

**Utah Valley University
Governmental Entity Addendum**

This Governmental Entity Addendum (the “Addendum”) is entered into as of last signature date below (the “Addendum Effective Date”), by and between Utah Valley University, a body politic and corporate of the State of Utah (“University”), and _____ (“Company”), each a “Party” and collectively, the “Parties.”

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **SCOPE OF ADDENDUM.** This Addendum amends and is an integral part of that certain agreement and all attachments thereto between the Parties attached hereto (the “**Main Agreement**”). In the event of any conflict, inconsistency or discrepancy between the Main Agreement and this Addendum, this Addendum shall govern. The Main Agreement, as amended by, and together with this Addendum, is hereinafter referred to as the “**Agreement**.”

2. **UNIVERSITY A GOVERNMENTAL ENTITY.** Company acknowledges that University is a governmental entity under the Governmental Immunity Act of Utah, Utah Code Ann., Section 63G-7-101 et seq., as amended (the “**Act**”). Nothing in the Agreement shall be construed as a waiver by University of any protections, rights, or defenses applicable to University under the Act, including without limitation the provisions of Section 63G-7-604 regarding limitation of judgments. It is not the intent of University to incur by contract any liability for the operations, acts, or omissions of the other Party or any third party and nothing in the Agreement shall be so interpreted or construed. Without limiting the generality of the foregoing, and notwithstanding any provisions to the contrary in the Agreement, the liability of University and any obligations of University to indemnify, hold or save harmless, and/or defend contained in the Agreement are subject to the Act, are limited only to claims that arise directly and solely from the negligent acts or omissions of University, and, inclusive of attorney’s fees, are limited to the amounts established in Section 63G-7-604 of the Act.

3. **INSURANCE.** University is insured through its participation in the Risk Management Fund of the State of Utah, see Utah Code 63A-4-101-104, 201. Nothing in the Agreement shall require University to carry different or additional insurance, and any obligations of University contained in the Agreement to name a party as additional insured shall be limited to naming such party as additional insured with respect to University’s negligent acts or omissions. If University is required to defend, indemnify or hold harmless Company, a defense shall be provided by the State of Utah Division of Risk Management through its contracted Assistant Attorneys General.

4. **CONFIDENTIALITY.** “University Confidential Information” means confidential or proprietary information that University makes available to Company under the Agreement; Company may not disclose University Confidential Information to third parties or use University Confidential Information other than for performing Company’s obligations under the Agreement. Company acknowledges that University is subject to the Government Records Access and Management Act of the Utah Code, Section 63G-2-101 et seq., 1953, as may be amended (“**GRAMA**”). Pursuant to GRAMA, certain records within University’s possession or control, including the Agreement, may be subject to public disclosure. University hereby informs Company that any person or entity that provides University with records that such person or entity believes should be protected from disclosure for business reasons must, pursuant to Section 63G-2-309 of GRAMA, provide to University, with the record, a written claim of business confidentiality and a concise statement of reasons supporting such claim. Notwithstanding any provision to the contrary in the Agreement, University: (a) is not required to provide notice to Company regarding any third party GRAMA request, and (b) may disclose any information or record to the extent required by GRAMA or otherwise required by law.

5. **FERPA.** The parties acknowledge that, for purposes of the Family Educational Right and Privacy Act of 1974 (20 U.S.C. 1232g) as amended (“**FERPA**”), Company will be considered a “School Official” that is a contractor to whom functions and services have been outsourced by Customer. As a result of these functions and services, Company may have access to educational records, as defined by FERPA. Company shall not re-disclose educational records that it receives from University, unless such disclosure is authorized under FERPA. Company shall not use the student information or educational records provided by University for any purpose other than to comply with the terms of this Agreement. Company shall provide annual FERPA training to Company’s employees who have access to educational records disclosed by University.

6. **UTAH VALLEY UNIVERSITY NAME.** Nothing in the Agreement establishes in Company any right or interest in University’s names or marks, including such names as “Utah Valley University,” “UVU,” or any derivation thereof. Notwithstanding any provision of the Agreement, Company agrees not to use, attempt to use, or assert ownership or any interest in any intellectual property of University, including any name or mark. Under the Agreement neither Company nor Company’s licensor’s, suppliers, or affiliates will use the name of University, the existence of this Agreement, or University name, marks, or logos, in publicity or marketing activities without the prior written consent of University.

7. **EFFECT OF TERMINATION.** Upon termination of the Agreement: (a) all rights and access granted to Company will terminate immediately, and (b) within 30 days of the termination of this Agreement, Company shall return all University Confidential Information to University in an agreed upon format, unless the University requests in writing that such data be destroyed. Such destruction shall be accomplished by “purging” or “physical destruction” in accordance with commercially reasonable standards for the type of data being destroyed. Company shall certify in writing to University that such return or destruction has been completed.

8. **FORCE MAJEURE.** Neither party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected party’s reasonable control, including, without limitation: (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency including but not limited to epidemics, pandemics, and quarantines, such as the events connected with the 2019 novel coronavirus disease (COVID-19); (h) strikes, labor stoppages or slowdowns, or other industrial disturbances; (i) shortage of adequate power or transportation facilities. The party suffering a Force Majeure Event shall give as much notice as reasonably practicable of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized.

9. MISCELLANEOUS. Notwithstanding any provision of the Agreement, Company shall not be appointed the University's officer, agent, or attorney-in-fact and shall not have authority to execute documents or take action with the legal force and effect as if those actions were taken by the University. The Agreement, as amended by this Addendum, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written and all other communications relating to the subject matter hereof. No "shrink-wrap," or "click-through" terms and conditions, or reference to terms and conditions set out at a URL not set out in full and attached to the Agreement will be effective, regardless of when opened or clicked, or when or where referenced. The provisions of this Addendum will survive the expiration or earlier termination of the Agreement. Any provision in the Main Agreement purporting to vest Company with authority or discretion to modify the Agreement other than by mutual written agreement, or to place conditions or restrictions or payment obligations on University's solicitation or hiring of Company personnel or contractors, shall have no force or effect. University, in its sole discretion, may terminate the Agreement at any time, without cause, by providing at least 30 days' prior written notice to Company. The Agreement may be executed in two or more counterparts through the exchange of electronic (e.g., pdf) or facsimile signatures, each of which will be an original and together will constitute one and the same agreement. A signed copy of the Agreement delivered by email, facsimile, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of the Agreement. Notwithstanding any other provision to the contrary in the Agreement, no late fee, finance charge, or interest shall be charged or accrue to University on any amount for so long as there exists a good faith dispute between Company and University as to such amount. Company shall have no right to an on-site audit to verify University's compliance with the Agreement. The word "reasonable" is inserted before the phrase "attorney's fees" wherever it appears in the Agreement. The Agreement shall be governed by the laws of the State of Utah, without regard to conflicts of laws principles. Venue for any lawsuits, claims, or other proceedings between the Parties relating to or arising under the Agreement shall be exclusively in the State of Utah. Any requirement to submit to binding arbitration for dispute resolution shall be void and unenforceable. UVU shall not be liable for the acts and/or omissions of its students. IN NO EVENT WILL UNIVERSITY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR OTHER SIMILAR DAMAGES ARISING FROM OR RELATING TO THE AGREEMENT AND EVEN IF UNIVERSITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL UNIVERSITY'S AGGREGATE LIABILITY UNDER THE AGREEMENT FOR ANY DAMAGES, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY, EXCEED THE GREATER OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000) OR THE TOTAL OF ANY FEES PAID BY UNIVERSITY UNDER THE AGREEMENT.

IN WITNESS WHEREOF, the Parties have caused this Addendum to be executed by their duly authorized representatives effective as of the Addendum Effective Date.

UNIVERSITY

COMPANY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Signature Date: _____

Signature Date: _____