

Data Return Agreement
between Journal Technologies, Inc. and
Ogden City and Weber County

This data return liability release and non-disclosure agreement (the “Data Return Agreement”) is made by and between the **City of Ogden**, a political subdivision in the State of Utah (the “City”), the **County of Weber**, a political subdivision in the State of Utah (the “County”), and **Journal Technologies, Inc.** (“Contractor”). This Data Return Agreement is made as of the date of the last signature below.

WHEREAS, the County entered into a contract (the “JustWare Contract”) with Contractor to subscribe to and receive support for a cloud-hosted version of Contractor’s JustWare case management system (“JustWare”), which JustWare Contract also covered a certain number of City users; and

WHEREAS, pursuant to discussions and negotiation involving City, County and Contractor, the City users were removed from the JustWare Contract as of June 30, 2021, as City opted to migrate to a different case management system; and

WHEREAS, City desires to receive its hosted database, inclusive of database views, and its hosted filing cabinet, to effectively transfer to such different case management system; and

WHEREAS, County, City and Contractor hereby agree that, due to difficulty in segregating County and City data, City shall receive a database and filing cabinet return that includes both City and County database information and files.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Within a reasonable time after execution of this Data Return Agreement, an unaltered backup of the County and City database, including database views, as well as County and City’s filing cabinet, shall be made available to City, which backup shall be a copy of the County and City’s most recent, daily backup created in the hosted datacenter, and will be made available securely (encrypted .zip or .rar file) via the Contractor’s FTP site (<https://ftp.journaltech.com>). Because the backup will be unaltered: (a) Name Records will not be modified to a derivative of John or Jane Doe, all name addresses will be retained, all email addresses will be retained, all phone numbers will be retained, all name numbers (SSN, Driver’s License, &c.) will be retained, all historical logging tables (tbl) will be retained, and all name and case notes will be retained.

2. By accepting an unaltered database backup from Contractor, County and City assume full liability for their data, which liability includes, without limitation, the intentional or unintentional release of data to a secure or unsecure person, group or agency, and further includes security breach, privacy breach, unauthorized access or unauthorized use.

3. City acknowledges that a database backup inclusive of database views may include intellectual property and trade secrets of Contractor that are not generally known to the public (“Confidential Information”), and by accepting such a database backup the City agrees to retain all Confidential Information pursuant to the following terms and conditions, which shall survive the termination of the Data Return Agreement:

a. The City will restrict the possession, knowledge and use of Confidential Information to each of its employees, contractors and agents who (a) has a need to know the Confidential Information and (b) is legally obligated to protect the Confidential Information to the same or greater degree as required under this Data Return Agreement. The City will ensure that its employees, contractors and agents comply with this Data Return Agreement.

b. The City agrees to keep in confidence at all times all Confidential Information.

c. The City agrees neither to disclose to anyone nor to directly or indirectly use any Confidential Information either during the term of the Data Return Agreement or at any time thereafter, except as required by law or as necessary to access and transfer the City’s database and files to a different case management solution.

d. The City shall exercise utmost diligence at all times to protect and guard all Confidential Information, including at a minimum, those measures it takes to protect its own confidential information of a similar nature.

e. All Confidential Information shall remain the sole and exclusive property of Contractor, and such is disclosed in confidence and in reliance on the City’s agreement to maintain such in confidence.

f. The City may not reverse engineer, decompile or disassemble any software constituting Confidential Information that is disclosed to the City.

g. By disclosing information to the City, Contractor does not grant any express or implied right to the City to any intellectual property of Contractor, including without limitation any patents, copyrights, trademarks or trade secret information.

4. County Acknowledgement: County acknowledges and agrees that Contractor may release the database and filing cabinet information to City, with full knowledge that such release will include information, including potentially confidential information, of County (“County Information”). Contractor disclaims all responsibility and liability for City’s handling of County Information, and City and County agree that City’s handling of such County Information shall be the responsibility of City, with cooperation and oversight by County as City and County may separately agree between themselves.

5. Effect of Invalidity. If any provision or clause of this Data Return Agreement, as applied to any party or to any circumstances, shall be adjudged by a court to be invalid or

unenforceable, said adjudication shall in no way affect any other provision of this Data Return Agreement, the application of such provisions in any other circumstances, or the validity or enforceability of this Data Return Agreement. If any provisions, or any part hereof, is held to be unenforceable because of the duration of such provision or area covered hereby, the parties hereto agree that the court in making such determination shall have the power to reduce the duration and/or area of such provisions, and/or to delete specific words or phrases and in its reduced or reformed form, such provisions shall then be enforceable and shall be enforced.

The invalidity of any portion of this Data Return Agreement will not and shall not be deemed to affect the validity of any other provision. This is a severable Data Return Agreement, and in the event that any part or parts of this Data Return Agreement (particularly parts respecting obligations to maintain confidentiality and protection of trade secrets and enforcement thereof) shall be held to be unenforceable to its or their full extent, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

6. Indemnification. Each Party shall indemnify and hold harmless all other Parties against any and all liability, loss, expense (including reasonable attorney's fees), and claims arising out of the negligent acts, or willful misconduct of the indemnifying party.

7. Modification. This Agreement may only be modified by written and signed consent of all Parties.

8. Applicable Law. This Agreement shall be governed by Utah law, without giving effect to any choice or conflict of law provision or rule.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed as of the date last written below.

Journal Technologies, Inc.:

By: _____

Date: _____

Printed Name and Title: Maryjoe Rodriguez, Vice President

Signatures continue to next page.

The Board of County Commissioners of Weber County:

By: _____

Date: _____

James H. "Jim" Harvey, Chair

Commissioner Harvey voted _____
Commissioner Jenkins voted _____
Commissioner Froerer voted _____

ATTEST:

Ricky Hatch, CPA
Weber County Clerk/Auditor

City of Ogden:

By: Mark Johnson

Date: Nov 3, 2021

Printed Name and Title: Mark Johnson CAO



Lee Ann Peterson
Chief Deputy Recorder