

MUTUAL NON-DISCLOSURE AGREEMENT

THIS MUTUAL NON-DISCLOSURE AGREEMENT (the "**Agreement**"), is made and entered into as of the date on which the last of the Parties to sign this Agreement provides its authorized signature hereto ("**Effective Date**"), by and between _____ ("**Company**"), a _____ organized in the state of _____, with an office at _____ and Torch Research, LLC d/b/a Torch.AI ("**TORCH.AI**"), a limited liability company organized in the State of Delaware with an office at Frances Building, 5250 W. 116th Place, Suite 200, Leawood, KS 66211 (each a "**Party**" and collectively the "**Parties**").

WHEREAS, Torch.AI and Company are considering doing business together and in furtherance of same each of the Parties may request or obtain information of the other Party, that the Disclosing Party considers to be confidential, proprietary, or non-public business information and/or trade secrets of the disclosing Party (as more particularly defined below, "**Confidential Information**"); and

WHEREAS, each Party desires to place appropriate restrictions on the use, disclosure, and reproduction of its Confidential Information.

NOW, THEREFORE, in consideration of the mutual promises and other consideration contained herein, the receipt and sufficiency of which is hereby acknowledged, Torch.AI and Company hereby agree as follows:

1. "**Confidential Information**" is all information (i) identified in written format by the disclosing Party ("**Disclosing Party**") as confidential, trade secret or proprietary information, (ii) disclosed to the receiving party ("**Receiving Party**") in any other manner or format and is identified as proprietary, confidential or a trade secret of the Disclosing Party at the time of disclosure provided same is then summarized and designated as proprietary or confidential in a written memorandum delivered to the Receiving Party within fifteen (15) days of the original non-written disclosure, whether any such information was furnished to the Receiving Party by the Disclosing Party prior to or after the date of this Agreement; or (iii) all information which is derived from the information in (i) or (ii). In general, the Confidential Information may include, but not limited to the following: concepts, designs, processes, methodologies, algorithms, formulations and development information, product plans or specifications, software source code, product or business strategies, customer or potential customer information, employee information, contract information and other business information concerning the business plans, operations, and prospects of either Party.
2. The term "**Confidential Information**" shall not include any information that Receiving Party can reasonably demonstrate is:
 - a. or subsequently becomes, legally and publicly available without breach of this Agreement;
 - b. rightfully obtained by the Receiving Party from a source other than the Disclosing Party and free from any obligation of confidentiality;
 - c. already known or in the possession of the Receiving Party before it is disclosed by the Disclosing Party, all to the extent the foregoing can be established by proper written evidence;
 - d. developed by or for the Receiving Party without use of the Confidential Information;

- e. Is disclosed by the Receiving Party with the written consent of the Disclosing Party.
3. The Receiving Party may disclose Confidential Information of the disclosing Party as necessary to comply with a subpoena, other validly issued order of a court or governmental agency, applicable laws or governmental or administrative regulations, provided that to the extent legally permissible, the receiving Party provides prior written notice of such disclosure to the Disclosing Party and reasonably cooperates with the disclosing Party in disclosing Party's efforts to avoid and/or minimize the extent of such disclosure.
4. The Receiving Party may use the Confidential Information solely for the purpose of evaluating, entering into or furthering a possible business transaction or other business relationship between the Parties ("**Purpose**"), and the Receiving Party expressly agrees not to use any Confidential Information in any manner which would be detrimental to Disclosing Party, including, without limitation, contacting the customers, accounts or prospects of Disclosing Party. Further to the foregoing and not by way of limitation, Receiving Party shall not use Confidential Information to invent, create, modify, adopt or manufacture (or in furtherance of any of the foregoing) any hardware or software or other products or services that would or could compete with or be used in lieu of the Disclosing Party's hardware, software or any other products or services.
5. The Receiving Party shall not use the Confidential Information for any purpose other than the Purpose and shall not disclose the Confidential Information to any third-party other than employees, independent contractors, or directors of the Receiving Party who: (i) are authorized to participate in discussions and activities under this Agreement ("**Discussions**"); (ii) have a genuine need to access and have knowledge of the Confidential Information solely for the Purpose; and (iii) agree not to disclose Confidential Information to any third-party or use Confidential Information in contravention of this Agreement (those so authorized hereinafter referred to as "**Permitted Representatives**"). Each Party shall ensure that prior to the disclosure of Confidential Information to its respective Permitted Representatives, such employees and/or permitted third parties are bound by obligations of confidentiality that are no less restrictive than the provisions of this Agreement. For a period of three (3) years from the expiry or termination of this Agreement, the Receiving Party shall continue to prevent the disclosure and to protect the confidentiality of all Confidential Information hereunder by using no less a standard of care than it uses to protect its own equivalent information, but in any event no less than reasonable care.
6. Upon written demand by the Disclosing Party, the Receiving Party shall cease using the Confidential Information, with immediate effect and either (i) return the Confidential Information and all copies, notes or extracts thereof to the Disclosing Party within seven (7) days of receipt of demand, or (ii) destroy the Confidential Information and certify within seven (7) days from receipt of demand that the Receiving Party has complied with the obligations set forth in this paragraph.
7. As between the Parties, the Disclosing Party shall retain all right, title and interest to the Confidential Information. No license or other rights under any trademark, patent or copyright, or application for any Confidential Information which has been or may be disclosed by the Receiving Party, or under trade secret or any other intellectual property laws, are either granted or implied by the disclosure of any Confidential Information.
8. **CONFIDENTIAL INFORMATION IS PROVIDED "AS IS" WITH ALL FAULTS. NEITHER PARTY MAKES ANY WARRANTY OR REPRESENTATION AS TO THE ACCURACY, COMPLETENESS, OR QUALITY OF ANY CONFIDENTIAL INFORMATION OR TRADE SECRETS PROVIDED. FURTHER, NONE OF THE CONFIDENTIAL INFORMATION WHICH MAY BE DISCLOSED OR EXCHANGED BY THE PARTIES HEREUNDER SHALL CONSTITUTE ANY REPRESENTATION, WARRANTY, ASSURANCE, GUARANTEE, OR INDUCEMENT BY EITHER PARTY TO THE OTHER. NEITHER PARTY SHALL BE LIABLE TO THE OTHER AS A RESULT OF THE OTHER PARTY'S RELIANCE ON OR USE OF THE INFORMATION PROVIDED HEREUNDER.**

9. Nothing contained in this Agreement, or the Discussions will (a) be deemed a commitment to engage in any business relationship, contract or future dealing with the other Party, or (b) limit either Party's right to conduct similar discussions or perform similar work with or for other parties, to the extent such Discussions or work do not violate this Agreement.
10. Each Party acknowledges that disclosure of the other Party's Confidential Information or use thereof in violation of this Agreement may cause irreparable harm to the Disclosing Party for which monetary damages alone would not be an adequate remedy. Therefore, in addition to all other remedies available at law or in equity, the non-breaching Party shall be entitled to seek injunctive and/or other equitable relief without the requirement of further proof or the need to post any bond or other undertaking. The provisions of this Paragraph shall survive the termination, for any reason, of this Agreement for a period of three (3) years.
11. This Agreement shall terminate upon the earlier of: (i) one (1) year from the Effective Date or the expiry of any modified term of the Agreement agreed by the Parties in writing, or (ii) the provision by either Party to the other Party of 30 days' prior written notice of its intent to terminate this Agreement. Notwithstanding such termination (including expiration) of this Agreement or any other conflicting provision hereof: (a) with respect to Confidential Information that constitutes a trade secret within the meaning of applicable law, the Receiving Party's (and its Representatives') confidentiality and non-disclosure obligations shall survive for as long as such Confidential Information is maintained by the Disclosing Party as a trade secret, and (b) with respect to any other Confidential Information, the Recipient's (and its Representatives') confidentiality and non-disclosure obligations shall survive for three (3) years from the date of termination. All other rights or obligations of the parties that, by its nature, should survive termination of this Agreement shall so survive.
12. The Parties to this Agreement are not partners, joint venturers or otherwise in a relationship where any revenues or profits are to be shared. Further the Parties do not have a principal and agent relationship of any kind and neither has the power to act for or bind the other in any manner. Neither this Agreement, nor any right granted, or obligation assumed, hereunder shall be assignable or otherwise transferable.
13. Except as required to be disclosed by law, rule, regulation, subpoena or other administrative or legal process, neither Party shall disclose to any third party the existence of this Agreement or the fact that there are or have been discussions between the Parties hereto of a possible business relationship.
14. This Agreement shall be governed in all respects in accordance with the internal laws of the State of Delaware, excluding its conflicts of law rules, and the Parties agree that the Delaware Chancery Court shall have exclusive jurisdiction to adjudicate any dispute arising out of this Agreement. Each Party hereto expressly consents to the personal jurisdiction of, and venue in, such courts.
15. This Agreement shall benefit and be binding upon the Parties hereto and their respective successors and assigns. The provisions of this Paragraph shall survive the termination, for any reason, of this Agreement for a period of three (3) years.
16. In the event of any dispute under or otherwise arising out of or relating to this Agreement, the prevailing Party shall be reimbursed by the other for all costs and expenses, including reasonable attorney fees (including those fees incurred in connection with any arbitration) reasonably incurred by the prevailing Party in enforcing its rights hereunder as the court may determine.
17. All notices, requests, demands and other communications issued by either Party pursuant to or in connection with this Agreement shall be sent to the other Party in accordance with the following, unless changes to the below contacts are communicated in writing to the other Party:

To **TORCH.AI:**

Torch Research, LLC d/b/a Torch.AI
ATTN: General Counsel



Address: Frances Building, 5250 W. 116th Place, Suite 200, Leawood, KS 66211
Email: generalcounsel@torch.ai

To **COMPANY:**

ATTN: _____
Address: _____
Email: _____

- 18. During the term of this Agreement, and for a period of one (1) year following expiration or termination of this Agreement, neither Party shall directly or indirectly solicit for hire or knowingly allow any of its employees, agents, officers or representatives to directly or indirectly solicit for hire any employee or employees of the other Party who become known to such Party through information shared pursuant to or in connection with this Agreement. Notwithstanding the foregoing, the Parties acknowledge and agree that this Agreement will not prohibit (a) solicitations through advertising or other publications of general circulation or (b) the hiring of any employee of a Party who contacts the other Party without such other Party having solicited such employee.
- 19. This Agreement represents the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes any and all prior oral discussions and/or written correspondence or agreements between the Parties with respect thereto. This Agreement may be modified only by a writing signed by an authorized representative of both Parties. The failure of either Party to insist upon strict performance of any of the provisions contained in this Agreement shall not constitute a waiver of its rights as set forth in this Agreement, at law or in equity, or a waiver of any other provisions or subsequent default by the other Party of any of the terms or conditions of this Agreement.

[Signatures Follow]



IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date of the later signature set out below.

Torch Research, LLC

Signature

Signature

Name

Name

Title

Title

Date

Date