## **MUTUAL NONDISCLOSURE AGREEMENT**

This Mutual Nondisclosure Agreement (the “Agreement”) is made as of the day of , 2021 between CAPTARGET, LLC, a California limited liability company (“CAPTARGET”), and (the “Company”).

**Purpose.** CAPTARGET will provide research and written deliverables regarding the possible sale of a business represented by the Company or a nominee thereof(the “Designated Purpose”). In connection with this Designated Purpose, each party has disclosed or may further disclose as “Discloser” its Confidential Information to the other as “Recipient”. This Agreement is intended to allow the parties to continue to pursue the Designated Purpose while protecting each party’s Confidential Information (including Confidential Information previously disclosed to the other party) against unauthorized use or disclosure.

1. Definitions. Unless otherwise defined herein, capitalized terms used in this Agreement shall have meaning set forth below:

“Affiliate” means any person or entity which directly or indirectly controls, is controlled by or is under common control with such person or entity where “control” means the right to control, or actual control of management of such entity, whether by ownership of voting securities, by agreement, or otherwise.

“Confidential Information” means any oral, written, graphic or machine-readable information including, but not limited to technical or non-technical data, patents, patent applications, copyright, copyright applications, research, product or service plans, developments, inventions, processes, designs, drawings, patterns, compilations, engineering methods, techniques, devices, formulae, software (including source and object code), algorithms, business plans, agreements with third parties, lists of actual or potential services or customers, marketing plans, financial plans or finances and similar information relating to the Discloser, its Affiliates, the Designated Purpose, or any of their respective third party suppliers or customers furnished by or on behalf of the Discloser to the Recipient or any of its Representatives regardless of the manner in which it is furnished or obtained by the Recipient or its Representatives through observation of the Discloser’s facilities or procedures (save and except communications with legal counsel which constitute attorney-privileged information).

“Representatives” means, in respect of any party, such party, such party's Affiliates, its and their respective directors, officers, employees, agents, advisors (including financial advisors and legal counsel) and any institutional lender to such party and the directors, officers and employees of any such agent, advisor or lender.

1. Nondisclosure of Confidential Information. Recipient must not use any of Discloser’s Confidential Information for its own use or for any purpose other than to carry out discussions concerning, and the undertaking of the Designated Purpose. Recipient may provide Discloser’s Confidential Information only to Recipient’s employees and professional representatives who (i) have a substantive need to know about the Confidential Information in connection with the Designated Purpose; (ii) have been advised of the confidential and proprietary nature of the Confidential Information; and (iii) have agreed to protect from unauthorized disclosure all confidential and proprietary information, of whatever source, to which they have access in the course of their employment. Recipient may provide Confidential Information to Recipient’s Representatives, subject to the requirements of (i) through (iii) above. Recipient must take all reasonable measures to protect the secrecy of and avoid disclosure or use of Discloser’s Confidential Information in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have this information. Such measures shall include, but not be limited to, the highest degree of care that the Recipient utilizes to protect its own Confidential Information of a similar nature, which shall be no less than reasonable care. Recipient must notify Discloser of any actual or suspected misuse, misappropriation or unauthorized disclosure of Discloser’s Confidential Information, which may come to Recipient’s attention. Recipient will be liable for all breaches of the terms of this Agreement by its Representatives.
2. Exceptions to Nondisclosure of Confidential Information. Notwithstanding anything to the contrary in this Agreement, Recipient shall have no liability to Discloser concerning any of Discloser’s Confidential Information, which: (i) was in the public domain at the time it was disclosed or has entered the public domain other than by a breach of this Agreement by Recipient; (ii) was known to Recipient, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (iii) is disclosed with the prior written approval of Discloser; (iv) was independently developed by Recipient without any use of Discloser’s Confidential Information and by employees of Recipient who have not had access to the Confidential Information, as demonstrated by files created at the time of such independent development; (v) becomes known to Recipient, without restriction, from a source other than Discloser without breach of this Agreement by Recipient and otherwise not in violation of Discloser’s rights; or (vi) is disclosed pursuant to requirements of applicable law or the order or requirement of a court, administrative agency, or other governmental body; except that Recipient shall provide prompt notice of such court order or requirement to Discloser to enable Discloser to seek a protective order or otherwise prevent or restrict such disclosure and fully cooperate with Discloser to appropriately protect against or limit the scope of disclosure.
3. Return or Destruction of Materials. Within ten (10) days of the written request of Discloser, Recipient shall: (i) return any Confidential Information that has been furnished by Discloser to Recipient and/or its Representatives in connection with the Designated Purpose either in its possession, or that of Recipient’s Representatives or approved third parties, accompanied by all copies thereof made by Recipient and/or its Representatives; or (ii) delete or destroy all copies of Confidential Information in its possession, power or control, including copies of Confidential Information in the possession, power or control of its Representatives or approved third parties, which are present on magnetic, optical disk, volatile memory or other storage device, in a manner that assures the Confidential Information is rendered unrecoverable.
4. No Rights Granted. This Agreement shall not be construed as granting any rights under any patent, copyright or other intellectual property right of either party, nor shall this Agreement grant Recipient any rights in or to Discloser’s Confidential Information other than the limited right to review the Confidential Information solely for the purpose of the Designated Purpose.
5. No Communication. Each party agrees that, without the prior written consent of the other party, or unless it is necessary for the purpose of the Designated Purpose or required under applicable law, neither such party nor its Representatives who are aware of the Confidential Information shall initiate or cause to be initiated or maintain any communications with any Representative of the other party concerning the Confidential Information.
6. Term. The term of this Agreement and the parties’ obligations commence on the date first written above and extend with regard to all Confidential Information until two (2) years from the date of execution of this Agreement. Either party shall have the right to terminate this Agreement upon ten (10) days written notice to the other party; however, the parties’ obligations set forth in Sections 2, 4, 5, 6 and 14 shall survive any such termination of this Agreement in accordance with their terms.
7. No Future Agreements or Obligations to Disclose. Nothing in this Agreement shall be construed as obligating or be deemed to obligate the parties (i) to enter into any future agreement concerning the Designated Purpose or the Confidential Information or (ii) Discloser to disclose any particular Confidential Information.
8. Governing Law. This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Delaware and the parties attorn to the exclusive jurisdiction of the Courts of the State of Delaware to resolve any disputes.
9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties, except that Discloser’s Confidential Information may not be assigned without the prior written consent of Discloser, unless the assignee is the successor entity to the assignor upon dissolution of the assignor in its present form. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.
10. Notice. Any notice, demand or other communication required or permitted to be given to either party shall be in writing and shall be personally delivered to such party, sent by prepaid overnight courier, or sent by facsimile transmission or electronic mail, confirmed by prepaid overnight courier and delivered or sent to the intended recipient at its address as described hereinabove. Any party may from time to time change its address by written notice to the other party given in accordance with this paragraph.
11. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.
12. Independent Parties. CAPTARGET and Company are independent parties, and nothing contained in this Agreement shall be construed to constitute CAPTARGET and Company as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking, or to provide either party with the right, power or authority to create any duty or obligation on behalf of the other party.
13. Remedies; Indemnification. Each party acknowledges that: (i) its obligations set forth in this Agreement are necessary and reasonable in order to protect Discloser and its business, (ii) due to the unique nature of Discloser’s Confidential Information, monetary damages would not alone be sufficient to compensate Discloser for any breach by Recipient of its covenants and agreements set forth in this Agreement, and (iii) any violation or threatened violation shall cause irreparable injury to Discloser. In addition to any other remedies that may be available, in law, in equity, by statute or otherwise, Discloser shall be entitled to (i) obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by Recipient, without the necessity of proving actual damages, and (ii) be indemnified by Recipient from any loss or harm, including but not limited to legal fees, arising out of or in connection with any breach or enforcement of Recipient’s obligations under this Agreement or the unauthorized use or disclosure of Discloser’s Confidential Information.
14. Amendment and Waiver. Any term of this Agreement may be amended with the written consent of CAPTARGET and Company. Failure to enforce any provision of this Agreement by a party shall not constitute a waiver of any term hereof by such party.
15. Entire Agreement. This Agreement is the product of both of the parties, constitutes the entire agreement between the parties pertaining to the subject matter hereof, and merges all prior negotiations and drafts of the parties with regard to the transactions contemplated herein. Any and all other written or oral agreements existing between the parties regarding such transactions are expressly cancelled.

**The parties have executed this Mutual Nondisclosure Agreement as of the date first above written.**

CAPTARGET, LLC

By:  By:

Name: Alex Karlsen Name:

Title: Vice President, Business Development Title: