[YOUR CORPORATE NAME]

MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Name:

Address:

This Agreement is made as of the effective date between \_\_\_\_\_\_\_\_\_\_\_\_\_\_, with a principal address of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Company”) and the organization identified above (“you” or “your”). You and Company are each referred to as a “Party” and collectively as the “Parties”. You and Company are interested in exchanging information to evaluate or carry out potential business transactions (“Transactions”). As part of the evaluation process, A Party may disclose non-public information to the other Party that it wishes to protect against further disclosure and from any use other than evaluating and carrying out the Transactions.

1. **Definition of Confidential Information**. “Confidential Information” means any information, in whatever form or media, that is disclosed by one Party (“Disclosing Party”) to the other Party (“Receiving Party”) concerning the business of Disclosing Party or its affiliated companies, including without limitation information regarding: (a) trade secrets, (b) research and development plans or activities, such as product or service concepts, strategies, designs, drawings, and specifications, (c) the code, design, data models, functionality, and operation of Disclosing Party’s sites, products, or services, (d) marketing strategies, plans, and practices, as well as data regarding Disclosing Party’s customers or their needs and preferences, (e) product cost and pricing information, (f) sales results and forecasts as well as other financial information, and (g) any matter contained in reports, audits, or similar analyses, written or otherwise, about Disclosing Party’s security and compliance procedures and policies. Confidential Information includes all such information whether obtained by Receiving Party before or after the date of this Agreement. Confidential Information may or may not be marked as “Confidential” or “Proprietary”. Confidential Information excludes any information that (x) is now or later generally becomes available to the public through no fault or breach by Receiving Party or any third party, (y) Receiving Party can demonstrate was rightfully in its possession on a non-confidential basis before disclosure to it by Disclosing Party, or (z) Receiving Party can demonstrate was independently developed by Receiving Party without use of or reference to Confidential Information.
2. **Confidentiality**. Receiving Party agrees to maintain in confidence all Confidential Information and to use Confidential Information only to evaluate or carry out the Transactions. Receiving Party agrees to limit access to Confidential Information to personnel within its organization whose access is necessary to evaluate or carry out the Transactions, provided that Receiving Party will inform such personnel of the confidential nature thereof and use all reasonable efforts, consistent with the procedures it uses to protect its own similar information, to require them to protect the confidentiality of Confidential Information pursuant to the terms of this Agreement. These restrictions will not prevent either Party from complying with any law, regulation, court order or other legal requirement that purports to compel disclosure of any Confidential Information. Receiving Party will promptly notify Disclosing Party upon learning of any such legal requirement, and cooperate with Disclosing Party in the exercise of its right to protect the confidentiality of the Confidential Information before any forum or government agency.
3. **No Warranties or Licenses**. Confidential Information is provided "AS IS", without any warranty or representations of any kind whatsoever. Disclosing Party will not be liable for damages, however described, arising from use of Confidential Information, from errors, omissions, or otherwise. No right, title, or license regarding Confidential Information is granted to Receiving Party by this Agreement or as a result of any disclosure of Confidential Information. Receiving Party will not, nor will Receiving Party permit others to, reverse engineer, decompile, disassemble, modify, or create derivative works based on Confidential Information. This Agreement will not, nor will disclosure of Confidential Information, limit Receiving Party from assigning or reassigning its employees in any way or from entering into any business relationship with any other party. Each Party understands the other Party may be in the same or similar business and may have developed or be in the process of developing or planning to develop products, solutions, services, and information similar to that owned or developed by the other Party. This Agreement will not, nor will the disclosure of Confidential Information be construed to, limit Receiving Party from engaging in such activities so long as it does so independently and without using Confidential Information of Disclosing Party.
4. **Remedies**. Receiving Party’s breach of this Agreement may cause Disclosing Party irreparable harm for which there is no adequate remedy at law. If there is any actual or threatened breach, Disclosing Party may seek injunctive relief (without notice or bond), in addition to other relief available at law or in equity. If any provision of this Agreement is held unenforceable or invalid, then such provision will be adjusted to the minimum extent necessary to cure such invalidity or unenforceability and the balance of this Agreement will be enforceable in accordance with its terms. This Agreement is governed by the laws of the State of [State of choice] without regard to its conflict of laws principles. Any lawsuit arising out of or related to this Agreement must be brought in the state or federal courts situated in [County, State of choice].
5. **Term and Termination**. This Agreement will terminate as to further exchange of Confidential Information at the earlier of (a) delivery of notice by a Party terminating this Agreement or (b) the 2-year anniversary of the effective date. The Parties’ obligations under this Agreement, as they apply to Confidential Information disclosed prior to termination, will survive termination for a period of 5 years; provided, Receiving Party’s obligations will survive and continue in effect thereafter with respect to Confidential Information that is a trade secret under applicable law. Promptly upon termination of this Agreement or earlier at Disclosing Party’s request, Receiving Party will promptly return to Disclosing Party or destroy all written, electronic, and other tangible manifestations of Confidential Information, including all copies.
6. **Miscellaneous**. This Agreement contains all the understandings, agreements, and representations between the parties regarding its subject matter and supersedes all prior and contemporaneous understandings, agreements, and representations with respect to such subject matter. No part of this Agreement may be modified or waived unless agreed to in writing and signed by the parties. If you are a business entity or other organization, you represent the signatory indicated by y our name below has full power and authority to bind you to this Agreement. This Agreement is binding on the Parties and will inure to the benefit of the Parties, their successors, and assigns. This Agreement cannot be assigned except that either Party may assign in conjunction with its sale, merger, or consolidation or the sale of substantially all the business to which this Agreement relates. Electronic signatures (e.g., an email with signed PDF attached) will be deemed originals. The effective date is the execution date of this agreement by your signature below.

**[LEGAL OR CORPORATE NAME] [LEGAL OR CORPORATE NAME]**

By: By:

Name: Name:

Title: Title:

Date: Date: