

## **NONDISCLOSURE AGREEMENT**

This Nondisclosure Agreement (the "**Agreement**") is made as of \_\_\_\_\_, 2022 by and between [Cadenza, Inc.] ("**Discloser**") and \_\_\_\_\_ ("**Recipient**").

1. **Purpose.** Discloser and Recipient wish to exchange certain proprietary and/or confidential information in connection with exploring, evaluating, and/or engaging in a potential transaction and/or business relationship between them (the "Relationship"). This Agreement is intended to allow the parties to discuss and evaluate the Relationship while protecting Discloser's Confidential Information (including Confidential Information previously disclosed to Recipient, if any) against unauthorized use or disclosure.

2. **Definition of Confidential Information.** "Confidential Information" means any oral, written, graphic or machinereadable information including, but not limited to, that which relates to patents, patent applications, research, product plans, products, developments, strategies, research, personnel, business opportunities, inventions, processes, designs, drawings, engineering, formulae, markets, software (including source and object code), hardware configuration, computer programs, algorithms, business plans, agreements with third parties, services, customers, marketing or finances of Discloser, which Confidential Information is designated in writing to be confidential or proprietary, or if given orally, is confirmed in writing as having been disclosed as confidential or proprietary within a reasonable time after the oral disclosure, or which information would, under the circumstances, appear to a reasonable person to be confidential or proprietary.

### **3. Nondisclosure of Confidential Information**

(a) Recipient agrees not to use any Confidential Information disclosed to it by Discloser for its own use or for any purpose other than to carry out discussions concerning, and the undertaking of, the Relationship. Recipient shall not disclose or permit disclosure of any Confidential Information of Discloser to third parties or to employees of Recipient, other than directors, officers, employees, consultants and agents of Recipient who are required to have the information in order to carry out the discussions regarding the Relationship. Recipient has had or will have its directors, officers, employees, consultants and agents who have access to Confidential Information of Discloser sign a nondisclosure agreement in content substantially similar to this Agreement and shall notify Discloser in writing of the names of each person who has signed such agreements promptly after such agreements are signed. Recipient agrees that it shall take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of Discloser in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information. Such measures shall include, but not be limited to, the highest degree of care that Recipient utilizes to protect its own Confidential Information of a similar nature, which shall be no less than reasonable care. Recipient further agrees to notify Discloser in writing of any actual or suspected misuse, misappropriation or unauthorized disclosure of Discloser's Confidential Information which may come to Recipient's attention.

(b) **Exceptions.** Notwithstanding the above, Recipient shall not have liability to Discloser with regard to any Confidential Information which Recipient can prove:

(i) was in the public domain at the time it was disclosed by Discloser or has entered the public domain through no fault of Recipient;

(ii) was known to Recipient, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure;

(iii) is disclosed with the prior written approval of Discloser; or

(iv) is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, however, that Recipient shall provide prompt notice of such court

order or requirement to Discloser to enable Discloser to seek a protective order or otherwise prevent or restrict such disclosure.

4. **No Duplication; Return of Materials.** Recipient agrees, except as otherwise expressly authorized by Discloser, not to make any copies or duplicates of any Confidential Information. Any materials or documents that have been furnished by Discloser to Recipient in connection with the Relationship shall be promptly returned by Recipient, accompanied by all copies of such documentation, within five (5) days after (a) the Relationship has been rejected or concluded or (b) the written request of Discloser.

5. **No Rights Granted.** Nothing in this Agreement shall be construed as granting any rights under any patent, copyright or other intellectual property right of Discloser, nor shall this Agreement grant Recipient any rights in or to Discloser's Confidential Information other than the limited right to review such Confidential Information solely for the purpose of determining whether to enter into the Relationship. Recipient understands that nothing in this Agreement (a) requires the disclosure of any Confidential Information, which shall be disclosed, if at all, solely at Discloser's option, or (b) requires Discloser to proceed with the Relationship or any transaction in connection with which the Confidential Information may be disclosed.

6. **Term.** The foregoing commitments of each party shall survive any termination of the Relationship between the parties.

7. **Successors and Assigns.** The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties, provided that Discloser's Confidential Information may not be assigned without the prior written consent of Discloser. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

8. **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement, (b) the balance of the Agreement shall be interpreted as if such provision were so excluded and (c) the balance of the Agreement shall be enforceable in accordance with its terms.

9. **Independent Contractors.** Discloser and Recipient 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.

10. **Governing Law.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.

11. **Remedies; Indemnification.** Discloser and Recipient each agree that the obligations of Recipient set forth in this Agreement are necessary and reasonable in order to protect Discloser and its business. Discloser and Recipient each expressly agree that due to the unique nature of Discloser's Confidential Information, monetary damages would be inadequate to compensate Discloser for any breach by Recipient of its covenants and agreements set forth in this Agreement. Accordingly, Discloser and Recipient each agree and acknowledge that any such violation or threatened violation shall cause irreparable injury to Discloser and that, in addition to any other remedies that may be available, in law, in equity or otherwise, Discloser shall be entitled (a) to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by Recipient, without the necessity of proving actual damages, and (b) to be indemnified by Recipient from any loss or harm, including but not limited to attorney's fees, arising out of or in connection with any breach or enforcement of Recipient's obligations under this Agreement or the unauthorized use or disclosure of Discloser's Confidential Information.

12. **Amendment and Waiver.** Any term of this Agreement may be amended with the written consent of Discloser and Recipient. Any amendment or waiver effected in accordance with this Section shall be binding upon the parties and their respective successors and assigns. Failure to enforce any provision of this Agreement by a party shall not constitute a waiver of any term hereof by such party.

13. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

14. **Entire Agreement.** This Agreement is the product of both of the parties hereto, and constitutes the entire agreement between such parties pertaining to the subject matter hereof, and merges all prior negotiations and drafts of the parties with regard to the transactions contemplated herein. Any and all other written or oral agreements existing between the parties hereto regarding such transactions are expressly canceled.

The parties have executed this Nondisclosure Agreement as of the date first above written.

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

Name: Jason Mattiace

(print)

Title: CTO

Address: 730 Arizona Avenue, Santa Monica, CA 90401

\_\_\_\_\_  
[Recipient Name]

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

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

(print)

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

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_