

**This Exhibit A, Confidentiality and Non-Disclosure Agreement is a binding contract between you (“Tester” “You,” or “Your”) and Applause App Quality, Inc. (“Applause,” “we,” or “us”). This Agreement governs your testing activities under a particular Test Cycle.**

**PLEASE READ THIS AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. IF YOU DO NOT AGREE TO THESE TERMS, YOU CANNOT ACCESS THIS TEST CYCLE. BY SIGNING OR CLICKING TO ACCEPT THIS AGREEMENT, YOU ACCEPT AND AGREE TO BE BOUND AND ABIDE BY THESE TERMS.**

## **EXHIBIT A**

### **CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

THIS AGREEMENT (the “Agreement”) is made between Applause App Quality, Inc. (collectively with its business unit uTest, “Company”) and YOU (hereinafter, the “Receiving Party”), a community tester of Company as of this day (the “Effective Date”).

WHEREAS, Company has engaged Receiving Party to provide certain services relating to the testing of its and its customer’s technology (the “Services”), and Receiving Party has agreed to provide such Services;

WHEREAS, in connection with the performance of Services, Receiving Party will acquire information that is confidential and proprietary to Company (as defined below, the “Confidential Information”);

WHEREAS, Receiving Party and Company desire to set forth Receiving Party’s nondisclosure and confidentiality obligations with respect to the Confidential Information; and

WHEREAS, Receiving Party shall acknowledge its acceptance to the terms and conditions of this Agreement (which is required before Receiving Party is allowed to provide such Services to Company) by either clicking its acceptance thereto as specified in Company’s platform (in which case the signature block at the end does not need to be signed), or by executing this Agreement directly with Company via the signature block at the end.

NOW, THEREFORE, the parties hereby agree as follows:

1. Definitions

A. As used in this Agreement, “Confidential Information” means all information, regardless of the form in which it is transmitted, pertaining to Company (or another party whose information Company has in its possession under obligations of confidentiality) past, present, or future (i) internal matters, (ii) research (including any information obtained through the newsgathering process), development, or business plans, (iii) operations or systems (including, without limitation, financial data, studies and reports, software, memoranda, drafts, and other information in either tangible or intangible form); (iv) information relating to subscribers (including, but not limited to, any information contained in Company’s subscriber records); (v)

information relating to users of Company's website, platform, application or any other website, platform or application under Company's control (including but not limited to any applications of customers of Company which are specified in test cycles as well as any applications which are related, directly or indirectly, to such applications (i.e. regardless of whether they are referenced under the same or under a different name) and (vi) any other information designated by Company as confidential and/or proprietary, or which would be deemed confidential to a reasonable person regardless of such designation. Information shall not be deemed confidential or proprietary for purposes of this Agreement, and Receiving Party shall have no obligation with respect to any such information, which: (a) is already known to Receiving Party at the time of its disclosure; (b) is or becomes publicly known through no wrongful act of Receiving Party; (c) is received from a third party without similar restrictions and without breach of this Agreement; (d) is independently developed by Receiving Party; or (e) is lawfully required to be disclosed to any governmental agency or is otherwise required to be disclosed by law (as long as Receiving Party has acted in accordance with Paragraph 2.A).

B. "Confidential Materials" shall mean all tangible materials containing Confidential Information, including without limitation, written or printed documents, electronically-transmitted material, and computer disks or tapes, whether machine or user readable. All Confidential Information and Confidential Materials are and shall remain the property of Company. By disclosing information to Receiving Party, Company does not grant any express or implied right to Receiving Party patents, copyrights, trademarks, or trade secret information.

## 2. Obligations and Restrictions

A. Receiving Party shall not disclose any Confidential Information to third parties at any time following its disclosure by Company to Receiving Party, except to Receiving Party's consultants as provided below. However, Receiving Party may disclose Confidential Information in accordance with judicial or other governmental order, provided Receiving Party shall give Company reasonable notice prior to such disclosure such that Company may seek an appropriate protective order or the like, and comply with all applicable protective orders (or equivalent).

B. Receiving Party shall take reasonable security precautions, at least as great as the precautions it takes to protect its own confidential and proprietary information, to keep confidential the Confidential Information. Receiving Party may disclose Confidential Information or Confidential Material only to Receiving Party's employees or consultants on a need-to-know basis. Receiving Party shall execute or shall have executed appropriate written agreements with its employees and consultants sufficient to enable it to comply with all the provisions of this Agreement.

C. Confidential Information and Confidential Materials may be disclosed, reproduced, summarized or distributed only in pursuance of Receiving Party's business relationship with Company, and only as otherwise provided hereunder. Receiving Party agrees to segregate all such Confidential Materials from the confidential materials of others in order to prevent commingling.

D. Receiving Party shall not publicize or disclose beyond those persons to whom Confidential Information may be disclosed hereunder the discussions that give rise to this Agreement without the prior written consent of Company.

### 3. Rights, Obligations and Remedies

A. Receiving Party shall return all originals, copies, reproductions and summaries of Confidential Information or Confidential Materials at Company's request, or at Company's option, certify destruction of same.

B. Receiving Party acknowledges that Company shall be entitled, without waiving any other rights or remedies, and without the need to post a bond, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction in the event of any breach or threatened breach of the provisions of this Agreement.

C. Receiving Party shall indemnify and hold Company, its parent, and each of their officers, directors, employees, agents, and licensees harmless from and against any loss, claim, damage, liability, costs, and expenses (including reasonable attorneys' fees) that in any way arise out of or result from a breach or alleged breach of any of the provisions of this Agreement. Company shall have sole authority to (i) choose outside counsel to defend any suit relating to the foregoing, and (ii) control and manage such outside counsel, the litigation, and any settlement. In addition, Receiving Party shall provide Company with all assistance requested by Company (including all relevant documentation and information) and otherwise cooperate with Company in connection with any claim or litigation.

D. Receiving Party acknowledges and agrees that: (i) Company is providing one or more hardware devices ("Hardware") for testing purposes that contains the Confidential Information and Confidential Materials of Company's client (potentially also including pre-release intellectual property); (ii) the unauthorized access or disclosure of such Hardware or the failure to return it to Company as and when required could result in significant legal implications for Company ("Legal Claims"); and (iii) as the result of such Legal Claims, Company will pursue its rights and remedies against Receiving Party to the fullest extent of the law (which Receiving Party understands will include financial restitution and criminal charges in connection with the Legal Claims as well as remedies for breach of Company's Tester Terms and Conditions).

E. Receiving Party acknowledges and represents and warrants that with respect to such Hardware, Receiving Party must return the Hardware to Applause within X days of completion of the testing cycle. Failure to return the Hardware subject to Applause's directions will result in breach of contract. Applause will have the right to pursue all rights and remedies in a court of law in connection with any Legal Claims for Receiving Party's failure to return the Hardware in a timely fashion.

4. Independent Contractor. Nothing in this Agreement shall be construed to constitute either party hereto as a partner, joint venturer, agent or employee of any other party, nor shall either party have the authority to bind the other in any respect, it being intended that each party shall remain an independent contractor responsible for its own actions.

5. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and each of their respective successors and assigns. No party hereto may assign its rights or obligations hereunder without the prior written consent of all other parties hereto. Any assignment in contravention of this provision shall be void.

6. Entire Agreement; Amendment. This Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral and written and all contemporaneous oral negotiations, commitments and understandings between such parties with respect to the subject matter hereof. This Agreement may be modified or amended only by a written instrument executed by all parties hereto.

7. Severability. Any provision of this Agreement which is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal, or unenforceable in any other jurisdiction.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its provisions regarding conflicts of law and each party hereby agrees to venue in Cambridge, Massachusetts to resolve any disputes hereunder.

9. Section Headings. The section headings are for the convenience of the parties and in no way alter, modify, amend, limit, or restrict the contractual obligations of the parties.

10. Waivers. No delay or omission on the part of either party to this Agreement in requiring performance by the other party hereunder, or in exercising any right hereunder, shall operate as a waiver of any provision hereof or of any right or rights hereunder; and the waiver or omission or delay in requiring performance or exercising any right hereunder on one occasion shall not be construed as a bar to or waiver of such performance or right, or of any right or remedy under this Agreement, on any future occasion.

11. Notice. Any notices or other communications required or permitted hereunder shall be sufficiently given if delivered personally or sent by overnight mail or registered or certified mail, postage prepaid, addressed as follows or to such other address of which the parties may have given notice:

To Company: uTest, Inc., 100 Pennsylvania Avenue, Suite 500, Framingham, MA 01701

To the Receiving Party:

Unless otherwise specified herein, such notices or other communications shall be deemed received (a) on the date delivered, if delivered personally or by overnight mail, or (b) three business days after being sent, if sent by registered or certified mail.

12. Survival. The provisions of paragraphs 2, 3, 4, 5 and 10 shall survive the termination or expiration of this Agreement.

13. Term. This Agreement shall remain in full force and effect so long as Receiving Party continues to provide the Services for Company.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.