



COLLEGIATE FUNDING SOLUTIONS, INC.

PREMIUM CUSTOMER AGREEMENT

Please read this Subscription Agreement (this "**Agreement**") carefully. Collegiate Funding Solutions, Inc. ("**CFS**") is willing to provide access to the CFS Service (as defined below) to you or the company or other legal entity you represent ("**Customer**") only on the terms and conditions set forth in this Agreement. By accepting this Agreement and submitting your account and payment information or by using the CFS Service, you agree to all of the terms and conditions of this Agreement. If you do not accept all of the terms of this Agreement, do not accept this Agreement or submit your account/payment information and you shall not be entitled to use or access the CFS Service. If you have any questions regarding this Agreement, please contact CFS at contact_cfs@cf-solutions.com.

WHEREAS, CFS has developed and owns certain proprietary college planning software and related content;
and

WHEREAS, Customer is a financial service provider; and

WHEREAS, Customer desires to access the CFS proprietary software and/or content for the use by Customer in the provision of services to its clients; and

WHEREAS, Customer desires to offer its Authorized Users access to the CFS Site as a private labeled Customer site; and

WHEREAS, CFS desires to grant such rights in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, In consideration of their performance of the mutual covenants contained herein, the parties hereto agree as follows:

1. **Definitions.** For the purposes of this Agreement, the following terms shall have the meanings defined below:

- 1.1. "**Authorized Users**" means those employees, clients and prospective clients of Customer whom Customer has authorized to access the CFS Service for the purpose of generating Plans for use with and by the Customer.
- 1.2. "**CFS Branded Site**" means the CFS Site with modifications to include Customer's business logo, name and limited content revisions as permitted by CFS in accordance with the specifications attached hereto as Exhibit A. "**CFS Service**" means the provision of the Software to Customer including the processing of data submitted via the Dataform and generation of Plans.
- 1.3. "**CFS Content**" means the information, materials, content, video content and other resources provided by CFS on the CFS Site, excluding the Dataform and Plans.
- 1.4. "**CFS Site**" means the website owned by CFS and located at www.collegiatefundingsolutions.com.
- 1.5. "**Dataform**" means the proprietary question set to be completed by Customer and Authorized Users and submitted to CFS in order for CFS to generate the Plans (as defined below). Plans cannot be generated without submission of a Dataform.
- 1.6. "**Plan(s)**" mean the custom report(s) generated by the CFS Service for Customer to assist its clients with college planning. Each a Plan and collectively, the Plans

2. **Grant of License**

Subject to payment in full of the Subscription Fee described in Paragraph 4.1 below, CFS hereby grants to Customer a nonexclusive, nontransferable right to access and use a CFS Branded Site and/or CFS Content on

Customer's own business site solely for the internal business purposes of Customer. Upon payment of the initial Subscription Fee, Customer will be issued an access number for the CFS Branded Site, which may be distributed solely to Customer's Authorized Users for use of the CFS Branded Site in accordance with the terms and condition of this Agreement. Customer shall be responsible for securing the access number and for all use of the CFS Branded Site by Authorized Users or others under such access number. In the event that the access number is compromised, Customer shall immediately notify CFS. Such access number may be revoked by CFS at any time and without notice upon a breach of this Agreement or at such time as this Agreement is terminated by either party. This license is granted only to Customer and may not be used, sublicensed, transferred, assigned, rented, leased, sold or otherwise disposed of to anyone else. CFS reserves all rights not expressly granted under this Agreement.

3. Services

3. 1 Branding. In consideration of the fees set forth in this Agreement, CFS hereby agrees to customize the CFS Site in accordance with the branding specification set forth in Exhibit A to this Agreement and make such CFS Branded Site available to the Authorized Users of Customer in accordance with the terms and conditions of Paragraph 2. Customer hereby represents and warrants that it has the full authority and right to grant CFS the rights and licenses set forth in this Agreement with respect to any logos, materials and intellectual property provided to CFS by Customer for use on the CFS Branded Site. The parties agree that such branding shall be solely for the purpose of private labeling the CFS Site for use by Authorized Users of Customer and shall in no way transfer or assign any ownership rights in the CFS Site to Customer or its Authorized Users or grant any rights of access other than those specified in Paragraph 2 of this Agreement. Customer is solely responsible for the content and design of the Customer specific information on the CFS Branded Site. Upon termination of this Agreement, CFS shall remove all Customer materials from the CFS Branded Site and shall cease any further use of the Customer marks and logos.
3. 2 Plan Generation. At such time as Customer or its Authorized Users submits a Dataform for processing by the CFS Service, CFS will generate the Plan or Plans and the Customer can download the Plan or Plans. Customer is hereby authorized to modify, edit and change the Plan as reasonably deemed appropriate for use by Customer, provided, however, Customer hereby acknowledges and agrees that CFS shall have no liability for any errors, inaccuracies or misstatements introduced by Customer as a result of such modification, edits and changes. Notwithstanding the foregoing, in no event may Customer use, distribute or provide access to the Plan as provided or as modified for any purpose other than as a deliverable to be provided to or used for the Customer client for whom the Plan was originally generated. Customer may not publish, circulate, compile or distribute Plans other than as permitted herein.
3. 3 Additional Services or Features. As may be set forth below in the Section entitled Payment and Account Setup Information and subject to the payment of the applicable fee, CFS will provide to Customer the additional services or features as described therein ("Additional Services"). Customer or its Authorized Users shall access and use such Additional Services and information or content provided therein only for its own purposes and in accordance with this Agreement.
3. 4 CFS Content. Under the CFS Content license granted hereunder, Customer shall have the right during the Term to link to or reproduce such CFS Content on Customer's own website; provided that all such CFS Content will be attributed to CFS and Customer shall include, and shall not remove or obscure, any copyright or other intellectual property legends or notices and CFS trademarks on such CFS Content. Upon termination of this Agreement, Customer shall cease all use of the CFS Content and shall remove all CFS Content from its website. Customer may not sell, sublicense, distribute (other than such reproduction as set forth herein), transfer, modify, create derivative works of or assign the CFS Content without CFS' prior written permission.

4. **Fees.** In consideration of the license grant set forth in Paragraph 2 and the Plans provided under Paragraph 3, Customer shall pay CFS the following fee:

- 4.1 Subscription Fee. The initial twelve (12) month subscription fee is \$1,395, which shall be due on execution of this Agreement. Thereafter, Customer shall make once-yearly payment of the prevailing annual Subscription Fee, to be paid every twelve months on the anniversary date of this Agreement, unless either party timely notifies the other party of its intent not to renew this Agreement in accordance with Section 5.

- 4.2 **Additional Fees.** If Customer has opted to include any of the Additional Services, Customer shall pay for such Additional Services as set forth below. Such option for the Additional Services will be renewed for each Renewal Term unless this Agreement is terminated as provided herein or unless either party timely notifies the other party of its intent not to renew such Additional Service at least thirty (30) days prior to the end of the then current term.
- 4.3 **Payment Authorization.** Customer's acceptance of these Terms constitutes its authorization for CFS to automatically charge the credit/debit card provided by Customer, and to continue charging the credit/debit card at the agreed-upon intervals during the Term, including the Overage Plan Fees. Customer hereby agrees to maintain all such credit/debit card information up-to-date and complete and understands that any refusal by the payment provider of amounts due and owing under this Agreement, including as the result of Customer's failure to provide up-to-date information, may constitute a material breach of this Agreement.
- 4.4 **Modification of Fees.** CFS may increase the Subscription Fee or Overage Plan Fee for any Renewal Term by providing writing notice of such increase at least sixty (60) days prior to the end of the then current Term. CFS may also increase the Overage Plan Fee at any time upon ninety (90) days prior written notice.

5. Term

This Agreement shall commence on the Effective Date and shall continue for an initial twelve month term (the "Initial Term") unless earlier terminated as set forth in Paragraph 6 below. Upon expiration of the Initial Term, this Agreement shall automatically renew for subsequent one-year terms (each, a "Renewal Term" and with the Initial Term, the "Term") unless either party provides prior written notice to the other party of its intent not to renew this Agreement at least thirty (30) days prior to the end of the then-current term.

6. Termination of Agreement

- 6.1 Either party may terminate this Agreement at any time and for any reason upon 30 days prior written notice. In addition, either party may terminate this Agreement upon fifteen (15) days notice for a breach of this Agreement, provided that the breaching party has not corrected the breach within the notice period.
- 6.2 CFS shall have no obligation to return any amounts paid hereunder if this Agreement is terminated: (i) by Customer (other than due to a material breach by CFS), or (ii) by CFS upon a material breach of this Agreement by Customer. If CFS terminates this Agreement (other than due to material breach by Customer) or if Customer terminates the Agreement upon a material breach of this Agreement by CFS, then upon the request of Customer, CFS shall refund to Customer a prorata amount of the Subscription Fee and any Additional Service Fee based on the amount of the License Fee and Additional Service Fee paid by Customer for the current twelve month term multiplied by the amount of time remaining in such term.
- 6.3 If Customer fails to provide timely notice to CFS of its intent not to renew this Agreement pursuant to Section 5 and within sixty (60) days of the commencement of the Renewal Term notifies CFS in writing that it does not wish to renew this Agreement, CFS will terminate this Agreement and CFS shall refund 50% of the paid Subscription Fee for the term.
- 6.4 Upon termination of this Agreement as provided above, the parties shall be released from further performance under this Agreement. All continuing rights and obligations, including but not limited to those set forth in Paragraphs 7, 8, 9, 10, 11, 12, 13, 14 and 17 shall survive termination or expiration of this Agreement.

7. Right to Data

Customer acknowledges that CFS retains all rights, title and interest in and to all data or information supplied by or obtainable from users of the CFS Service, including but not limited to the Plans. Customer further acknowledges that the Plans may only be disclosed to its clients for whom the Plan was generated and may not be used or disclosed for any other purpose. Customer shall maintain all appropriate controls regarding the protection of its clients' personally identifiable information and shall not use such information for any purpose other than as described in the CFS Privacy Policy. Customer acknowledges and agrees that it shall access only those Plans of its Authorized Users with whom it has a confidential client relationship. Customer acknowledges and agrees that it and any of its Authorized Users that access the CFS Service have read and agree to the CFS Privacy Policy located on the CFS Branded Site. CFS shall have no obligation to provide Customer with data supplied by other parties or users of the CFS Site.

8. Confidentiality

Customer agrees to hold CFS' Confidential Information in strict confidence, and not disclose it to any third party or to use it for any purpose, other than as set forth in this Agreement. The term "**Confidential Information**" means: (a) the terms and conditions of this Agreement; (b) all Plans, and (c) all software, technical data, trade secrets, plans for products or services, processes and designs, business model, marketing techniques, financial and statistical data, sales and customer or client information, techniques, strategies, tactics, written or oral presentations, data, know-how and business plans which may be disclosed or discussed with Customer or to which Customer may have access during the term of this Agreement. All such information shall be considered proprietary and confidential. The information shall not include material, which Customer can by reasonable proof:

- (1) Show that such Confidential Information, in its disclosed combination(s), is in the public domain through no fault of Customer.
- (2) Show such Confidential Information is contained in a written record in Customer's files prior to the date of its receipt from CFS.
- (3) Show that Customer had at any time lawfully obtained said Information from a third party under circumstances permitting its disclosure and use.

Customer agrees to apply reasonable and customary business practices to protect and secure all Confidential Information from unauthorized release and to limit access and usage of such Confidential Information to the employees, officers, agents and representatives necessary to use the services provided under this Agreement. The parties further agree that the obligations contained in this paragraph shall survive the termination of this Agreement.

9. Ownership

9.1 CFS Materials. Confidential Information and all right, title and interest in and to the CFS Site, CFS Content and CFS Service, including without limitation, the proprietary processes, methodologies, forms, CFS trademarks, reports and other content, materials and technologies created or developed by CFS, including the proprietary methodology used in development of Plans, and all patent, copyright, trade secret and other intellectual property rights therein shall remain the exclusive property of CFS. Customer acknowledges and agrees that all right, title and interest in and to the newsletters which may be included as an Additional Service, including all content, remain exclusively with CFS or its third party licensors, as may be applicable. Customer's rights shall be as expressly set forth herein and all rights not expressly granted are hereby reserved by CFS

9.2 Restrictions. Customer shall use the CFS Service, CFS Branded Site, CFS Content and all Plans in accordance with all applicable laws, rules, and regulations and any applicable professional codes, standards or requirements. Customer shall not provide any data or content of any third party without proper authorization or permissions. Customer shall not, and shall not permit or allow any Authorized User to, reverse engineer or decompile the Software or attempt to discover CFS' proprietary methodology in the processing of Customer data or development of Plans. Customer may not access or use the CFS Service or Plans for the purpose of benchmarking or building a competitive product or service or aggregating Plan information.

9.3 Customer Materials. Customer hereby grants CFS a nonexclusive license to use, display, modify and distribute the logos and other materials of Customer specified in Exhibit A for the purpose of providing the services set forth under this Agreement.

10. Return of Certain Confidential Information

Upon the expiration or termination of the Agreement or upon the earlier request of CFS, Customer shall, at its own expense, either promptly return to CFS all Confidential Information, including all originals and copies, summaries and extracts, in its possession or under its control, or, if requested by CFS, destroy all such Confidential Information and certify the same to CFS in a writing executed by a duly authorized officer. Notwithstanding the foregoing, Customer shall have no obligation to return copies or originals of the Plans.

11. Legally Required Disclosure

If Customer becomes legally compelled (by oral questions, interrogatories, request for information or documents, subpoena, civil investigation demand or similar process) to disclose any Confidential Information, Customer will provide CFS with prompt written notice so CFS may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event such protective order or other remedy is not obtained, or CFS waives compliance with the provisions of this Agreement, Customer will furnish only that

Confidential Information which is legally required and will exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information so disclosed.

12. Limitation of Warranty; Limitation of Liability

- 12.1 Customer acknowledges that: (i) Plans are generated solely based on the information entered into the Dataform by Customer or its Authorized Users and may contain errors or inaccuracies, including errors or inaccuracies resulting from a failure of the Customer or its Authorized Users to enter or supply accurate information; (ii) CFS is not providing financial planning advice, but only a tool to be used by a competent financial advisor in a professional capacity; and (iii) the Plans are provided to Customer as one of many tools to be used by Customer in providing advice to its clients. Customer is advised to review and make an independent assessment of each Plan and should not solely rely on the information generated in the Plan. Customer further acknowledges and agrees that it is the responsibility of Customer to provide professional advice to its clients and that the Plans and CFS Content are not intended to be a substitute for such professional guidance or oversight. CFS makes no representation or warranty that the CFS Branded Site, CFS Services, or Plans, or CFS Content, including newsletters will meet the Customer's or its clients' needs. **Except as otherwise expressly provided in this Agreement, CFS makes no representations or warranties of any kind, express or implied, with respect to the products or services to be provided under this Agreement, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, non-infringement or any implied warranty arising by usage of trade, course of dealing or course of performance.** CFS does not represent or warrant that the CFS Service or CFS Branded Site will be available or operate without interruption or be error-free.
- 12.2 CFS shall not be liable for any indirect, special, incidental, punitive, exemplary or consequential damages, whether or not CFS should have known of the possibility of such damages. In no event shall CFS' liability under this Agreement exceed the amount paid to CFS by Customer during the immediately preceding twelve (12) month period. Customer agrees that any claim or cause of action arising out of or related to Customer's use of the CFS Service or otherwise relating to this Agreement must be brought within one (1) year of the date such claim or cause or it shall be deemed waived by Customer.

13. Representations and Acknowledgments

Each party to this Agreement represents, warrants and certifies to the other that: (a) it has full power and authority and the legal right to enter into and perform this Agreement without the consent of any other person or entity; and (ii) that this Agreement constitutes the legal, valid and binding obligation of such party and is enforceable against it in accordance with its terms. Customer hereby represents and warrants that it has and shall maintain all such licenses, authorizations, permits or other approvals of any local, state or federal governmental authority for the provision of its services to its clients and that it shall comply with all applicable laws, rules and regulations in its performance of such services.

14. Indemnity

Customer hereby agrees to indemnify and hold CFS, its affiliates, officers, employees, contractors, customers, clients, agents and representatives ("CFS Indemnitees") harmless from and against any loss, liability, injury, damage, cost or expense suffered or sustained by CFS or any other CFS Indemnitee, including reasonable attorneys' fees, by reason of: (a) Customer's use of the Plans, CFS Services, Additional Services or CFS Site; (b) Customer's or its Authorized User's failure to comply with any applicable laws, regulations or other legal requirements or to obtain any consent or approval necessary to enter into and perform this Agreement, including but not limited to any regulatory approval; (c) claims threatened or filed by the party for which Customer has purchased a Plan or other third parties in connection with any service which CFS has rendered to Customer or its Authorized Users in connection with this Agreement, and (d) any third party claims based on CFS' use of the logos, brands and other materials provided to it by Customer for the purpose of customizing the CFS Branded Site; (e) any claims based on modifications, edits or changes to the Plans or CFS Content made by or on behalf of Customer.

15. Notices

All notices required in connection with this Agreement shall be in writing and shall be delivered to the addresses set out above or to any alternate address delivered as required in this Section. Notices may be delivered in person, by commercial overnight or local delivery carriers providing tracking service, by Certified Mail, return receipt requested, by facsimile with telephonic confirmation of receipt, or by e-mail with electronic confirmation of receipt. In any case, notices shall be effective upon receipt, except that notices transmitted by facsimile or e-mail during hours other than regular business hours shall not be deemed to have been received until the next business day.

16. Relationship of the Parties

The parties are independent contractors and nothing in this Agreement is intended (and this Agreement should

not be construed) to create a partnership, joint venture or other common enterprise between CFS and Customer for any purpose.

16. Entire Agreement/ Modifications; Miscellaneous

This Agreement constitutes the entire agreement of the parties and supersedes any prior agreements or understandings between them, whether written or oral. Any waivers, changes or modifications to this Agreement must be in writing. Customer shall not have the right to assign or transfer this Agreement or its rights or obligations without the prior written consent of CFS. Any attempt on behalf of Customer to assign this Agreement without the prior written consent of CFS shall be void. This Agreement is intended solely for the benefit of the parties and it shall in no event be construed to invest any legal or equitable rights or interests in any other person or entity, whether under a third party beneficiary theory or otherwise.

17. Governing Law

This agreement is to be governed by and construed in accordance with the laws of the State of North Carolina.

EXHIBIT A – Premium license contains the following branded customization:

- Branding of the premium website using the Customer's business logo or business name
- Professional picture of Customer in the premium website site
- College Ed Xpress monthly e-newsletter for clients and prospects. Subscription interface is activated in the premium website.
- Refer to www.collegiatefundingsolutions.com/college_edexpress.html for more details about College Ed Xpress. Limit of 2,000 subscribers before additional fees of \$.20 per subscriber, per month apply. Annual subscription includes 12 installments of College Ed Xpress