



EXHIBIT ____
CONFIDENTIAL DATA; CONFIDENTIAL INFORMATION
CWRU Contract Number: TBD

1. **University Confidential Data; Confidential Information**. Supplier may be furnished with or given access to knowledge, information, data, and confidential or privileged documents in writing or orally (collectively, "Confidential Data"). All Confidential Data are deemed confidential and proprietary to University, including but not limited to, financial information or other personal information concerning the University, its employees, or its students, and shall remain the property of the University. If Supplier gains access to confidential information which is not required to fulfill its obligations under this PO, Supplier is subject to the terms and conditions of this provision. Violation of confidentiality obligations of this section, or the threat of violation, shall entitle University to (i) obtain injunctive relief without the posting of bond and (ii) terminate this PO immediately without penalty of any kind. Supplier's obligations and University's rights under this section shall survive termination of the PO. With respect to the Confidential Data, Supplier shall:
 - a. maintain Confidential Data as University's confidential information.
 - b. use the Confidential Data solely for the purpose of fulfilling its obligations under the PO.
 - c. safeguard against use or disclosure of Confidential Data in accordance with the requirements of this PO and applicable law.
 - d. use reasonable efforts to protect the Confidential Data and in any event no less than the degree of care that it would use to protect its own confidential information.
 - e. sign and deliver a written, itemized receipt therefore, if the University so requests.
 - f. develop, document, use, and keep current appropriate procedural, physical, and electronic safeguards, sufficient to comply with the requirements of the law, and to prevent any use or disclosure of University data or information other than as provided by this PO. Supplier agrees to notify the University of the location of any Confidential Data disclosed by the University or created by Supplier and held by, or under the control of, Supplier or those to whom Supplier has disclosed such Confidential Data.

- g. report to the University any use or disclosure of the information not provided for by this PO of which it becomes aware within two (2) days of Supplier’s discovery of such use or disclosure. In the report, Supplier shall provide the following information: (1) the nature of the use or disclosure; (2) the information used or disclosed; (3) who made the use or disclosure; and (4) what corrective action will be taken by Supplier as a result of the use or disclosure. Supplier shall take any other actions available to it to mitigate any detrimental effects of the use or disclosure.
- h. disclose Confidential Data only to employees, affiliated personnel, and/or contract personnel who are directly responsible for the services making use of the Confidential Data.
- i. ensure that any employee, agent, or contractor to whom it provides Confidential Data agrees to the same restrictions and conditions set forth in this PO that apply to Supplier.
- j. require that the agents or subcontractors notify Supplier of any instances of which they are aware that the confidentiality of the Confidential Data has been breached and report the information set forth in this section.
- k. upon termination or expiration of the PO, return or destroy all Confidential Data to the University, at University’s option.
- l. not use the Confidential Data for itself or for any other person or business, or divulge or convey to any person or business any such Confidential Data during, or at any time after the termination of the PO.

The obligations set forth in this section shall survive the termination or expiration of this contract for any reason.

2. **Point of Contact:**

	<u>Case Western Reserve University</u>	<u>Vendor</u>
Contact Name:	Office of the CIO	
Department:	UTech	
Street Address:	10900 Euclid Ave.	
Second Address (opt)	Crawford Hall 4 th Floor	
City, State, Zip	Cleveland, OH 44106	
Phone:	216-368-1025	
Email, Alternate:	, utech-contracts@case.edu	

3. **Standard of Care.** Supplier will provide adequate and competent staff and supervision thereof, and will in all respects perform with at least that degree of care, skill and diligence normally exercised by persons regularly engaged in Supplier's business or profession.

4. Health-Record Terms

(Applicable to All Suppliers with Access to Protected Health Information)

4.1 Definitions. Terms used herein shall have the meanings ascribed to them in the federal privacy and security regulations issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") and codified at 45 C.F.R. parts 160 and 164, as may be amended from time to time (the "Rule"). "University-PHI" shall mean Protected Health Information that Supplier receives, uses, creates, maintains, or transmits on behalf of the University under this PO.

4.2 Permitted or Required Uses and Disclosures of University-PHI by Supplier. Except as otherwise limited under this PO, Supplier may (a) use and disclose University-PHI only as reasonably necessary to perform its obligations under the PO, provided that such use or disclosure would not violate the Rule if done by the University; (b) use University-PHI for its proper management and administration and to carry out its legal responsibilities; and (c) disclose University-PHI to a third party for the purpose of Supplier's proper management and administration or to carry out its legal responsibilities, provided that: (i) the disclosures are required by law; or (ii) Supplier obtains reasonable assurances from the third party that the University-PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party, and the third party notifies Supplier of any instances of which it becomes aware in which the confidentiality of the University-PHI has been breached.

4.3 Restriction on Use or Disclosure of University-PHI. Supplier will not use or disclose University-PHI other than as permitted or required by this PO or as required by law. If required by law to disclose University-PHI, Supplier shall notify University, prior to disclosure, with sufficient time to enable University to oppose any such disclosure.

4.4 Safeguards. Supplier will use appropriate administrative, physical, and technical safeguards (1) protect the confidentiality, integrity, and availability of the University's electronic PHI and (2) to prevent any use or disclosure of University-PHI other than as permitted by this PO.

4.5 Mitigation. Supplier will mitigate, to the extent practicable, any harmful effect that is known to Supplier of a use or disclosure of University-PHI by Supplier in violation of the requirements of this PO.

4.6 Reporting. Supplier will immediately report to the University any use or disclosure of University-PHI not permitted by this PO or security incident of which Supplier becomes aware.

4.7 Agents and Subcontractors. Supplier will ensure that all of its agents and subcontractors that receive, use, or have access to University-PHI agree, in writing,

to essentially the same restrictions and conditions on the use and/or disclosure of University-PHI that apply through this PO to Supplier with respect to such information, and to implement reasonable and appropriate safeguards to protect such University-PHI.

4.8 Access. At the request of, and in the reasonable time and manner specified by, the University, Supplier will provide access to University-PHI in a designated record set to the University, or, if directed by the University, to an individual in order to permit the University to meet the applicable Rule's access requirements.

4.9 Amendment of University-PHI. At the request of, and in the reasonable time and manner specified by, the University, Supplier will make amendment(s) to University-PHI in a designated record set, in order to permit the University to meet the Rule's amendment requirements.

4.10 Open Books. Supplier will make its internal practices, books and records, including policies and procedures, relating to the use and disclosure of University-PHI, available to the Secretary of Health and Human Services ("Secretary"), in the reasonable time and manner specified by the Secretary, for purposes of the Secretary's determining the University's compliance with the Rule.

4.11 Accounting of Disclosures. Supplier will document disclosures of University-PHI and information related to such disclosures as would be required for the University to respond to an individual's request for an accounting of disclosures of University-PHI in accordance with the Rule's requirements and will provide such information to the University in a reasonable time and manner specified by the University to permit the University to respond to an individual's request for an accounting of disclosures of University-PHI in accordance with the Rule's requirements.

4.12 Return or Destruction of University-PHI. Within thirty (30) days of the termination of the PO, Supplier will return to the University or destroy all University-PHI in its possession or control, including such University-PHI that is in the possession of Supplier's subcontractors and agents, and if feasible, retain no copies of such University-PHI. If Supplier considers return or destruction of the University-PHI infeasible, Supplier will notify the University of the conditions that make return or destruction infeasible, and if the University agrees that return or destruction is infeasible, Supplier may retain the University-PHI, provided that it will extend all protections contained in this PO to its use and/or disclosure of any retained University-PHI, and limit any further uses and/or disclosures to the purposes that make the return or destruction of the University-PHI infeasible.

4.13 Remedies. In the event of a material breach of this Part 4 by Supplier, the University may at any time thereafter, and in its sole discretion, either: (a) notify Supplier of the breach in writing, providing an opportunity for Supplier to cure the

breach, and terminate this PO if Supplier does not cure the breach within the time specified by the University in such notice; or (b) immediately terminate this PO on written notice to Supplier.

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