



MUTUAL CONFIDENTIAL DISCLOSURE AGREEMENT

This Mutual Confidential Disclosure Agreement ("**Agreement**") is made as of **July 18, 2017** and is between the following parties:

University Health Network

an Ontario corporation incorporated under the *University Health Network Act, 1997*, having a business office at 190 Elizabeth Street, R. Fraser Elliott Building, 4th Floor, Toronto, Ontario, Canada, M5G 2C4

-and-

Motivation Science, Inc.
300 West Morgan Street
Suite 1200
Durham, NC 27701

(Each a "**Party**" and collectively the "**Parties**")

RECITALS:

A. The Parties to this Agreement wish to disclose and/or exchange information in order to assess and discuss the potential for entering into a business and/or scientific collaboration (the "**Purpose**").

B. As a condition of receiving Confidential Information from each other, the Parties agree to enter this Agreement setting forth the manner in which such Confidential Information will be treated and disclosed.

IN CONSIDERATION of the mutual covenants made in this Agreement and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

1. CONFIDENTIAL INFORMATION

1.1 The term "**Confidential Information**" includes any and all information, data and material of any nature (whether technical, scientific, financial or otherwise) in any form, including without limitation oral or written, graphic, photographic, recorded, prototype, sample form or in any other tangible or intangible form, disclosed by one Party or its respective employees, staff members, consultants, agents or representatives ("**Representatives**") to the other Party (and its respective Representatives) pursuant to this Agreement. Confidential Information shall not include information which:

- (a) through no act or failure to act on the part of the receiving Party, is or becomes generally known or available to the public without breach of this Agreement;
- (b) is disclosed to others by the disclosing Party without restriction on disclosure;
- (c) is disclosed to the receiving Party in good faith by a third party without breach by that third party either directly or indirectly of an obligation of secrecy to the disclosing Party;

- (d) was in the possession of, or demonstrably known by, the receiving Party prior to its receipt from the disclosing Party; or
- (e) is otherwise agreed to by the Parties in writing.

2. NON-DISCLOSURE OF CONFIDENTIAL INFORMATION

2.1 The receiving Party agrees that it will only use the Confidential Information for the Purpose.

2.2 The receiving Party agrees that it will only disclose or reproduce the Confidential Information it receives to those of its Representatives who (i) are required to have the information in order to carry out the Purpose or as otherwise required on a need-to-know basis; and (ii) are informed of the confidential nature of the Confidential Information and their obligations to keep the information in confidence. Each Party will ensure that its Representatives to whom Confidential Information is disclosed are legally bound to retain such information in confidence.

2.3 The receiving Party agrees that, except as required to do so by applicable law or court order, it will not disclose the Confidential Information or any part of it, received from the other Party nor allow disclosure of the Confidential Information, or any part of it, to any other person without the prior written consent of the disclosing Party. The receiving Party will promptly notify the disclosing Party upon discovery that any Confidential Information has been accessed or otherwise acquired by or disclosed to an unauthorized person.

2.4 The receiving Party will promptly provide to the disclosing Party written notice if the receiving Party is legally compelled to disclose any part of the Confidential Information, so that the disclosing Party may seek a protective order or take other appropriate action.

2.5 A receiving Party shall maintain the confidentiality of any received Confidential Information for a period of five (5) years from the date of receipt of such Confidential Information.

3. TERM

3.1 This Agreement shall remain in force until such time as terminated by a Party upon fifteen (15) business days notice to the other Party. Articles 1 through 6, and Sections 7.1, 7.2, 7.4, and 7.5 shall survive the termination of this Agreement for such time as specifically stated in a particular Article/Section, or in the absence of such specification until such time as the Parties agree to the release of the obligations (in whole or in part) therein.

4. RETURN OF CONFIDENTIAL INFORMATION

4.1 Unless otherwise specified in writing, all documents and material containing or embodying Confidential Information will remain the property of the disclosing Party. At any time during the term of this Agreement or upon termination of this Agreement, upon request of the disclosing Party, the receiving Party agrees to return all documents and material containing or embodying any Confidential Information of the disclosing Party, as well as all copies thereof, except that each Party may retain one copy of the Confidential Information received from the other Party solely for the purpose of monitoring its obligations under this Agreement.

5. NO WARRANTIES OR LIABILITY

5.1 EACH PARTY AGREES THAT IT WILL RELY ON ITS OWN INVESTIGATION, DUE DILIGENCE AND ANALYSIS IN EVALUATING AND SATISFYING ITSELF AS TO ALL MATTERS REGARDING THE CONFIDENTIAL INFORMATION. THERE ARE NO WARRANTIES, REPRESENTATIONS, CONDITIONS OR GUARANTEES, EITHER EXPRESSED OR IMPLIED, AT LAW OR OTHERWISE, OF ANY KIND WHATSOEVER, MADE OR GIVEN BY THE DISCLOSING PARTY OR BY ANY OF ITS REPRESENTATIVES RESPECTING THE CONFIDENTIAL INFORMATION, INCLUDING WITHOUT LIMITATION, ACCURACY, COMPLETENESS, TITLE, MERCHANTABILITY, FREEDOM FROM DEFECTS, ACCORDANCE WITH ANY SPECIFICATIONS, OR FITNESS FOR A PARTICULAR PURPOSE.

5.2 THE DISCLOSING PARTY AND ITS AFFILIATES, MEMBERS AND ASSOCIATES, AND THEIR RESPECTIVE REPRESENTATIVES WILL NOT HAVE ANY LIABILITY TO THE RECEIVING PARTY OR ANY OF ITS AFFILIATES, MEMBERS AND ASSOCIATES, AND THEIR RESPECTIVE REPRESENTATIVES, OF ANY KIND WHATSOEVER, DIRECTLY OR INDIRECTLY, RESULTING FROM OR ARISING OUT OF THE DISCLOSURE TO THE RECEIVING PARTY OF THE CONFIDENTIAL INFORMATION, OR THE USE MADE BY THE RECEIVING PARTY OR ANY OF ITS REPRESENTATIVES OF ANY OF THE CONFIDENTIAL INFORMATION. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE DISCLOSING PARTY AND ITS AFFILIATES, MEMBERS AND ASSOCIATES, AND THEIR RESPECTIVE REPRESENTATIVES, WILL NOT HAVE ANY LIABILITY TO THE RECEIVING PARTY AND ITS AFFILIATES, MEMBERS AND ASSOCIATES, AND THEIR RESPECTIVE REPRESENTATIVES, FOR CLAIMS BASED ON INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, INCLUDING PATENTS, COPYRIGHTS OR TRADE SECRETS, OR BREACH OF ANY OTHER PROPERTY OR CONTRACTUAL RIGHTS, ARISING FROM THE PROVISION OR USE OF THE CONFIDENTIAL INFORMATION.

6. NOT A LICENSING AGREEMENT

6.1 This Agreement will in no way be construed as granting a license by either Party to the other, expressed or implied, under any patent or patent application or other form of intellectual property of the disclosing Party. Furthermore, nothing in this Agreement will be interpreted so as to oblige either Party to enter into future agreements with the other.

7. GENERAL

7.1 This Agreement shall be governed by the laws of the province of Ontario and the federal laws of Canada applicable therein, and each Party consents to the non-exclusive jurisdiction of the courts of Ontario and all courts competent to hear appeals therefrom.

7.2 The Parties will execute and deliver all such further documents and instruments and do all such acts and things as may be reasonably required to carry out the full intent and meaning of this Agreement.

7.3 Failure to enforce any provisions of this Agreement shall not constitute a waiver of any term of this Agreement and any such waiver shall be in writing signed by an authorized representative of the waiving Party.

7.4 A breach by either Party of this Agreement may cause irreparable damage for which the non-breaching Party will not be adequately compensated by monetary damages. In the event of a breach, or threatened breach of this Agreement, the non-breaching Party will be entitled to seek equitable relief from any court of competent jurisdiction, whether preliminary or permanent. Nothing in this Agreement is intended, or shall be construed, to limit the Parties' rights to any other remedy for a breach of any provision of this Agreement.

7.5 Any notices required to be delivered under this Agreement shall be provided in writing and shall be addressed to the Party at its address provided below and directed to the attention of the individual executing this Agreement on behalf of the Party unless otherwise notified in writing by the Party. Unless otherwise agreed to by the Parties, such notices shall be posted prepaid registered mail, facsimile, or hand delivery and will be deemed effective five (5) days after registered mail or on the date of hand delivery or facsimile/electronic transmission provided a confirmation copy is subsequently mailed on the following day.

7.6 This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and assigns.

7.7 This Agreement may be executed by the Parties by two (2) or more counterparts by facsimile or electronically, each of which who so executed or delivered will be deemed to be an original and all will constitute one agreement.

The Parties are signing this Agreement so as to be effective on the date stated in the introductory clause.

Per: **University Health Network**

Authorized Official:

Signature: _____

Dr. David Jaffray
EVP, Technology & Innovation – UHN

FC#

GL#

Date: _____

UHN CDA File: Dr. Joseph Cafazzo (for administrative purposes only)

Per: **Motivation Science, Inc.**

Authorized Official:

Title:

Signature: _____

Date: _____

Address:

Fax number:

Email:

Contact person name and title (if other than the signatory):