Non-Disclosure Agreement
Capstone

This Non-Disclosure Agreement ("**Agreement**") is made effective on the date of the signature below (the "**Effective Date**") by **Concordia University**, a corporation duly incorporated by the Concordia University Act, S.Q. 1948, c. 91 as amended by S.Q. 1959-60, c. 191 and S.Q. 2006, c. 69 having a registered offices at 1455 de Maisonneuve Blvd. West, City of Montreal, Province of Quebec H3G 1M8, Canada ("**University**") herein represented by Mourad Debbabi, Dean, Gina Cody School of Engineering and Computer Science, duly authorized to sign the present Agreement on behalf of University, as he so declares.

WHEREAS students registered in the ___bachelors of software engineering___ program at the University are required to complete a Capstone project as part of their studies;

WHEREAS the University provides instruction to students completing their Capstone project and evaluates students' work upon submission of their Capstone project (the "**Purpose**");

WHEREAS, in this context, certain wish to compete a Capstone project entitled _____Smartess Web App_____ (the "**Project**") in collaboration with __Smartess_____ (the "**Company**");

WHEREAS, in carrying out the Purpose the context of the Project, certain Confidential Information (as such term is hereinafter defined) may be provided to the University;

NOW, THEREFORE, the University undertakes and agrees as follows:

1.   **Definitions.**

"**Confidential Information**" shall mean all information conspicuously marked as confidential by the Company and provided by the Company to the University, including without limitation, all information relating to business plans or practices, concepts, experimental work or prototypes, costs, sources of supply, pricing methods, client lists, employee lists, prospective client lists, customer information, personal information, financial or technical matters, non-published patents, software, source code, trade secrets, data, designs, know-how, inventions, operations, the marketing or promotion of products or services, business and information and any other information received or acquired by the University from the Concordia in the course of the Project.

Confidential Information shall not include any information, however designated, that: (i) is or subsequently becomes publicly available through no wrongful act of the University; (ii) is already known to the University at the time of disclosure, as proven by documentary evidence; (iii) is rightfully received by the University from a third party without restriction on disclosure, without any breach of that third party's confidentiality obligations or breach of this Agreement; (iv) is independently developed by the University, without any reference or use of any of the Company's Confidential Information; or (v) which the Company has authorized the unrestricted disclosure.

"**Representative**" means the University's directors, officers, governors, faculty members, staff, employees, agents and advisors (including financial advisors, auditors, experts and external legal counsel). For the sake of clarity, "Representative" shall not include the University's students.

2.   **Application of Agreement.**   This Agreement shall apply with respect to all Confidential Information accessed by, provided or made known to the University after the Effective Date and shall be the entire agreement of the parties, superseding all prior understandings, and oral or written agreements that may exist between the University and the Company in respect of the Project.

3.   **Confidentiality Obligations.**   Concordia hereby agrees:

(a)   to use the Company's Confidential Information solely for the Purpose;
(b)   not to reverse engineer, decompile or disassemble the Company's Confidential Information;
(c)   except with the prior written consent of the Company or as otherwise permitted hereunder, not to (directly or

indirectly) divulge, disclose, reveal, publish, distribute, disseminate or in any way communicate, any of the Company's Confidential Information to any third party;

(d)   to limit disclosure of the Company's Confidential Information only to those of the Representatives who have a legitimate need to know such information further to the Purpose, provided that all of the Representatives are bound by confidentiality obligations or have entered into agreements with the University no less stringent than those provided for under this Agreement;

(e)   to only make copies or reproduce any of the Company's Confidential Information when necessary for the Purpose and the University shall reproduce the Company's confidentiality and proprietary rights notices on all copies, in the same manner where such notices were set forth in or on the original of the Company's Confidential Information; and

(f)   to use reasonable care, but in any event no less than the same degree of care that it uses to protect its own confidential and proprietary information of similar importance, to prevent the unauthorized use, disclosure, publication and dissemination of the Company's Confidential Information.

4.   Mandatory Disclosure Exemption.   Notwithstanding the foregoing, the University may disclose Confidential Information in strict accordance with a judicial, regulatory or other governmental order or in accordance with applicable law, provided that the University, gives the Company reasonable notice, provided such notice is legally permitted, prior to making such disclosure to allow the Company a reasonable opportunity to seek a protective order or equivalent, at the Company's sole cost. In the event that such protective order or other remedy is not obtained, the University agrees to furnish only that portion of the Company's Confidential Information which is legally required.

5.   Return and/or Destruction of Confidential Information.   Upon written request by the Company, within thirty (30) days of the expiration or earlier termination of this Agreement, the University shall destroy all originals, copies, reproductions and summaries of the Company's Confidential Information which are in its possession. Furthermore, the University agrees to permanently erase or delete any Confidential Information stored electronically, magnetically or otherwise on machines or devices, upon written demand by the Company and certify compliance with this section to the Company. Return or destruction of the Company's Confidential Information shall in no way relieve the University of its continuing confidentiality obligations. The University shall be permitted to retain one copy of the Confidential Information (i) if, to the extent and as long as required by law, regulation, administrative or court order and (ii) only as electronic data stored due to automatic archiving and back up procedures ("**Retained Information**"). Such Retained Information shall be treated by the University in accordance with this Agreement.

6.   Remedies. The University expressly agrees that monetary damages alone may be an inadequate remedy to compensate the Company for any breach by the University of its covenants and agreements set forth in this Agreement. Accordingly, the University agrees and acknowledges, in addition to any other remedies that may be available in law or otherwise, the Company shall be entitled to apply for injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the University.

7.   No Rights Granted.   All of the Company's Confidential Information is and shall remain the property of the Company. Nothing in this Agreement shall be construed as granting any expressed or implied rights under any patent, copyright or other intellectual property right, nor shall this Agreement grant the University any express or implied rights in or to the Company's Confidential Information other than the rights set forth in the Agreement.

8.   No Warranty.   All Confidential Information is provided "AS IS," without warranty or representation of any kind, express or implied or otherwise, as to accuracy, completeness, fitness for any purpose, the performance of any of such Company's Confidential Information, nor as to whether the Confidential Information infringes any rights of any third party. The University agrees that the Company nor any of its representatives shall be liable for any damages whatsoever arising from or relating to the University's use or inability to use such Confidential Information.

9.   Governing Law.   This Agreement and all acts and transactions pursuant hereto and the rights and obligations hereto shall be governed, construed and interpreted in accordance with the laws of the Province of Quebec and the federal laws of Canada applicable therein the jurisdiction of the courts of that province (the "**Courts**") shall apply.

10.   Term, Termination, Survival of Confidentiality Obligations.   This Agreement shall be valid for a period of two (2) years from the Effective Date ("**Term**").

11.   Language.   The Parties have expressly agreed that this Agreement be drawn up in English only. *Les Parties aux présentes ont expressément requis que la présente entente soit rédigée en anglais seulement*. If this Agreement is translated into languages other than English, such interpretation shall be deemed to be made only for reference purpose.

CONCORDIA UNIVERSITY

Signature: _____

Name (print):   Mourad Debbabi

Title: Dean, Gina Cody School of Engineering and Computer Science

Date: _____