

## NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT

This NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT (the "Agreement") dated as of \_\_\_\_\_, 2023, is by and between Northmarq Capital, LLC (the "Company"), and \_\_\_\_\_ (hereinafter "Recipient").

Section 1. Definitions. For purposes of this Agreement, "Confidential Information" means all information or material that has or could have commercial value or other utility in the business or prospective business of Company or its affiliates. Confidential Information also includes all information of which unauthorized disclosure could be detrimental to the interests of Company or its affiliates whether or not such information is identified as Confidential Information by Company. By example and without limitation, Confidential Information includes, but is not limited to, any and all information of the following or similar nature, whether or not reduced to writing:

Business concepts, customer lists, customer and supplier identities and characteristics, agreements, marketing knowledge and information, sales figures, pricing information, marketing plans and business plans, strategies, forecasts, financial information, budgets, software, research papers, projections, procedures, routines, quality control procedures, processes, formulas, trade secrets, innovations, inventions, discoveries, improvements, research or development and test results, specifications, data, software applications, data structures, software tools, know-how, formats, plans, sketches, specifications, drawings, models, and any other information or procedures that are treated as or designated secret or confidential by Company or its customers or potential customers.

In addition, the term "Confidential Information" shall be deemed to include any notes, analyses, compilations, studies, interpretations, memoranda or other documents prepared by the Recipient which contain, reflect or are based upon, in whole or in part, any Confidential Information furnished or otherwise made available to the Recipient pursuant hereto. For purposes of this Agreement, the term "Recipient" shall include Recipient and all affiliates of Recipient. For purposes of this Agreement, the term "Representative" shall include Recipient's agents and financial, legal, and other advisors.

Section 2. Exclusions. Confidential Information does not include information that Recipient can demonstrate: (a) was in Recipient's possession prior to its being furnished to Recipient under the terms of this Agreement, provided the source of that information was not known by Recipient to be bound by a confidentiality agreement with or other continual, legal or fiduciary obligation of confidentiality to Company; (b) is now, or hereafter becomes, through no act or failure to act on the part of Recipient, generally known to the public; (c) is rightfully obtained by Recipient from a third party, without breach of any obligation to Company; or (d) is independently developed by Recipient without use of or reference to the Confidential Information.

Section 3. Confidentiality. Recipient and its Representatives shall not disclose any of the Confidential Information in any manner whatsoever, except as provided in Section 4 or **Error! Reference source not found.** of this Agreement, and shall hold and maintain the Confidential Information in strictest confidence. Recipient hereby agrees to indemnify Company against any and all losses, damages, claims, expenses, and attorneys' fees incurred or suffered by Company as a result of a breach of this Agreement by Recipient or its Representatives.

Section 4. Permitted Disclosures. Recipient may disclose Company's Confidential Information to Recipient's responsible Representatives with a bona fide need to know such Confidential Information, but only to the extent necessary to evaluate or carry out Recipient's business relationship with the Company and only if such Representatives are advised of the confidential nature of such Confidential Information and the terms of this Agreement and are bound by a written agreement or by a legally enforceable code of professional responsibility to protect the confidentiality of the Confidential Information.

Section 5. Use. Recipient and its Representatives shall use the Confidential Information solely in the course of the business relationship between the Company and Recipient and shall not in any way use the

Confidential Information to the detriment of Company. Nothing in this Agreement shall be construed as granting any rights to Recipient, by license or otherwise, to any of Company's Confidential Information.

Section 6. Protection. Recipient shall be responsible for any breach of this Agreement by any of its Representatives and shall, at its sole expense, take all necessary measures (including but not limited to court proceedings) to restrain its Representatives from prohibited disclosure or use of the Confidential Information.

Section 7. Return of Confidential Information and Related Documents. At any time upon the request of Company for any reason, Recipient shall immediately return to Company any and all Confidential Information in Recipient's possession, as well as any records, notes, and other written, printed or other tangible materials in its possession pertaining to the Confidential Information. At any time upon the request of Company for any reason, all information, data studies or other information prepared by Recipient or its Representatives relating to the Confidential Information shall be destroyed by Recipient. The returning of Confidential Information and materials shall not relieve Recipient from compliance with other terms and conditions of this Agreement.

Section 8. No Additional Agreements. Neither the holding of discussions nor the exchange of material or information shall be construed as an obligation of Company to enter into any other agreement with Recipient or prohibit Company from providing the same or similar information to other parties and entering into agreements with other parties. Additional agreements of the parties, if any, shall be in writing signed by Company and Recipient.

Section 9. Irreparable Harm. Recipient understands and acknowledges that any disclosure or misappropriation of any of the Confidential Information in violation of this Agreement may cause Company irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that Company shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as Company shall deem appropriate. Such right of Company is to be in addition to the remedies otherwise available to Company at law or in equity. Recipient expressly waives the defense that a remedy in damages will be adequate and any requirement in an action for specific performance or injunction for the posting of a bond by Company.

Section 10. Survival. This Agreement shall continue in full force and effect at all times.

Section 11. Successors and Assigns. This Agreement and each party's obligations hereunder shall be binding on the representatives, assigns, and successors of such party and shall inure to the benefit of the assigns and successors of such party; provided, however, that the rights and obligations of Recipient hereunder are not assignable.

Section 12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. The parties hereby irrevocably consent to the jurisdiction of the state and federal courts located in Hennepin County, Minnesota, in any action arising out of or relating to this Agreement, and waive any other venue to which either party might be entitled by domicile or otherwise.

Section 13. Attorney's Fees. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reimbursement for reasonable attorneys' fees and costs.

Section 14. Entire Agreement. This Agreement expresses the full and complete understanding of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous proposals, agreements, representations and understandings, whether written or oral, with respect to the subject matter. This Agreement does not, however, limit any rights that Company may have under trade secret, copyright, patent or other laws that may be available to Company. This Agreement may not be amended or modified except in writing signed by each of the parties to the Agreement. This Agreement shall be construed as to its fair meaning and not strictly for or against either party. The headings hereof are descriptive only and not to be construed in interpreting the provisions hereof.

Section 15. Counterparts. This Agreement may be signed in counterparts, which together shall constitute one agreement.

**Company**

**Recipient**

**Northmarq Capital, LLC**

\_\_\_\_\_

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

\_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_