



United Way of Galveston
125th St. #2030
Galveston, TX 77550
(409) 762-4357
www.UWGalv.org

United Way of Galveston

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (“Agreement”) is made as of January 1, 2023 (the “Effective Date”), by and between United Way of Galveston a Texas nonprofit corporation (“the Disclosing Party”) and _____ [Board Member Name] (the “Receiving Party”). The Disclosing Party and Receiving Party sometimes are collectively referred to herein as the “Parties” and individually as a “Party”.

The Parties acknowledge that, by reason of Receiving Party’s service as a volunteer to the Disclosing Party (the “Purpose”), the Disclosing Party may disclose or provide access to the Receiving Party to information and materials concerning its business, plans, financing, donor lists, prospective donor lists, financial data, products, and technical data which is confidential and of substantial value to the Disclosing Party that would be impaired if the information were disclosed to third parties or used by the Receiving Party for any reason other than the Purpose. Therefore, to protect any confidential information that may be provided, the Parties agree as follows:

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

- 1. Confidential Information.** For the purposes of this Agreement, “Confidential Information” shall include all nonpublic information of any type or character that is either disclosed, directly or indirectly, before or after the Effective Date, to the Receiving Party or with which the Receiving Party comes into contact or is provided access to in connection with the Purpose. All Confidential Information shall remain the property of the Disclosing Party. This Agreement shall not require the Disclosing Party to disclose any of its Confidential Information. Moreover, the Disclosing Party does not wish to receive any Confidential Information from the Receiving Party, and the Disclosing Party assumes and will have no obligation of any kind with respect to any information disclosed by the Receiving Party.
- 2. Standard of Care; Restrictions on Use and Disclosure.** The Receiving Party agrees:
 - (a) to maintain the Confidential Information in strict confidence and to protect Confidential Information received pursuant to this Agreement by using the same standard of care which it uses to protect and safeguard its own Confidential Information of a like nature, but no less than a reasonable degree of care, to prevent the unauthorized use, disclosure, dissemination, or publication of the Confidential Information;



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- (b) to use the Confidential Information solely for the Purpose set forth in this Agreement, and not for any other purpose or for its own benefit or for the benefit of any other person or party, and that it shall not at any time incorporate all or any portion of the Confidential Information into any other work or product other than for the sole purpose of performing its obligations in connection with this Agreement;
- (c) not to use or disclose any Confidential Information in contravention of any duty existing under law or contract or to use or disclose any Confidential Information knowingly to the detriment of the Disclosing Party;
- (d) not to decompile, disassemble, or reverse engineer all or any part of the Confidential Information;
- (e) it shall be liable for any breaches of this Agreement by any person or party to whom it discloses Confidential Information received from the Disclosing Party; and
- (f) if it discovers that any Confidential Information has been used, disseminated or published in violation of this Agreement, it will immediately notify the Disclosing Party, take all commercially reasonable actions available to minimize the impact of the use, dissemination or publication, and take any and all necessary steps to prevent any further breach of this Agreement.

3. Exceptions to Confidential Information. Confidential Information shall not include and this Agreement shall not impose any obligation upon the Receiving Party with respect to information which the Receiving Party can establish by documentary or other competent evidence:

- (a) is or becomes generally available to the public through no fault of the Receiving Party; or
- (b) was rightfully in the possession of the Receiving Party prior to its receipt from the Disclosing Party; or
- (c) is disclosed with the prior written consent of the Disclosing Party; or
- (d) was independently developed by the Receiving Party without use of the Confidential Information by persons who did not have access to the Disclosing Party's Confidential Information.

For the purposes of this Agreement, disclosures which provide specific, detailed information shall not be deemed to be within the foregoing exceptions merely because they are embraced by more general disclosures in the public domain or in the Receiving Party's possession. In addition, any combination of features or components shall not be deemed to be within the foregoing exceptions merely because information about individual



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components are separately in the public domain or in the Receiving Party's possession.

- 4. *Required Disclosures of Confidential Information.*** In the event that Receiving Party is requested to disclose any Confidential Information received under this Agreement (including, but not limited to, requests made by oral question, interrogatories, requests for information or documents, subpoenas, an order issued by a court or regulatory body, civil investigation or similar process), and upon the advice of legal counsel such disclosure is required by law, then the Receiving Party shall provide the Disclosing Party with prompt written notice of such request prior to making any disclosure so that the Disclosing Party may seek a protective order or other appropriate relief. The Receiving Party shall fully assist the Disclosing Party in its lawful efforts to resist, narrow, or eliminate the need for the requested disclosure. If disclosure is nonetheless required, the Receiving Party shall use its best efforts to obtain a binding assurance that confidential treatment shall be afforded to any portion of the Confidential Information that it is required to be disclose, and shall only furnish that portion of the Confidential Information which it is advised by its legal counsel must be provided pursuant to such request.
- 5. *Period of Confidentiality.*** The Receiving Party shall be obligated to protect the Confidential Information received pursuant to this Agreement until such time that the Confidential Information becomes publicly known and made generally available through no action or inaction of the Receiving Party.
- 6. *Return of Confidential Information.*** The Receiving Party shall promptly return or, at the Disclosing Party's option, destroy all copies of Confidential Information at any time upon request by the Disclosing Party or within Ten (10) days following the expiration or earlier termination of this Agreement. An authorized representative of the Receiving Party shall certify that all such Confidential Information has been returned or destroyed. If and to the extent the Receiving Party has any notes, analyses, compilations, studies, interpretations, memoranda, photographs, magnetic or electronic media or videotapes, or any other documents prepared by or on behalf of the Receiving Party that contain, reflect or are based upon, in whole or in part, any Confidential Information provided by the Disclosing Party pursuant to this Agreement, then the Receiving Party shall redact, erase, delete or destroy such documents so that the Confidential Information is no longer accessible.



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- 7. *No License.*** All Confidential Information will remain the exclusive property of the Disclosing Party. The Receiving Party acknowledges and agrees that no right or license is granted to the Receiving Party in relation to any part of the Disclosing Party's Confidential Information. This Agreement does not grant any intellectual property rights or licenses (express or implied), including without limitation rights to patents, patent applications, trademarks, copyright, or trade secrets to the Receiving Party. The Receiving Party shall not remove, overprint, alter, obscure or deface any element or notice of copyright or trademark, logo, legend or other notice of ownership from any of the Disclosing Party's Confidential Information.
- 8. *Term of Agreement.*** This Agreement shall remain in effect until Receiving Party is no longer a member of the Board of Directors of Disclosing Party. Upon expiration or termination of this Agreement, the Receiving Party shall immediately cease all use of the Disclosing Party's Confidential Information and return said information to Disclosing Party.
- 9. *Governing Law and Venue.*** This Agreement shall be construed in accordance with the laws of the state of Texas excluding its conflict of law provisions. The Parties hereby agree that this Agreement shall be performable solely in Galveston County, Texas and any action arising out of this Agreement will be brought solely in any state or federal court located in in Galveston County, Texas The Receiving Party hereby consents to the exclusive personal jurisdiction of such courts, and waives any objection in any such action based on improper venue, inconvenient forum or similar grounds.
- 10. *Equitable Relief.*** The Receiving Party acknowledges and agrees that in the event of a breach or threatened breach of any provision of this Agreement, the Disclosing Party will suffer irreparable harm for which it will not have an adequate remedy at law. The Disclosing Party shall therefore be entitled to obtain an injunction enjoining and restraining the Receiving Party from doing or continuing to do any such act and any other violations or threatened violations of this Agreement, without the necessity of posting any bond or other security and without having to prove any actual damages. The Disclosing Party's right to injunctive relief shall be in addition to any and all other rights or remedies which may be available to it at law or in equity.
- 11. *Attorney's Fees.*** The Disclosing Party shall be entitled to recover reasonable attorney's fees and costs in conjunction with any successful action brought to enforce or interpret this Agreement.



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12. Severability. If any provision of this Agreement is held invalid under any applicable law, such provision shall be limited or eliminated to the minimum extent necessary, and all other provisions of this Agreement shall remain in full force and effect.

13. Waiver. No waiver of any term or right in this Agreement shall be effective unless in writing, signed by an authorized representative of the waiving Party. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver or modification of such provision, or impairment of its right to enforce such provision thereafter.

14. Entire Agreement; Modifications. This Agreement is the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior agreement or communications between the Parties, whether written or oral. This Agreement may be modified only by a written amendment signed by authorized representatives of both Parties.

United Way of Galveston a Texas nonprofit corporation

UNITED WAY OF GALVESTON Authorized Representative

By: Lindsey White Date: January 1, 2023
Lindsey White, Executive Director

BOARD MEMBER

By: _____ Date: _____

Name and Title: _____