

Confidentiality and Non-disclosure Agreement

This Confidentiality and Non-disclosure Agreement (the "**Agreement**") is entered into as of [month] [day], [year] ("**Effective Date**"), between Northwestern University, a private, not-for-profit, nonsectarian, coeducational institution, created by Charter by the State of Illinois ("**Discloser**") and [Company], a [state] [entity type] ("**Recipient**"). Discloser and Recipient may each be individually referred to as a "**Party**" and collectively as "**Parties**."

1. **Definitions**

- a. "**Confidential Information**" means information Discloser identifies as confidential upon disclosure, or that Recipient should reasonably understand to be confidential under the circumstances, whether such information is in written, oral, electronic, or other form; provided, however, that "Confidential Information" shall not include information Recipient can demonstrate: (a) at the time of disclosure is or thereafter becomes available to the public through no breach of this Agreement by Recipient or its Representatives (b) by written records was known to or otherwise in the possession of Recipient prior to receipt of such information from Discloser; (c) is obtained by Recipient on a non-confidential basis from a source other than Discloser and such source was not subject to any obligation of confidentiality with respect to such information; or (d) by written records was developed by Recipient independently of any use of or reference to any of Discloser's Confidential Information Discloser.
- b. "**Purpose**" means the evaluation of a potential [business relationship/transaction] between the Parties.
- c. "**Representative**" means Recipient's employees, affiliates, and/or contractors who have a need-to-know Discloser's Confidential Information for the Purpose.
- d. "**Term**" means the time period beginning on the Effective Date and ending one year from the Effective Date.

2. **Use and Nondisclosure.** During the Term, Discloser may disclose Confidential Information to Recipient. Recipient agrees to (a) maintain Discloser's Confidential Information in confidence and not disclose such Confidential Information to any third party without Discloser's prior written consent, except as expressly permitted under this Agreement; (b) protect Discloser's Confidential Information with the same degree of care as Recipient protects its own Confidential Information of like importance, but at least utilizing a reasonable degree of care; (c) use Discloser's Confidential Information solely for the Purpose; and (d) disclose Disclosing's Confidential Information only to Representatives bound by obligations of confidentiality at least as restrictive as the terms of this Agreement. Recipient shall be liable for any acts or omissions of its Representatives that would have, had they been the acts or omissions of Recipient, constituted a breach of this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall be construed to restrict Recipient from disclosing Discloser's Confidential Information as required by law, subpoena, court order, or other governmental order or request; provided, that Recipient shall provide Discloser with prompt prior written notice of such disclosure and shall cooperate with Discloser's reasonable and lawful actions to avoid and/or minimize the extent of such disclosure.
3. **Termination.** Either Party may terminate this Agreement for convenience by providing the other Party with ten (10) business days' written notice. Recipient will comply with all obligations related to use or non-disclosure hereunder for a period of four (4) years after this Agreement's expiration or termination.
4. **Effect of Termination.** Upon this Agreement's expiration or termination or at Discloser's request, Recipient will destroy or return to Discloser all of Discloser's Confidential Information or copies thereof. Notwithstanding the foregoing, Recipient may retain a copy of Discloser's Confidential Information as necessary to comply with applicable legal record keeping requirements, provided such Confidential Information shall remain subject to all this Agreement's protections.
5. **Equitable Relief.** Recipient acknowledges any unauthorized use or disclosure of Discloser's Confidential Information may cause irreparable harm and significant injury to Discloser, the value

of which is impossible to ascertain. Accordingly, Recipient agrees Discloser has the right, without prejudice to any other right or remedy it may have available to it at law or equity, to seek immediate injunctive relief to enjoin such use or disclosure in any court of competent jurisdiction, without the necessity of proving actual damages, posting bond, or making any undertaking in connection therewith.

6. **Warranty Disclaimer and Limitation of Liability.** DISCLOSER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND RELATED TO DISCLOSER'S CONFIDENTIAL INFORMATION, EXPRESS OR IMPLIED. DISCLOSER SHALL HAVE NO LIABILITY OF ANY KIND WHATSOEVER TO RECIPIENT OR ANY OF RECIPIENT'S REPRESENTATIVES ARISING FROM OR RELATED TO RECIPIENT'S OR ANY OF RECIPIENT'S REPRESENTATIVES' USE OF THE CONFIDENTIAL INFORMATION.
7. **Ownership.** As between the Parties, Discloser owns all rights to any Confidential Information it provides to Recipient hereunder. Discloser does not assign or transfer to Recipient any right associated with the Confidential Information, except for the limited right to use the Confidential Information under this Agreement's terms.
8. **Export Controls.** Recipient agrees it and its employees, agents, and contractors will comply with any applicable import and export control laws, rules, and regulations relating to the import and export of technical information, materials, or products in connection with any disclosure of Confidential Information under this Agreement.
9. **Governing Law.** This Agreement shall be governed by the laws of the State of Illinois without regard to the conflicts of law provisions thereof. All disputes related to this Agreement shall be brought and heard exclusively in the federal or state courts located in Cook County, Illinois. The Parties each consent to the personal jurisdiction and venue of such courts. The Parties agree service of process upon them in any such action may be made if delivered in person, by courier service, by facsimile or by first class mail, and shall be deemed effectively given upon receipt.
10. **Independent Contractors; No Obligation.** The Parties are independent contractors, and nothing contained in this Agreement shall be construed to constitute Discloser and recipient as partners, joint venturers, co-owners, or otherwise as participants in a joint or common undertaking. Nothing contained in this Agreement shall be construed as obligating either Party to enter into any agreement or transact any business with the other Party, to grant any right of exclusivity to the other Party, or to purchase, transfer, license or otherwise dispose of any technology, intellectual property, services, or products as a result of the execution of this Agreement.
11. **Miscellaneous Provisions.** If a court or other tribunal of competent jurisdiction holds that any of the provisions of this Agreement are illegal, invalid, or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement otherwise remains in full force and effect. This Agreement supersedes all prior discussions and writings and constitutes the entire agreement between the Parties with respect to the subject matter hereof. The Parties agree they have both participated in the negotiations and preparation of this Agreement and that no presumption or burden of proof shall be raised in any question of interpretation of this Agreement based upon an assertion that one Party or the other has drafted this Agreement or any provision hereof. The prevailing Party in any action to enforce this Agreement shall be entitled to costs and attorney's fees. No waiver or modification of this Agreement will be binding upon either Party unless made in writing and signed by a duly authorized representative of such Party. Neither Party shall be deemed by mere lapse of time (without giving notice or taking other action hereunder) to have waived any breach by the other Party of any of the provisions of this Agreement. The waiver by either Party of a particular breach of this Agreement by the other Party shall not be construed as, or constitute, a continuing waiver of such breach, or of other breaches of the same or other provisions of this Agreement. Any notice, consent, or waiver required or permitted to be given under this Agreement shall be in writing and be deemed given to a Party when delivered by hand or received by registered or certified mail, postage prepaid, nationally recognized courier service, facsimile (with written telephonic confirmation of delivery), or by email or other electronic delivery.

(with electronic proof of delivery), in each case, addressed to the address provided for such Party on the signature page below. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument. The Parties may transmit any signature to this Agreement by PDF, facsimile, or electronic means.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last date set forth below.

Northwestern University

By: _____

Name: Arjan Quist

Title: Executive Director of Innovation Management, Innovation + New Ventures Office (INVO)

Northwestern University

Attn: General Counsel

633 Clark St

Evanston, IL 60208

Company, a _____

By: _____

Name: _____

Title: _____

[ADDRESS]