



## NON-DISCLOSURE AGREEMENT

This Agreement is made effective as of \_\_\_\_\_, 2019 (the “Effective Date”) between \_\_\_\_\_ [NAME OF COMPANY], a \_\_\_\_\_ [STATE OF INCORPORATION] Company, having an address at \_\_\_\_\_ [ADDRESS] (“Company”), and the **Massachusetts Institute of Technology**, a nonprofit Massachusetts educational corporation, with an address of 77 Massachusetts Avenue, Cambridge, Massachusetts 02139 (“MIT”), on behalf of the MIT Sloan School of Management (“MIT Sloan”), a division of MIT, in anticipation of each party disclosing confidential information to the other party for the following Purpose:

**Purpose:** The pursuit of collaborative Action Learning projects (each, a “Project”) with Company, by which students enrolled in an MIT Sloan degree program will communicate with and collect and process information from Company regarding its business, then deliver recommendations to Company (the Recommendations”), as part of their required coursework. The faculty members teaching the applicable course will supervise the students’ work, which the students will submit for academic credit.

This Agreement applies to information disclosed between the Effective Date and May 31, 2019 (the “End Date”).

In consideration of each party making confidential information available to the other party, the parties hereby agree as follows:

**1. CONFIDENTIAL INFORMATION.** When used in this Agreement, the term “Confidential Information” means confidential information disclosed by one party (“Disclosing Party”) to the other (“Receiving Party”) that (i) prior to disclosure, is marked with a legend indicating its confidential status or (ii) if disclosed orally or visually, is identified by the Disclosing Party as confidential at the time of disclosure and within 30 days of such disclosure is summarized in a notice to the Receiving Party by the Disclosing Party. Notwithstanding the foregoing, in no event is information Confidential Information if it (a) was in the Receiving Party’s possession before receipt from the Disclosing Party; (b) is or becomes a matter of public knowledge through no fault of the Receiving Party; (c) is received by the Receiving Party, without restriction as to further disclosure, from a third party having an apparent bona fide right to disclose the information to the Receiving Party; or (d) is independently developed by the Receiving Party without use of the Disclosing Party’s Confidential Information. For purposes of this Agreement, MIT students and fellows are not third parties vis à vis MIT.

**2. STUDENT RECOMMENDATIONS.** The Receiving Party may use the Disclosing Party’s Confidential Information solely for the Project. Disclosure of Confidential Information by the Disclosing Party does not constitute a grant to the Receiving Party of any right or license to the Disclosing Party’s Confidential Information, except as set forth herein.

MIT does not anticipate any intellectual property being created as a result of this Project. The team’s recommendations are their ideas based on the Project and are not considered intellectual property or confidential information per the academic definition at MIT. MIT grants to Company an irrevocable, royalty-free license to make use of the recommendations. Nothing in this Agreement may be read to grant an ownership right in the recommendations to Company.

**3. CARE OF CONFIDENTIAL INFORMATION.** The Receiving Party shall exert reasonable efforts to maintain the Disclosing Party’s Confidential Information in confidence, except that the Receiving Party may disclose or permit disclosure of any of the Disclosing Party’s Confidential Information to its members, directors, trustees, officers, faculty, employees, consultants and, in the case of MIT, students and fellows, provided that said persons need access to such Confidential Information to fulfill the Purpose and have been advised of the confidential nature of the Confidential Information. The Receiving Party shall notify the Disclosing Party promptly following discovery of any disclosure not authorized hereunder and take reasonable steps to prevent any further unauthorized disclosure or unauthorized use.

4. **REQUIRED DISCLOSURES.** Nothing in this Agreement may be construed to prevent a Receiving Party from disclosing Confidential Information as required by law or legal process, as long as the Receiving Party, if permitted by applicable law, promptly notifies the Disclosing Party of its obligation to disclose and provides reasonable cooperation to the Disclosing Party in any efforts to contest or limit the scope of the disclosure.

5. **NO WARRANTY.** All Confidential Information and recommendations are provided “as is.” Neither party makes any warranties, expressed or implied, regarding its Confidential Information’s accuracy, completeness, suitability or performance, nor does MIT or any of the students make any such warranty regarding the recommendations.

6. **TERM OF AGREEMENT.** The term of this Agreement will commence on the Effective Date and terminate on the earlier of (a) the End Date or (b) the date on which a party provides notice of termination of this Agreement to the other. A Receiving Party’s obligations with respect to use and nondisclosure of the Disclosing Party’s Confidential Information will survive for a period of three years following receipt of the particular Confidential Information.

7. **PRE-PUBLICATION REVIEW.** Company acknowledges that MIT is receiving Confidential Information in anticipation of its students preparing final written course work (“Course Work”). There are no external publications anticipated as a result of this Project. Course Work consists of a final presentation to the Company and a paper submitted to the professor of the course for final grade on how the academic tools and concepts were applied to the business problem. Company will have a ten (10) day period to review the Course Work for any disclosure of Confidential Information. Company shall, within the ten (10) day period, give MIT notice identifying specifically any Confidential Information it believes would be disclosed in the Course Work. If Company does not provide timely notice, it will be deemed to have waived any objection to disclosure of Confidential Information.

8. **DESTRUCTION OF CONFIDENTIAL INFORMATION.** Following termination of this Agreement, the Receiving Party shall destroy all documents and other tangible manifestations of the Disclosing Party’s Confidential Information disclosed in connection with the Project and destroy any electronic or digital manifestations of the Disclosing Party’s Confidential Information.

9. **NOTICES.** Any notices to be given under this Agreement, other than those contemplated by Section 1, shall be in writing and addressed to the parties as shown below. Notices shall be delivered by certified or registered first-class mail (air mail if not domestic) or by commercial courier service and shall be deemed to have been given or made as of the date received.

FOR:	MIT SLOAN	FOR:	COMPANY
Name:	Ellen Baum	Name:	_____
Title:	Director of Contract Administration	Title:	_____
Division:	MIT Sloan School of Management	Organization:	_____
Address:	30 Memorial Drive, E60-008	Address:	_____
City, State, Zip:	Cambridge, MA 02142	City, State, Zip:	_____
Phone:	(617) 253-5617	Phone:	_____
Email:	<a href="mailto:ebaum@mit.edu">ebaum@mit.edu</a>	Email:	_____

## 10. MISCELLANEOUS PROVISIONS

- 10.1 **Export Control.** The parties will not knowingly disclose, and will use commercially reasonable efforts to prevent disclosure of, any information subject to ITAR controls or in the Commerce Control List ([EAR Part 774 and Supplements](#)) or [10 CFR Part 810](#) Restricted Data or Sensitive Nuclear Technology. If Company intends to disclose export-controlled information to MIT in connection with this Agreement, Company will not disclose such information to MIT unless and until a plan for transfer, use, dissemination, and control of the information has been approved by MIT’s Export Control Officer.
- 10.2 **CREATE Act.** For the purposes of the Cooperative Research and Technology Enhancement Act of 2004, the parties agree that this Agreement is not considered a joint research agreement.
- 10.3 **No Agency or Future Commitment.** The parties do not intend that any agency, partnership, joint venture, or exclusive relationship is created between the parties by this Agreement, and each party is free to pursue relationships and opportunities with others similar to those contemplated by this Agreement. Nothing in this Agreement shall be construed as obligating the parties to enter into any subsequent agreement or relationship.

- 10.4 Entire Agreement/Amendment. This Agreement (1) represents the entire understanding between the parties with respect to its subject matter and (2) supersedes all contemporaneous and previous statements, representations, agreements, and understandings between the parties, however expressed, that relate to the subject matter of this Agreement. This Agreement may be amended only by a writing signed by all parties to this Agreement.
- 10.5 Assignment. Neither party may assign this Agreement or any of its rights or obligations hereunder to a third party, including, without limitation, by merger with a third party, without the prior written consent of the other. Any attempted assignment in violation of this Section will be void.
- 10.6 Severability. In the event that any provision of this Agreement or portion thereof is determined by a court or arbitrator of competent jurisdiction to be invalid or unenforceable, any enforceable portion of the provision and the remainder of this Agreement will remain in effect and the parties will request the court or arbitrator to reform the provision to a form that is valid and enforceable and reflects as closely as possible the intent of the original provision.
- 10.7 Waiver. Any waiver of compliance with the terms of this Agreement must be in writing, and any waiver in one instance will not be deemed a waiver in any future instance.
- 10.8 Governing Law. This Agreement will be governed by the laws of the Commonwealth of Massachusetts and the federal laws of the United States of America, without regard to any applicable conflict of laws principles.
- 10.9 Translation. In the event this Agreement is translated into another language and provisions in this Agreement and the translated agreement conflict, this Agreement, rendered in English, will control.
- 10.10 Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed to be an original, and all of which together constitute one and the same instrument.
- 10.11 Use of Name. Neither party will make any press or media announcements concerning this Agreement or use the name, logo, insignia or trademarks of the other, or any version, adaptation, abbreviation or representation of them or the names of any trustees, officers, faculty, students, employees or agents, in any advertising, fund-raising, promotional materials or other public announcement or disclosure, without the written permission of the other. The MIT Technology Licensing Office has sole authority to grant such permissions on behalf of MIT Sloan.

**Executed as of the Effective Date:**

**[COMPANY]**

**MASSACHUSETTS INSTITUTE OF TECHNOLOGY**

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

Name: **Bill Garrett**

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

Title: **Sr. Associate Dean for Administration**

Date: \_\_\_\_\_

Date: \_\_\_\_\_