

**AGREEMENT FOR SALE OF
INTELLECTUAL PROPERTY KNOWN AS
Professional Educators Assessments and Results System (PEARS)**

THIS AGREEMENT covering the sale of intellectual property (hereafter "Agreement") is entered into by and between Santa Rosa County School District (hereafter "Buyer") and The University of West Florida for and on behalf of its Board of Trustees, a public body corporate, a Florida public post-secondary educational institution (hereafter "University").

WHEREAS, the Santa Rosa County School District entered into a Contract for Services (hereafter "Contract") executed on March 14, 2014 for the performance period of 03/14/2014 through 08/31/2017 engaging the University to develop a web-based application to replace the Buyer's existing Instructional Evaluation System (IEA);

WHEREAS, the University completed the work outlined in that Contract and has delivered, tested, and assisted in the implementation of this application under the current name of "Professional Educators Assessment and Results System" (hereafter PEARS);

WHEREAS, according to the term of the Contract all intellectual property developed under the contract was the property of the University, and the Buyer was provided with a non-cancellable, non-exclusive, royalty-free license to use the intellectual property for the purpose intended; and

WHEREAS, the Parties have mutually determined that it is in the best interests of both to transfer ownership of the intellectual property developed under the Contract to the Buyer.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth here, the Parties covenant and agree as follows.

ARTICLE 1 – EFFECTIVE DATE

As of the final signature date affixed below and in perpetuity, the University agrees to transfer all ownership of the intellectual property created under PEARS to the Buyer.

ARTICLE 2 – INTELLECTUAL PROPERTY RIGHTS

The parties agree that any existing Background Intellectual Property and/or inventions and technologies of Buyer and University existing prior to the creation of the Intellectual Property and that may have been incorporated into the final project remain their separate property, respectively, and are not affected by this Agreement. Neither party shall acquire any claims to or rights in any background intellectual property and/or technologies of the other in existence prior to the execution date of the 2014 agreement.

The Buyer grants the University a non-cancellable, non-exclusive, royalty-free license to use code and methodology developed under the Contract to publish articles and other scholarly works for publication, for educational purposes and/or for intellectual property development in for-profit endeavors without further license or payment to Buyer.

ARTICLE 3 – COMPENSATION

The Buyer hereby agrees to compensate the University in the amount of One Hundred Twenty Five Thousand Dollars (\$125,000) upon execution of this Agreement by both Parties. No other compensation is provided under this Agreement.

Should the Buyer elect to do so and the University agree to perform services related to the future maintenance, modification or revision of the Intellectual Property transferred under this Agreement, such services will be covered under a separate Contract for Services and will not affect the terms and conditions of sale in this Agreement.

ARTICLE 4 – OTHER AGREEMENTS BETWEEN THE PARTIES

Currently there is one Contract for Services between the Buyer and the University.

Grant 220807 Professional Educators Assessment and Results System (PEARS) – Maintenance was executed in July 2017 for \$468,787 with a project period of 09/01/2018 to 08/31/2022. The Contract for Services agreement is separate from this Agreement for Sale of the intellectual property.

ARTICLE 5 – WARRANTIES

The intellectual property sold under this Agreement For Sale is sold “as is,” which means it is sold as it is in its current implementation with the Buyer. Except as otherwise expressly set forth in this agreement, UWF makes no representations and extends no warranties of any kind, either express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose, and validity of patent rights claims, issued or pending as to this intellectual property. UWF assumes no responsibilities whatsoever with respect to use, sale, or other disposition by Buyer, its customer(s), or their vendees or other transferees of the intellectual property sold under this Agreement.

ARTICLE 6 – HEADINGS

Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any sections.

ARTICLE 7 – INTERPRETATION

For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. Reference to statutes or regulations shall include all statutory or

regulatory provisions consolidating, amending, or replacing the statute or regulation referred to as of the date of execution of this Agreement. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include the persons or entities succeeding to their respective functions and capacities.

- (a) If a party discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, it shall immediately notify the other and request clarification or the interpretation of such provisions.
- (b) This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

ARTICLE 8 – GOVERNING LAW

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida without giving effect to the conflict of laws principles thereof. The parties agree that venue for any action arising under or as a result or in connection with this sale shall be proper in Escambia County, Florida.

ARTICLE 9 -- SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

ARTICLE 10 – NO WAIVER

The failure of a party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.

ARTICLE 11 – ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement of the parties with respect to the subject matter hereof. Any other agreement, written or oral, is hereby superseded.

ARTICLE 11 – ENDORSEMENTS

IN WITNESS WHEREOF, the Santa Rosa County School District and University of West Florida for and on behalf of its Board of Trustees, in pursuance of due and legal action, have executed this Agreement causing its name to be signed by its duly authorized representatives, on the day and year first written below.

**SANTA ROSA COUNTY SCHOOL
DISTRICT**

By:

Tim Wyrosdick
Superintendent of Schools

Date:

**THE UNIVERSITY OF WEST
FLORIDA FOR AND ON BEHALF
OF ITS BOARD OF TRUSTEES**

By:

Martha Saunders, Ph.D.
President

Date:

Approved for form and legality by Office
of University Counsel

Office of University Counsel