

**ENTITY AGREEMENT
BETWEEN
THE RECTOR AND VISITORS OF THE UNIVERSITY OF VIRGINIA
AND
[REDACTED]**

This Entity Agreement (“Agreement”), effective as of this [REDACTED] day of [REDACTED], 201 [REDACTED] (“Effective Date”), is made and entered into by and between The Rector and Visitors of the University of Virginia, an educational institution and agency of the Commonwealth of Virginia (“University”), and [REDACTED], a [REDACTED] corporation or an unincorporated association existing under the laws of Virginia, having a business address of [REDACTED] (“Entity”).

WHEREAS the Entity supports the University’s students, faculty and/or staff in achieving the University’s missions and goals, and has requested that the University provide certain operational assistance; and

WHEREAS the University recognizes the contributions of the Entity to the University’s nonprofit missions and goals and is thus willing to provide the requested assistance, provided it is understood that the Entity is not controlled by or acting as an agent of the University and that the University is not responsible for the Entity’s acts or omissions;

NOW, THEREFORE, in consideration of the promises herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Entity Representations and Warranties

The Entity represents and warrants that:

- (a) The Entity’s signatory hereto has the requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by the Entity of this Agreement, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary corporate action of the Entity;
- (c) This Agreement has been duly executed and delivered by the Entity and constitutes the valid and binding obligation of the Entity, enforceable against the Entity in accordance with its terms;
- (d) This Agreement does not violate or conflict with any agreement or arrangement of the Entity and will not violate any applicable laws or regulations, or the right of any third party;

and

- (e) The Entity has consulted with its legal counsel concerning the matters in this agreement or has had adequate opportunity to do so.

2. Relationship between the Entity and the University

The University is a Virginia public agency and the Entity is not part of that agency, but rather exists and operates independently of the University. Except as specifically set forth herein, the University and the Entity are at all times acting as independent contractors, and not as employees or agents of the other party in the performance of this Agreement. The parties understand and agree that this Agreement is the only source of any control the University may have over the Entity or its activities, except to the extent, if any, the University chooses to exercise control over activities occurring on its property. Neither the Entity nor any of its employees or agents shall be considered as having employee status or be entitled to participate in any pension or similar benefits for employees of the University. Accordingly, neither the Entity nor any of its employees or agents shall have any claim against the University for retirement benefits, social security and other payroll taxes, workers compensation, disability, unemployment insurance benefits, health or life insurance premium payments or benefits, or sick leave. The Entity shall not hold itself out as being part of, controlled by, or acting on behalf of the University.

3. Fundraising Activities

The Entity will not engage in fundraising activities on University property or on behalf of the University without the University's express prior written consent. Fundraising activities should be coordinated through, and approved by, the offices of the Vice President for Development and University Relations.

4. Use of Entity Accounts

The Entity shall use accounting and bookkeeping procedures acceptable to the University's Assistant Vice President for Finance for all transactions to be processed using the University's Financial Accounting System. The Entity shall maintain a positive cash balance at all times. No funds may be transferred from a University account to an Entity account. The Entity will be notified in writing if an entity account has been inactive for more than a year. If the balance in the account is not claimed within thirty (30) days of contact, such balance will be forfeited and will be permanently transferred to the general fund of the University.

5. Use of Facilities

- (a) The University hereby grants permission for the Entity to use certain of the University's facilities, subject to availability and the policies and procedures of the University applicable to such facilities. The Entity has been assigned the following University space:

7. Special Provisions

[Insert special provisions, or if none, replace with “Intentionally omitted”]

8. Charges for Services

The Entity agrees to reimburse the University for the cost of services provided under Sections 5, 6 and 7 of this Agreement according to the procedures of the University business unit providing the services.

9. Use of the University’s Name and Symbols

The Entity shall not use the University’s name as part of the Entity’s name or use any marks, symbols, logos, mottoes or indicia of the University without the University’s express prior written consent.

10. Taxes

- (a) The Entity shall not use the University’s taxpayer identification number or the University’s tax-exempt status in connection with purchases or sales by the Entity, gifts to the Entity, interest or other income of the Entity, or any other activity of the Entity.
- (b) The entity certifies it [is/is not] an organization exempt from sales tax. Entities that are exempt from sales tax must attach a Sales and Use Tax Certificate of Exemption to this Entity Agreement as proof of their tax-exempt status.

11. Liability and Insurance

- (a) The Entity understands and agrees that the University, the Commonwealth of Virginia, and the employees and agents of either will not be liable for any of the Entity’s contracts, torts, or other acts or omissions, or those by the Entity’s directors, officers, members, staff, or activity participants. The Entity understands and agrees that neither it nor its directors, officers, members, staff, or activity participants are protected by the University’s or the Commonwealth of Virginia’s insurance policies or self-insurance plans, and that the University and the Commonwealth will not provide any legal defense for the Entity or any such person in the event of any claim against any of them.
- (b) The University shall be responsible for the payment of claims for loss, personal injury, death, property damage, or otherwise arising out of any act or omission of its employees or agents in connection with the performance of this Agreement for which it may be held liable under applicable law. Nothing contained herein shall be deemed an express or implied waiver of the sovereign immunity of the University or the Commonwealth of Virginia.

- (c) The Entity will indemnify, defend and hold harmless the University, its employees and agents, from and against any and all losses, claims, demands, damages, liabilities, and costs that (i) directly or indirectly result from or arise in connection with any negligent act or omission of the Entity, its agents, or employees in the performance of its obligations under this Agreement, (ii) arise from patent or copyright infringement claims relating to any product, process or service made, used or sold by the Entity, or (iii) arise from or incident to the Entity's use and occupancy of office space pursuant to this Agreement.
- (d) The Entity shall maintain General Liability insurance with a limit of not less than \$1,000,000 per occurrence and an aggregate limit of \$3,000,000, to include coverage for premises/operations, personal injury, and contractual liability. If the Entity has any owned vehicles or intends to use leased or non-owned vehicles, it shall maintain Automobile Liability insurance, with a limit of not less than \$500,000 per accident. Additionally, the Entity shall maintain Directors and Officers insurance to provide errors and omissions coverage for its Board of Directors and corporate officers, with a liability limit of not less than \$500,000 per claim. The following should be included on the Commercial General Liability coverage as an additional insured: "The Commonwealth of Virginia, and the Rector and Visitors of the University of Virginia, its officers, employees and agents." The insurance policies should be underwritten by insurance companies maintaining at least an A-rating with A.M. Best Company and licensed to conduct business in the Commonwealth of Virginia.

12. Non-discrimination

Both parties shall abide by the University's policies on Discrimination and Harrassment (<https://policy.itc.virginia.edu/policy/policydisplay?id=HRM-009>) and Retaliation (<https://policy.itc.virginia.edu/policy/policydisplay?id=HRM-010>).

13. Term and Termination

This Agreement shall become effective as of the Effective Date and shall continue terminate after a period of [redacted] unless earlier terminated: (i) by the Entity or the University with or without cause, by sixty (60) days' written notice to the other party; or (ii) at any time by mutual written agreement of the parties.

14. Waiver

Failure of the University to enforce any of the provisions of this Agreement shall not be construed as a waiver of provision or any later breach thereof.

15. Notices

Any notice required to be given under this Agreement will be deemed made if delivered either to the address given below or to such other address as may hereafter be specified in writing by the parties:

If to the University:

University of Virginia
1001 North Emmet Street
Charlottesville, VA 22904-4194
Attention: Stephen A. Kimata
Assistant Vice President for Finance
Fax: 434-924-4294

School contact:

Fax: _____

If to the Entity:

Fax: _____

Notice will be deemed to have been made, if by hand upon the date so delivered; if by registered or certified mail, postage prepaid and return receipt requested, upon third day after deposit in the United States mail; if by express courier service on the date actually delivered; and if by facsimile upon receipt.

16. Governing Law

This Agreement shall be construed under, and the rights of the parties hereto shall be governed by, the laws of the Commonwealth of Virginia, without regard to its conflict of laws principles.

17. General Terms

This Agreement constitutes the entire agreement between the parties on the subject matter hereof, and supersedes all prior contracts, agreements, and understandings relating to the same subject matter between the parties. No waiver, alteration, or modification of the provisions in this Agreement will be

binding unless in writing and signed by both parties. Neither this Agreement nor any right or interest hereunder may be assigned or transferred by either party without prior written consent of the other party, except this Agreement may be assigned to a party that succeeds to all or substantially all of a party's business or assets whether by sale, merger, operation of law or otherwise. The headings appearing in this Agreement are for convenience and reference only and are not intended to and shall not, define or limit the scope of the provisions to which they relate. The invalidity or unenforceability of any terms or provisions hereof in any jurisdiction shall in no way affect the validity or enforceability of any of the other terms or provisions in that jurisdiction, or of the entire Agreement in any other jurisdiction. No course of dealing between the parties or any delay on the part of either party in exercising any rights it may have under this Agreement shall operate as a waiver of any of the rights of such hereunder.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their names as their official acts by their respective representatives, each of whom is duly authorized to execute the same.

ENTITY: THE RECTOR AND VISITORS OF THE UNIVERSITY OF VIRGINIA:

BY: _____ BY: _____

NAME: _____ NAME: Stephen A. Kimata

TITLE: _____ TITLE: Assistant Vice President for Finance

DATE: _____ DATE: _____