VoiceThread License Agreement

This Agreement ("Agreement") is entered into by and between VoiceThread, LLC ("VoiceThread") and George Mason University ("University") as of April 30, 2021 (the agreement date.) In consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

1. Background and Purpose

VoiceThread provides a hosted, web-based environment for creating, posting, and accessing interactive, multimedia presentations and for permitting defined users to comment on these presentations using text, audio, video or digital ink (collectively, the "VoiceThread System").

University is an institution that wishes to use the VoiceThread System in connection with its mission by permitting Authorized Users (as defined below) to create, transmit, access, use, and distribute data and information, including images, text, and audio and video content (collectively, the "Content") hosted on the VoiceThread System.

This Agreement sets forth the terms and conditions which govern University's right to access and use the VoiceThread System. Additional license terms covering the type, functionality, and number of licenses for the VoiceThread System will be set forth in Order Forms that incorporate this Agreement by reference and which University may execute from time-to-time during the Term.

Use of the VoiceThread System by University and its Authorized Users is also subject to the terms of use attached hereto as Attachment A (the "Terms of Use").

2. Definitions

"Authorized Users" means any or all of the following categories of persons designated by University to access and use the VoiceThread System: (a) individuals officially affiliated with University (such as staff, faculty, enrolled students, volunteer staff, and affiliated researchers); (b) individuals not officially affiliated with University but who have an educational or scholarly or similar association with University (such as visiting researchers, lecturers, and support staff); (c) individuals physically present in the facilities of University; and (d) other individuals authorized by University.

"Effective Date" means the date of the Order Form.

"Intellectual Property Rights" means any and all trademarks and trademark applications, issued patents and patent applications, copyrights and copyright registrations and applications, rights in ideas, designs, works of authorship, derivative works, and all other intellectual property rights, moral rights, and/or rights of publicity.

"Personal Information" means information relating to an identified or identifiable natural person, provided by University to VoiceThread in the course of the Agreement.

3. Grant of License

VoiceThread hereby grants to University and its Authorized Users a nonexclusive, nontransferable license (a) to access and use the VoiceThread System; (b) to transmit Content to the VoiceThread System; (c) to access, display, reproduce, distribute, download, use and make performances of the Content.

4. Access and Use

4.1 Permitted Uses. University may make its Content and other public content on the VoiceThread System available to Authorized Users for use in connection with University's mission, including without limitation, for (a) classroom instruction and related classroom activities; (b) student assignments and research; (c) research activities of faculty, scholars, and curators; (d) public display or public performance as part of a presentation, such as in an educational, cultural, or scholarly seminar, class, lecture, conference, exhibit, or workshop, or a similar activity; (e) use in a student, faculty, or curatorial portfolio, including public display thereof; and/or (f) use in research or a dissertation.

4.2 Prohibited Uses. University and/or Authorized Users shall not: (a) knowingly upload, post, display, make performances of, or otherwise make available, distribute, reproduce or use any Content that violates or infringes any third party right or that violates any international or domestic, federal, state or local law, statute or regulation; (b) knowingly upload, post, transmit or otherwise make available, display, make performances of, distribute, reproduce, or use any Content that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (c) circumvent, disable, or override any encryption features or other protections in the VoiceThread System; and/or (d) use the VoiceThread System in any way that is not authorized under this Agreement.

4.3 Limitation on VoiceThread Use. VoiceThread shall have no right to use (other than for the purposes of complying with its obligations under this Agreement) or distribute (other than to University and Authorized Users) the Content. VoiceThread will ensure that the Content on the VoiceThread System is accessed and used only by University and Authorized Users.

4.4 Fair Use and Other Exceptions to the US Copyright Laws. Nothing in this Agreement should be construed or interpreted to limit those uses of Content that are permitted under the fair use, educational exceptions, or other provisions of the US copyright or other intellectual property rights laws, and it shall not be a breach or violation of this Agreement if University uses Content in a manner permitted under such provisions of U.S. copyright or other intellectual property laws.

4.5 Electronic Access. Content will be stored at one or more locations in digital form and accessible by telecommunications links between such locations and University and/or Authorized Users' workstations. VoiceThread shall make the VoiceThread System available online in digital form to University and Authorized Users within a reasonable time from VoiceThread's receipt of an executed copy of this Agreement.

4.6 Withdrawal. University may withdraw Content from the VoiceThread System at any time by giving written notice to VoiceThread. Upon withdrawal, VoiceThread shall ensure that such Content is not accessible on the VoiceThread System, and VoiceThread shall have no rights with respect to such Content.

5. Security, Privacy and Usage Data

5.1 Security. The parties shall cooperate to protect the VoiceThread System and the Content from any use that is not permitted under, or is a violation of, this Agreement and/or the Terms of Use, and to educate and inform Authorized Users of the Terms of Use. The parties shall take reasonable steps to effectuate all reasonable security procedures required to protect the security of the VoiceThread System and the Content. The parties shall cooperate in the implementation of security procedures as they are developed.

5.2 Data Privacy. VoiceThread will ensure that it and/or any person acting under VoiceThread's authority will handle Personal Information in compliance with applicable privacy laws and regulations. VoiceThread will retain, use, disclose, transfer or otherwise process the Personal Information only for the specified purpose of performing the Services for in this Agreement. VoiceThread shall not sell Personal Information. VoiceThread and University agree to comply with the Privacy Policy set forth at https://voicethread.com/privacy/, which may be amended from time to time by VoiceThread, provided that such changes shall only take effect following 30 calendar days after written notice has been sent to University. Should University object to such changes, the parties agree to mutually cooperate to address the concerns of both parties and to reach mutually agreeable changes (if any) to the Privacy Policy and, if they are unable to agree to such changes, either party may terminate this Agreement upon written notice to the other. If University is aware that they will provide VoiceThread with Personal Data from the European Union ("EU") as defined by the EU General Data Protection Regulation 2016/679 ("GDPR"), it shall notify VoiceThread, and a data processing agreement will be executed as an addendum to this Agreement.

5.3   Violation or Suspected Violation. Each party agrees to notify the other party promptly upon learning or being notified of any violation or suspected violation of this Agreement or of the Terms of Use, and to investigate and cooperate fully and promptly in investigating such known or suspected violations, and to take other measures that the parties deem mutually appropriate in any case involving knowing and willful violations.

5.4   Usage Data. VoiceThread may monitor activity and use of the VoiceThread System by University and/or Authorized Users consistent with VoiceThread's Privacy Policy solely to protect the VoiceThread System against unauthorized uses and to learn about the uses made by users of the VoiceThread System. The parties shall not disclose to others data from which an individual could be identified, unless such disclosure is reasonably necessary for pursuing a claim or investigation concerning major alleged violation(s) of the Terms of Use or is in response to a subpoena, court order, or other legal proceeding. VoiceThread agrees to provide periodically usage data to University.

5.6 FERPA Compliance. VoiceThread agrees that it may create, receive from or on behalf of University, or have access to, records or record systems that are subject to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. Section 1232g (collectively, the "FERPA Records"). VoiceThread represents, warrants, and agrees that it will:

1. Hold the FERPA Records in strict confidence and will not use or disclose the FERPA Records except as (a) permitted or required by this Agreement, (b) required by law, or (c) otherwise authorized by University in writing;
2. Safeguard the FERPA Records according to commercially reasonable administrative, physical and technical standards that are no less rigorous than the standards by which VoiceThread protects its own confidential information;
3. Continually monitor its operations and take any action necessary to assure that the FERPA Records are safeguarded in accordance with the terms of this Agreement;
4. Not read the contents of any such files it receives with FERPA Records in the VoiceThread Service, except as necessary to process the transaction thru the system or store the data as part of Service;
5. Use FERPA Records only for the purposes for which they were intended;
6. After providing a copy formatted pursuant to University's reasonable requirements (if requested during the sixty day period described below), destroy all FERPA Records when the Agreement expires or terminates within sixty (60) days of such expiration or termination; and
7. At the request of University, provide University with a written summary of the procedures VoiceThread uses to safeguard the FERPA Records.

6. **Fees**

   University shall make payments to VoiceThread, under the terms set forth in Attachment B, for the license granted herein.

7. **Term and Termination**

7.1   Term of Agreement. This Agreement shall continue in effect from the Effective Date and shall remain in effect for __ **year(s)** unless renewed in writing by the parties or terminated early in accordance with Section 7.2.

7.2   Termination. In addition to the other rights of termination set forth in this Agreement, in the event that either party believes that the other party has materially breached any obligations, representations, or warranties under this Agreement, such party shall so notify the breaching party in writing. The breaching party will have 60 days from the receipt of such notice to cure the alleged breach and to notify the non-breaching party in writing that such cure has been effected. If the breach is not cured within the 60-day period, the non-breaching party shall have the right to terminate the Agreement upon written notice. University may terminate this Agreement without cause upon not less than 90 days written notice before the end of the then-current term, and effective upon 5 business days after the date of such notice, this Agreement would terminate.

7.3   Access to Content Upon Termination. Upon the termination or expiration of this Agreement, and in the absence of another agreement executed between the parties, VoiceThread shall, at the request of University, remove the Content from the VoiceThread System, including any copies of Content stored on servers or existing in any other form.

8. Notices

All notices given pursuant to this Agreement shall be in writing and may be delivered by hand or by overnight carrier and shall be deemed received upon such delivery, or shall be deemed received within five (5) business days after mailing if sent by registered or certified mail, return receipt requested, unless an alternate form of notice is expressly permitted herein or a different notice period is specified. Notice shall be addressed and delivered to the persons and addresses set forth below. If any notice is sent by facsimile, confirmation copies must be sent. Either party may from time to time change its notice information by written notice to the other party:

To University: To VoiceThread:

George Mason University	VoiceThread
4400 University Drive, Mailstop 3C5	P.O. Box 970533
Fairfax, VA 22030	Boca Raton FL 33497-0533

9. Representations, Warranties, and Disclaimers; Limitations on Liability

9.1 Authority to Enter into Agreement. Each party represents and warrants that it has the authority to enter into this Agreement, and to bind that party to the terms and conditions herein. Each party further represents and warrants that it has caused this Agreement to be executed by a duly authorized representative.

9.2 Maintain Security. VoiceThread represents and warrants that it shall exert reasonable efforts to maintain sufficient security with respect to any and all IP addresses, usernames, passwords, and/or users' email addresses provided by University or its Authorized Users such that such information will only be used as needed for making available the VoiceThread System or to investigate or prevent suspected violations of law.

9.3 Availability of VoiceThread System. VoiceThread shall make reasonable efforts to provide continuous availability of the VoiceThread System. University recognizes that the VoiceThread System may not be available from time to time due to maintenance of the server(s), the installation or testing of software, the loading of enhancements or other features, and downtime relating to equipment or services outside the control of VoiceThread including but not limited to public or private telecommunications services or internet nodes or facilities.

9.4 VoiceThread SLA. During the Term of the applicable VoiceThread Agreement (the "Agreement"), the VoiceThread Service will be operational and available to Customer at least 99.9% of the time in any calendar month (the "VoiceThread SLA"). If VoiceThread does not meet the VoiceThread SLA, and if Customer meets its obligations under this VoiceThread SLA, Customer will be eligible to receive the Service Credits described below. This VoiceThread SLA states Customer's sole and exclusive remedy for any failure by VoiceThread to meet the VoiceThread SLA.

Definitions. The following definitions shall apply to the VoiceThread SLA.

· "Downtime" means, for a domain, if there is more than a five percent user error rate. Downtime is measured based on server side error rate.
· "VoiceThread Services" means the VoiceThread web app, html Universal app, or mobile app.
· "Monthly Uptime Percentage" means total number of minutes in a calendar month minus the number of minutes of Downtime suffered in a calendar month, divided by the total number of minutes in a calendar month.
· "Service" means the VoiceThread Services
· "Service Credit" means the following:

Monthly Uptime Percentage	Days of Service added to the end of the Service term at no charge to Customer
< 99.9% - >= 99.0%	3
< 99.0% - >= 95.0%	7
< 95.0%	15

Customer Must Request Service Credit. In order to receive any of the Service Credits described above, Customer must notify VoiceThread within thirty days from the time Customer becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit Customer's right to receive a Service Credit.

Maximum Service Credit. The aggregate maximum number of Service Credits to be issued by VoiceThread to Customer for all Downtime that occurs in a single calendar month shall not exceed fifteen days of Service added to the end of Customer's term for the Service (or the value of 15 days of service in the form of a monetary credit to a monthly-billing customer's account). Service Credits may not be exchanged for, or converted to, monetary amounts.

VoiceThread SLA Exclusions. The VoiceThread SLA does not apply to any services that expressly exclude this VoiceThread SLA (as stated in the documentation for such services) or any performance issues that resulted from Customer's equipment or third party equipment, or both (not within the primary control of VoiceThread).

9.5 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, VOICETHREAD DISCLAIMS ALL WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL, OR WRITTEN), INCLUDING, WITHOUT LIMITATION ANY AND ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9.6 Limitations on Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, BUSINESS INTERRUPTION, OR LOSS OF INFORMATION, REGARDLESS OF WHETHER SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING. EXCEPT WHERE THE GROSS NEGLIGENCE OF A PARTY LEADS TO PROPERTY DAMAGE, PERSONAL INJURY, OR LOSS OF LIFE, IN NO EVENT SHALL THE TOTAL COLLECTIVE LIABILITY OF EITHER PARTY UNDER THIS AGREEMENT EXCEED THE AGGREGATE FEES PAID OR OWED BY University UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE. IN THE CASE OF A DATA BREACH THAT COMPROMISES DATA RECEIVED FROM THE UNIVERSITY, THE TOTAL LIABILITY SHALL BE LIMITED TO 2X THE FEES PAID OR OWED BY UNIVERSITY UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATA ON WHICH THE CLAIM AROSE. The warranty disclaimer and limitations of liability set forth in this Agreement shall apply irrespective of any failure of essential purpose of any limited remedy.

10. Miscellaneous

10.2 Authority of the Agreement. To the extent there is no conflict between this Agreement and any other Agreement that may supersede or alter the terms of this Agreement (as agreed by both Parties), the terms and conditions of this agreement shall remain in full effect.

10.3 No Assignment and No Third Party Beneficiary Rights. Neither party to this Agreement shall assign, transfer, subcontract, or sublicense this Agreement or any of the rights and obligations hereunder, without the prior consent of the other party except in connection with a merger or sale of all or substantially all of the assets of the assigning party This Agreement has been executed for the sole benefit of the parties that are signatories to this Agreement and is not intended for the benefit of any third party. The parties expressly disclaim the creation of any third party beneficiary rights under this Agreement and agree that no third party shall have any rights under this Agreement.

10.4 No Agency, Joint Venture or Partnership. Nothing contained herein shall be deemed to create an agency, joint venture, or partnership relationship between the Parties.

10.5 Waiver or Invalidity of any Provision or Breach. Waiver of any provision herein shall not be deemed to be a waiver of any other provision herein, nor shall waiver of any breach of this Agreement be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement. If any provision or provisions of this Agreement are held to be invalid, illegal, unenforceable, or in conflict with the law of any jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

10.6 Counterparts. This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one agreement.

IN WITNESS THEREFORE, the parties have caused this Agreement to be executed as of the Agreement Date.

VoiceThread   **George Mason University**

By: _____   By: _____

Name: _____Lisa Barry_____   Name: _____James Russell_____

Title: _____VP of Enterprise Sales_____   Title: _____Director, Purchasing_____

Date: _____04.30.2021_____   Date: _____

Attachment A - Terms of Use

Basic Terms

1. University is responsible for all transactions that occur from within the account or under the screen name of any of its Authorized Users. University and its Authorized Users are responsible for keeping passwords secure. University must immediately notify VoiceThread of any breach of security or unauthorized use of the account of any Authorized User. VoiceThread is not liable for losses caused by unauthorized use of any account, and University may be liable to VoiceThread or others for such unauthorized use.

2. Neither University, nor any of its Authorized Users, may use the VoiceThread System for any illegal, illicit, or unauthorized purposes. All Authorized Users must comply with all local laws regarding online conduct and acceptable content.

3. University is responsible for any and all content (data, text, information, screen name, graphics, photos, profiles, audio, video clips, links, or any information that you contribute to the VoiceThread System) that any of its Authorized Users submit, post, create, and display on the VoiceThread System.

4. Neither University, nor any of its Authorized Users, shall modify, adapt, or impair any service on the VoiceThread System or its derivative products or services.

5. Neither University, nor any of its Authorized Users, shall transmit, construct, or provide means to send unwanted email messages to any VoiceThread user or use the VoiceThread Service to convey unsolicited or unwanted emails to external users.

6. Neither University, nor any of its Authorized Users, shall transmit any code, worms, or viruses or destructive code to the VoiceThread Service or hosts such code on the VoiceThread Service.

7. Neither University, nor any of its Authorized Users, may post any content that violates the copyright, trademark or other intellectual property rights of VoiceThread or a third party.

8. Violation of these terms by an Authorized User can result in the immediate termination of such Authorized User's VoiceThread account and the removal of all associated content

9. University understands and agrees that VoiceThread cannot be responsible for the Content posted by users on the VoiceThread Service and that Authorized Users may be exposed to inappropriate materials as a result.

VoiceThread respects the intellectual property of others, and we ask you and our users to do the same. VoiceThread may disable and/or terminate an Authorized User's account if VoiceThread determines that the user is violating applicable copyright or other intellectual property rights of VoiceThread or any other third party.

10. The VoiceThread Service may contain links by third party websites that are not owned, affiliated, or controlled by VoiceThread. VoiceThread has no control over and assumes no responsibility for content, policies, or practices of any third party website. Moreover, VoiceThread cannot edit or censor any of the content provided by these third party sites. By using the VoiceThread Service, University and its Authorized Users are relieving VoiceThread from any and all liabilities arising from use of these third party websites.

Contributions Suggestions to VoiceThread

By submitting ideas, suggestions, documents, and/or proposals ("Suggestions") to VoiceThread through its suggestion or feedback mechanisms, University acknowledges and agree that: (a) its Suggestions do not contain confidential or proprietary information; (b) VoiceThread is not under any obligation of confidentiality, express or implied, with respect to the Suggestions; (c) VoiceThread shall be entitled to use or disclose (or choose not to use or disclose) such Suggestions for any purpose, in any way, in any media worldwide; (d) VoiceThread may have something similar to the Suggestions already under consideration or in development; (e) University's Suggestions automatically become the property of VoiceThread without any obligation of VoiceThread to you; and (f) University is not entitled to any compensation or reimbursement of any kind for Suggestions from VoiceThread under any circumstances.

Attachment B - Fees

VoiceThread
P.O. Box 970533
Boca Raton FL 33497-0533

VOICETHREAD

George Mason University	Quote #	935698
Charles Kreitze	Quote Date	February 5, 2021
4260 Chain Bridge Road	**Quote Total (USD)**	**$16,250.00**
Fairfax VA 22030		

Item	Description	Unit Cost	Quantity	Line Total
Active User License [AUL20]	2000 Active User band 2000 active users = $13,000 2500 active users = $15,000 3000 active users = $17,000 * Next year's renewal will be based on the number of active users during this License year. [AUL20]	13,000.00	1	13,000.00
Platinum Service [STP23]	- Unlimited integrations - Automated closed captioning for all audio and video - Integration with 3rd-party closed caption services - Zoom and/or Kaltura integration - Universal app for screen readers - 4 training sessions - 4-hour email/phone support - Unlimited exports - License analytics - Advanced security controls - 99.9% uptime guarantee - Customized training resources - Customized SLA and/or security documentation - Customized media source integration (Renews annually) [STP23]	3,250.00	1	3,250.00

Quote Total (USD)				**$16,250.00**