NON-DISCLOSURE AGREEMENT

BETWEEN

INCORPORATED TRUSTEES OF ROCK FOUNDATION FOR WIDOWS, ORPHANS & LESS PRIVILEGED

AND

{INSERT NAME}

Prepared by:



**THIS NON-DISCLOSURE AGREEMENT** is entered into this\_\_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_\_\_\_\_\_\_\_

BETWEEN:

**INCORPORATED TRUSTEES OF ROCK FOUNDATION FOR WIDOWS, ORPHANS & LESS PRIVILEGED** of 19 Araromi Street, Onikan, Lagos (hereinafter referred to as “**ROFWOL”** or the “disclosing party” which expression shall where the context so admits include its successors in title and assigns) of the one part

AND

**\*\*\*\*\*\*** of \*\*\* insert address (hereinafter referred as “**Corporate Officer’** or Recipient” which expression shall where the context so admits include his/her legal representatives, administrators, executors and assigns) of the other part.

‘**ROFWOL’** and **‘CORPORATE OFFICER’** shall hereinafter be referred to individually as ‘Party’ and collectively as ‘Parties’.

**WHEREAS:**

1. ROFWOL is a non-governmental and non-profit trust organization actively involved in educating underprivileged children.
2. ROFWOL has embarked on a Project that facilitates free electronic learning for children in Nursery, Primary and Secondary schools via a mobile and web platform known as **GreaterFavour App**, all over Nigeria with curated questions from professional teachers and the standard syllabus used in all levels of the educational system in Nigeria.
3. ROFWOL has developed through substantial effort, research, time and expense, certain inventions, design concepts, methodologies, technical know-how, copyrightable material and trade secrets directed and related to the rendering of online educational services through its Mobile App and Web platform.
4. ROFWOL possesses competitively valuable Confidential Information regarding its content, online educational services, educational materials and software, future products, research and development, and general operations and desires to enter into a Non-Disclosure Agreement with its Corporate officers.
5. The Corporate Officer acknowledges that in the course of implementing and executing the Project, he/she, will come in direct contact with sensitive information such as the structures, businesses, technical know -how, methodologies, design concepts, trade secrets and operations of ROFWOL and has agreed to maintain confidentiality, integrity, transparency and value in his/her dealings in connection with the Project.
6. In consideration of the benefits to the Parties in their dealings with each other, the Parties have agreed to comply with the following terms in connection with the use and disclosure of the Confidential Information.

IT IS HEREBY AGREED AS FOLLOWS:

# **DEFINITIONS :**

1.1 Confidential Information**:** shall mean any non-public information used in carrying out its online educational services but not limited to, educational software and curriculum, contents in the web platform, mobile app, descriptive material, specifications, user information, organizational policies or practices, information received from others that the parties are obligated to treat as confidential and other materials and information of a confidential nature. Any information (whether of a strategic, organizational, commercial, technical, scientific, operational, administrative or intellectual property nature or any and all personal identification information) (whether oral or written whether in a tangible or intangible form) designated as confidential or proprietary or which include a similar legend or warning or that by their nature would reasonably be deemed confidential or proprietary and which a reasonable person knows or reasonably should understand to be confidential that is disclosed/conveyed/provided directly or indirectly by any means to the Recipient relating to, pursuant to this Agreement after the execution of this Agreement.

## Confidential information also includes the trade secrets, know-how, business plans, pricing information, the identity of and any information concerning users of its web or mobile platform or suppliers, computer programs (whether in source code or object code), database information, design artifacts and system specification documents, operating procedures, business processes, business strategies, business or operational methods, methodologies, algorithms, systems, designs, discoveries, inventions, production methods and sources, marketing and sales information of the Disclosing Party, and any other technical, operating, financial and other business information that has commercial value, relating to the Disclosing Party, operations or finances, or the business of the Disclosing Party’s Affiliates and all record bearing media containing or disclosing such information.

## 

1.2 Disclosing Party**:** means ROFWOL, which discloses or makes available directly or indirectly Confidential Information.

1.3 Recipient**:** \*\*\*\*\*\*\*\* with respect to all Confidential Information disclosed by ROFWOL

1..4 Intellectual Property:  means any and all of the following items, whether or not registered, application for the following items (where registrable) and the right to apply for the following items (where registrable): All rights, title and interests in or relating to products, patents, trademarks, service marks, trade and service names, copyrights, performance rights, topography rights, database rights, design rights, confidential information, domain names, and trade secrets, unfair competition rights, and all rights or forms of protection of a similar nature or having similar or equivalent effect to any of them, which may subsist anywhere in the world;

1.5 Project: establishment of free electronic learning platform for children in Nursery, Primary and Secondary schools via a mobile and web application known as **GreaterFavour App,** all over Nigeria with curated questions from professional teachers and the standard syllabus used in all levels of the educational system in Nigeria.

# 2. **OBLIGATIONS OF CONFIDENTIALITY**

## The Recipient understands and acknowledges that the Confidential Information has been developed and/or obtained by the Disclosing Party through the investment of significant time, effort and expense and that the Confidential Information is a valuable, special and unique asset of the Disclosing Party which provides it with a significant competitive advantage and needs to be protected from improper disclosure. In consideration of the disclosure of the Confidential Information, the Recipient:

* + 1. agrees to retain in confidence and refrain from expressly or impliedly selling, trading, publishing or otherwise disclosing the Confidential Information and all matters related to or connected with the Confidential Information or Project to any third party in any manner whatsoever, including by means of photocopy or reproduction, without the prior written consent of the Disclosing Party except as permitted in this Agreement;
    2. undertakes not to use or exploit the Confidential Information for any purpose except for or in connection with the Project, without first obtaining the written agreement of the Disclosing Party;
    3. undertakes not to use or benefit from the Confidential Information to procure any commercial advantage over the Disclosing Party
    4. agrees that it will be responsible for any breach of the terms of this Agreement
    5. agrees and confirms that the ownership of the Confidential Information including all Intellectual Property Rights in the Confidential Information or the Project remains vested in and under the control of the Disclosing Party.
    6. agrees that it will, to the best of its ability, take all reasonable steps and measures to prevent, control or remedy any violation of this Agreement by it. In so doing, the Recipient shall take at least the same steps it would to safeguard/protect its own valuable proprietary and confidential information but shall not take less than reasonable steps.
    7. agrees to notify the Disclosing Party immediately, upon discovery of any unauthorized use or disclosure of the Confidential Information or any other breach of this Agreement and will cooperate with the Disclosing Party to help regain possession of the Confidential Information and prevent its further unauthorized use. However, such notification by the Recipient does not constitute a waiver of its obligations under this Agreement or remove the Recipient’s liability for any breach which occasioned/caused/led to such unauthorized use or disclosure.
    8. agrees that it will not modify, reverse, engineer, decompile, create other works from, or disassemble any software programs, prototypes, schematics, hardware or other tangible objects contained in the Confidential Information of the Disclosing Party without the prior written consent of the Disclosing Party.
  1. The Recipient may disclose Confidential Information to the extent required by law, by any governmental or other regulatory authority (including, without limitation, any relevant securities exchanges), or by a court or other authority of competent jurisdiction provided always that the Recipient shall (where possible) promptly notify the Disclosing Party upon receipt of any paper or order that requests or demands disclosure of the Confidential Information. Provided also that where possible (based on the circumstance), the Recipient shall give the Disclosing Party such notice that will avail the Disclosing Party the opportunity to seek a protective order or other similar order with respect to such Confidential Information.

## The Recipient shall establish and maintain adequate security measures (including any reasonable security measures proposed by the Disclosing Party from time to time) to safeguard the Confidential Information from unauthorised access or use.

## The Recipient shall not make, any public announcement concerning this Agreement, the Project without the prior written consent of the ROFWOL, except as required by law or any governmental or regulatory authority (including, without limitation, any relevant securities exchange) or by any court or other authority of competent jurisdiction. The Recipient shall not make use of the other ROFWOL’s name or any information acquired through its dealings with the ROFWOL for publicity or marketing purposes without the prior written consent of ROFWOL.

# **EXCLUDED CONFIDENTIAL INFORMATION**

3.1 Notwithstanding anything to the contrary in this Agreement Confidential Information shall not include information that :

### is or becomes generally available to the public other than as a result of its disclosure by the Recipient in breach of this Agreement or of any other undertaking of confidentiality addressed to the Party to whom the information relates (except that any compilation of otherwise public information in a form not publicly known shall nevertheless be treated as Confidential Information); or

### was available to the Recipient on a non-confidential basis prior to disclosure by the Disclosing Party; or

### was, is or becomes available to the Recipient on a non-confidential basis from a person who, to the Recipient's knowledge (after reasonable due inquiry), is not bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Recipient; or

### was lawfully in the possession of the Recipient before the information was disclosed to it by the Disclosing Party; or

### the Parties agree in writing is not confidential or may be disclosed.

# **EFFECT OF THIS AGREEMENT**

* 1. This Agreement does not offer or grant to the Recipient any ownership rights in or license or franchise or other rights in the Confidential Information or under any Intellectual Property right of the Disclosing Party.

# **RETURN OF INFORMATION**

## At the request of the Disclosing Party, the Recipient shall:

### destroy or return to the Disclosing Party all documents and materials (and any copies) containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information;

### erase all the Disclosing Party's Confidential Information from its computer systems or which is stored in electronic form (to the extent possible); and

### certify in writing to the Disclosing Party that it has complied with the requirements of this clause, provided that a Recipient may retain documents and materials containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority and to the extent reasonable to permit the Recipient to keep evidence that it has performed its obligations under this Agreement. The provisions of this clause 4 shall continue to apply to any such documents and materials retained by the Recipient, subject to clause 5.1.

## If the Recipient develops or uses a product or a process which, in the reasonable opinion of the Disclosing Party, might have involved the use of any of the Disclosing Party's Confidential Information, the Recipient shall, at the request of the Disclosing Party, supply to the Disclosing Party information reasonably necessary to establish that the Disclosing Party's Confidential Information has not been used or disclosed.

# **RESERVATION OF RIGHTS AND ACKNOWLEDGEMENT**

* 1. All Confidential Information shall remain the property of ROFWOL. ROFWOL reserves all rights in its Confidential Information. No rights, including, but not limited to, Intellectual Property rights, in respect of ROFWOL’s Confidential Information is granted to the Recipient and no obligations are imposed on ROFWOL other than those expressly stated in this Agreement. Nothing in this agreement is intended to grant any rights to the Recipient under any patent, trade secret, mask work right or copyright of ROFWOL, nor does this agreement grant the Recipient any rights in or to the Confidential Information except as expressly set forth herein.

## The disclosure of Confidential Information by the Disclosing Party shall not form any offer by, or representation or warranty on the part of, the Disclosing Party to enter into any further agreement in relation to the Project

## The Recipient acknowledges that damages alone may not be an adequate remedy for the breach of any of the provisions of this Agreement. Accordingly, without prejudice to any other rights and remedies it may have, the Disclosing Party shall be entitled to the granting of equitable relief (including without limitation injunctive relief) concerning any threatened or actual breach of any of the provisions of this Agreement.

# **WARRANTY AND INDEMNITY**

## The Disclosing Party warrants that it has the right to disclose its Confidential Information to the Recipient and to authorise the Recipient to use such Confidential Information for the performance of the Project.

## The Recipient shall indemnify and keep the Disclosing Party fully indemnified at all times against all liabilities, costs (including reasonable legal costs on an indemnity basis), expenses, direct damages and losses arising from any breach of this Agreement by the Recipient

# **TERM AND TERMINATION**

## If the Recipient decides not to become, or continue to be involved in the Project with the ROFWOL it shall give the ROFWOL at least one (1) month’s written notice of its intention to terminate this Agreement. The obligations of each Party shall, notwithstanding any earlier termination of negotiations or discussions between the Parties in relation to the Project, continue for a period of three (3) years from the termination of this Agreement or completion of the execution of the Contract.

## Termination of this Agreement shall not affect any accrued rights or remedies to which the Disclosing Party to this Agreement is entitled.

# **ENTIRE AGREEMENT AND VARIATION**

## This Agreement constitutes the whole agreement between the Parties and supersedes all previous agreements between the Parties relating to the Project. Each Party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement. Nothing in this clause shall limit or exclude any liability for fraud or for fraudulent misrepresentation.

## No variation of this Agreement shall be effective unless it is in writing and signed by each of the Parties (or their authorised representatives).

# **NON -WAIVER**

## Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

## No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy.

## A Party that waives a right or remedy provided under this Agreement or by law in relation to the other Party, or takes or fails to take any action against that Party, does not affect its rights in relation to the other Party.

# **ASSIGNMENT**

# Except as otherwise provided in this Agreement, the Recipient shall not assign, sub-contract or deal in any way with, any of its rights or obligations under this Agreement or any document referred to in it without ROFWOL’s consent.

# **NOTICES**

### Any notice required to be given under this Agreement, shall be in writing, in English, and shall be delivered personally, or by courier service or by any electronic means of transmitting written communications and properly addressed to the other Party at its address as set out above or as otherwise specified by the relevant Party by notice in writing to each other Party.

### Any notice given under any provision of this Agreement shall be deemed to have been duly delivered only when received by the Party to whom such notice is directed, and the time for such Party to deliver any notice in response to such originating notice shall run from the date the originating notice is received

1. **NO PARTNERSHIP**

## Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any Party the agent of other Party, nor authorise the Recipient to make or enter into any commitments for or on behalf of ROFWOL.

# **GOVERNING LAW AND DISPUTE RESOLUTION**

# This Agreement and the relationship of the Parties in connection with the subject matter of this Agreement shall be construed in accordance with and governed by the laws of the Federal Republic of Nigeria.

# Any disagreement, dispute or difference howsoever arising, from this Agreement, including its interpretation and validity or as to the rights, duties and liabilities of the Parties hereto or as to any other matter in any way connected with or arising out of or in relation to the subject matter of this Agreement, which cannot be amicably resolved by the Parties within (14) fourteen days shall be referred to the Lagos Multi – Door Courthouse (LMDC) for mediation which shall be conducted in accordance with the LMDC Mediation Procedure Rules or such other Rules mutually agreed by the Parties.

# Each Party shall bear its own costs and would be liable to contribute the same amount in respect of fees to be paid to the Mediator.

# Failing amicable resolution of any dispute by means of mediation, not later than 14 (fourteen) days from the period stated above, such dispute shall be deemed by both Parties to be incapable of amicable resolution and any of the Parties shall be at liberty to approach any court of competent jurisdiction for resolution of the dispute.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement, to be effective as of the date first written above.

The Common Seal of INCORPORATED TRUSTEES OF ROCK FOUNDATION FOR WIDOWS, ORPHANS & LESS PRIVILEGED was affixed

In the presence of:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CHAIRMAN SECRETARY

**SIGNED SEALED AND DELIVERED BY \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(INSERT NAME)**

In the presence of:

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

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

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_