

NATIONAL COLLEGE TESTING ASSOCIATION GRANT TERMS AND CONDITIONS

The National College Testing Association (“NCTA”) Grant Terms and Conditions (the “Agreement”) is entered into this ____ day of _____, 2024 (the “Effective Date”), by and between the National College Testing Association, a Georgia nonprofit organization (“NCTA”), on the one hand, and _____ an individual residing in _____ [“Grant Applicant’s Home City and State] (“Applicant”) and _____, a Public/Private College/University located in [_____] (“Institution”) on the other hand (collectively referred to herein as the “Parties” and each, a “Party”). The Parties are entering into this Agreement to facilitate NCTA’s payment of NCTA Grant Funds (as defined below) to Institution in connection with NCTA’s award of an NCTA Grant to the Applicant in furtherance of the purpose of the NCTA Grant Program, as set forth in greater detail below.

ARTICLE I: PURPOSE

The purpose of NCTA’s Grant Program is to advance the mission of NCTA by providing opportunities for grant applicants to engage in activities funded by NCTA that (1) enhance professional testing practices; (2) offer opportunities for professional development; (3) encourage professional support activities; (4) support research relevant to the field of testing; and (5) advance collaborative efforts among testing professionals, companies, and other policy making agencies.

ARTICLE II: APPROVAL OF APPLICANT’S GRANT APPLICATION

The NCTA Grant Committee has determined in accordance with its policies and procedures that the project proposed by the Applicant in the Applicant’s Grant Application (the “Grant Project”) fulfills the purpose of the NCTA Grant Program and NCTA will award the Applicant a Grant in accordance with the terms and conditions set forth in this Agreement. The Applicant hereby represents and warrants to NCTA that the contents of the Applicant’s Grant Application are true and correct in all respects.

ARTICLE III: GRANT AMOUNT AND ADMINISTRATION BY INSTITUTION

NCTA shall award the Applicant a Grant in the amount of no more than \$_____, payable to the Institution on behalf of the Applicant (the “Grant Funds”). Institution shall receive the Grant Funds, hold them in trust, and disburse them to the Applicant in accordance with the terms of this Agreement, in order to carry out the Grant Project. NCTA shall not pay the Applicant any portion of the Grant Funds. All Grant Funds must be paid directly to Institution. Institution shall not use the Grant Funds or any portion thereof for any purpose other than the Grant Project. Institution shall not charge or require NCTA to pay any fees or expenses in connection with Institution’s administration of the Grant Funds. NCTA shall not be responsible to pay Institution any amount exceeding the approved amount of the Grant Funds, even if Institution incurs expenses in relation to the Grant Project that exceed the approved amount of the Grant Funds.

ARTICLE IV: USE OF FUNDS

The Grant Funds shall be used exclusively for the Grant Project described in the Applicant's Grant Application submitted to NCTA and attached hereto as Exhibit A. Applicant's Grant Application is hereby incorporated by reference into and made part of this Agreement.

ARTICLE V: GRANT PERIOD AND RETURN OF UNUSED FUNDS

The Grant Period will begin on the Effective Date of this Agreement and end on June 30, 2024 (the "Grant Period"). The Grant Project must be commenced and completed during the Grant Period. NCTA shall not be responsible for any expenses incurred by the Applicant or Institution in relation to the Grant Project prior to or after the Grant Period. Within thirty (30) days of the conclusion of the Grant Period, Institution shall return to NCTA all unused funds in accordance with NCTA's written instructions for the return of unused funds.

ARTICLE VI: REPORTING

The Applicant shall provide NCTA with a final written report within thirty (30) calendar days of completion of the Grant Project or by the end of the Grant Period, whichever comes first. The final written report must include the following elements: (a) a narrative, detailed explanation on Institution letterhead of the completed activities funded through the Grant Project and their benefits and outcomes; (b) for any event(s) funded through the Grant Project, a copy of the program, agenda, presentation materials, list of attendees and/or participants, and all other relevant supporting documents; and (c) a detailed and itemized expense report that includes copies of all receipts.

ARTICLE VII: ADDITIONAL TERMS AND COMPLIANCE WITH LAWS

The Parties shall comply with the 2024-2025 Grant Program Fact Sheet and Frequently Asked Questions attached hereto as Exhibit B, the terms of which are hereby incorporated by reference and made part of this Agreement. The Parties shall further comply with all applicable federal, state and local laws and regulations that apply to the receipt, distribution, administration and use of NCTA Grant Funds.

ARTICLE VIII: TERMINATION AND RIGHT TO PROHIBIT PARTICIPATION IN NCTA GRANT PROGRAM

NCTA reserves the right to terminate this Agreement and require that the Institution return Grant Funds if the Applicant or Institution breaches any term of this Agreement. In addition to NCTA's right to terminate this Agreement or exercise any other legal remedy available to it at law or in equity, NCTA may, in its sole discretion, prohibit Applicant's and/or Institution's participation in future NCTA Grant opportunities if Applicant and/or Institution violates this Agreement.

ARTICLE IX: INDEMNIFICATION

Institution hereby agrees to indemnify, defend and hold harmless NCTA and its directors, officers, and employees from any and all third party demands, liabilities, losses, costs, damages, claims, liens, judgments, penalties, fines, attorneys' fees, court costs, and other legal expenses, insurance policy deductibles and all other expenses arising out of or related to (a) personal injury or loss of life occurring in connection with any activity associated with the Grant Project; (b) any intentional

or grossly negligent act or omission of Institution or Applicant, or (c) Applicant's or Institution's infringement of the rights of a third party in connection with any activity associated with the Grant Project. Such indemnity shall apply to the fullest extent permitted by applicable law. Institution's obligations under this Article IX shall survive the expiration or termination of this Agreement unless specifically waived in writing by NCTA after such expiration or termination.

ARTICLE X: INDEPENDENT CONTRACTOR STATUS

The relationship of Institution to NCTA is that of independent contractor, and nothing in this Agreement shall be construed as creating any other relationship. Institution shall comply with all laws and assume all risks incident to its status as an independent contractor. Institution covenants and agrees to pay all applicable federal, state, and local income taxes, associated payroll and business taxes, licenses and fees, and such insurance as is necessary for Institution and Applicant's protection in connection with the Grant Project completed under this Agreement; no such taxes or fees shall be withheld or paid by NCTA on behalf of Institution or Applicant. Applicant is not and under no circumstances shall Applicant be considered an employee of NCTA. No workers' compensation insurance shall be obtained by NCTA covering Applicant.

ARTICLE XI: DISPUTES

In the event a dispute arises among or between the Parties arising out of or related to this Agreement, the Parties agree to negotiate in good faith to reach a mutually agreeable resolution of such dispute within a reasonable period of time. If good faith negotiations are unsuccessful, the Parties agree to resolve the dispute by binding and final arbitration before a single arbitrator in accordance with the Expedited Procedures of the Commercial Arbitration Rules of the American Arbitration Association then in effect. The arbitration shall take place in mutually agreed location or one location to be determined by the arbitrator if the parties cannot agree. The arbitrator shall be bound to follow the applicable provisions of this Agreement in resolving the dispute and may not award punitive damages. The decision of the arbitrator shall be final and binding on the parties, and any award of the arbitrator may be entered or enforced in any court of competent jurisdiction. All costs of the arbitration shall be shared equally between the Parties, but the Parties specifically agree that each Party shall bear the expense of any costs incurred by it for its own counsel, experts, witnesses, preparation of documents, presentations, and logistics related to the proceedings. Pending any decision, appeal, or judgment referred to in this provision or the settlement of any dispute arising under this Agreement, the Institution shall proceed diligently with the performance of this Agreement.

ARTICLE XII: ENTIRE AGREEMENT

This Agreement, including Exhibits A and B, constitutes the entire agreement between the Parties and supersedes any prior understandings, written or oral, relating to the subject matter of this Agreement.

ARTICLE XIII: AMENDMENTS

This Agreement may be amended only in writing and any such amendment must be accepted and signed by all Parties.

ARTICLE XIV: GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state in which the Institution is located.

By signing below, the Parties acknowledge that they have read, understood, and agree to be bound by the terms and conditions set forth in this Agreement and all incorporated Exhibits.

APPLICANT

Signature: _____

Print Name: _____

Title: _____

Date: _____

INSTITUTION TRUSTEE

Signature: _____

Print Name: _____

Title: _____

Date: _____

NATIONAL COLLEGE TESTING ASSOCIATION

Signature: _____

Print Name: _____

Title: _____

Date: _____