radio\_nda\_unilateral\_or\_bilateral == "Bilateral" MUTUAL ###NON-DISCLOSURE AGREEMENT

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

This Non-Disclosure Agreement (the “NDA”), entered into by and between {{ text\_company\_legal\_name }} (“{{ text\_company\_short\_name }}”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Receiving Party”), shall be effective as of {{ text\_effective\_date }}. {{ text\_company\_short\_name }} and Receiving Party may be referred to individually as a “Party,” or collectively as the “Parties.”[[1]](#footnote-1)

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

This Mutual Non-Disclosure Agreement (the “NDA”), entered into by and between {{ text\_company\_legal\_name }} and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (collectively, the “Parties,” or individually, a “Party”),[[2]](#footnote-2) shall be effective as of {{ text\_effective\_date }}.

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

The Parties are interested in exploring whether to enter into a (or expand upon an existing) business relationship with each other, and as part of performing their due diligence prior to making such a determination (“Due Diligence”), {{ text\_company\_short\_name }} intends to provide Receiving Party with certain Confidential Information that {{ text\_company\_short\_name }} wishes to keep confidential. [*As used in this NDA, the term “Confidential Information” shall mean all non-public information belonging to {{ text\_company\_short\_name }} that it reasonably considers proprietary or confidential, in whatever form (oral, visual, written, electronic, tangible, or intangible), whether labeled “confidential” or otherwise, and including, without limitation, information related to {{ text\_company\_short\_name|possessive }}: (i) internal operations (e.g., its owners/managers and their respective roles); (ii) clients/customers (e.g., names, phone numbers, email addresses, social media information, order preferences, pricing, etc.); (iii) technical data; (iv) know-how; (v) non-publicized areas of research; (vi) profitable markets; (vii) lines of distribution; (viii) marketing plans, strategies, and resources; (ix) pricing and pricing models; (x) software, programs, algorithms, and source code; (xi) developments, inventions, processes, and formulas; (xii) new technology and designs; (xiii) financial data, including billing and collections practices; and (xiv) any other information deemed to be a trade secret or confidential within the meaning of Civil Code section 3426 et seq.*]

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

The Parties are interested in exploring whether to enter into a (or expand upon an existing) business relationship with each other. As part of performing their respective due diligence prior to making such a determination (“Due Diligence”), the Parties intend upon exchanging with each other certain Confidential Information that each wishes to keep confidential. [*As used in this NDA, the term “Confidential Information” shall mean all non-public information belonging to the disclosing Party that it reasonably considers proprietary or confidential, in whatever form (oral, visual, written, electronic, tangible, or intangible), whether labeled “confidential” or otherwise, and including, without limitation, information related to the disclosing Party’s: (i) internal operations (e.g., its owners/managers and their respective roles); (ii) clients/customers (e.g., names, phone numbers, email addresses, social media information, order preferences, pricing, etc.); (iii) technical data; (iv) know-how; (v) non-publicized areas of research; (vi) profitable markets; (vii) lines of distribution; (viii) marketing plans, strategies, and resources; (ix) pricing and pricing models; (x) software, programs, algorithms, and source code; (xi) developments, inventions, processes, and formulas; (xii) new technology and designs; (xiii) financial data, including billing and collections practices; and (xiv) any other information deemed to be a trade secret or confidential within the meaning of Civil Code section 3426 et seq.*]

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

Confidential Information shall *not* mean or refer to information that: (i) is already in the public domain (or that becomes so) through no fault of Receiving Party; (ii) Receiving Party already possessed, as evidenced by documents in Receiving Party’s possession dated prior to the time that {{ text\_company\_short\_name }} provided Receiving Party with the Confidential Information; (iii) is received in good faith from a source other than {{ text\_company\_short\_name }} or its Representatives, provided that such source is not bound by a confidentiality agreement, or other contractual, legal, or fiduciary duty of confidentiality to {{ text\_company\_short\_name }}; or (iv) {{ text\_company\_short\_name }} authorized Receiving Party in writing to release.

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

Confidential Information shall *not* mean or refer to information that: (i) is already in the public domain (or that becomes so) through no fault of the receiving Party; (ii) the receiving Party already possessed, as evidenced by documents in the receiving Party’s possession dated prior to the time that the disclosing Party provided the receiving Party with the Confidential Information; (iii) is received in good faith from a source other than the disclosing Party or its Representatives, provided that such source is not bound by a confidentiality agreement, or other contractual, legal, or fiduciary duty of confidentiality to the disclosing Party; or (iv) the disclosing Party authorized the receiving Party in writing to release.

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

Receiving Party acknowledges and agrees that {{ text\_company\_short\_name|possessive }} Confidential Information constitutes a special, unique, and valuable asset to {{ text\_company\_short\_name }}. Consequently, Receiving Party agrees that it must: (i) limit its use of {{ text\_company\_short\_name|possessive }} Confidential Information *solely* to conducting its Due Diligence; (ii) hold the Confidential Information in strict confidence; (iii) take all reasonable precautions to prevent the inadvertent disclosure of the Confidential Information; and (iv) not disclose such Confidential Information to any person or entity other than its Representatives who: (a) reasonably require access to it as part of Receiving Party’s Due Diligence; (b) are informed of the information’s confidential nature; and (c) are bound by written confidentiality obligations at least as protective of the Confidential Information as are the provisions of this NDA. Such signed writings must be presented to {{ text\_company\_short\_name }} upon request.

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

The Parties acknowledge and agree that their respective Confidential Information constitutes a special, unique, and valuable asset to each of them. Consequently, the Parties agree that each must: (i) limit its use of the disclosing Party’s Confidential Information *solely* to conducting its Due Diligence; (ii) hold the Confidential Information of the other Party in strict confidence; (iii) take all reasonable precautions to prevent inadvertent disclosure of the other Party’s Confidential Information; and (iv) not disclose such Confidential Information to any person or entity other than their respective Representatives who: (a) reasonably require access to the Confidential Information as part of their respective Due Diligence; (b) are informed of the information’s confidential nature; and (c) are bound by written confidentiality obligations at least as protective of the Confidential Information as are the provisions of this NDA. Such signed writings must be presented to the disclosing Party upon request.

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

The Confidential Information is provided AS IS and without warranty of any kind, whether express or implied, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, or title. {{ text\_company\_short\_name }}, therefore, shall not be liable to Receiving Party for errors or omissions in any of the Confidential Information, or for that matter, any decisions made by Receiving Party in reliance upon any of the Confidential Information.

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

The Confidential Information is provided AS IS and without warranty of any kind, whether express or implied, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, or title. The disclosing Party, therefore, shall not be liable to the receiving Party for errors or omissions in any of the Confidential Information, or for that matter, any decisions made by the receiving Party in reliance upon any of the Confidential Information.

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

With respect to {{ text\_company\_short\_name|possessive }} Confidential Information, about which a third party is seeking disclosure through operation of law (e.g., subpoena, court order, deposition, etc.), prior to any disclosure of the Confidential Information, Receiving Party must take all reasonable steps to provide {{ text\_company\_short\_name }} with prompt notice sufficient to permit {{ text\_company\_short\_name }} to contest such disclosure (e.g., by filing a motion for a protective order).

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

With respect to Confidential Information about which a third party is seeking disclosure through operation of law (e.g., subpoena, court order, deposition, etc.), prior to any disclosure of the Confidential Information, the receiving Party must take all reasonable steps to provide the disclosing Party with prompt notice sufficient to permit the disclosing Party to contest such disclosure (e.g., by filing a motion for a protective order).

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

The Parties acknowledge and agree that any unauthorized use or disclosure of the Confidential Information shall constitute unfair competition within the meaning of applicable California law. The Parties agree, therefore, that in the event of a breach (or alleged breach) by Receiving Party or its Representatives of any of the covenants contained in this NDA, {{ text\_company\_short\_name }} will have suffered irreparable injury and damage for which money damages may not be adequate and/or which may be difficult to ascertain. Consequently, in the event of such a breach, or a reasonably anticipated breach, in addition to {{ text\_company\_short\_name|possessive }} other legal and equitable remedies, {{ text\_company\_short\_name }} shall be entitled to seek injunctive relief against Receiving Party without the necessity of posting a bond.

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

The Parties acknowledge and agree that any unauthorized use or disclosure of their respective Confidential Information shall constitute unfair competition within the meaning of applicable California law. The Parties agree, therefore, that in the event of a breach (or alleged breach) by the receiving Party or its Representatives of any of the covenants contained in this NDA, the disclosing Party will have suffered irreparable injury and damage for which money damages may not be adequate and/or which may be difficult to ascertain. Consequently, in the event of such a breach, or a reasonably anticipated breach, in addition to the disclosing Party’s other legal and equitable remedies, the disclosing Party shall be entitled to seek injunctive relief against the receiving Party without the necessity of posting a bond.

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

The Parties acknowledge and agree that, regardless of whether or not the Parties enter into a contract regarding a future business relationship, the obligations contained in this NDA shall continue in full force and effect for a period of three (3) years following the last transfer of any Confidential Information to Receiving Party.

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

The Parties acknowledge and agree that, regardless of whether or not the Parties enter into a contract regarding a future business relationship, the obligations contained in this NDA shall continue in full force and effect for a period of three (3) years following the last transfer of any Confidential Information to the receiving Party.

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

The Parties further acknowledge and agree that within seven (7) calendar days of the {{ text\_company\_short\_name|possessive }} written request, Receiving Party will promptly either destroy or return to {{ text\_company\_short\_name }} all Confidential Information in its (and its Representatives’) possession, custody, or control (including the removal or destruction of information from any electronic retrieval and/or backup systems).

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

The Parties further acknowledge and agree that within seven (7) calendar days of the disclosing Party’s written request, the receiving Party will promptly either destroy or return to the disclosing Party all of the disclosing Party’s Confidential Information in its (and its Representatives’) possession, custody, or control (including the removal or destruction of information from any electronic retrieval and/or backup systems).

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

Likewise, within those same seven (7) calendar days, and also upon {{ text\_company\_short\_name|possessive }} written request, Receiving Party shall provide {{ text\_company\_short\_name }} with a sworn written declaration, signed by an authorized representative of Receiving Party under penalty of perjury under the laws of the State of California and the United States, that the destruction and/or return required in the prior section actually took place.

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

Likewise, within those same seven (7) calendar days, and also upon the disclosing Party’s written request, the receiving Party shall provide the disclosing Party with a sworn written declaration, signed by an authorized representative of the receiving Party under penalty of perjury under the laws of the State of California and the United States, that the destruction and/or return required in the prior section actually took place.

###

# yn\_noncircumvention == "Yes"

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

For a period of one (1) year after the Parties sign this NDA, Receiving Party agrees not to solicit for employment, or in any way compensate, any of {{ text\_company\_short\_name|possessive }} employees or other Representatives.

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

For a period of one (1) year after the Parties sign this NDA, the receiving Party agrees not to solicit for employment, or in any way compensate, any of the disclosing Party’s employees or other Representatives.

###

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

All notices to the other Party required under this NDA shall be in writing and shall be delivered to the addresses set forth below (or any subsequent address provided in writing by a Party) via: (i) certified mail, return receipt requested; (ii) personal delivery if accompanied by proof of delivery; or (iii) a nationally recognized delivery service (e.g., Federal Express, United Parcel Service, etc.) requiring proof of delivery. Notwithstanding the foregoing, if the Parties subsequently agree in writing, whether via electronic mail or in one of the three methods referenced above, to permit notices to be delivered solely via electronic mail, then all subsequent notices may be delivered in that manner.

If to {{ text\_company\_short\_name }}: *{{ text\_client\_address }}*

If to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

All notices to the other Party required under this NDA shall be in writing and shall be delivered to the addresses set forth below (or any subsequent address provided in writing by a Party) via: (i) certified mail, return receipt requested; (ii) personal delivery if accompanied by proof of delivery; or (iii) a nationally recognized delivery service (e.g., Federal Express, United Parcel Service, etc.) requiring proof of delivery. Notwithstanding the foregoing, if the Parties subsequently agree in writing, whether via electronic mail, or in one of the three methods referenced above, to permit notices to be delivered solely via electronic mail, then all subsequent notices may be delivered in that manner.

If to {{ text\_company\_legal\_name }}: *{{ text\_client\_address }}*

If to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

###

radio\_nda\_unilateral\_or\_bilateral == "Unilateral"

This NDA embodies the final and complete understanding between the Parties regarding the disclosure of {{ text\_company\_short\_name|possessive }} Confidential Information, replacing and superseding all previous oral or written agreements, understandings, or arrangements between the Parties with respect to such disclosure. This NDA may not be modified or amended except in a writing signed by the Parties. This NDA shall be governed by and construed in accordance with the laws of the State of California, with venue in the County of {{ text\_county\_venue }}. In the event that any provision of this NDA shall, for any reason, be held to be invalid, unenforceable, or illegal, such provision shall be severed from this NDA, and such invalidity, unenforceability, or illegality shall not affect any other provisions of this NDA. This NDA has been entered into at arm’s length and between Parties who had the terms of the NDA specifically explained to them and who either had, or had the opportunity to seek, independent counsel of their own choosing. Accordingly, any rule of law or legal decision that would require interpretation of this NDA against the drafter, including without limitation, Civil Code section 1654, is not applicable and is irrevocably and unconditionally waived. No waiver by either Party of any breach by the other of any of the provisions of this NDA shall be deemed a waiver of any preceding or subsequent breach. And a waiver of any provision of this NDA on any particular occasion shall not constitute a permanent waiver of that provision. If any legal action is brought to enforce or interpret this NDA, the prevailing Party shall be entitled to recover its reasonable attorneys’ fees and costs.

###

radio\_nda\_unilateral\_or\_bilateral == "Bilateral"

This NDA embodies the final and complete understanding between the Parties regarding the disclosure of each Party’s Confidential Information, replacing and superseding all previous oral or written agreements, understandings, or arrangements between the Parties with respect to such disclosure. This NDA may not be modified or amended except in a writing signed by the Parties. This NDA shall be governed by and construed in accordance with the laws of the State of California, with venue in the County of {{ text\_county\_venue }}. In the event that any provision of this NDA shall, for any reason, be held to be invalid, unenforceable, or illegal, such provision shall be severed from this NDA, and such invalidity, unenforceability, or illegality shall not affect any other provisions of this NDA. This NDA has been entered into at arm’s length and between Parties who had the terms of the NDA specifically explained to them and who either had, or had the opportunity to seek, independent counsel of their own choosing. Accordingly, any rule of law or legal decision that would require interpretation of this NDA against the drafter, including without limitation, Civil Code section 1654, is not applicable and is irrevocably and unconditionally waived. No waiver by either Party of any breach by the other of any of the provisions of this NDA shall be deemed a waiver of any preceding or subsequent breach. And a waiver of any provision of this NDA on any particular occasion shall not constitute a permanent waiver of that provision. If any legal action is brought to enforce or interpret this NDA, the prevailing Party shall be entitled to recover its reasonable attorneys’ fees and costs.

###

The Parties have signed this NDA as of the date(s) set forth below.

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

{{ text\_company\_legal\_name }}

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

Name & Position:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

Name & Position:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. A “Party” (or “Parties”) shall also mean and refer to each Party’s affiliates, officers, directors, managers, members, shareholders, attorneys, accountants, financial advisors, partners, agents, employees, independent contractors, service providers, licensees, and subcontractors (these may also, but need not, be referred to collectively as “Representatives” when the context so dictates). [↑](#footnote-ref-1)
2. A “Party” (or “Parties”) shall also mean and refer to each Party’s affiliates, officers, directors, managers, members, shareholders, attorneys, accountants, financial advisors, partners, agents, employees, independent contractors, service providers, licensees, and subcontractors (these may also, but need not, be referred to collectively as “Representatives” when the context so dictates). [↑](#footnote-ref-2)