

## **MUTUAL NON-DISCLOSURE AGREEMENT**

This agreement, made as of the last date set forth on the last page hereof (the “Effective Date”), by and between The Trustees of Indiana University (hereafter “Indiana University”) and \_\_\_\_\_, and sets forth the terms and conditions of the disclosure and receipt of certain confidential information between the parties for certain permitted purposes. The party disclosing Confidential Information, as herein defined, shall be referred to as the “Discloser” and the party receiving such “Confidential Information” shall be referred to as the “Recipient.” The term “Confidential Information” shall refer to the confidential information disclosed by any party to this Agreement. The Confidential Information the parties contemplate disclosing, and the Permitted Purpose(s) for which that information may be used, are provided directly below:

### **PERMITTED PURPOSES**

- A. The Permitted Purpose(s) with respect to Confidential Information disclosed to Indiana University shall be a presentation/discussion on:
  
  
  
  
  
  
  
  
  
  
- B. The Permitted Purpose(s) with respect to Confidential Information disclosed to consultant/contractor/supplier shall be:

### **CONFIDENTIAL INFORMATION**

- A. Indiana University identifies the following as its Confidential Information to be disclosed hereunder:
  
  
  
  
  
  
  
  
  
  
- B. Consultant identifies the following as its Confidential Information to be disclosed hereunder:

The parties signing this document agree as follows:

1. Confidential Information may include information that is disclosed to Recipient

by Discloser in any manner, whether orally, visually or in tangible form (including without limitation, documents, devices and computer readable media) and all copies thereof. Tangible materials that disclose or embody Confidential Information shall be marked by Discloser as “confidential,” “proprietary” or the substantial equivalent thereof. Confidential Information that is disclosed orally or visually shall be identified by Discloser as confidential at the time of disclosure and promptly thereafter identified as confidential in a written document provided to Recipient.

2. Except as expressly permitted herein, for a period of three years from the effective date (Non-Disclosure Period), Recipient shall maintain in confidence and not disclose Confidential Information.
3. Recipient shall have the right to use Confidential Information solely for the purpose(s) specified within this agreement (“Permitted Purpose(s)”).
4. Recipient shall disclose Confidential Information only to those of its employees who have a need to know such information for the Permitted Purpose(s).
5. Confidential Information shall not include any information that recipient can demonstrate:
  - i. was in Recipient’s possession without confidentiality restriction prior to disclosure by Discloser hereunder;
  - ii. was generally known in the trade or business practiced by Discloser at the time of disclosure through no act of Recipient;
  - iii. has come into the possession of Recipient without confidentiality restrictions from a third party and such third party is under no obligation to Discloser to maintain the confidentiality of such information; or
  - iv. was developed by Recipient independently of and without reference to Confidential Information.

If a particular portion or aspect of Confidential Information becomes subject to any of the foregoing exceptions, all other portions or aspects of such information shall remain subject to all of the provisions of this Agreement.

6. Recipient agrees not to reproduce or copy by any means Confidential Information, except as reasonably required to accomplish the Permitted Purpose(s). Upon termination of this Agreement, Recipient’s right to use Confidential Information, as granted in Paragraph 3 above, shall immediately terminate. In addition, upon such termination, or upon demand by Discloser at any time, or upon expiration of this Agreement, Recipient shall return promptly to Discloser or destroy, at Discloser’s option, all tangible materials that disclose or embody Confidential Information; provided, however, that Recipient may retain one copy of Discloser’s Confidential Information for archival purposes only.
7. Recipient shall not remove any proprietary rights legend from, and shall upon

Discloser's reasonable request, add proprietary rights legends to, materials disclosing or embodying Confidential Information.

8. \_\_\_\_\_ acknowledges and agrees that Indiana University is a state agency subject to the provisions of the Indiana Open Records law, I.C. 5-14-et seq., and that disclosure of some or all of the Confidential Information provided pursuant to this Agreement, or of the Agreement itself, may be compelled pursuant to that law. In the event that Recipient is required by the Indiana Open Records Act, or any other law, to disclose Discloser's Confidential Information, Recipient shall promptly notify Discloser, consult with Discloser regarding whether there are legitimate grounds to narrow or contest such disclosure, and only disclose that information that the University, in the opinion of legal counsel, is legally obligated to disclose.
9. The parties understand that each may develop and acquires technology for its own products and/or internal applications, and that existing or planned technology independently developed or acquired by Recipient may contain ideas and concepts similar or identical to those contained in Discloser's Confidential Information. Discloser agrees that entering this Agreement shall not preclude Recipient from developing or acquiring technology similar to Discloser's without obligations to Discloser, provided Recipient does not use the Confidential Information to develop such technology.
10. Indiana University's Confidential Information will not be introduced in any future products or services marketed by the other party to this Agreement.
11. Neither party has any obligation under or by virtue of this Agreement to purchase from or furnish to the other party any products or services, or to enter into any other agreement, including but not limited to, a development, consulting, purchasing or technology licensing agreement.
12. Other than as expressly specified herein, Discloser grants no license to Recipient under any copyrights, patents, trademarks, trade secrets or other proprietary rights to use or reproduce Confidential Information.
13. Notwithstanding any other provisions of this Agreement, Recipient agrees not to export, directly or indirectly, any technology or technical data acquired from Discloser or any products utilizing such technology or technical data if such export would be in violation of the United States Export Control Laws or Regulations then in effect.
14. The parties shall comply with all applicable federal, state and local laws concerning the Confidential Information disclosed pursuant to this agreement, including but not limited to the Family Educational Rights and Privacy Act, 20 USC 1232g et seq. and implementing regulations; Indiana Code 4-1-10; and Indiana Code 4-1-11. Recipient shall have in place adequate technical, administrative, and physical security measures to ensure that Confidential

Information disclosed under this Agreement is safeguarded from unauthorized disclosure or use. Recipient shall notify Discloser immediately in the event that any Confidential Information disclosed pursuant to this Agreement reasonably appears to have been disclosed or exposed to unauthorized third party access, and shall cooperate with Discloser's efforts to provide any notification of such security breach to appropriate parties that is required by law or contract to which Discloser is a party.

15. The interpretation, application, and enforcement of this Agreement shall be governed by the laws of the State of Indiana without reference to choice of law principles. Any claim, suit, or cause of action involving the interpretation, application, or enforcement of this Agreement shall be commenced in Monroe County Circuit Court in Bloomington, Indiana.
16. This Agreement expresses the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitment and understandings pertaining to the subject matter hereof. Any modifications of or changes to this Agreement shall be in writing and signed by both parties.
16. Unless earlier terminated in accordance with the provisions hereof, this Agreement shall remain in full force and effect for the duration of the Non-Disclosure Period, whereupon it shall expire. Either party may terminate this Agreement at any time, without cause, effective immediately upon written notice of termination; however, in the event this Agreement is terminated prior to expiration of the Non-Disclosure Period, its provisions shall survive and remain in effect for the remainder of the Non-Disclosure Period, with respect to Confidential Information disclosed prior to the effective date of termination.

**The Trustees of Indiana University**

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{{N\_es\_:signer3:fullname}}  
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**Consultant/Contractor/Supplier**

{{Sig\_es\_:signer2:signature}}  
{{N\_es\_:signer2:fullname}}  
{{Ttl\_es\_:signer2:title}}  
{{Dte\_es\_:signer2:date}}

**Approved by:**

{{Sig\_es\_:signer1:signature}}