

## CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (this “Agreement”) is effective as of \_\_\_\_\_, 2024 (the “Effective Date”) by and between \_\_\_\_\_, a \_\_\_\_\_ having its principal office located at \_\_\_\_\_ (“the “Receiving Party”) and \_\_\_\_\_, a New Hampshire limited liability company having its principal office located at \_\_\_\_\_ (the “Company” or the “Disclosing Party”) in connection with the Receiving Party’s potential interest in a business transaction involving the Company (the “Transaction”).

The Receiving Party and the Company are considering entering into the Transaction and each desires to review and discuss certain proprietary and confidential information of the Company in connection with the Receiving Party’s analysis of the proposed Transaction (the “Purpose”). To protect the confidential and proprietary nature of information shared, the parties agree as follows:

1) Definition. “Confidential Information” means any information of the Disclosing Party which is disclosed to the Receiving Party or its Representatives (as such term is hereinafter defined) in writing, electronically, or orally, in tangible or intangible form. Confidential Information includes but is not limited to information concerning the Disclosing Party’s (i) products, services, tools, technology, systems, databases, hardware, software, programs, applications, displays and manuals; (ii) financial or business plans or operations, such as research activities and plans, marketing or sales plans, pricing or pricing strategies, operational techniques, internal controls, compliance policies, methods of operation, security procedures, strategic plans, and unpublished financial information, including information concerning revenues, profits and profit margins; and (iii) the terms of any business arrangement or discussions between the parties as to fees, pricing, duration, etc., and the fact of a potential Transaction between the parties. Confidential Information also includes this Agreement and all information related to or contained in documents subject to this Agreement, including without limitation information about suppliers and customers. Confidential Information also includes all derivatives of Confidential Information created by or on behalf of the Receiving Party and includes information made available during discussions, meetings, conference calls, facility tours and similar circumstances. The Disclosing Party will have no obligation to specifically identify by any notice or other action any information to which the protection of this Agreement extends. “Representative” means collectively a party’s affiliates, subsidiaries and affiliated funds and its and their respective advisors (including, without limitation, attorneys, accountants, consultants, bankers, and financial advisors), directors, officers, shareholders, partners, members, managers, employees, insurers, potential financing sources and agents and any of their respective representatives (in the Receiving Party’s case, those of the foregoing that receive Confidential Information).

2) Restrictions on Use. The Receiving Party will not use any of the Disclosing Party’s Confidential Information without the Disclosing Party’s prior written consent for any purpose other than the Purpose. The Receiving Party shall:

- a) hold the Confidential Information of the Disclosing Party in the strictest confidence;
- b) exercise no less care with respect to the Disclosing Party’s Confidential Information

than the level of care exercised with respect to its own Confidential Information but in no case less than a commercially reasonable standard of care including advising the Receiving Party's Representatives of the confidential nature of the Confidential Information and the obligation of confidentiality as contained herein;

- c) not share the Disclosing Party's Confidential Information with any third party without the Disclosing Party's prior written consent except as permitted by this Agreement; and
- d) promptly notify the Disclosing Party (via email acceptable with delivery receipt) of any unauthorized disclosure or use of which it becomes aware, not as an admission of liability, but in order to mitigate potential damages, and cooperate with the other party to protect all proprietary rights in and ownership of its Confidential Information.

The Receiving Party may, without prior consent of the Disclosing Party, share Confidential Information of the Disclosing Party with the Receiving Party's Representatives, provided, prior to sharing Confidential Information with its Representatives, the Receiving Party shall advise such Representatives of the confidentiality and non-use obligations of this Agreement, and the Receiving Party shall be liable for any breach of the applicable terms of this Agreement by its Representatives, except for any Representative that (i) enters into a separate agreement in a form substantially similar to this Agreement for the benefit of the Company, or (ii) executes a separate confidentiality agreement with the Company relating to the Purpose.

3) Exceptions. Notwithstanding the above restrictions, the Receiving Party may use, disclose, reproduce, or share the Disclosing Party's Confidential Information which:

- a) is or becomes known to the public domain through no fault or breach by the Receiving Party in violation of the terms hereof;
- b) was lawfully known or available (without restriction on disclosure) to the Receiving Party or its Representatives prior to being disclosed to the Receiving Party or its Representatives by the Disclosing Party or its Representatives as evidenced by reasonably competent proof;
- c) has been or is rightfully furnished to the Receiving Party or its Representatives without (to the Receiving Party's knowledge) restriction on disclosure by a third person who lawfully possesses it;
- d) has been independently developed, by or for the Receiving Party or its Representatives, without reference to the Confidential Information of the Disclosing Party; or
- e) is required to be disclosed by applicable law, regulation, subpoena, rule, court order, or in connection with legal, regulatory or self-regulatory process ("Law"), provided, the Receiving Party will promptly notify the Disclosing Party in writing (via email acceptable with delivery receipt, if permitted by Law) to allow the Disclosing Party,

at its sole cost, to pursue a protective order or other protection against disclosure. The requirement of the preceding sentence will not apply to the Receiving Party or its Representatives if the disclosure is pursuant to routine regulatory or self-regulatory audits not specific to the Purpose, provided, in that situation the Receiving Party shall exercise commercially reasonable efforts to obtain assurance that confidential treatment will be accorded to the Confidential Information.

4) No License. This Agreement shall not be construed as granting or conferring any rights to the Receiving Party by license or otherwise, expressly or implicitly, to Confidential Information, or any invention, discovery or improvement made, conceived or acquired prior to or after the Effective Date.

5) Return or Destruction. The Receiving Party agrees that, at any time upon the written request of the Disclosing Party, it will promptly (a) return or destroy, at the Receiving Party's option, all originals and copies of all documents and materials it has received from the Disclosing Party containing Confidential Information; (b) deliver or destroy, at the option of the Receiving Party, all originals and copies of all summaries, records, descriptions, modifications, negatives, drawings, adoptions and other documents or materials, whether in writing or in machine-readable form, prepared by it or prepared under its direction or at its request from the documents and materials referred to in subparagraph (a); and (b) provide a written statement to the Disclosing Party (via email acceptable) confirming that all documents and materials referred to in subparagraphs (a) and (b) have been delivered to the Disclosing Party or destroyed. Notwithstanding the foregoing, the Receiving Party and its Representatives may retain copies of any Confidential Information for legal, regulatory and compliance purposes or to comply with a bona fide records retention policy, and/or copies created pursuant to automatic archiving or back-up procedures. Any Confidential Information so retained shall remain subject to this Agreement for the remainder of the term hereof.

6) Equitable Relief. The Receiving Party agrees and acknowledges that any breach of this Agreement could cause the Disclosing Party irreparable harm for which monetary damages may be inadequate. Accordingly, the Disclosing Party will be entitled to seek injunctive or other equitable relief to remedy any threatened or actual breach of this Agreement by the Receiving Party or its Representatives, as well as monetary damages.

7) Term and Termination. Except as otherwise expressly provided herein, this Agreement and its obligations will terminate on that date which is two (2) years from the date of this Agreement.

8) No Publicity. Neither party will announce or disclose the existence of this Agreement, or its contents, any discussions relating thereto, or the discussions or terms of the business relationship agreement being considered, to any third party without the prior written consent of the other party or except as may be required by Law, in which case the party required to make such a disclosure will give the other party the maximum feasible prior notice of such disclosure.

9) No Warranty. NO WARRANTIES ARE MADE BY THE DISCLOSING PARTY UNDER THIS AGREEMENT. ANY INFORMATION DISCLOSED UNDER THIS

AGREEMENT IS PROVIDED “AS IS,” AND WITHOUT ANY WARRANTY, WHETHER EXPRESS OR IMPLIED, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE. The Receiving Party agrees that none of the Disclosing Party or any of its affiliates or representatives shall have any liability to the Receiving Party or any of its Representatives resulting from their use of the Confidential Information by virtue of this Agreement. It is understood that the scope of any representations and warranties to be given by the Disclosing Party will be negotiated together with other terms and conditions in arriving at a mutually acceptable form of definitive agreement should discussions between the parties progress to such a point.

10) No Obligation. The parties hereto agree that subject to the provisions herein: (i) no transaction, including any merger, sale, joint venture, partnership, license or other business relationship, is established or intended to be established by this Agreement; (ii) neither party hereto is obligated to enter into any further agreement or business relationship with the other party; and (iii) neither party hereto is precluded from entering into a separate agreement or business relationship with others. Either party may terminate discussions and negotiations with the other party at any time upon written notice to the other party.

11) Non-Solicit. For a period of two (2) years after the Effective Date, the Receiving Party will not directly or indirectly:

- (a) solicit or entice away any employee of the Disclosing Party with whom the Receiving Party first has contact or which employee becomes known to the Receiving Party as a result of evaluating the Transaction, provided that the foregoing restriction shall not restrict the Receiving Party from soliciting, hiring, or otherwise engaging any person who (i) responds to a general media advertisement or non-directed search inquiry, (ii) was in discussion with the Receiving Party regarding possible engagement or employment prior to the Effective Date, or (iii) who is referred to the Receiving Party by search firms, employment agencies, referral services or other similar entities, provided that such entities have not been instructed by the Receiving Party to solicit the employees of the Disclosing Party; or
- (b) solicit or entice away any known current or prospective customer, supplier, licensee, licensor or partner from the Disclosing Party for a similar scope of relationship that such third party had or was in discussions to have with the Disclosing Party at the time it was disclosed in the Confidential Information to the Receiving Party, provided that the foregoing restriction shall not restrict the Receiving Party from soliciting any persons who were the Receiving Party’s or any of its Representatives’ current customers prior to the Effective Date or who become the Receiving Party’s or any of its Representative’s customers in the ordinary course of business. For the avoidance of doubt, the Receiving Party shall not be restricted from contacting the Disclosing Party’s third party relationships in the ordinary course of the Receiving Party’s business but in any event not using the Confidential Information and not in connection with the Transaction.

12) Conflict. In the event that there is any conflict or inconsistency between this

Agreement and the terms and conditions of any electronic data room now or hereafter applicable to the Receiving Party and its Representatives, the terms and conditions of this Agreement shall govern and control and shall constitute the terms and conditions with respect to the access of the Confidential Information by the Receiving Party and its Representatives in any such electronic data room.

13) Miscellaneous. This Agreement is governed by the laws of the State of New Hampshire. This Agreement is binding upon the parties and their respective successors and assigns and may not be assigned. Any modifications to this Agreement must be in writing and signed by both parties specifically referencing this Section 13. This Agreement may be executed in counterparts and may be delivered electronically. Each of the Receiving Party and the Company understand that knowledge of the proposed Transaction between them is limited to certain employees, officers and advisors of such party, and each agrees not to contact any of the other party's employees, officers or advisors regarding the proposed Transaction other than such employees, officers or advisors as the other party has advised such parties are permitted to receive such a contact or in each case in the ordinary course of business consistent with past practices.

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\_\_\_\_\_  
(the “Disclosing Party”)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
(the “Receiving Party”)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Signature Page to Confidentiality Agreement]*