

MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Non-Disclosure Agreement (this “*Agreement*”) is made as of _____, between **Element22 LLC**, whose address is **300 Park Avenue, New York, NY 10022** (“*Element22*”), and _____, whose address is _____ (“*Company*”).

Element22 and Company desire to begin discussions regarding a business opportunity of mutual interest (the “*Business Purpose*”) as more particularly described on the Schedule(s) (as defined below) hereto. In connection with such discussions, Element22 and Company recognize that there is a need to disclose to each other certain Confidential Information (as defined below), which may be used only for the Business Purpose, and to protect such Confidential Information from unauthorized use and disclosure.

In consideration of the other party's disclosure of Confidential Information, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each party agrees as follows:

1. For purposes of this Agreement:

“*Affiliate*” means any entity directly or indirectly controlling, controlled by or under common control with another entity, where “control” means ownership of more than 50% of the voting stock or other equity interests of an entity, or the right to direct the management of such entity

“*Confidential Information*” means any technical or business information disclosed by one party to the other party that: (i) if disclosed in writing, is marked “confidential” or “proprietary” at the time of such disclosure; (ii) if disclosed orally, is identified as “confidential” or “proprietary” at the time of such disclosure, and is summarized in a writing sent by the disclosing party to the receiving party within thirty (30) days after any such disclosure; or (iii) under the circumstances, a person exercising reasonable business judgment would understand to be confidential or proprietary.

“*Schedule*” means a schedule executed by Element22 or its Affiliate on the one hand, and Company or its Affiliate on the other hand setting forth, in each instance, the Business Purpose for which the parties intend to exchange Confidential Information. Each Schedule shall be subject to and governed by this Agreement.

2. Each party or its Affiliate may provide the other party or its Affiliate with Confidential Information in connection with the Business Purpose set forth on the Schedule.

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Each Schedule shall constitute a separate agreement between the parties executing such Schedule and each such Schedule shall be subject to all of the terms and conditions of this Agreement. For purposes of any document entered into by an Affiliate of Element22 or Company in connection herewith, the terms “Element22” and “Company” as used throughout this Agreement shall mean the Affiliates of Element22 and Company, respectively, that have entered into the relevant document

3. Confidential Information will not include information that:

- (i) is now or thereafter becomes generally known or available to the public, through no act or omission on the part of the receiving party;

- (ii) was known by the receiving party prior to receiving such information from the disclosing party and without restriction as to use or disclosure;

(iii) is rightfully acquired by the receiving party from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or

(iv) is independently developed by the receiving party without access to any Confidential Information of the disclosing party.

4. Each party agrees: (i) 111-11-1111

to maintain the other party's Confidential Information in strict confidence; (ii) not to disclose such Confidential Information to any third parties except as expressly set forth herein; and (iii) not to use any such Confidential Information for any purpose other than the Business Purpose. Each party may disclose the Confidential Information of the other party to its employees and consultants who have a bona fide need to know such Confidential Information for the Business Purpose, but solely to the extent necessary to pursue the Business Purpose and for no other purpose; provided that each such employee and consultant first executes a written agreement (or is otherwise already bound by a written agreement) that contains use and nondisclosure restrictions at least as protective of the other party's Confidential Information as those set forth in this Agreement. The provisions of this Section 4 will not restrict a party from disclosing the other party's Confidential Information to the extent required by any law or regulation; provided that the party required to make such a disclosure uses reasonable efforts to give the other party reasonable advance notice of such required disclosure (except if legally prohibited from doing so) in order to enable the other party to prevent or limit such disclosure.

5. Upon the disclosing party's request, <https://www.dropbox.com/1/b>

the receiving party will promptly return to the disclosing party all tangible items and embodiments containing or consisting of the disclosing party's Confidential Information and all copies thereof, and shall certify in writing that all electronic copies have been destroyed.

6. All Confidential Information remains the sole and exclusive property of the disclosing party. Each party acknowledges and agrees that nothing in this Agreement will be construed as granting any rights to the receiving party, by license or otherwise, in or to any Confidential Information of the disclosing party, or any patent, copyright, trademark, trade secret or other intellectual property or proprietary rights of the disclosing party, except as otherwise expressly specified in this Agreement.

7. ALL CONFIDENTIAL INFORMATION IS PROVIDED BY THE DISCLOSING PARTY "AS IS." EACH PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE.

8. Each party acknowledges that the unauthorized use or disclosure of the disclosing party's Confidential Information would cause the disclosing party to incur irreparable harm and significant damages, the degree of which may be difficult to ascertain. Accordingly, each party agrees that the disclosing party will have the right to obtain immediate equitable relief to enjoin any unauthorized use or disclosure of its Confidential Information, without the necessity of posting a bond or other surety, in addition to any other rights and remedies that it may have at law or in equity. The prevailing party in any action to enforce this Agreement shall be entitled to costs and attorneys' fees.

9. This Agreement will be construed, interpreted, and applied in accordance with the internal laws of the State of New York (excluding its body of law controlling conflicts of law) and all disputes arising under or in connection with this Agreement or any Schedule shall be adjudicated in the state or federal courts located in New York, New York, USA. Each party hereby irrevocably consents to the personal jurisdiction of such courts for purpose of the adjudication of any such dispute, stipulates to the convenience, efficiency and fairness of proceeding in such courts, and covenants not to allege or assert the inconvenience, inefficiency or unfairness of proceeding in such courts. The official text of this Agreement shall be in the English language.

10. This Agreement is the complete and exclusive statement regarding the subject matter of this Agreement and supersedes all prior agreements, understandings and communications, oral or written, between the parties regarding the subject matter of this Agreement. Neither party may assign this Agreement, in whole or in part, without the other party's prior written consent, and any attempted assignment without such consent will be void, provided that Element22 may assign this Agreement, without the Company's prior consent, to any Affiliate and to any entity acquiring more than 50% of the stock or other equity interests in Element22. Subject to the foregoing, this Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns.

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11. This Agreement shall commence as of the date written above and shall continue in effect thereafter for as long as any Schedule entered into pursuant to this Agreement remains in effect.

12. Counterparts. This Agreement may be signed in counterparts, with the same effect as if the signature on each counterpart were upon the same instrument. 7751264999GBR0881161F724599178

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers or representatives.

Element22 LLC

Company

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

Schedule to Mutual Non-Disclosure Agreement

This Schedule to Mutual Non-Disclosure Agreement (the "Schedule") with an effective date of _____ (the "Effective Date") is executed pursuant to the Mutual Non-Disclosure Agreement (the "Agreement") dated _____ executed by and between **Element22 LLC** ("Element22"), with an address of **300 Park Avenue, New York, NY 10022** and _____ ("Company"), with an address of _____ and shall be deemed to be a part thereof.

1. **Business Purpose:** The parties shall enter into discussions pertaining to _____.
2. **Term:** This Schedule, and the parties' respective confidentiality obligations with respect to Confidential Information, will commence on the Effective Date set forth above and will remain in effect for one (1) year from the date of last disclosure of Confidential Information by either party, at which time they will terminate.

IN WITNESS WHEREOF, the parties have executed this Schedule by their undersigned, duly authorized officers on the date first above written:

Element22 LLC

Company

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____