

## AGREEMENT BETWEEN USER AND UTAH STUDENT 25

This list of terms and conditions (these “*Terms*”) are a legally binding agreement between the user and the Utah Student 25 Program and its creators, affiliates and sponsors (“*Utah Student 25*”) and you (sometimes referred to as the “*User*”). Your application is conditional upon acceptance of these terms, conditions and notices. If at any time the User is found to be in violation of any part or portion of this commitment, their application will be nullified and they will not be eligible for consideration for the Utah Student 25.

### MODIFICATION OF THESE TERMS OF USE

Utah Student 25 reserves the right to change the terms, conditions, and notices under which the program is effectuated, including but not limited to the charges associated with the terms of eligibility, before or after applications are submitted. You are responsible for regularly reviewing these terms and conditions.

PLEASE READ THE FOLLOWING TERMS OF USE AND DISCLAIMERS CAREFULLY BEFORE USING THIS WEB SITE AND ITS RELATED SITES (this “*Site*”). By accessing or using this Site, you agree to these terms of use, conditions and all applicable laws. If you do not agree to these terms you may not use this Site.

### ACCESSING THE SITE

When you complete our application process you will obtain a unique code that will allow you to access our Site and update information about your application. You agree to maintain the confidentiality of that code, and are fully responsible for all liability and damages resulting from your failure to maintain the code as confidential.

### YOUR USE OF OUR SITE

The content shown on the Site, including facebook, flickr, youtube, wordpress and linked-in, is all intellectual property of Utah Student 25. You may not modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell any information, software, products or services obtained from the Utah Student 25 sites.

However, you may display and, subject to any expressly stated restrictions or limitations relating to specific material, electronically copy, download and print hard copy portions of the material from the different areas of the Site solely for your own noncommercial use, or to promote the Utah Student 25 program in your school/community. All such use shall be in good taste, reflect favorably on Utah Student 25 and shall not dilute, tarnish or blur Utah Student 25’s marks. Utah Student 25 reserves the right to terminate the use rights for its marks generally or in specific instances of use at any time and for any reason. Any other use of materials on this Site, including but not limited to the modification, reproduction, distribution, republication, display or transmission of the content of this Site, without prior written permission of Utah Student 25 is strictly prohibited. You understand and agree that we may at any modify or discontinue, temporarily or permanently, all or any portion of the Site with or without notice. You agree that we shall not be liable to you or to any third party for any modification, suspension or termination of the Site.

### YOUR INFORMATION

*Definitions.* “Your Information” is defined as any information post or other material you provide (directly or indirectly), including through the application process or through the use of our Site, in any public message board, blog postings, comments, messages sent within Utah Student 25 (“inmail”) or email. You are solely responsible for Your Information, and we act as a passive conduit for the online distribution and publication of your Public Information (as defined below).

Your name, company affiliation and location, as well as any of Your Information that, through the use of our Site or otherwise, you submit or make available for inclusion on publicly accessible areas of our website is referred to as “*Public Information.*” “*Publicly accessible*” areas of our website are those areas that are available either to some or all of others that may view or use our Site (i.e., not restricted to your viewing only) or to the general public.

*Your Information.* You, and not Utah Student 25, are entirely responsible for all of Your Information that you upload, post, email, transmit or otherwise make available via our Site. We do not control your Public Information or the Public Information of or posted by others and do not guarantee the accuracy, integrity or quality of Your Information or the Information of or posted by others. Nor do we endorse any opinions expressed by you or other users. We do not have any obligation to monitor, nor do we take responsibility for, Your Information, Public Information or information of or posted by other users. You agree that under no circumstances will Utah Student 25, its directors, officers, equity owners, employees, consultants, agents, advisers, affiliates, subsidiaries or its third-party partners be liable in any way for any information, including, but not limited to, for any errors or omissions in Your Information or the Public Information of or posted by others, or for any loss or damage of any kind incurred as a result of the use of Your Information or any Public Information of or by any others posted, emailed, transmitted or otherwise made available in connection with our Site, or for any failure to correct or remove any such information.

*Representations regarding Your Information.* In consideration of your use of our Site, you agree that Your Information:(a) shall not be fraudulent; (b) shall not infringe any third party’s copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (c) shall not violate any law, statute, ordinance or regulation; (d) shall not be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (e) shall not be obscene or contain, pornography, child pornography, or photographs of unclothed person(s); (f) shall not contain any viruses, Trojan horses, worms, time bombs, cancelbots, easter eggs or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information; (g) shall not create liability for us or cause us to lose (in whole or in part) the services of our ISPs or other suppliers; (h) shall not link directly or indirectly to any materials to which you do not have a right to link to or include. In addition, you shall provide us with your valid, current email address, both at the time of your application with us and from time to time as your email address changes. You agree further that your membership profile, messages, message board postings, uploaded pictures, or any other portions of the website reserved solely for use on the Site and may not be used by you for commercial activity, sales of goods or services, or promotion of a company, good, or service unrelated to the topic or spirit of the Utah Student 25. You shall be solely responsible for the disclosure of any information you enter into publicly accessible areas of the Site, whether or not it was your intention to do so.

*We do not claim ownership of Your Information.* To enable us to use your Public Information and to ensure we do not violate any rights you may have in your Public Information, you grant Utah Student 25 a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sub-licensable (through multiple tiers) right to exercise, commercialize and exploit all of the copyright, publicity, and database rights (but no other rights) you have in your Public Information, in any media now known or hereafter invented.

*Our disclosure of Your Information.* You acknowledge and agree that Utah Student 25 may disclose Your Information at any time and for any reason consistent with the purposes of Utah Student 25. Additionally, if required to do so by law or in the good faith belief that such disclosure is reasonably necessary to:(a) comply with a current judicial proceeding, a court order or legal process served on us or our website, (b) enforce these Terms, (c) respond to claims that Your Information violates the rights of third parties; or (d) protect the rights, property or personal safety of Utah Student 25, its employees, users and the public.

*Maintaining Your Information.* You agree that we have no responsibility or liability for the storage or the deletion of, or the failure to store or delete, any of Your Information. You acknowledge that we reserve the right to suspend you or make your application inactive for an extended period of time.

*Honesty and Transparency.* Your Information must be completely accurate and honest. Any of Your Information sent with the intent to deceive or mislead will be grounds to disqualify the participant.

*Inspection, Review and Audit of Your Information.* Utah Student 25 retains the ability to verify all information submitted by the applicant, including business financial information and validation of student status. Utah Student 25 reserves the right to ask for supporting documentation regarding Your Information. Once requested, this information is expected to be delivered in a timely manner to the committee or the participant will forfeit their eligibility in the program. Any supporting material shall be true and accurate and subject to review, inspection and audit. All participants own the rights to their ideas. Applicants must properly acknowledge any trademarks or copyrighted materials of others that are incorporated into the participant's materials. Applicants are responsible for obtaining any necessary permission before incorporating such materials into their submittals.

*Termination.* You agree that we, in our sole discretion, may issue a warning, temporarily suspend, indefinitely suspend, remove content or information you have posted, including Your Information, or terminate your eligibility in the Utah Student 25, or your ability to use all or any portion of the Site, for any reason, including, without limitation, for lack of use, if we believe that you have violated or acted inconsistently with the letter or spirit of these Terms, if we are unable to verify or authenticate Your Information, or if we believe that your actions may cause legal liability for you, or us. You agree that any termination of your account or access to all or any portion of the Site under any provision of these Terms may be effected without prior notice, and acknowledge and agree that we may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or our Site. You also agree that we shall not be liable to you or any third party for any termination of your use of or access to all or any portion of the Site.

## ELIGIBILITY

While rankings are based on the business' performance, participation is based on a "*participant(s)-business*" set. The word "*participant*" refers to the student founder(s) associated with a business. To be eligible for Utah Student 25, a participant-business set must meet the following criteria:

*Participants.* The Utah Student 25 awards program is geared toward students that have started businesses while primarily engaged in furthering their education. Accordingly:

- Participants must have graduated during 2009 or be undergraduate or graduate students enrolled full-time at an institution for higher education within the State of Utah during the academic year in which the program is completed. In that academic year, participants must be enrolled in the minimum credit hours that the participants' institution sets for full-time status. A part-time student may be allowed as a participant if the participant's school representative recommends acceptance in the program and the Utah Student 25 accepts the recommendation. Final determination, if necessary, of a participant's enrollment status and submission acceptability will be made by the Utah Student 25.
- A participant must have played a major role in conceiving the business and have a key management role in the business; in general, one of the participants should be CEO, COO, or President of the business, or the participants should occupy together 50% or

more of the functional area management positions that report directly to the CEO, COO, or President.

- Participants together must own a significant equity stake in the business. Participants should own 50% or more of the equity allocated to the management team and key advisors. An equity position of less than 50% of the equity allocated to the management team and key advisors, and/or less than 25% of the total equity of the business, may cause the Utah Student 25 to require the participants to show evidence that they were true founders of the business and are now key to its success.

*Businesses.*

- The business must be for-profit and independent: in other words, not a subsidiary or a division of a larger firm with other revenue-generating operations. Non-profit businesses are not eligible. All types of businesses—including sole proprietorships, partnerships, limited liability companies, and corporations—are eligible for participation.
- The business must be headquartered in Utah.
- The business must be no more than five (5) years old, which shall specifically mean that it must not have been founded or have been revenue-generating prior to July 1, 2004.
- The business must have been founded while its participant(s) was (were) enrolled in a (1) *high school anywhere* or (2) *college/university located in Utah*.
- The business must have been founded on or before June 30, 2008. Businesses that were founded on or after July 01, 2008 and on or before December 31, 2008 will be allowed to participate, but will only be considered for the *Emerging Start Up* category.
- If the business operates under multiple names (sometimes referred to as a “DBA”) under one specific business, there can only be one submission for the business -- the DBAs may not be individually submitted.

*Other.* The Utah Student 25 reserves the right to reject or disqualify any application or participant if such application or participant:

- Violates any local, state or national law.
- Violates any intellectual property rights.
- Contains content that could be objectionable or offensive to Utah Student 25 in the Utah Student 25’s sole discretion. For example, companies promoting or making available any pornography or sexual-related products or services, controlled substances, or gambling will not be allowed to participate in the Utah Student 25.
- Fails to meet the eligibility criteria as described above or as may be established from time to time.

Additionally, questions of eligibility in the Utah Student 25 may be evaluated by the Utah Student 25 at any time and for any reason. The Utah Student 25 reserves the right to refuse participation based on content, purpose, organization, level of professionalism, or any other criteria that may be established from time to time. The Utah Student 25 reserves the right to interpret, change and/or modify these eligibility criteria at any time and for any reason.

**GROUP MEETINGS AND OTHER BENEFITS.**

*Utah Student 25 Gatherings.* Utah Student 25 anticipates arranging for meetings between participants and with service providers (“*Utah Student 25 Gatherings*”). We do not supervise these Utah Student 25 Gatherings and are not involved in any way with the actions of any individuals at these Utah Student 25 Gatherings. Because we do not supervise or control any Utah Student 25 Gathering, we will not be responsible for, and hereby disclaim, any information, advice, guidance or other actual or anticipated benefit that you may receive by participation in Utah Student 25 Gatherings. Accordingly, you agree to release Utah Student 25 and its agents, representatives, and affiliates from claims, demands, and damages in any way related to Utah Student 25 Gathering.

*Emails and other communications.* You understand and agree that we may send you emails and other certain communications, such as Utah Student 25 service announcements and newsletters, as well as offers of goods and services relevant and beneficial to you or others that may use our Site. We may provide, or third parties may provide, links to other websites or resources. Because we have no control over such websites or resources, you acknowledge and agree that we are not responsible for the availability of such websites or resources, and do not endorse and are not responsible or liable for any content, advertising, products, or other materials on or available from such websites or resources. You also acknowledge and agree that Utah Student 25 shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods or services available on or through any such websites or resource.

*Links.* We may provide, or third parties may provide, links to other websites or resources. Because we have no control over such websites or resources, you acknowledge and agree that we are not responsible for the availability of such websites or resources, and do not endorse and are not responsible or liable for any content, advertising, products, or other materials on or available from such websites or resources. You also acknowledge and agree that Utah Student 25 shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods or services available on or through any such websites or resources.

## INDEMNITY

You agree to indemnify and hold Utah Student 25 and its agents, representatives and affiliates from any claim or demand, including reasonable attorneys’ fees, made by any third party due to or arising out of your breach of these Terms or the documents it incorporates by reference, your use of our Site, Your Information, your violation of any law, statute, ordinance or regulation or the rights of a third party, your participation in Utah Student 25 Gatherings (whether the claim or demand is due to or arising out of your transportation to or from, attendance at, or the actions of you or other Members or third parties at Utah Student 25 Gatherings) or use of or access to goods and services provided by means of links from our Site.

## WARRANTIES AND LIABILITY

*Disclaimer of Warranties.* Your use of the Site is at your sole risk. Our Site is provided to you “as is” and on an “as available” basis. We specifically disclaim all warranties and conditions of any kind, whether express, implied or statutory, including but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement. We disclaim any warranties regarding the security, reliability, timeliness, and performance of our Site. We disclaim any warranties for any information or advice obtained on our Site or in connection with the Utah Student 25 or any Utah Student 25 Gatherings. We disclaim any warranties for services or goods received through or advertised on our Site or received through any links provided by our Site, as well as for any information or advice received through any links provided through our Site. In addition, no advice or information (oral or written) obtained by you from us shall create any warranty.

*Assumption of Risk.* You understand and agree that sending and receiving data or material over the Internet involves certain inherent risks, including but not limited to, corruption of the data, data loss and other damage to you computer system, exposure of the data to unintended third parties, in addition to other known and unknown risks. You further acknowledge and agree that your use of the Site will be at your discretion, and you will assume all risks, including those mentioned above, associated with the transmission and receipt of data over the Internet.

*Limitation of Liability.* You agree that in no event shall Utah Student 25 be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if Utah Student 25 has been advised of the possibility of such damages), arising out of or in connection with our Site or these Terms or the inability to use our Site (however arising, including negligence), arising out of or in connection with any transaction with any third party or arising out of or in connection with your use of our Site or transportation to or from Utah Student 25 Gatherings, attendance at Utah Student 25 Gatherings, participation in or exclusion from a Utah Student 25 Gathering, and the actions of you or others at Utah Student 25 Gatherings. Some jurisdictions do not allow the exclusion or limitation of certain warranties or of incidental or consequential damages. Accordingly, some of the limitations in this section may not apply to you.

*Dispute Resolution.* The parties will attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of or relating to these Terms, your use of the Site, Your Information, your violation of any law or the rights of a third party, or your participation in Utah Student 25 Gatherings (whether the dispute, claim or controversy is due to or arising out of your transportation to or from, attendance at, or the actions of you or third parties at Utah Student 25 Gatherings). Either party may initiate negotiations by providing written notice to the other party, setting forth the subject of the dispute and the relief requested. The recipient of such notice will respond in writing within fifteen (15) business days with a statement of its position on and recommended solution to the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each party with full settlement authority will meet in person or otherwise at a mutually agreeable time and place within thirty (30) business days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt to resolve the dispute. In the event that the dispute, claim or controversy is not resolved by these negotiations, the parties select the State and Federal Courts located in Utah County, Utah as the only forum in which any such dispute shall be litigated.

#### SUBMISSION DATE

All applications shall be submitted no later than 5:00 pm (Mountain Standard Time) on Monday, October 12, 2009, to the Site.

#### MISCELLANEOUS

*Notices.* Except as otherwise stated, any notice to us shall be given by email to **legal@Utah Student25.com**, and any notice to you shall be given to the email address that you provided us during the application process. Notice shall be considered given 24 hours after email is sent, unless the sending party is notified that the email address is invalid.

*Entire Agreement.* These Terms constitute the entire agreement between you and Utah Student 25, superseding any prior agreements between you and Utah Student 25. To the extent that you have previously registered with Utah Student 25 and provided Your Information, these Terms now govern how Utah Student 25 may use Your Information, whether provided in the past or the future.

*No Agency.* No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship between you and Utah Student 25 is intended or created by these Terms.

*Governing Law.* These Terms and the relationship between you and Utah Student 25 shall be governed by the laws of the State of Utah without regard to its conflict of laws provisions, as such laws are applied to agreements entered into and to be performed entirely within Utah between Utah residents. You and Utah Student 25 agree to submit to the personal and exclusive jurisdiction of the courts located within the State of Utah.

*No Waiver.* Utah Student 25's failure to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision and does not waive our right to act with respect to subsequent or similar breaches.

*Severance.* If any provision of these Terms is found to be invalid by a court of competent jurisdiction, you and Utah Student 25 nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and that the other provisions of these Terms will remain in full force and effect.