

STATE OF GEORGIA
COUNTY OF FULTON

SERVICE PROVIDER AGREEMENT

THIS AGREEMENT (“Agreement”), effective this ____ day of _____, 20__ is made by and between the Board of Regents of the University System of Georgia by and on behalf of Georgia State University (“University”), and _____, (“Service Provider”) whose principal place of business is located at _____.

WHEREAS, the University desires to engage Service Provider, and Service Provider desires to provide services to the University, as described herein;

NOW, THEREFORE in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. **Services.** Service Provider agrees to perform the services described in Exhibit A, including provision of deliverables where applicable (“Services”). Exhibit A is attached hereto and hereby incorporated by reference.
2. **Fees and Payment.** The University shall pay Service Provider for Services satisfactorily rendered in accordance with the Fees and Payment Schedule set forth in Exhibit A.
3. **Term.** The Term of this Agreement is set forth in Exhibit A attached hereto, not to exceed twelve (12) months.
4. **Key Personnel.** Service Provider agrees that individuals listed as Key Personnel Exhibit A, if any, are essential to performance of the Services. Service Provider shall provide written notice to University within one (1) business day of any Key Personnel becoming unavailable to perform the Services, in which event the University shall have the right to immediately terminate this Agreement.
5. **Independent Contractor.**
 - A. Service Provider is an independent contractor and shall not be deemed to be an employee of the University. The University will not withhold any amount that would normally be withheld from an employee’s pay and neither Service Provider nor any employee of Service Provider shall participate in any benefits of any sort which the University offers to its employees. The University is contracting with Service Provider for the Services, and Service Provider reserves the right to determine the method, manner, and means by which the Services will be performed. Service Provider will perform the Services at a location other than the University’s premises if possible and is generally not required to perform the Services during a fixed hourly or daily time. However, the University may determine in its sole discretion that the Services are such that they must be performed on the University’s premises. In that event, University will provide Service Provider workspace and Service Provider’s time may be subject to the University’s business hours, security requirements and other factors. Service Provider hereby confirms to the University that the University will not be required to furnish or provide any training to Service Provider or to any employees of Service Provider to enable Service Provider to perform the Services. The Services shall be performed by Service Provider and the University shall not be required to hire, supervise, or pay any assistants to help the Service Provider perform the Services. Except to the extent that Service Provider’s work must be performed on University systems or via University resources, all equipment used in providing the Services shall be provided by the Service Provider.
 - B. Inasmuch as the University and Service Provider are contractors independent of one another, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in a writing signed by authorized representatives of both parties prior to any such act or representation. Service Provider shall not represent him/herself to be the University’s agent for any purpose unless specifically authorized in writing to do so, and then only for the limited purpose stated

in such authorization. Service Provider assumes sole liability for contracts entered into by Service Provider without the University's prior written consent.

6. **Insurance.** Service Provider shall carry commercial general liability insurance to insure against all losses and damages that are the result of or the fault or negligence of the Service Provider, its agents, servants, members, employees, contractors and subcontractors in their performance of the Services. Service Provider shall furnish the University with a certificate of the insurance policy at the time of the execution of this Agreement.
7. **Warranties.** Service Provider warrants the following:
 - A. Service Provider's performance of the Services shall strictly comply with Exhibit A and with any quote, proposal or other information and materials from Service Provider describing the Services it will provide, and the quality, accuracy, completeness, specifications, configurations, standards, and functions of the Services shall meet or exceed Service Provider's representations in such information and materials;
 - B. Service Provider's Services shall conform to industry standards;
 - C. Service Provider acknowledges and agrees that time is of the essence;
 - D. Service Provider shall obtain all required permits and will comply with all applicable federal, state, and local laws, rules and regulations in the performance of the Services;
 - E. The Services will not violate or in any way infringe upon the rights of third parties, including those regarding proprietary information, non-disclosure, or intellectual property. Service Provider is the lawful owner or licensee of all proprietary material and intellectual property used in the performance of the Services, with the right to grant University the access to and/or use of Services;
 - F. The assignment of any Key Personnel identified in Exhibit A by Service Provider to perform the Services shall be continuous throughout the Term, except in the event that employment of the Key Personnel by Service Provider shall end;
 - G. Service Provider shall assign to the University any manufacturers' warranties for goods that are to be provided to the University as part of the Services; and
 - H. Service Provider shall screen all persons used to perform the Services to ensure that all such persons are qualified and properly licensed where applicable.
8. **Proprietary and Confidential Information.**
 - A. **Proprietary Information.** Performance of the Services may involve disclosure by the University to Service Provider of certain materials and information relating to or associated with the University's business, activities, processes, equipment, or programs ("University Proprietary Information" or "UPI"). Service Provider acknowledges that the Services may incorporate such UPI. University may identify UPI verbally or in writing with respect to which Service Provider agrees as follows:
 1. Service Provider shall hold UPI in confidence and shall not use or disclose UPI except in performance of the Services described in this Agreement, as authorized in writing by the University, or as required by law.
 2. Service Provider agrees that it will limit access to UPI to its employees and agents who have a need to know required for the performance of the Services; provided, to the extent not already obligated by employment agreement or otherwise, Service Provider shall require these employees and agents by written agreement to maintain the confidentiality of UPI received pursuant to this Agreement. Service Provider agrees that it will not disclose UPI to any third party except with the prior written consent of University.

3. Service Provider shall develop, implement, maintain and use appropriate administrative, physical and technical security measures as necessary to preserve the confidentiality of UPI.
 4. Upon conclusion of the Agreement or University request, Service Provider shall promptly return all UPI to University; provided, de-identified aggregate data may be retained by Service Provider.
- B. **Confidential Student Information.** If University provides Service Provider with personally identifiable information from student education records (“Confidential Student Information” as defined by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and the implementing regulations in Title 34, Part 99 of the Code of Federal Regulations (collectively, “FERPA”), the terms set out in Exhibit B shall govern Service Provider’s access to and use and maintenance of such information. Exhibit B is attached hereto and incorporated herein by reference.
9. **Intellectual Property Rights.** Service Provider agrees that all, writings, drawings, inventions, designs, parts, machines, processes, computer software (together with any related documentation source code or code, object codes, upgrades, revisions, modifications, and any related materials) developed as part of the Services for the University pursuant to this Agreement are works made for hire of which the University shall be the sole owner of all right, title and interest at all stages of completion, whether or not patentable or copyrightable. Service Provider hereby assigns all rights in such intellectual property to the University and agrees (including Service Provider’s personnel and subcontractors) to supply all reasonable assistance requested to secure for University’s benefit any patent, copyright, trademark, service mark, license, right or other evidence of ownership of intellectual property. Reasonable assistance may include providing provide full information, executing documentation prepared by the University for applying or otherwise registering all rights and title to the item in the name of University or its cooperative organizations of the University. No license or title to intellectual property developed under this Agreement is granted to Service Provider by University.
 10. **Progress Reports.** Upon written request by University, Service Provider shall provide written progress reports, detailing Services performed to date and estimated time of completion of deliverables.
 11. **Errors, Defects, and Omissions/Acceptance of Deliverables.** Any deliverables due as part of the Services shall be submitted together with written notification of completion by Service Provider. The University shall have thirty (30) days from the date of receipt of Service Provider’s notice of completion to provide Service Provider with written notice of acceptance or rejection of deliverables. Service Provider shall promptly correct all errors, defects, omissions and any other deficiencies in the deliverables at its sole expense.
 12. **Indemnification / Limitation of Liability.**
 - A. Service Provider does hereby indemnify and shall hold harmless the University and the Board of Regents of the University System of Georgia and their members, agents, servants and employees (individually and collectively the “Indemnified Party”) against all claims, demands, causes of action, actions, judgments, or other liability, including reasonable attorneys’ fees, arising out of, resulting from, or in connection with, this Agreement (except to the extent caused by the Indemnified Party), including but not limited to: (i) the violation of any third party’s trade secrets, proprietary information, trademarks, copyright, patent rights, or other intellectual property rights; (ii) all damage to property or injuries to persons including death, (iii) claims of Service Provider’s failure to perform obligations owed to its employees, including claims for compensation or benefits under any employee benefit plan; and (iv) any sums due and owing by Service Provider to the Internal Revenue Service for withholding, FICA, unemployment compensation or other state and federal taxes.
 - B. Service Provider’s obligation to indemnify any Indemnified Party will survive the expiration or termination of this Agreement by either party for any reason.
 - C. IN NO EVENT SHALL UNIVERSITY BE LIABLE FOR INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST

REVENUES, PROFITS, OR GOODWILL; OR FOR ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. **Non-Discrimination.** In the performance of Services under this Agreement, Service Provider shall not discriminate against any individual on the basis of age, race, color, religion, national origin, sex, disability or veteran status.
14. **Accommodations and Accessibility.** Service Provider warrants that the Services and any deliverables to be provided under this Agreement shall comply with applicable federal and state laws regarding persons with disabilities, including the Americans with Disabilities Act, as amended and § 508 of the Rehabilitation Act of 1973, as amended. The University reserves the right to change the Service in Exhibit A if necessary to ensure the Services and deliverables comply with such applicable law.

Service Provider agrees to promptly respond to any report or complaint about deficient accessibility of its deliverables and shall promptly remediate and resolve all accessibility deficiencies. Where applicable, Service Provider shall provide an updated, accessible version of the deliverables to University at no cost. Upon request, Service Provider shall promptly provide University with a time by which the deliverables shall meet accessibility standards. Failure to adhere to the timeline for providing accessible deliverables shall constitute a material breach of this Agreement and shall be grounds for termination of this Agreement by University as set forth herein. Provided, making accessibility updates to deliverables will not be required where the accessibility issues is caused: (i) by modifications or alteration made other than by Service Provider or with Service Provider's prior written consent; (ii) because University did not make updates to the deliverables with the corrections, patches, fixes, updates, improvements or enhancements that Service Provider made available from time to time; or (iii) by use of the deliverables in any manner or for any purpose not intended by this Agreement.

15. **Examination of Records.** To the extent permitted by applicable law, University shall have access to and the right to examine any directly pertinent books, documents, papers, and records of Service Provider involving transactions and work related to this Agreement until the expiration of three (3) years after final payment thereunder.
16. **Force Majeure.** In the event that the purpose of the Agreement is substantially frustrated, or performance by either party to this Agreement is made illegal, impossible, or commercially impractical, by acts of God, fire, flood or terrorism, strike, acts of war, civil disorder, utility or communications failures, governmental or university transportation or travel restrictions, acts or regulations of the United States or state government or their respective agencies, outbreak, epidemic, pandemic, health and safety concerns as determined by the University that are not caused in whole or in part by the negligence of either party, the parties shall respectively be relieved of their obligations hereunder and there shall be no claim for damages by either party against the other; provided, upon termination of the Agreement, Service Provider shall refund any sums already paid by University less actual non-refundable expenses substantiated with receipts and fees due for work performed through the date of termination.
17. **Waiver.** The waiver by either party of any breach of any provision contained in this Agreement shall not be deemed to be a waiver of such provision on any subsequent breach of the same or any other provision contained in this Agreement. Any such waiver must be in a properly signed writing in order to be effective, and no such waiver or waivers shall serve to establish a course of performance between the parties contradictory to the terms hereof.
18. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

19. **Funding.** Notwithstanding any other provision of this Agreement, the parties acknowledge and agree that funding for the Fee is from appropriations made by the General Assembly of the State of Georgia. Should funding for the Fee under this Agreement be insufficient, as determined in the sole discretion the chief operating officer of the University, this Agreement shall automatically and immediately terminate without further obligation of the University as of that moment. The certification by the University of this determination shall be conclusive.
20. **Collection Costs.** In the event it becomes necessary for University to commence collection proceedings to enforce the terms of this Agreement, Service Provider shall pay all costs of collection, including reasonable attorneys' fees.
21. **Termination.**
 - A. Each party has the right to terminate this Agreement immediately if the other party breaches, is in default of any obligation hereunder, or otherwise performs the Services in an unsatisfactory manner.
 - B. Each party may terminate this Agreement immediately by written notice to the other party and may regard the other party in default of this Agreement if it becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated business, whether voluntarily or otherwise.
 - C. Either party may terminate this agreement without cause with thirty (30) days written notice to the other party. The University will have no further financial obligation to Service Provider for Services performed after the Termination date; provided, each party shall continue to fulfill its respective obligations under this Agreement until the effective date of termination and shall cooperate in the orderly wind-down of the performance of this Agreement unless otherwise prohibited by law.
22. **Taxes.** Service Provider will pay all taxes lawfully imposed upon it with respect to the Services or this Agreement, including but not limited to all federal and state unemployment taxes, FICA and income taxes. Service Provider warrants that (i) the tax identification number provided to the University is correct; and (ii) he/she is not subject to backup withholding according to the Internal Revenue Service rules and regulations.
23. **Non-profit Organization.** If the Service Provider is, or is a member of, a non-profit organization, Service Provider warrants that it is in compliance with the requirements of O.C.G.A. § 50-20-1, et seq. regarding state government relations with non-profit contractors.
24. **Certification Against Boycott of Israel.** Service Provider certifies that Service Provider is not currently engaged in and agrees for the duration of this Agreement not to engage in, a boycott of Israel, as defined in O.C.G.A. §50-5-85.
25. **Interests of Service Provider.** Service Provider warrants that he/she currently is not an employee of the University or a close relative of a University employee. Service Provider also warrants that he/she presently has no interest, direct or indirect, that would conflict in any manner degree with the performance of its Services hereunder. Further, Service Provider covenants that in the performance of this Agreement, Service Provider shall not employ any person having such conflicting interests.

Service Provider shall report all identified conflicts of interest to the University prior to beginning work on the Services to be provided under this Agreement. If the Services provided by Service Provider hereunder are pursuant to a project sponsored by a U.S. Public Health Service agency and the Service Provider is considered an "Investigator" as that term is defined by the regulations entitled "Responsibility of Applicants for Promoting Objectivity in Research for which PHS Funding is Sought" (42 C.F.R. Part 50, Subpart F) and "Responsible Prospective Contractors" (45 C.F.R. Part 94), then Service Provider hereby certifies that it has in place a policy addressing conflicts of interest that complies with all applicable laws, regulations and rules or that it will follow the University's Policy of Financial Disclosures in Sponsored Projects.

26. Criminal Background Checks.

Service Provider must obtain a background check on all its employees who, as part of the services to be provided under this Agreement, will have regular interaction with University students, employees, monies, sensitive/confidential data, or facilities. Service Provider shall not permit any of its employee to perform services under this Agreement whose criminal history indicates s/he poses a risk to the safety of University students, employees, monies, sensitive/confidential data or facilities. Georgia State University may also require, in its sole discretion, the substitution by Service Provider of any Service Provider employee to perform services under the Agreement. For purposes of this provision, background checks must include, at a minimum, a state and federal criminal history check covering seven (7) years, and a nationwide sex offender registry search.

27. Drug Free Work Place.

- A. If Service Provider is an individual, he or she hereby certifies that he or she will not engage in the unlawful sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Agreement.
- B. If Service Provider is an entity other than an individual hereby certifies: (i) a drug free work place will be provided for the Service Provider's employees during the performance of this Agreement; and (ii) Service Provider will secure from any subcontractor used to perform the Services the following written certification: "As part of the subcontracting agreement with (Service Provider's Name), (Subcontractor's Name) certifies that a drug free work place will be provided for subcontractor's employees during the performance of this Agreement pursuant to paragraph 7 of sub§ B of O.C.G.A. § 50-24-3."
- C. Service Provider may be suspended, terminated, or debarred if it is determined that: (i) Service Provider has made false certification herein; or (ii) Service Provider has violated such certification by failure to carry out the requirements of O.C.G.A. § 50-24-3.

28. **Debarment.** Service Provider represents and warrants that Service Provider (or anyone with a direct or indirect ownership interest of Service Provider if a company) has never been (1) convicted of a criminal offense related to health care and/or related to the provision of Services paid for by Medicare, Medicaid or another federal health care program; or (2) excluded from participation in any federal health care program, including Medicare and Medicaid. Service Provider is required to immediately notify University if any of the foregoing conditions occur. Furthermore, the University reserves the right to terminate this Agreement immediately upon notification by Service Provider, or discovery by the University that any of the foregoing conditions occurred.

29. **Excluded Parties List.** Under penalties of perjury, Service Provider certifies that it is not a debarred, suspended, or ineligible party as defined in the rules implementing Executive Order 12549 and agrees to notify the University immediately if it placed on the List of Parties Excluded from Federal Procurement or Non-Procurement Programs.

30. **Use of Name and Publicity.** Neither party will make use of the other's name, logo, symbol, or image in any press release, campaign of advertising or in any commercial or promotional manner whatsoever, except with prior written consent.

31. **Assignment.** Service Provider shall not assign or subcontract the whole or any part of this Agreement without the University's prior written consent.

32. **Governing Law.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Georgia without regard to conflict of law principles. The location and jurisdiction for the resolution of any dispute arising under this Agreement will be in the State Courts of Fulton County, State of Georgia. Each party expressly submits and consents in advance to such jurisdiction and waives any objection based upon lack of personal jurisdiction, improper venue or forum non-conveniens.

33. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter. This Agreement may be amended, but only upon advance mutual written agreement by the parties.

34. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, constitutes a single enforceable agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written below.

Service Provider

**Board of Regents of the University
System of Georgia by and on behalf of
Georgia State University**

By: _____
Signature Date

By: _____
Authorized Representative Date

Printed Name Title

Printed Name Title

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Exhibit A

I. Services.

Service Provider agrees to provide the following Services to the University:

[Here provide a detailed description of the Services to be performed and relevant information. Also provide a detailed description of any Deliverables to be provided by Service Provider under the Agreement. Attach additional sheets as necessary]

II. Fees and Payment Schedule

Fees: Service Provider will be paid an Hourly Fee of \$ _____ or Flat Fee of \$ _____ for Services satisfactorily performed in a total sum not to exceed \$ _____.

Payment Schedule: Payment to Service Provider will be made according within thirty (30) days of receipt of Service Provider's invoice, according to the following schedule:

- One-time payment following satisfactory completion of the Services;
- Periodic payments every _____; or
- Other _____.

Expense Reimbursement: Prior written University authorization is required for any travel and incidental expenses for which reimbursement will be requested. Reimbursement will be subject to State and University travel and expenses policies. Requests for reimbursement must be accompanied by receipts.

Reimbursement for Travel Expenses Not to Exceed (if applicable): \$ _____

Reimbursement for Incidental Expenses Not to Exceed (if applicable): \$ _____

III. Term

The term of this Agreement shall commence on _____ and shall terminate on _____, unless otherwise terminated in accordance with other provisions of this Agreement. The Term may be renewed the Agreement for additional periods of time, not to exceed twelve (12) months, upon the advance written agreement of both parties.

IV. Key Personnel

Key personnel for this Agreement are as follows (non-University personnel only):

Exhibit B
Confidential Student Information

The following terms and conditions are incorporated into and form a part of the Service Provider Agreement for all purposes. “University” and “Service Provider” have the same definition as set forth in the Agreement.

Definition of Confidential Student Information: “Confidential Student Information” means information that is personally identifiable to a student, who is or was enrolled at University, by any of the following means: the student’s name, the name of the student’s parent or other family members; the address of the student or student’s family; a personal identifier, such as an identification number, or biometric record; other indirect identifiers including but not limited to the student’s date of birth, place of birth, and mother’s maiden name; or any other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community to identify the student with reasonable certainty and includes information supplied to Service Provider, whether by University or University’s students and third parties to the Service Provider.

Controlling Terms: To the extent these terms conflict or are inconsistent with any terms of the Agreement or with Service Provider’s EULA, privacy policy, purchase order or other contract materials, then the terms of this Exhibit shall control. Further, Service Provider agrees it shall not seek to impose additional terms (via an end user license agreement or otherwise) that would require consent to a scope of Confidential Student Information uses beyond those necessary for the performance of this Agreement. To the extent that any Service Provider terms contradict or seek to enlarge Service Provider’s permitted scope of use for Confidential Student Information, such terms are void.

Acknowledgment of Access and Control: Service Provider acknowledges it will have access to Confidential Student Information for the sole purpose of performing Services under of this Agreement, and that access to and disclosure of Confidential Student Information is restricted by University policy and federal law (FERPA). Service Provider acknowledges that it is under the direct control of University with respect to the use and maintenance of Confidential Student Information.

Protection of Student Education Records. Service Provider agrees to hold Confidential Student Information in strict confidence. Service Provider shall not use or disclose Confidential Student Information received from or on behalf of University (including Confidential Student Information received directly from University’s students) except as permitted or required by this Agreement, as required by law, or as otherwise authorized in writing by University. Service Provider agrees not to use Confidential Student Information for any purpose other than the purpose for which the disclosure was made. Service Provider agrees that only Service Provider’s employees who have a legitimate business need in connection with their performance of this Agreement will have access to the Confidential Student Information. Service Provider shall not seek to enlarge the scope of use of Confidential Student Information beyond that necessary to perform this Agreement, and the terms of any other documents seeking such expanded use shall be void.

Return or Destruction of CDI: Upon termination, cancellation, expiration or other conclusion of the Agreement, Service Provider shall return all Confidential Student Information to University within thirty (30) days or, if return is not feasible, destroy any and all Confidential Student Information. Twenty (20) days before destruction of any Confidential Student Information, Service Provider will provide University with written notice of Service Provider’s intent to destroy Confidential Student Information. Within seven (7) days after destruction, Service Provider will confirm to University in writing the destruction of Confidential Student Information.

Remedies: University reasonably determines in good faith that Service Provider has materially breached any of its confidentiality obligations under this Agreement or has violated FERPA, University, in its sole discretion, shall have the right to require Service Provider to submit to a plan of monitoring and reporting; provide Service Provider with a fifteen (15) day period to cure the breach; or terminate the Agreement immediately. Before exercising any of these options, University shall provide written notice to Service Provider describing the violation and the action it intends to take. If the Family Policy Compliance Office of the U.S. Department of Education determines that the Service Provider improperly disclosed personally identifiable information obtained from University’s education records, University may not allow the Service Provider access to education records for at least five (5) years.

Security and Maintenance of Confidential Student Information: Service Provider shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all Confidential Student Information received from or on behalf of University or from University students. These measures will be extended by contract to all subcontractors used by Service Provider.

Reporting of Unauthorized Disclosures or Misuse of Covered Data and Information: Service Provider shall, within one (1) day of discovery, report to University any use or disclosure of Confidential Student Information not authorized by this Agreement or in writing by University. Service Provider's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Student Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Service Provider has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Service Provider has taken or shall take to prevent future similar unauthorized use or disclosure. Service Provider shall provide such other information, including a written report, as reasonably requested by University.

Indemnity: Service Provider shall defend and hold University harmless from all claims, liabilities, damages, or judgments involving a third party, including University's costs and attorney fees, which arise as a result of Service Provider's failure to meet or breach any of its obligations under this Agreement.