

**MEMORANDUM OF UNDERSTANDING  
FOR RUTGERS CODING BOOTCAMP**

August 31, 2016

**PARTIES**

- (1) **Trilogy Education Services, LLC**, a Delaware limited liability company with an office at 31 E 32<sup>nd</sup> Street, #1202, New York, New York, 10016 (“TES”); and
- (2) **Rutgers University, Division of Continuing Studies**, an outreach division of a public university based in New Jersey, with an office at 85 Somerset Street, Room 300, New Brunswick, NJ 08901 (“RU” or “RU-DOCS” or “DOCS”).

**BACKGROUND**

- (A) TES helps universities and colleges prepare learners for high-growth careers in the digital economy. TES has developed a Coding Boot Camp that combines coding curriculum, student recruitment, and career placement services to position graduates for job market success.
- (B) This Memorandum of Understanding (“MoU”) defines the terms of agreement to present a non-credit, classroom-based intensive Coding Boot Camp of approximately 240-260 contact hours in length and supplemented by additional video content. Each party will dedicate the appropriate resources required to meet the obligations defined in this MoU.

**1. TERM**

- 1.1 The initial term of the Agreement will be for three years. In addition, both parties will have two additional one-year renewal options.

**2. PROGRAM DESCRIPTION**

- 2.1 The Program will be based on TES’ intensive coding boot camp and shall include approximately 240-260 contact hours, as mutually agreed. It shall consist of face-to-face instruction conducted in facilities identified by RU and evaluated by both Parties. In-class instruction also shall be augmented by video-based instruction and electronic support from instructors and teaching assistants. Details about Program content shall be identified in the course design phase, and program content, materials and instructional team members will be reviewed and approved by RU staff and designated subject matter experts (SMEs).
- 2.2 The initial classroom location will be in the New Brunswick, NJ, area. The number of cohorts delivered in a 12-month period and classroom locations will be determined

by the response of the market to the program and by the parties' capacities to meet that response.

- 2.3 Depending upon market response, the Parties may choose to offer additional TES programs in other topics or formats. Those programs would be the subject of a separate agreement between the Parties.

### **3. TES'S OBLIGATIONS**

- 3.1 TES will be responsible for generating all enrollments in the Program; however, as noted below in the RU-DOCS obligations, RU-DOCS will support the Program with standard RU-DOCS levels of marketing and publicity, reasonably similar to that currently provided for other RU-DOCS programs.
- 3.2 TES will be responsible for the planning and implementation of marketing campaigns for the Program. For all marketing initiatives that include the use of RU's brand, TES agrees that any use of RU's brand will be subject to RU's prior approval and to any restrictions DOCS may define in promoting and delivering programs through this MoU.
- 3.3 TES will recruit instructors for the program subject to RU review and approval of any instructor, in any format, in any Program bearing the RU name or brand. Instructors will be hired as 'at will' employees for programs, and they will be subject to evaluation by RU before they will be selected for reappointment or receive new appointments.
- 3.4 TES will provide support services for students in the Program and placement services for students in the Program.
- 3.5 TES will not offer coding boot camps through any other institution in the State of New Jersey during the term of this MoU or the term of any extensions or renewals of this MOU.

### **4. RU'S OBLIGATIONS**

- 4.1 RU will identify and secure appropriate classroom space for the Program for review by both parties to ensure it meets the instructional needs of the program.
- 4.2 DOCS will market the Program according to its standard marketing practices, including in its printed materials and on DOCS websites. In connection therewith, RU shall make its brand available (as above and with prior written approval as specified in section 4.2 and elsewhere in this MOU) to TES for marketing of the Program.

- 4.3 RU agrees that leads for the Program that are received by RU directly from the RU website will be sent to TES as soon as reasonably practicable for follow-up and/or processing so that all enrollments can be managed by TES regardless of origin. Upon request and in accordance with standards agreed upon by both Parties, TES will provide RU-DOCS access to contact data for prospective applicants who have elected not to participate in the Program.
- 4.4 DOCS will not offer any DOCS-sponsored coding boot camp or similar program in New Jersey except as offered with and through TES during the term of this agreement or any extensions or renewals of this MOU. TES recognizes that this provision does not extend to RU faculty, staff and departments that are not under the management or direction of DOCS. DOCS agrees that the right to offer the Program through DOCS will be exclusive to TES during the term of this MoU, including any extensions approved in accordance with Section 1.1.

## **5. JOINT OBLIGATIONS**

- 5.1 The Parties will agree on a plan for public notification concerning this MoU and any other activities involving both Parties. The timing, content, delivery and media to be used for all publicity about the Parties' relationship or about the Program or any other activities involving both Parties, is subject to prior written approval by both Parties. Both parties retain the absolute right to determine whether permission will be granted to use that party's name or brand or when and how to publicize the relationship between the Parties.
- 5.2 TES may choose to offer a scholarship to interested students. Up to two employees of RU may participate in the Program free of charge.
- 5.3 The Parties agree that the optimal price for the Program will be determined by mutual agreement between the Parties. Any amendment to the optimal price point will only be made if agreed upon in writing by both parties.

## **6. REVENUE ALLOCATION AND PAYMENT TERMS**

- 6.1 Revenues and expenses for this project will be guided by the budget included in Attachment A. Contribution margin will be calculated by subtracting total direct Program expenses from total revenue collected for the Program, which calculation shall be made within 30 days of the conclusion of the Program as identified in the budget included in Attachment A. Contribution margin will be divided equally between the parties.
- 6.2 Revenue from program participants may be accepted by TES or by RU-DOCS. Both parties may pay direct expenses for line items identified in the budget in Attachment A, and both parties will maintain an accounting of all Program revenue and expenses,

including supporting documentation. That documentation will be made available at the request of either party. Within 30 days of the conclusion of the Program, a final Program accounting will determine the amount of contribution margin generated by the Program. If the difference between revenues received and direct costs paid by TES exceeds 50% of contribution margin from the Program, RU-DOCS will invoice TES for the amount needed to ensure that 50% of Program contribution margin is received by RU-DOCS. That invoice will be paid by TES within 45 days. If the difference between revenues received and direct costs paid by RU-DOCS exceeds 50% of contribution margin of the Program, TES will invoice RU-DOCS for the amount needed to ensure that 50% of Program contribution margin is received by TES. That invoice will be paid by RU-DOCS within 45 days.

## **7. CONFIDENTIALITY**

7.1 Each party agrees that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 7.2.

7.2 Each Party may disclose the other Party's confidential information:

- (a) To its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the Party's obligations under this Memorandum of Understanding. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's confidential information comply with this clause; and

As may be required by law, court order, or any governmental or regulatory authority.

7.3 No party shall use any other Party's confidential information for any purpose other than to perform its obligations under this MoU.

## **8. INDEMNIFICATION**

8.1 Both parties will indemnify, hold harmless and defend the other party and its governors, officers, faculty, students, agents and employees against any and all damages, suits, actions, claims, liabilities, losses, judgments, costs and expenses arising out of or relating to (i) any personal or bodily injury (including death) or property damage caused by Service Provider's negligent, willful, or unlawful acts or omissions or breach of this MOU, (ii) breach of Service Provider's confidentiality obligations, or (iii) an infringement or misappropriation of any third party intellectual property or proprietary rights (including, without limitation, trademark, trade secret, copyright or patent) by the Services or Work Product.

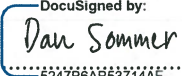
8.2 No Party shall be liable to the other Party for any lost profit or consequential, exemplary, punitive, statutory or other specified damages, and each Party hereby unconditionally, expressly and forever waives any right it may now or hereafter have against the other Party respecting any and all such damages, in each case: (i) whether through action, suit, counterclaim or otherwise; (ii) whether in contract, tort, strict liability, indemnity, reimbursement or otherwise; (iii) whether or not it has been advised of the possibility of any such damages; (iv) whether or not any other remedy is available or enforceable under this MOU or applicable law; and (v) to the greatest extent such agreement or waiver is permitted under applicable law. Either party's liability to the other under the MoU, the Indemnification Clause and any matters arising from or in connection with this MoU and its subject-matter, whether in law or equity, shall be limited to the amounts paid by TES to RU hereunder, PROVIDED THAT nothing in this clause shall limit either party's liability for death, bodily injury or fraud.

**9. GOVERNING LAW AND JURISDICTION**

Both parties agree to settle disputes in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The laws of the United States and the State of New York will govern.

In witness whereof, the Parties have entered into this Memorandum of Understanding as of the date first written above.

TRILOGY EDUCATION SERVICES, LLC

DocuSigned by:  
  
..... [NAME AND TITLE],  
.....524786A853714AF.....  
duly authorized for and on behalf of TES

FOR RUTGERS UNIVERSITY, DIVISION OF CONTINUING STUDIES



Dr. Richard J. Novak  
Vice President for Continuing Studies and Distance Education

### Attachment A - Rutgers Coding Bootcamp Budget

Attachment A - Rutgers Coding Bootcamp Budget			
			Totals
# of Students		\$ 24	
Average Invoice Value		\$ 8,990	
Gross Revenue		\$ 215,760	
Bad Debt Expense		\$ 8,630	
<b>Net Revenue</b>		<b>\$ 207,130</b>	<b>\$ 207,130</b>
<b><u>Cost of Goods Sold</u></b>			
Media Cost		\$ 25,978	
Merchant Services		\$ 3,328	
Design & Development		\$ 805	
Admissions Expense		\$ 15,107	
<b>Total COGS</b>		<b>\$ 45,219</b>	<b>\$ 45,219</b>
<b><u>Cost of Delivery</u></b>			
Instructors		\$ 26,000	
Teaching Assistants		\$ 13,000	
Student Success		\$ 5,287	
Career Coaching/Placement		\$ 10,908	
Academic Ops & Additional Support		\$ 4,370	
Room Expense		\$ 17,280	
Travel		\$ 1,682	
Career Event		\$ 1,661	
Classroom Equipment		\$ 1,347	
Panopto, LMS, Slack		\$ 120	
<b>Total Cost of Delivery</b>		<b>\$ 81,654</b>	<b>\$ 81,654</b>
<b>Contribution Margin</b>		<b>\$ 80,257</b>	<b>\$ 80,257</b>
<b>Distribution to Rutgers</b>			<b>\$ 40,128</b>
<b>Distribution to TES</b>			<b>\$ 40,128</b>