**Memorandum of Understanding for IU Affiliate Accounts**

This Memorandum of Understanding is entered into this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_ (“Effective Date”) by and between The Trustees of Indiana University (“IU”) on behalf of \_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Department”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Affiliate”).

**WHEREAS**, Affiliate is willing and able to provide the services described below to Department;

**WHEREAS**, Department desires to receive such services from Affiliate;

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Services and Access.

(a) Affiliate will provide the following services to Department: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Services”).

(b) In order to provide the Services, Affiliate requires access to the following IU technology:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. Compensation

Affiliate is providing the Services free-of-charge and understands that compensation will not be provided.

[OR]

Affiliate will receive the following compensation for providing the Services, which are provided as “work for hire” for IU:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. University Sponsor

Department names \_\_\_\_\_\_\_\_\_\_[Insert Sponsor’s name, title, address, phone, and email]\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as the Department’s authorized representative for communicating with Affiliate (the “Sponsor” of the Affiliate Account). Affiliate shall report to the Sponsor and reasonably follow the instructions provided by the Sponsor.

4. Policy Compliance

Affiliate hereby agrees to comply with applicable law and with all applicable IU policies and procedures, available at <https://policies.iu.edu/>, including but not limited to, the university’s policies regarding data and information technology, research, intellectual property, and university administration and operations. Affiliate also agrees that while performing the Services on the premises of IU, Affiliate shall follow all IU policies regarding COVID-19 Health and Safety, including any and all other requirements or recommendations provided in IU’s most current Public Safety Advisories or Public Health and Safety Guidance.

5. Confidentiality and Security of Data

Affiliate shall treat all data that it receives from IU, is otherwise exposed to within IU data systems, or that is provided by IU personnel during Affiliate’s provision of the Services under this Agreement (collectively, “IU data”) with the highest degree of confidentiality appropriate to the type of IU data and in compliance with all applicable federal and state laws and regulations and IU’s reasonable instructions. Affiliate shall employ sufficient administrative, physical, and technical data security measures to meet the requirements under the specific federal and state laws and industry standards applicable to all types of IU data. All work materials, including IU Data, must be returned to the Department upon Affiliate’s completion of the Services described herein. If the Department does not want to retain such work materials, Affiliate will destroy all IU Data and materials related to the Services unless arranged separately by the parties.

6. Representations and Warranties; Indemnification

(a) Affiliate represents and warrants that: (i) its use of IU resources to fulfill its obligations pursuant to this Agreement will not and does not violate any federal, state or local laws or regulations, including but not limited to export control regulations, or the legal rights of any individual, including but not limited to rights of privacy; (ii) it will perform the Services in a workmanlike, professional, competent, and timely manner; (iii) its performance pursuant to this Agreement shall not infringe upon or violate the rights of any third party or violate any federal, state, or local laws or regulations.

(b) Affiliate and Department both represent and warrant that they have entered into this Agreement voluntarily and have the legal authority to do so.

(c) In the event of a breach by Affiliate of any of the representations or warranties contained herein, Affiliate shall defend, indemnify, and hold harmless Department for any costs, liabilities, fines, and other expenses (including reasonable attorney fees) incurred by Department with respect to such breach, including but not limited to third party claims arising with respect to such breach.

7. Limitation of Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL INDIANA UNIVERSITY OR ITS TRUSTEES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, OR LICENSORS BE LIABLE TO AFFILIATE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, COVER, LIQUIDATED, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, REVENUE, GOODWILL, USE, OR CONTENT), HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, INCLUDING WITHOUT LIMITATION, CONTRACT, TORT, WARRANTY, NEGLIGENCE, OR OTHERWISE, EVEN IF DEPARTMENT HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES.

8. Suspension and Termination

Either party may terminate this Agreement upon seven (7) days’ written notice to the other. However, Department reserves the right to suspend this Agreement and Affiliate’s access to the Department’s resources and information in the Department or Indiana University’s sole discretion. Department will attempt in good faith to provide Affiliate with advanced notice of any such suspension.

9. Relationship of Parties

The parties enter this agreement as independently contracting parties, and nothing herein shall be interpreted to create any agency, partnership, or joint venture between them. Affiliate acknowledges and agrees that this Agreement does not provide Affiliate with any authority to enter into contracts or any other agreement on behalf of or binding upon Indiana University. Affiliate acknowledges and agrees that IU shall not provide benefits such as unemployment insurance, health insurance, or worker’s compensation insurance to Affiliate.

10. Choice of Law

This Agreement shall be construed in accordance with and pursuant to the internal laws of the State of Indiana, without regard to choice of law rules. Further, the parties: (a) agree that litigation initiated by either party concerning the interpretation or implementation of this Agreement shall exclusively be brought and litigated in a state court of competent jurisdiction in Monroe County, Indiana, or in federal court of competent jurisdiction in the Southern District of Indiana; (b) consent to the personal jurisdiction of such courts; and (c) waive any defense of *forum non conveniens*.

**IN WITNESS WHEREOF**, the parties hereto do hereby agree to the terms of this Agreement on the day and year first above written.

**ATTEST**:

For Affiliate:

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_

Printed Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Non-IU Email:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For Department:

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_

Printed Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For The Trustees of Indiana University:

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_

By: Donald S. Lukes, Treasurer