, security and access roles, rules, usage policies, permissions, usage statistics and analytics.

**"Service Level Agreement"** means all service level agreements that AWS offers with respect to the Services and post on the AWS Site, as they may be updated by AWS from time to time. The service level agreements that AWS offers with respect to the Services are located at <https://aws.amazon.com/legal/service-level-agreements> (and any successor or related locations designated by AWS), as may be updated by AWS from time to time.



**"Service Offerings"** means the Services, the AWS Content, the AWS Marks, and any other product or service provided by AWS under this Agreement. Service Offerings do not include Third-Party Content.

**"Service Terms"** means the rights and restrictions for particular Services located at <http://aws.amazon.com/serviceterms> (and any successor or related locations designated by AWS), as may be updated by AWS from time to time.

**"Suggestions"** means all suggested improvements to the Service Offerings that Customer provides to AWS.

**"Term"** means the term of this Agreement described in Section 7.1.

**"Termination Date"** means the effective date of termination provided in a Notice in accordance with Section 7.

**"Third-Party Content"** means Content of a third party made available on the AWS Marketplace or on developer forums, sample code repositories, public data repositories, community-focused areas of the AWS Site, or any other part of the AWS Site that allows third parties to make available software, products, or data.

**"Trademark Use Guidelines"** means the guidelines and trademark license located at <http://aws.amazon.com/trademark-guidelines/> (and any successor or related locations designated by AWS), as may be updated by AWS from time to time.







## Attachment B AWS Security Standards

Capitalized terms not otherwise defined in this document have the meanings assigned to them in the applicable AWS Enterprise Agreement.

**1. Information Security Program.** AWS will maintain an information security program (including the adoption and enforcement of internal policies and procedures) designed to (a) satisfy the Security Objectives, (b) identify reasonably foreseeable and internal risks to security and unauthorized access to the AWS Network, and (c) minimize security risks, including through risk assessment and regular testing. AWS will designate one or more employees to coordinate and be accountable for the information security program. The information security program will include the following measures:

**1.1 Network Security.** The AWS Network will be electronically accessible to employees, contractors and any other person as necessary to provide the Services. AWS will maintain access controls and policies to manage what access is allowed to the AWS Network from each network connection and user, including the use of firewalls or functionally equivalent technology and authentication controls. AWS will maintain corrective action and incident response plans to respond to potential security threats.

### 1.2 Physical Security

**1.2.1 Physical Access Controls.** Physical components of the AWS Network are housed in nondescript facilities (the "**Facilities**"). Physical barrier controls are used to prevent unauthorized entrance to the Facilities both at the perimeter and at building access points. Passage through the physical barriers at the Facilities requires either electronic access control validation (e.g., card access systems, etc.) or validation by human security personnel (e.g., contract or in-house security guard service, receptionist, etc.). Employees and certain contractors are assigned photo-ID badges that must be worn while the employees and contractors are at any of the Facilities. Visitors and any other contractors are required to sign-in with designated personnel, must show appropriate identification, are assigned a visitor ID badge that must be worn while the visitor or contractor is at any of the Facilities, and are continually escorted by authorized employees or contractors while visiting the Facilities.

**1.2.2 Limited Employee and Contractor Access.** AWS provides access to the Facilities to those employees and contractors who have a legitimate business need for such access privileges. When an employee or contractor no longer has a business need for the access privileges assigned to him/her, the access privileges are promptly revoked, even if the employee or contractor continues to be an employee of AWS or its affiliates.

**1.2.3 Physical Security Protections.** All access points (other than main entry doors) are maintained in a secured (locked) state. Access points to the Facilities are monitored by video surveillance cameras designed to record all individuals accessing the Facilities. AWS also maintains electronic intrusion detection systems designed to detect unauthorized access to the Facilities, including monitoring points of vulnerability (e.g., primary entry doors, emergency egress doors, roof hatches, dock bay doors, etc.) with door contacts, glass breakage devices, interior motion-detection, or other devices designed to detect individuals attempting to gain access to the Facilities. All physical access to the Facilities by employees and contractors is logged and routinely audited.

**2. Continued Evaluation.** AWS will conduct periodic reviews of the security of its AWS Network and adequacy of its information security program as measured against industry security standards and its policies and procedures. AWS will continually evaluate the security of its AWS Network and associated Services to determine whether additional or different security measures are required to respond to new security risks or findings generated by the periodic reviews.



**AMENDMENT NO. 1 TO AWS ENTERPRISE AGREEMENT**

This Amendment No. 1 (this “**Amendment**”) to the AWS Enterprise Agreement (the “**Agreement**”) dated June 1, 2022 by and between Amazon Web Services, Inc. (“**AWS**”) and Foundation for California Community Colleges (“**Customer**”) is effective as of June 1, 2022 (the “**Amendment Effective Date**”). Unless otherwise defined in this Amendment, all capitalized terms used in this Amendment will have the meanings ascribed to them in the Agreement. The parties agree as follows:

- 1. AWS Warranties and Warranty Disclaimers.** Section 10.3 (“Warranty Disclaimers”) of the Agreement is deleted and replaced with the following:

“**10.3 Warranty Disclaimers.** EXCEPT AS EXPRESSLY SET FORTH IN SECTION 10.1 AND SECTION 10.2, AND EXCEPT TO THE EXTENT PROHIBITED BY LAW, AWS, ITS AFFILIATES AND ITS LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE SERVICE OFFERINGS OR THE THIRD-PARTY CONTENT, AND DISCLAIM ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED OR EXPRESS WARRANTIES (A) OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, (B) ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE, (C) THAT THE SERVICE OFFERINGS OR THIRD-PARTY CONTENT WILL BE UNINTERRUPTED, ERROR FREE, OR FREE OF HARMFUL COMPONENTS, AND (D) THAT ANY CONTENT, INCLUDING CUSTOMER CONTENT OR THIRD-PARTY CONTENT, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. THIS SECTION 10.3 DOES NOT LIMIT AWS’S EXPRESS OBLIGATIONS UNDER THIS AGREEMENT.”

- 2. Limitations of Liability.** Section 11.1 (“Liability Disclaimers”) of the Agreement is deleted and replaced with the following:

“**11.1 Liability Disclaimers.** EXCEPT FOR PAYMENT OBLIGATIONS ARISING UNDER SECTION 9.1, DAMAGES FOR GROSS NEGLIGENCE, FRAUD, OR WILLFUL MISCONDUCT IN PERFORMANCE OF A PARTY’S OBLIGATIONS UNDER THIS AGREEMENT, NEITHER AWS NOR CUSTOMER, NOR ANY OF THEIR AFFILIATES OR LICENSORS, WILL BE LIABLE TO THE OTHER UNDER ANY CAUSE OF ACTION OR THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, FOR (A) INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, (B) THE VALUE OF CUSTOMER CONTENT, (C) LOSS OF PROFITS, REVENUES, CUSTOMERS, OPPORTUNITIES, OR GOODWILL, OR (D) UNAVAILABILITY OF THE SERVICE OFFERINGS (THIS DOES NOT LIMIT ANY SERVICE CREDITS THAT MAY BE AVAILABLE UNDER SERVICE LEVEL AGREEMENTS).”

- 3. Miscellaneous.** “Section 12.4 of the Agreement (“Force Majeure”) of the Agreement is deleted and replaced with the following:

“**12.4 Force Majeure.** No party will be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond its reasonable control, including acts of God, labor disputes or other industrial disturbances, electrical or power outage, utilities or telecommunications failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.”





4. **Miscellaneous.** Section 12.5 of the Agreement (“Governing Law; Venue”) of the Agreement is deleted and replaced with the following:

“**12.5 Governing Law; Venue.** Any party may seek injunctive relief in any state, federal, or national court of competent jurisdiction for any actual or alleged infringement of such party's, its Affiliates' or any third party's intellectual property or other proprietary rights. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.”

5. **AWS Security Standards.** Attachment B (“AWS Security Standards) to the Agreement is amended to add the following section:

“**3. Security Event Notification.** If AWS knows of a breach of the security measures described in these AWS Security Standards that resulted in either (a) any unlawful access to any Customer Content stored on AWS’s equipment or in AWS’s facilities, or (b) any unauthorized access to such equipment or facilities, where in either case such access results in loss, disclosure, or alteration of Customer Content (each a “Security Event”), AWS will promptly: (x) notify Customer of the Security Event; and (y) take reasonable steps to mitigate the effects and to minimize any damage resulting from the Security Event.”

6. **Miscellaneous.** A new Section 12.15 (“Goods/Services”) is added to the Agreement as follows:

“**12.15 Goods/Service.** The standard, undiscounted prices of Goods/Services in the Agreement are the lowest prices at which these or similar goods or services are sold by the Supplier to similar customers in similar quantities. For purposes of clarification, the preceding sentence does not apply to custom discounts that AWS may offer to specific customers pursuant to its commercial discounting practices.”

7. **Administrative Fee.** A new Section 12.16 (“Administrative Fee.”) is added to the Agreement as follows:

12.16 Administrative Fee. AWS will pay The Foundation for California Community Colleges an administrative fee of three percent (3.0%) of all Services used during a fiscal quarter within 45 days after the end of each fiscal quarter for each AWS account reported by Customer and/or Customer Affiliate’s to aws-wwps-fccc@amazon.com. Along with the administrative fee, AWS will provide The Foundation for California Community Colleges a report detailing the AWS Enterprise Accounts under this Agreement and the invoiced amount of those AWS Enterprise Accounts during the previous fiscal quarter. The Foundation for California Community Colleges fiscal quarters run as follows: Q1: July-September; Q2: October-December; Q3: January-March; Q4: April-June.

8. **Nondisclosure.** The existence and terms of this Amendment are not publicly known and constitute confidential information under the NDA will not be disclosed by Customer.

9. **Entire Agreement; Conflict.** Except as amended by this Amendment, the Agreement will remain in full force and effect. This Amendment, together with the Agreement as amended by this Amendment: (a) is intended by the parties as a final, complete and exclusive expression of the terms of their agreement, and (b) supersedes all prior agreements and understandings between



the parties with respect to the subject matter hereof. If there is a conflict between the Agreement and this Amendment, the terms of this Amendment will control.

- 10. Counterparts and Facsimile Delivery.** This Amendment may be executed in two or more counterparts, each of which will be deemed an original and all of which taken together will be deemed to constitute one and the same document. The parties may sign and deliver this Amendment by facsimile or email transmission.

*[Remainder of Page Intentionally Left Blank]*





IN WITNESS WHEREOF, the parties have executed this Amendment as of the Amendment Effective Date.

**AMAZON WEB SERVICES, INC.**

DocuSigned by:  
*Shannon Lowther*  
By: \_\_\_\_\_  
Name: Shannon Lowther  
Title: Authorized Representative  
Date signed: May 25, 2022

**FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES**

DocuSigned by:  
*Joseph Quintana*  
By: \_\_\_\_\_  
Name: Joseph Quintana  
Title: COO  
Date signed: May 20, 2022

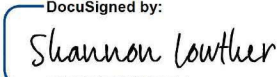


DocuSigned by:  
*Jorge J.C. Sales*  
By: \_\_\_\_\_  
Name: Jorge J.C. Sales  
Title: Vice President of Program Devt.  
Date signed: May 20, 2022



**AWS PRIVATE PRICING ADDENDUM**

This Addendum supplements the Agreement and is entered into by and between the parties listed on this page.

**Addendum Effective Date:** The date the last party signs this Addendum.

<p><b>AMAZON WEB SERVICES, INC.</b></p> <p>DocuSigned by:    By: <u>BD4BA6E1C8DA41A</u></p> <p>Name: <u>Shannon Lowther</u></p> <p>Title: <u>Authorized Representative</u></p> <p>Date signed: <u>May 24, 2022</u></p>	<p><b>FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES ("you")</b></p> <p>DocuSigned by:    By: <u>1DE6D530DBD648E</u></p> <p>Name: <u>Joseph Quintana</u></p> <p>Title: <u>COO</u></p> <p>Date signed: <u>May 20, 2022</u></p> <p><b>FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES</b></p> <p>DocuSigned by:    By: <u>91CF0B6E38BE479</u></p> <p>Name: <u>Jorge J.C. Sales</u></p> <p>Title: <u>Vice President of Program Devt.</u></p> <p>Date signed: <u>May 24, 2022</u></p>
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**1. Pricing Terms.**

<b>Term</b>	<b>Meaning</b>
<b>Discount Term</b>	June 1, 2022 – May 31, 2027
<b>Contract Year</b>	Contract Year 1: June 1, 2022 – May 31, 2023 Contract Year 2: June 1, 2023 – May 31, 2024 Contract Year 3: June 1, 2024 – May 31, 2025 Contract Year 4: June 1, 2025 – May 31, 2026 Contract Year 5: June 1, 2026 – May 31, 2027
<b>Eligible Payer Accounts</b>	7484-1087-6889, 8381-4822-9185, 3588-7488-5235, 8105-0105-4958, 2169-1368-6546, 6135-3400-6257, 7591-0276-0694, 3506-3756-5274, 2695-7298-2683 and 8797-8402-2176
<b>Cross-Service Discount</b>	7.5%
<b>Spend Commitment</b>	<u>Contract Year Commitment:</u> Contract Year 1: \$412,500 Contract Year 2: \$412,500 Contract Year 3: \$412,500 Contract Year 4: \$412,500 Contract Year 5: \$412,500 <u>Total Commitment:</u> \$2,750,000
<b>Commitment-Eligible Fees</b>	The following amounts, which count towards your Spend Commitment: (a) the following fees incurred under Eligible Accounts (excluding fees paid for by applying the Available Balance in accordance with Section 6, excluding taxes, and net of any applicable discounts and refunds): (i) fees for use of Services (other than AWS Professional Services, AWS Training and AWS Certification) in Eligible Regions; (ii) except as set forth in (iii), fees for purchases on AWS Marketplace that are deployed on the Services (other than purchases of professional services) up to a maximum of 25% of the then-applicable Spend Commitment; and (iii) fees for use of Commitment-Eligible Products;

Term	Meaning
	<p>(b) fees incurred for use of products and services sold by Elemental Technologies LLC, for so long as it is an AWS Affiliate (excluding taxes, and net of any applicable discounts and refunds); and</p> <p>(c) for purposes of the Total Commitment, any Spend Commitment Shortfall Payments paid to AWS with respect to any Contract Year.</p>
<b>Step-Up Cross-Service Discount</b>	8.5%
<b>Step-Up Spend Commitment</b>	<p><u>Contract Year Commitment:</u></p> <p>Contract Year 1: \$750,000</p> <p>Contract Year 2: \$750,000</p> <p>Contract Year 3: \$750,000</p> <p>Contract Year 4: \$750,000</p> <p>Contract Year 5: \$750,000</p> <p><u>Total Commitment:</u></p> <p>\$5,000,000</p>





**2. Discount.** AWS will apply the Cross-Service Discount to fees for use of Eligible Services. AWS will apply any discounting expressed as a percentage to Public Pricing. The discounting under this Addendum may not be combined with any other discounts (including with any discounts on the AWS Site). AWS will apply the Cross-Service Discount except where any component of an Eligible Service is entitled to discounting under another agreement. AWS will apply the discounting under this Addendum during the Discount Term so long as you are complying with the terms of this Addendum.

**3. Commitments.**

a. **Contract Year Commitment.** Effective as of the first day of the applicable Contract Year, you agree to incur Commitment-Eligible Fees during each Contract Year at least equal to the corresponding Contract Year Commitment payment obligation. If the Commitment-Eligible Fees incurred during a Contract Year are less than the corresponding Contract Year Commitment payment obligation, then you will pay AWS a Spend Commitment Shortfall Payment.

b. **Total Commitment.** Effective as of the first day of the Discount Term, you agree to incur Commitment-Eligible Fees during the Discount Term at least equal to the Total Commitment payment obligation. If the Commitment-Eligible Fees incurred during the Discount Term are less than the Total Commitment payment obligation, then you will pay AWS a Spend Commitment Shortfall Payment.

**4. Commitment Step-Up.** If during the Discount Term you submit a Step-Up Notice to [aws-notification-intake@amazon.com](mailto:aws-notification-intake@amazon.com), then effective as of the Step-Up Effective Date references in this Addendum to “Cross-Service Discount” and “Spend Commitment” will be read as references to “Step-Up Cross-Service Discount” and “Step-Up Spend Commitment”, respectively. For clarity: (a) the Spend Commitments will only increase to the Step-Up Spend Commitments in the Contract Year in which the Step-Up Effective Date falls and in each following Contract Year (not prior Contract Years); (b) you will continue to owe any Spend Commitment Shortfall Payment obligations incurred prior to the Step-Up Effective Date; and (c) AWS will not apply the Step-Up Cross-Service Discount to any fees incurred prior to the Step-Up Effective Date. After a completed and signed Step-Up Notice has been submitted to AWS, you may not rescind the Step-Up Notice or step back down to the lower commitment level.

**5. Payments.** Except as otherwise provided in this Addendum, you will pay all fees for use of Eligible Services and other amounts due under this Addendum via check or wire transfer and in accordance with the payment terms of the Agreement. You will make all such payments in a payment currency supported by AWS. As of the Addendum Effective Date, AWS accepts payments in the Eligible Payment Currencies. All payment obligations under this Addendum will survive expiration or termination of this Addendum. Any AWS Party may request payment from you under this Addendum.

**6. Available Balance.** During the term of this Addendum, AWS will apply the Available Balance to fees and any taxes for use of Eligible Services provided by the AWS Party to which you paid the applicable portion of the Available Balance. The Available Balance is nonrefundable, will not reduce your Spend Commitment Shortfall Payment obligations, and is not a deposit for or credit toward the purchase of any services after the Discount Term. After the Discount Term, AWS will invoice you for an amount equal to any remaining Available Balance, and the Available Balance will be applied against such invoiced amount.



**7. Term; Termination.**

a. **Term.** The term of this Addendum commences on the Addendum Effective Date and ends on the last day of the Discount Term.

b. **Termination.** This Addendum will automatically terminate upon any termination of the Agreement. Notwithstanding any termination for convenience rights in the Agreement, neither AWS nor you may terminate the Agreement for convenience during the term of this Addendum. Each party may terminate this Addendum for cause upon written notice if the other party is in material breach of this Addendum, provided that the breaching party will have 30 days from receipt of the notice to cure any material breach that can be cured.

**8. References.** You grant to AWS and its Affiliates a non-exclusive, worldwide, royalty-free right and license to use your company name and logos (provided promptly by you to AWS and its Affiliates, upon AWS's or its Affiliate's request) to identify you as an Amazon Web Services customer. This license will survive after the term of this Addendum, provided you may terminate this license at any time after termination of this Addendum by giving AWS and its Affiliates at least 30 days' written notice. Upon termination of this license, AWS and its Affiliates will remove your company name and logos from the AWS Site, but AWS and its Affiliates may continue to use your company name and logos in any other items produced before termination of this license.

**9. Affiliates.** If any Eligible Accounts are owned by one of your Affiliates and not by you directly, then you and all such Affiliates will be jointly and severally liable for all of your obligations under this Addendum. You represent and warrant that: (a) you have the full power and authority to enter into this Addendum and legally bind your Affiliates to the terms of this Addendum; and (b) all Eligible Accounts that are owned by an Affiliate were and will be opened by such Affiliate for use by such Affiliate or agents or subcontractors performing work on behalf of such Affiliate. All use of the Services by any of such Affiliates under Eligible Accounts will be governed by the agreement between AWS and such Affiliate governing its use of the Services.

**10. Future Discussions.** During the term of this Addendum, upon your reasonable written request, the parties will discuss the terms of this Addendum. Nothing in this Section obligates the parties to enter into any amendment or modification to the terms of this Addendum.

**11. Nondisclosure.** Each party agrees that the existence and terms of this Addendum are not publicly known and, to the extent permitted by applicable law, will not be disclosed by that party. This Addendum includes trade secrets and confidential business or financial information that might be exempt from disclosure under applicable freedom of information, open records or similar laws requiring disclosure. If a request for disclosure of the contents of, or other information relating to, this Addendum is made under applicable law, you will provide AWS with reasonable written notice to enable AWS to seek a protective order or other remedy, including the filing of an objection or redactions to a proposed disclosure, to the extent permitted under applicable law. All nondisclosure obligations under this Addendum will survive expiration or termination of this Addendum.

**12. Miscellaneous.** The failure of a party to enforce any provision of this Addendum will not constitute a present or future waiver of such provision nor limit such party's right to enforce such provision at a later time. All waivers by a party must be in writing to be effective. With respect to the



subject matter hereof, this Addendum, together with the Agreement as amended by this Addendum: (a) is intended by the parties as the final, complete and exclusive expression of the terms of their agreement; and (b) supersedes all prior agreements and understandings (whether oral or written) between the parties. If there is a conflict between the Agreement and this Addendum, this Addendum will prevail. If there is a conflict between this Addendum and any other amendment or addendum to the Agreement or to this Addendum, the document later in time will prevail. This Addendum may be executed in two or more counterparts. All currency values in this Addendum are in U.S. dollars. Any Spend Commitment and Spend Commitment Shortfall Payment is a payment obligation under the payment terms of the Agreement.

**13. Definitions.** For purposes of this Addendum, capitalized terms have the meanings set forth in the Agreement or described on the AWS Site unless otherwise defined in this Addendum.

**“Affiliate”** means any entity that directly or indirectly controls, is controlled by or is under common control with that party.

**“Agreement”** means the AWS Customer Agreement available at <http://aws.amazon.com/agreement> or other written agreement between AWS and you governing your use of the Services.

**“Available Balance”** means the remaining balance of any Spend Commitment Shortfall Payment paid to AWS during the term of this Addendum.

**“AWS”** means Amazon Web Services, Inc. (“AWS, Inc.”) and each other entity identified at <https://aws.amazon.com/legal/aws-contracting-party> that has agreed, following your request, to become a party to this Addendum based on the location you have set for an Eligible Account (each, an “AWS Party”).

**“Commitment-Eligible Products”** means the products and services listed at <https://commitment-eligible-products-list.s3.amazonaws.com/Commitment+Eligible+Products.pdf>.

**“Eligible Accounts”** means the following AWS accounts: (i) the Eligible Payer Accounts, other than any Eligible Payer Account that AWS agrees to remove at your request; (ii) any AWS account that AWS agrees to add as an Eligible Payer Account at your request; and (iii) any Member Accounts joined via AWS Organizations to an Eligible Payer Account; provided that this Addendum: (x) applies only to AWS accounts that have been opened by you or your Affiliates for use by you or your Affiliates, that are associated with a location that corresponds to an AWS Party, and that are registered with email addresses issued by you or your Affiliates; and (y) will not apply to any Eligible Payer Account that is joined via AWS Organizations to an AWS account that is not an Eligible Account.

**“Eligible Payment Currencies”** means the currencies listed at <https://payment-currency-list.s3.amazonaws.com/AWS+Supported+Payment+Currencies+by+SoR.pdf>.

**“Eligible Regions”** means the AWS regions and locations available to you and identified on the AWS Site at [https://aws.amazon.com/about-aws/global-infrastructure/regions\\_az/?p=ngi&loc=2](https://aws.amazon.com/about-aws/global-infrastructure/regions_az/?p=ngi&loc=2) (except Mainland China Regions), as may be updated from time to time.

**“Eligible Services”** means all Services used in Eligible Regions under Eligible Accounts except the Services listed at <https://ineligibleserviceslist.s3.amazonaws.com/s3.amazonaws.com/Ineligible+Services.pdf>.

AWS may only add a Service to this list within 30 days after such Service is made generally available to the public.

**“Public Pricing”** means the pricing for the Eligible Services as described on the AWS Site.

**“Spend Commitment Shortfall Payment”** means an amount equal to, as applicable: (i) the Contract Year Commitment for the applicable Contract Year less the Commitment-Eligible Fees incurred during such Contract Year; or (ii) the Total Commitment less the Commitment-Eligible Fees incurred during the Discount Term.

**“Step-Up Effective Date”** means the first day of the month after AWS receives the Step-Up Notice, provided such Step-Up Notice is received by the 20<sup>th</sup> of the month; otherwise, the first day of the second month after receipt of the Step-Up Notice.

**“Step-Up Notice”** means a completed and signed notice in the form attached as Attachment 1.





**Attachment 1**

***Step-Up Notice***

This Step-Up Notice is provided pursuant to the AWS Private Pricing Addendum, effective as of \_\_\_\_\_, by and between Amazon Web Services, Inc. and Foundation for California Community Colleges (“**Customer**”) (the “**Addendum**”). All capitalized terms used but not defined in this Step-Up Notice have the meanings set forth in the Addendum.

By submitting this Step-Up Notice to [aws-notification-intake@amazon.com](mailto:aws-notification-intake@amazon.com), Customer agrees that the provisions of Section 4 of the Addendum will apply effective as of the Step-Up Effective Date, with changes to the Cross-Service Discount and Spend Commitments as follows:

<b>Step-Up Cross-Service Discount</b>	8.5%
<b>Step-Up Spend Commitment</b>	<u>Contract Year Commitment:</u> Contract Year 1: \$750,000 Contract Year 2: \$750,000 Contract Year 3: \$750,000 Contract Year 4: \$750,000 Contract Year 5: \$750,000 <u>Total Commitment:</u> \$5,000,000

**AGREED BY: FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES**

**FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date signed: \_\_\_\_\_

Date signed: \_\_\_\_\_



### **AWS Eligible Payer Accounts Change Notice**

This AWS Eligible Payer Accounts Change Notice confirms AWS's approval of the request of Foundation for California Community Colleges ("**Customer**") to add account ID 6418-7083-2203 as an Eligible Payer Account under the AWS Private Pricing Addendum, effective as of May 24, 2022, by and between Customer and AWS (the "**Addendum**").

The foregoing change to the Eligible Payer Accounts under the Addendum will be effective as of **September 1, 2022**.

All capitalized terms used but not defined in this AWS Eligible Payer Accounts Change Notice have the meanings set forth in the Addendum.

