

Canvas Network MOU

The purpose of this memorandum of understanding ("MOU") is to describe the relationship between Del Mar College ("School") and Instructure, Inc. ("Instructure") for the hosting of courses on Instructure's Canvas Network platform available at canvas.net ("Canvas Network") and is effective as of December 1, 2014 (the "Effective Date").

Description of Services: Instructure will make available Canvas Network, a platform for hosting and delivering open course content. School will provide open course content and a responsible instructor(s) for the duration of the course. School and its instructor(s) will be solely responsible for creating the course materials ("School Content"). School will work with Instructure on the design of the course and the display of the School Content on Canvas Network. School will be responsible for ensuring that the instructor(s) fulfills his or her obligations through the agreed-upon end date of the course.

Content Standards: School will ensure that the School Content is of reasonable quality to ensure that such content is usable by end users (i.e. video and audio will be clear and text will be readable English). School will comply with technical requirements that may be provided by Instructure from time to time. School represents and warrants that the School Content will not violate the rights of any third party (including intellectual property and privacy rights) and will comply with all applicable laws and regulations. If Instructure reasonably believes that any School Content violates this provision, it may remove such content immediately at its sole discretion.

ADA Compliance. School shall be responsible, at its expense, for providing School Content that is accessible to users who have disabilities, including users who have visual impairments, to enable compliance with the applicable laws and provisions of the ADA. School shall use commercially reasonable means to provide appropriate accommodations in a reasonable timeframe with respect to the Course and shall bear costs associated with such accommodations consistent with and to the extent required under applicable laws and regulations pertaining to disability access.

Content Ownership: School Content will remain the property of the instructor and/or School that created it. School grants Instructure a fully paid and royalty-free, perpetual, irrevocable, worldwide, non-exclusive, transferable, and fully sublicenseable license right to reproduce, distribute, publicly perform, publicly display, and translate content provided by the instructor(s) or School for use in Canvas Network.

Copyright: School is responsible for reviewing and obtaining all necessary licenses, waivers or permissions for any third-party rights to content provided by School or instructor(s) and represents that it has done so to the extent necessary for the foregoing license grant.

Trademark, Logo and Name Use: Each party agrees to let the other party use its name, logo or trademark in connection with marketing, promotion and advertising of Canvas Network or

School courses; provided that each party will comply with the other party's trademark guidelines, which may be provided from time to time.

Disclaimer of Warranties: SCHOOL UNDERSTANDS AND AGREES THAT CANVAS NETWORK IS MADE AVAILABLE ON AN AS IS BASIS AND INSTRUCTURE DISCLAIMS ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND.

Mutual Indemnification: Both parties will indemnify, defend and hold harmless the other against any and all losses, damages, costs and expenses arising out of or resulting from such party's breach of its representations and warranties hereunder.

Termination: Either party may terminate this MOU for convenience at any time with 90 days prior written notice to the other party. Either party may terminate this MOU if the other party breaches this Agreement and does not cure such breach within 30 days of receipt of such notice. Upon termination the following provisions of this Agreement will survive: Mutual Indemnification, Disclaimer of Warranties, Content Ownership, and General.

General: If any provision of the MOU is, for any reason, held to be invalid or unenforceable, the other provisions of the MOU will remain enforceable, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. The United Nations Convention on Contracts for the International Sale of Goods does not apply to the MOU. Any waiver or failure to enforce any provision of the MOU on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. The MOU is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof.

School: Del Mar College

By: 

Name: Mark Escamilla, PhD 

Title: President

Instructure, Inc.

By: 

Name: CHRIS TANCINORI

Title: CORPORATE COUNSEL