

UOCAVA Remote Voting System Agreement

This Agreement is entered into as of July 14, 2022 ("Effective Date"), by and between the Tooele County (hereinafter referred to as "County") with offices at 47 South Main, Room #318 Tooele, UT 84074 and Vidaloop Inc., d.b.a VotingApp (hereinafter referred to as "Vidaloop") a California corporation with offices at 7918 El Cajon Blvd, Suite N331, La Mesa, CA 91942.

Whereas, it is necessary and desirable that Vidaloop be retained for the purpose of providing County with a limited Pilot for a fully compliant UOCAVA MOVE Act solution through VotingApp ("UOCAVA Solution"), available to all County's qualified voters. The parties shall use commercially reasonable efforts to perform their respective roles and responsibilities as set forth in Exhibit A.

Now therefore it is agreed by the parties to this Agreement as follows:

1. **Exhibits and Attachments.** The following exhibits and attachments are attached to this Agreement and incorporated herein by reference:
 - a. Exhibit A - Roles and Responsibilities of Pilot Parties
 - b. Exhibit B - Statement of Work
 - c. Exhibit C - Support and Maintenance
 - d. Exhibit D - Metrics for Performance
2. **Services to be performed by Vidaloop.** Vidaloop shall perform the services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and Exhibit B. Nothing in this Agreement shall be construed to prevent Vidaloop from granting any other licenses or subscriptions to the use of the UOCAVA Solution in any matter whatsoever.
3. **Term.** This Agreement for the 2022 November General Election shall become effective on July 14, 2022 and remain in effect through December 31, 2022 ("Initial Term"). After the Initial Term the Agreement may be renewed by a written amendment signed by both parties. After the Initial Term, Vidaloop reserves the right to raise the license or subscription fees to reflect current market conditions, subject to the approval of Tooele County.
4. **Payment - No Cost to County.** The UOCAVA Solution shall be developed and deployed at no cost to County. Notwithstanding any other provision of this Agreement, or Exhibit, the County will have no financial obligation to pay the license or subscription fee, whether direct or contingent, to Vidaloop.
5. **Termination.** This Agreement may be terminated by Vidaloop or County at any time without requirement of good cause upon sixty (60) days advance written notice to the other party. Notwithstanding any other provision of this Agreement, the Agreement cannot be terminated between sixty (60) days prior to an Election Day (commonly known as E-60) and Election Day.
 - a. **Breach:** If either party defaults in the performance of, or fails to perform, any material obligation of this Agreement and the default or failure is not remedied within sixty (60) days after receipt of written notice from the non-defaulting party, the non-defaulting party will have the right to (i) terminate this Agreement by giving written notice to the defaulting party and (subject to the dates above in Paragraph 5), (ii) to avail itself to any and all other rights and remedies which it may be entitled to by law or equity.



- b. **Survival:** In addition to any payment obligations, sections 8, 9, and 10 shall survive the termination of this Agreement.

- 6. **Ownership.** The parties hereby agree that the UOCAVA Solution is the sole property of Vidaloop and County acquires no rights to the UOCAVA Solution except for the license or subscription granted under this Agreement.

- 7. **Representations and Warranties.** Vidaloop represents and warrants to County that it has all necessary rights and authority to execute and deliver the services and perform its obligations hereunder and to grant the rights granted herein this Agreement to County; the goods and services provided by contract under this Agreement, including the Software and Intellectual Property provided hereunder, are original to Vidaloop; and the software, products, and services as delivered as part of the UOCAVA Solution will not infringe or otherwise violate any applicable rule or regulation.
 - a. Except as expressly stated in this Agreement, there are no warranties express or implied including but not limited to the implied warranty of fitness for a particular purpose, of merchantability or warranty of no infringement of third party rights.
 - b. Vidaloop does not represent or warrant that VotingApp will operate error-free or uninterrupted and that all program errors in VotingApp can be found in order to be corrected. Nor does Vidaloop make any warranties regarding the accuracy, reliability, or currency of information context.

- 8. **Limitation of Liability.** To the fullest extent authorized by California law, each party's liability to damages to other property arising out of the subject matter of this Agreement shall not exceed the maximum amount payable under this Agreement. Neither party shall be liable to the other party for any indirect, incidental, or special damages, damages which are unforeseeable to the parties at the time of contracting, damages which are not proximately caused by a party, such as loss of anticipated business, or loss profits, income, goodwill, or revenue in connection with or arising out of the subject matter of this Agreement.

- 9. **Indemnification.** Vidaloop will defend, indemnify, and hold harmless County against any and all third-party claims, actions, proceedings and suits and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including without limitation reasonable attorneys' fees and other litigation expenses) incurred by County arising out of or relating to any actual infringement of any U.S. issued patent or copyright by Vidaloop or misappropriation of any trade secret of any third party by Vidaloop and VotingApp ("Intellectual Property Infringement").
 - a. **Conditions of Indemnification.** The indemnification obligations under this Section 9 are conditioned upon County's compliance with the following: (i) County will provide Vidaloop prompt written notice of any claim after County has received notice of the claim or initial awareness thereof; (ii) County will grant Vidaloop, and Vidaloop will have, the sole and exclusive right to defend any claim and make settlements thereof at Vidaloop's own discretion; and (iii) County will give, at Vidaloop's expense, the assistance and information that Vidaloop reasonably requires to settle or defend the claims. County may, however, participate in the defense or settlement of any claim at its own expense and with its own choice of counsel.

- 10. **Confidentiality.** To the extent authorized under California law, each party agrees that the terms and conditions of this Agreement and any information concerning either party's marketing plans,



existing or future products, and any other confidential business or technical information, and all information declared confidential by either party, except as otherwise provided in this Agreement. If a party is directed to disclose any material proprietary to the other party in conjunction with a judicial proceeding, arbitration or otherwise by law, then the party so directed shall notify the other party both in writing and verbally immediately. This provision will survive cancellation or termination of this Agreement for a period of two (2) years. The parties agree that County may be required to release confidential information to the public pursuant to the requirements of the State of California.

11. **Assignment.** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without prior written consent of the other party, which consent shall not be unreasonably withheld. This Agreement will be binding upon, inure to the benefits of and be enforceable by the parties hereto and their respective successors and assigns.

12. **Miscellaneous.**

- a. **Independent Contractor:** Nothing in this Agreement shall be construed as creating any relationship between the parties, other than that of independent contractor and County or licensee and licensor. This Agreement is not intended to be nor will be construed as a joint venture, association, partnership, franchise, or other form of business organization or agency relationship. Neither party will have the right, power or authority to assume, create or incur any expense, liability, or obligation, expressed or implied, on behalf of the other except as expressly provided herein.
- b. **Law and Venue:** This Agreement will be interpreted, construed, and enforced in all aspects in accordance with the laws of the State of California, United States of America.
- c. **Notices:** Unless otherwise agreed by the parties, all notices required under this Agreement will be in writing and deemed effective when received by personal delivery, internationally recognized courier, or certified mail, return receipt requested at the address written above.
- d. **Severability:** In the event any provision of this Agreement is deemed to be invalid or unenforceable, the remainder of this Agreement shall not be affected.
- e. **Force Majeure:** Neither party will be in default or otherwise liable for any delay or failure of its performance under this Agreement if the delay or failure arises by any reason beyond its reasonable control, including any act of God, any acts of the common enemy, the elements, earthquakes, flood, fires, epidemics, riots, or mechanical failures or delay in transportation or commercial communications; provided however, that lack of funds will not be deemed to be a reason beyond a party's reasonable control. The parties will promptly notify and consult with each other as to any of the above causes, which in their judgment may or could be the cause of a delay in the performance of the Agreement.
- f. **Counterparts:** This Agreement may be executed in one or more counterparts by facsimile, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
- g. **Entire Agreement:** This Agreement, including the attachments to this Agreement, is the parties' entire agreement relating to the UOCAVA Solution and Documentation. It supersedes all prior or contemporaneous oral or written communications, proposals,



sales orders, or conditions between the parties relating to its subject matter. No modification or amendment to this Agreement will be binding unless in writing and signed by an authorized representative of each party.

- h. **Right to Audit:** Vidaloop agrees that County or its duly authorized representatives shall, until the expiration of three (3) years after expiration of this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Vidaloop which are directly pertinent to the services performed under this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions. Vidaloop agrees that County shall have access during normal business hours to all necessary Vidaloop facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. County shall give Vidaloop reasonable advance notice of intended audits.



Vidaloop Inc. Software License and Service Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

VIDALOOP INC.:

Vidaloop Inc.

Organization/Company

Sarah Horton, COO

Name and Title

S Horton

Signature

July 15, 2022

Date

Date

TOOELE COUNTY:

Tooele County

Organization/Company

Tracy Shaw, County Clerk

Name and Title

Tracy Shaw

Signature

8-4-22

Date

Date



Exhibit A - Roles and Responsibilities of Parties

Each party shall provide reasonable assistance and cooperation to the other party in connection with the Pilot, as may be reasonably required, and shall undertake the specific obligations as set forth below:

1. Vidaloop shall perform all necessary technology development and deployment services in order to develop and implement the UOCAVA Solution.
2. County shall provide Vidaloop with access to all necessary publicly available information and materials necessary for the development and implementation of the UOCAVA Solution. If the Pilot requires sharing of confidential or proprietary information or personal identifying information, the parties will execute data sharing and non-disclosure agreements prior to such data sharing.
3. The parties shall use commercially reasonable efforts to increase public awareness of the Pilot and educate the public on remote accessible mobile voting as a method to increase participation in the electoral process.
4. Within thirty (30) days following the completion of the Pilot, the parties shall meet and confer to discuss the outcome of the Pilot, whether it can be deemed successful based on metrics in Exhibit D, and any lessons that can be deployed in consideration of further use of the UOCAVA Solution in Utah or in other voting projects. In the event of termination pursuant to Paragraph 5 above, the parties shall meet and confer to discuss the reasons for the termination and how changes may be implemented to attempt other pilots going forward.
5. In connection with the foregoing discussions, County shall provide Vidaloop with access to data, in aggregate form that does not contain personal identifying information or cannot be traced to a specific voter, from the implementation of the UOCAVA Solution, including the number of eligible voters who were presented with the UOCAVA Solution, how many accessed the UOCAVA Solution but did not use it, and how many used the UOCAVA Solution. Vidaloop may use this data in connection with other voting projects including development of a use case and roadmap for other jurisdictions.
6. Vidaloop has the right to select a third-party provider to conduct an independent audit of the Pilot and UOCAVA Solution to identify any security gaps, vulnerabilities or risks that could have affected the Pilot, and to ensure validity of the results. Vidaloop will pay for any such audit directly and County agrees to cooperate fully in the auditing process. County will also have the right to independently audit the Pilot and UOCAVA Solution for purposes of improving the conduct of elections.



Exhibit B - Statement of Work

For as long as this Agreement is in effect, Vidaloop agrees to provide County with VotingApp products and services as described below:

1. Products and Services

a. UOCAVA Mobile Voting Solution

- i. Vidaloop will deliver to County a mobile voting system that enables the voter to access, mark, and return the appropriate ballot style via smartphone.
- ii. The voter receives a token from County, downloads VotingApp, and authenticates themselves as the intended voter. The voter receives their appropriate ballot style on the app, marks the ballot, reviews their selections and subsequently returns the completed ballot electronically to County. County electronically receives the completed ballot, and manually reproduces the voter's ballot onto their system of record's ballot stock.

b. Languages Included

- i. English

c. Technical Specifications

- i. For the voter, VotingApp requires an Android or iOS device with access to the Google Play or Apple App Store.
- ii. For County, access to a standard web browser on a Windows or Mac computer is required for proofing and ballot image retrieval.

2. Vidaloop Services

a. Orientation

- i. Vidaloop will deliver onboarding orientation and training that includes:
 1. Presentation of a Project Plan and Timeline
 2. Submitting Exports
 3. Ballot Proofing
 4. Retrieving Ballot Images & Duplication
 5. End User Documentation and Helpdesk materials

b. Configuration

- i. Vidaloop will configure the UOCAVA System for County based on exports from Voter Registration and Election Management (Ballot) data based on the timelines set out in the Project Plan.
- ii. Vidaloop will conduct a first pass election review and testing and will provide test links and test activity periods for County verification.

c. Election Maintenance and Support

- i. Vidaloop will assign a Project Manager exclusive to County as a single point of contact.
- ii. Vidaloop will provide onsite support on Election Day, and other critical support days such as L&A testing or UOCAVA election opening day if deemed necessary.



- iii. Vidaloop will provide a voter assistance contact channel that will respond within 1-12 hours to any request from the public. Vidaloop will log and alert County of each instance of voter support.

d. Post-Election Tasks

- i. Vidaloop will assist County with requested post-election tasks and will archive the project for two (2) years.

3. County Requirements

In order to guarantee an on-time go live date, County agrees to:

- a. Complete onboarding orientation with Vidaloop.
- b. Provide complete and accurate election data in required format a minimum of ten business days prior to product launch dates. Failure to provide data in identified format or in accordance with established timelines may result in product launch delays.
- c. Complete review and QA testing/proofing of all products before launch.
- d. Send written approval of system (e-mail) to authorize activation of system features.
- e. Perform all voter list updates after initial product launch, as applicable.
- f. Notify Vidaloop of any changes to language requirements as soon as practicable.
- g. Notify Vidaloop of any changes to election calendar as soon as practicable.
- h. Notify Vidaloop of changes to system administrators (addition/deletion).
- i. Notify Vidaloop of changes to key personnel assigned to system administration/support.
- j. All data must be uploaded to votingapp.wetransfer.com. Any data delivered outside of this website may not be accepted by Vidaloop and will not be considered delivered in accordance with the ten business day requirement.



Exhibit C - Support and Maintenance

Vidaloop's business hours are 9:00 am to 5:00 pm Mountain Time, Monday through Friday. During these hours, an assigned project manager will be available.

Vidaloop is committed to providing the highest level of support to County throughout the term of this Agreement. Vidaloop acknowledges that support requests may be submitted either by jurisdiction officials operating the system or elections division staff administering the system.

To report issues, contact your assigned project manager by phone or email.

Vidaloop will perform the following service levels:

1. **Election Calendar Period through Election Certification.** Concurrent with the expected period of configuring and testing the UOCAVA Solution between 60 and 45 days prior to Election Day, and through final certification of the election, Vidaloop will respond to issues reported by email within 3 hours, 7 days a week, 24 hours a day. Upon notification to Vidaloop's Customer Support System the issue will be immediately routed to the appropriate operational personnel, and a case will be opened and managed through satisfactory resolution of the reported issue.
2. **Off Peak Times.** During relatively slower periods between certification of the most recent election and the configuration of the next, Vidaloop will respond to issues reported by email within 5 hours during normal business hours Pacific Time. Upon notification to Vidaloop's Customer Support System the issue will be immediately routed to the appropriate operational personnel, and a case will be opened and managed through satisfactory resolution of the reported issue.
3. **Support.** For as long as County is in compliance with all terms of this Agreement, including set forth in attachments, and as long as the Agreement is in effect, Vidaloop will provide Support and Maintenance as listed above. Notwithstanding anything to the contrary in this Agreement, Vidaloop will not provide Support and Maintenance for: (i) Any products other than the UOCAVA Solution provided by Vidaloop under this Agreement, (ii) Any modifications to the UOCAVA Solution not made by Vidaloop or a third party authorized in writing by Vidaloop to make modifications, or (iii) Any use of the UOCAVA Solution that is not in accordance with this Agreement, the documentation or other written instructions provided by Vidaloop.



Exhibit D - Metrics for Performance

Publicly available audit records comparing the voter verified digital receipts with the paper ballots extracted from the blockchain must demonstrate 100% accuracy.

At least 90% of the eligible voters who opt-in to participate in the Pilot download and access the application and successfully cast their ballot within VotingApp. Voter privacy is maintained for all voters.

Survey results demonstrate that at least 75% of the voters who participate in the survey report state that they would prefer to vote using VotingApp again in the future.