

## CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement, dated as of 10 / 13, 2011, is by and between SYRACUSE UNIVERSITY, having an address for purposes of this Agreement of Syracuse, New York 13244, (the "University") and ROUNDED DEVELOPMENT LLC, having an address for purposes of this Agreement of 235 Harrison St, Suite 404, Syracuse NY 13202 (the "Recipient").

1. **Purpose of Agreement.** The University and the Recipient are engaged in discussions regarding a potential relationship, pursuant to which the Recipient may perform certain services on behalf of the University. In order to enable the Recipient to formulate proposed terms and conditions upon which it would be willing to perform these services, the University will make available to Recipient certain confidential and proprietary information. The parties are entering into this Agreement in order to preserve the confidentiality of this information.

2. **Definitions.**

(a) When used in this Agreement, the term "Confidential Information" shall mean all information which the University or its Representatives furnish or disclose, or have furnished or disclosed, to the Recipient or its Representatives, including but not limited to trade secrets, business methods and processes, data, information regarding past or present students, financial statements and other financial information, and other information that should by its nature or context be recognized as proprietary and/or confidential. All samples, notes, abstracts, and analyses of Confidential Information shall also be deemed to be Confidential Information for purposes of this Agreement. Notwithstanding the foregoing, Confidential Information shall not include information which (i) was published or was otherwise available to the public prior to its being disclosed hereunder; (ii) is published or otherwise becomes available to the public after its receipt by the Recipient through no act or failure on the part of the Recipient or its Representatives; (iii) was known to the Recipient prior to its receipt from the University; or (iv) was acquired by the Recipient from a third party under no obligation to maintain its confidentiality.

(b) When used in this Agreement, the term "Representatives" shall mean a party's officers, directors, trustees, members, managers, employees, agents, advisors, attorneys, accountants and consultants.

3. **Permitted Use.** Confidential Information disclosed by the University or its Representatives shall be used by the Recipient only for the purpose of evaluating a possible business relationship as described above, and for formulating proposed terms and conditions of such a relationship (including without limitation the services to be provided by the Recipient and the compensation to be paid for such services). The Recipient shall not use Confidential Information for any other purpose without the prior written consent of the University.

4. **Confidentiality.** Confidential Information received by the Recipient shall be held in confidence and shall not, except as required by law, be disclosed to any third party other than those of the Recipient's Representatives who have a legitimate need to know the information for the purposes described in Section 3 and who have been apprised of the Recipient's obligations of confidentiality hereunder.

5. **Required Disclosures.** If the Recipient or any of its Representatives is requested or required by subpoena or other legal process to disclose any Confidential Information received hereunder, the University shall be notified of such request promptly so as to permit the University to seek a protective order or take other appropriate action. The Recipient shall reasonably cooperate in the efforts of the University to obtain a protective order or other appropriate relief. If, in the absence of a protective order, the Recipient or any of its Representatives is compelled to disclose the Confidential Information, the Recipient may disclose to the party compelling disclosure only the part of the Confidential Information as is required by law to be disclosed, and shall use its best efforts to obtain confidential treatment therefor.

6. **Limited Obligations.** The disclosure of Confidential Information pursuant to this Agreement shall create no legal obligation of any kind to proceed with a business relationship, and each party shall be entitled to discontinue discussions at any time.

7. **Return of Confidential Information.** Upon a determination by the parties that they do not intend to enter into a business relationship, or upon a request by the University made at any time, whichever is earlier, the Recipient shall promptly return all Confidential Information and shall destroy all notes, summaries or abstracts made by the Recipient or its Representatives pertaining thereto, without retaining any copies thereof.

**8. Remedies.**

(a) The parties understand that a breach of this Agreement by the Recipient may result in irreparable harm to University. In the event of a breach or threatened breach of any of the provisions hereof by the Recipient, the University shall be entitled to appropriate equitable relief, including injunctive relief and specific performance, in addition to any other remedy available under law. In the event of litigation hereunder, the prevailing party shall be entitled to receive from the losing party its costs and reasonable attorneys' fees in connection with such litigation.

(b) The Recipient shall defend, indemnify and hold University harmless from and against any loss, damage, liability, cost or expense (including without limitation reasonable attorneys' fees) arising out of (i) any disclosure or misuse of Confidential Information for which the Recipient is responsible under this Agreement, or (ii) any other breach of this Agreement by the Recipient.

**9. Binding Effect.** This Agreement shall be binding on the parties and their respective Representatives. Each party shall be responsible for any breach of the terms hereof by its Representatives.

**10. Entire Agreement; Amendments.** This Agreement constitutes the entire agreement between the parties pertaining to its subject matter, and it supersedes all prior and contemporaneous agreements or understandings, whether oral or written, between the parties with respect thereto. No amendment or modification to this Agreement, or waiver of any right or provision hereunder or hereof, shall be effective unless agreed to in writing by both parties.

**11. Governing Law; Jurisdiction; Venue.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of New York State, without regard to principles of conflicts of law. Jurisdiction of any litigation with respect to this Agreement shall be in New York, with venue in a state or federal court of competent jurisdiction in Onondaga County.

The parties' assent to the terms of this Agreement is indicated by the following signatures.

**SYRACUSE UNIVERSITY**

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

Name: Christopher M. Sedore  
Title: Vice President for Information Technology/CIO

**RECIPIENT**

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

Print Name: Andrew Farah  
Print Title: Co Founder, Rounded Development LLC