



CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Non-Disclosure Agreement (“*Agreement*”) is entered into and made effective as of _____, 2023 (“*Effective Date*”), by and between _____ (“*Vendor*”) and PMG Services, Inc., a Florida corporation (“*PMG*”). Vendor and PMG are collectively referred to herein as the “*Parties*” and each, a “*Party*”. Vendor and PMG are about to begin or have begun discussions and negotiations concerning a potential relationship between them. These discussions and negotiations are referred to in this Agreement as the “*Potential Transaction*”.

In connection therewith, each of Vendor and PMG agree as follows:

1. Each of Vendor and PMG hereby agrees to safeguard Confidential Information (as defined below) obtained from the other Party in connection with the Potential Transaction. Any and all non-public information about the business or finances of either Party and their respective subsidiaries and affiliates, including, without limitation, all information about (or relating to) the existence and nature of the Potential Transaction, and any products, services, software, technology, business plans, financial statements, projections, proposals, existing or proposed projects, suppliers, customers, pricing, purchase records, sale records, marketing, processes, methodologies or trade secrets, model and service offerings, business plans, pro forma financial statements and assumptions, strategic partners and alliances, potential clients, technology and interfacing, and other specifics related to product/service development, delivery, commercialization and market opportunities, in each case, of any Party and their respective subsidiaries and affiliates, in whatever form, from whatever source and whenever such information is received by the other Party, shall be deemed confidential and shall be collectively referred to in this Agreement as “*Confidential Information*”. Notwithstanding the foregoing, the term “Confidential Information” shall not include information that (i) is or becomes publicly available other than as a result of a violation of this Agreement, (ii) is or becomes available to a Party on a non-confidential basis from a source that is, to the knowledge of such Party, not prohibited from disclosing such information by a legal, fiduciary or contractual obligation or (iii) was within a receiving Party’s possession prior to it being furnished to a receiving Party by or on behalf of the disclosing Party.

2. Each Party agrees that it is receiving the Confidential Information solely for the purpose of evaluating the other Party and the Potential Transaction and that it will not at any time during such evaluation or thereafter (i) use any Confidential Information for any other purpose or (ii) discuss, disclose or otherwise transfer any Confidential Information to any person or entity; provided that (a) each such Party shall be permitted to discuss, distribute or otherwise transfer such Confidential Information to its, and its subsidiaries’ and affiliates’, employees, agents, counsel, professional consultants and accountants (collectively, “*Representatives*”) who, in each such case, have a specific need to know such Confidential Information and are aware of this Confidentiality Agreement and agree to abide by its terms or are subject to a binding, preexisting obligation of confidentiality no less stringent than the requirements of this Agreement and (b) PMG shall be permitted to discuss, disclose or otherwise transfer Confidential Information with respect to the Vendor to potential or actual third party participants in the Proposed Transaction to the extent that such third party enters into an agreement substantially similar to this Agreement. Each Party shall take reasonable steps designed to prevent unauthorized disclosure or use of the other’s Confidential Information. Each Party will be responsible for any unauthorized disclosure or misuse of the other



Party's Confidential Information by its Representatives. Each party may use, and shall not be limited in its use of, their own Confidential Information in other transactions with other persons and entities, and each Party's Confidential Information shall at all times remain its property.

3. The Parties agree that the Confidential Information is disclosed on an "as is" basis, with no representations or warranties, express or implied, and each Party will only be entitled to rely on such representations and warranties as may be included in any later executed definitive agreement between the parties. Each Party shall retain all intellectual property rights to its Confidential Information that it discloses to the other Party.

4. Each Party agrees, upon the request of the other Party, to destroy all documents and materials (including any permitted copies) containing Confidential Information of the other Party, to destroy or delete all documents and materials containing Confidential Information to the extent held by such Party in any electronic or other intangible form, and to promptly confirm in writing to the other Party its completion of the foregoing. Notwithstanding the foregoing requirement: (i) a Party will not be deemed to have violated the provisions of this paragraph if any such Confidential Information remains in existence through the ordinary course operation of a Party's data backup and recovery systems; and (ii) a Party may retain Confidential Information (A) to the extent required by law or regulation, (B) as part of a customary "documentation hold" in connection with, and for the duration of, any pending or threatened legal proceeding, or (C) for compliance purposes in accordance with a Party's ordinary course document retention policies. To the extent a Party retains Confidential Information as described above, such Party and its Representatives shall continue to be bound by their obligations in accordance with the terms of this Agreement for the term of this Agreement.

5. In the event that a Party or its Representatives are requested or become legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, investigative demand or similar process) to disclose any Confidential Information of the other Party, such Party will promptly provide the other Party with notice thereof so that the Party whose Confidential Information the subject matter of the request may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. If, in the absence of a protective order or other remedy or waiver, a Party is, in the opinion of its counsel, legally compelled to disclose the Confidential Information of the other Party to any tribunal or else stand liable for contempt or suffer other censure or penalty, the disclosing Party will furnish only that portion of the Confidential Information which is legally required to be furnished and will exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded such Confidential Information.

6. Neither Party has any obligation under this Agreement to enter into any transaction with the other Party (including, without limitation, the Potential Transaction), to make any payment of any kind to the other Party, or to take any other steps other than to protect Confidential Information of the other Party as described in this Agreement.

7. The term of this Agreement and the obligations of each Party hereunder shall be effective for a period of three (3) years following the Effective Date. Furthermore, neither Party's obligations under this Agreement shall in any manner be affected by bankruptcy, receivership, assignment, attachment or seizure procedures, whether initiated by or against either Party, nor by the rejection of any agreement between the Parties by a trustee in bankruptcy, or by either Party as a debtor-in-possession or the equivalent of any of the foregoing under local law.



8. No waiver by either Party of any provision or any breach of this Agreement constitutes a waiver of any other provision or of any other breach of this Agreement, and no waiver shall be effective unless made in writing. The right of each Party to require performance and observance of any obligations hereunder shall not be affected in any way by any previous waiver, forbearance or course of dealing.

9. This Agreement is a non-exclusive agreement between the parties hereto. Similar agreements may be entered into by either or both Parties with any other person or entity.

10. In the event that any provision of this Agreement is determined to be invalid, unenforceable or illegal, then such provision shall be deemed to be superseded and this Agreement modified with a provision which most nearly corresponds to the intent of the parties and is valid, enforceable and legal.

11. Each Party agrees that monetary damages may not be a sufficient remedy for any threatened or actual breach of this Agreement. Therefore, in addition to monetary damages, each Party shall be entitled to seek other remedies at law, injunctive or other equitable relief and/or specific performance to remedy or prevent any threatened or actual breach of this Agreement.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to principles of conflicts of laws. The parties hereby irrevocably and unconditionally, (i) submit to the jurisdiction of the State or Federal courts sitting in Broward County, Florida for purposes of all suits, actions or proceedings arising out of or relating to this Agreement (and agree not to commence any suit, action or proceeding relating thereto except in such courts) and waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the laying of venue of any suit, action or proceeding brought in such court and any claim of inconvenient forum and (ii) consent to service of process in any such suit, action or proceeding by mail as provided for under the U.S. Federal Rules of Civil Procedure and waive any objections which they might otherwise have with respect thereto. Each Party hereby waives any right it may have to a trial by jury in connection with any matter contested under, or arising out of, this Agreement.

13. This Agreement supercedes all prior agreements, written or oral, between the Parties relating to the subject matter of this Agreement. This Agreement constitutes the final and complete understanding and agreement between the Parties concerning the subject matter hereof and shall be binding on, and inure to the benefit of, the Parties and their respective successors and assigns. This Agreement may only be amended or modified by a further written agreement executed by an authorized representative of each Party hereto.

14. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall be deemed to constitute one agreement. It is understood and agreed that if electronic copies of this Agreement bearing electronic signatures are exchanged between the Parties, such copies shall in all respects have the same weight, force and legal effect and shall be fully as valid, binding, and enforceable as if such signed electronic copies were original documents bearing original signature.

[SIGNATURES APPEAR ON THE NEXT PAGE]



The Parties hereto have caused this Agreement to be executed by their duly authorized representatives to be effective as of the Effective Date.

PMG SERVICES, INC.

[_____]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____