



## **MUTUAL NONDISCLOSURE AGREEMENT**

**THIS MUTUAL NONDISCLOSURE AGREEMENT** (the “Agreement”) is made and entered into effective as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Offerpad Solutions Inc (“Offerpad”), and \_\_\_\_\_ (“Counterpart”) (Offerpad and Counterpart sometimes collectively referred to herein as the “Parties” or individually as a “Party”).

**WHEREAS** the Parties hereto wish to disclose confidential and proprietary information (“Confidential Information”) to each other as relating to their respective operations and businesses for the purpose of evaluating a potential business opportunity of mutual interest (the “Proposed Transaction”). For purposes of this Agreement, the party disclosing Confidential Information is hereinafter referred to as the “Disclosing Party” and the party receiving Confidential Information is hereinafter referred to as the “Receiving Party”.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and agreements herein set forth and for good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereto agree as follows:

**1. Confidential Information.** As used in this Agreement, “Confidential Information” shall mean information relating to the business affairs of the Disclosing Party of a proprietary or confidential nature, whether communicated orally or in writing, including by way of illustration and not limitation: (i) information concerning research and development activities; (ii) product development techniques and know-how; (iii) software, firmware, and computer programs and elements of design relating thereto (including, for example, programming techniques, algorithms, inference structures and construction of knowledge bases); (iv) designs, drawings, and formulae; (v) cost, profit and market information; (vi) financial and other business information with respect to the Disclosing Party that the Disclosing Party has not made publicly available; customer business information, including products of the Disclosing Party, prices, delivery schedules; and (vii) any information disclosed to the Disclosing Party by any third party which the Disclosing Party has agreed, or is otherwise obligated, to treat as confidential or proprietary.

**2. Exclusions.** Receiving Party, however, shall have no liability to the Disclosing Party, under this Agreement with respect to the disclosure and/or use of any such Confidential Information that it can establish: (a) has become generally known or available to the public without a breach of this Agreement by the Receiving Party; (b) was known by the Receiving Party before receiving such information from the Disclosing Party; (c) has become known or available to the Receiving Party from a source other than the Disclosing Party, without any breach of any obligation of confidentiality owed to the Disclosing Party, subsequent to disclosure of such information to it by the Disclosing Party; (d) has been disclosed to persons regularly employed by the Receiving Party who have previously agreed in writing not to disclose such

information or to use such information for any purpose other than to assist it to determine whether to enter into a business relationship with the Disclosing Party; (e) has been independently developed by the Receiving Party without use of or reference to the Confidential Information by persons who had no access to the Confidential Information; (f) has been provided to the Receiving Party with a written statement that it is provided without restriction on disclosures; or (g) has been approved for release or use by written authorization of the Disclosing Party.

**3. Obligations of Receiving Party.** The Parties agree not to use any Confidential Information for any purpose except to evaluate and engage in discussions concerning the Proposed Transaction. The Receiving Party acknowledges that irreparable injury and damage will result from disclosure to third parties, or utilization for purposes other than those connected with the proposed acquisition or other business relationship, of any of the Confidential Information. Receiving Party agrees: (a) to hold the Confidential Information in strict confidence; (b) not to disclose such Confidential Information to any third party except as specifically authorized herein or as specifically authorized by the Disclosing Party in writing; (c) to use all reasonable precautions, consistent with the Receiving Party's treatment of its own confidential information of a similar nature, to prevent the unauthorized disclosure of the Confidential Information, including, without limitation, protection of documents from theft, unauthorized duplication and discovery of contents, and restrictions on access by other persons to such Confidential Information; (d) not to make or use any copies, synopses or summaries of oral or written material, photographs or any other documentation or information made available or supplied by the Disclosing Party to Receiving Party except such as are necessary for Receiving Party's internal communications in connection with the business relationship between the Parties; and (e) not to reverse engineer, disassemble or decompile any prototypes, software or other tangible objects that embody the Disclosing Party's Confidential Information and that are provided to the Receiving Party hereunder.

**4. Required Disclosures.** Receiving Party may disclose the Confidential Information if and to the extent that such disclosure is required by applicable law, provided that the Receiving Party uses reasonable efforts to limit the disclosure by means of a protective order or a request for confidential treatment and provides the Disclosing Party a reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure.

**5. Ownership of Confidential Information.** All Confidential Information disclosed under this Agreement shall remain the exclusive property of the Disclosing Party, and the Receiving Party shall have no rights, by license or otherwise, to use the Confidential Information except as expressly provided herein. No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise conveyed by this Agreement with respect to Confidential Information.

**6. Return of Confidential Information.** Receiving Party shall return all written material, photographs and all other documentation made available or supplied by the Disclosing Party to Receiving Party, and all copies and reproductions thereof, on request.

**7. Destruction of Confidential Information.** Receiving Party shall promptly destroy the Confidential Information received from the Disclosing Party and certify in writing to such destruction, on request.

**8. Retention of Legal Rights.** The Disclosing Party retains all rights and remedies afforded it under the patent and other laws of the United States and the States thereof, including without limitation any laws designed to protect proprietary or confidential information.

**9. Injunctive Relief.** Receiving Party acknowledges that the unauthorized use or disclosure of the Confidential Information would cause irreparable harm to the Disclosing Party. Accordingly, the Receiving Party agrees that the Disclosing Party will have the right to obtain an immediate injunction against any breach or threatened breach of this Agreement without the necessity of posting a bond, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach.

**10. Term of Agreement.** This Agreement applies to all Confidential Information that is disclosed by the Disclosing Party to the Receiving Party during the period that begins on the date set forth below and ends six months thereafter. The obligations of this Agreement will remain in effect for five (5) years after the date of the last disclosure of Confidential Information hereunder, at which time this Agreement will terminate.

**11. No Warranty or Obligation to Proceed.** No warranties of any kind are given by either Party with respect to the accuracy, appropriateness or completeness of information provided to the other. No contract or agreement will be deemed to exist unless and until a definitive agreement has been executed and delivered by the Parties. Furthermore, unless and until a definitive agreement is executed and delivered by the Parties, neither Party will have any obligation of any kind whatsoever with respect to any such transaction except for the matters specifically addressed in this Agreement. For purpose of this Agreement, "definitive agreement" does not include an executed letter of intent or any other preliminary written agreement, nor does it include any written or oral acceptance of an offer or bid.

**12. Limited Relationship.** This Agreement shall not create a joint venture, partnership or other formal business relationship or entity of any kind, or an obligation to form any such relationship or entity. Each Party shall act as an independent contractor and not as an agent of the other Party for any purpose, and neither shall have the authority to bind the other.

**13. Entire Agreement; Amendment; Assignment.** This Agreement sets forth the entire agreement and understanding of the Parties and merges all prior discussions between them as to the Confidential Information. Neither party may be bound by any definition, condition, representation or waiver other than as expressly stated in this Agreement. This Agreement may be amended or modified only with the mutual written consent of the Parties. This Agreement or any rights or obligations hereunder shall not be assigned without the express written consent of the other Party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

**14. Nonwaiver.** Any failure by either Party to enforce the other Party's strict performance of any provision of this Agreement shall not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

**15. Governing Law.** This Agreement shall be governed by the laws of the State of Arizona without regard to its choice of law provisions.

**16. Counterparts.** This Agreement may be executed in counterparts, and delivered electronically, each of which shall constitute an original. If a provision of this Agreement is held invalid under any applicable law, such invalidity shall not affect any other provision of this Agreement that can be given effect without the invalid provision.

**IN WITNESS WHEREOF** the Parties have executed this Agreement on the date first written above.

\_\_\_\_\_

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

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

Title: \_\_\_\_\_

**Offerpad Solutions Inc.**

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

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

\_\_\_\_\_