

## INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement (“**Agreement**”) is effective as of October 1, 2024 by and between **Beyond Finance, LLC**, a California limited liability company with a principal place of business in Houston, Texas (“**Company**”), and Speedshop Ltd Co (“**Contractor**”). Company and Contractor are referred to individually as “Party” and collectively as the “Parties”.

### 1. **Services.**

**1.1 Nature of Services.** Contractor is an individual providing consulting services. Speed Shop will perform the services, as detailed in Exhibit A, the contents of which are incorporated herein by reference, for Company as an independent contractor (the “**Services**”).

- a. Contractor, if applicable will assign appropriate employees, if any, as agreed with Company, to provide Services specially ordered and commissioned by Company.
- b. Contractor may not sub-contract Services without the prior written permission of Company. At all times, Contractor is responsible for ensuring Contractor, or Contractor’s sub-contractors (individually and in the aggregate “Contractor”) are held to the standards and requirements in this agreement.
- c. To the extent the Services include materials subject to copyright, Contractor agrees that the Services are done as “work made for hire” as that term is defined under U.S. copyright law, and that as a result, Company will own all copyrights in the Services.
- d. Contractor will perform such services in a diligent and workmanlike manner and in accordance with the schedule, if any, set forth in Exhibit A.
- e. The content, style, form and format of any work product of the Services shall be completely satisfactory to Company and shall be consistent with Company’s standards.
- f. Except as specified on Exhibit A, Company agrees that Contractor's services need not be rendered at any specific location and may be rendered at any location selected by Contractor.
- g. Contractor does not grant Company the right to use and to license to others the right to use the name, voice, signature, photograph, likeness and biographical information of Contractor, unless agreed upon in writing between the Contractor and the Company, in connection with and related to the Services in this Agreement.

**1.2 Relationship of the Parties.** Contractor enters into this Agreement as, and shall continue to be, an independent contractor.

- a. All Services shall be performed only by Contractor. Under no circumstances shall Contractor look to Company as his/her employer, or as a partner, agent or principal.
- b. Contractor shall not be entitled to any benefits accorded to Company's employees, including without limitation worker's compensation, disability insurance, vacation or sick pay.
- c. Contractor shall be responsible for providing, at Contractor's expense, and in Contractor's name, unemployment, disability, worker's compensation and other insurance, as well as licenses and permits usual or necessary for conducting the Services.

**1.3 Compensation and Reimbursement.** Contractor shall be compensated and reimbursed for the Services as set forth on Exhibit B.

- a. Completeness of work product shall be determined by Company in its sole discretion, and Contractor agrees to make all revisions, additions, deletions or alterations as requested by Company.
- b. All other fees and/or expenses will be paid to Contractor, and such fees and/or expenses are approved by Company in advance (these include travel, hotel, etc.).

- c. Contractor shall be solely responsible for any and all taxes, Social Security contributions or payments, disability insurance, unemployment taxes, and other payroll type taxes applicable to such compensation.
- d. In compliance with Section 6.8, Contractor hereby indemnifies and holds Company harmless from any claims, losses, costs, fees, liabilities, damages or injuries suffered by Company arising out of Contractor's failure with respect to its obligations in this Section 1.3.
- e. Company shall not be responsible for withholding or paying any federal, state or local taxes derived from Contractor's income or for the withholding and/or payment of any federal, state and local income and other payroll taxes, workers' compensation, disability benefits or other contract requirements applicable to Contractor. Any and all tax liability incurred by Contractor as a result of Company's payment under this Agreement shall be borne solely by Contractor.

**1.4 Personnel.** Contractor represents and warrants to Company that Contractor performing Services hereunder will have (a) sufficient expertise, training and experience to accomplish the Services; (b) appropriate permits, licenses, visas or authorizations to complete the Services and (c) executed agreements which state that, as applicable (i) all work done by the employee will be a work made for hire, as that term is defined under U.S. copyright law, and will be owned by Contractor; and (ii) the employee assigns all rights in and to all work done by the employee to Contractor. Contractor agrees that, if applicable, all its personnel shall be compensated, taxes withheld, and other benefits made available as required by applicable law and regulations.

**1.5 Security Standards.** For the duration of the assignment, Contractor will employ (i) its own industry-standard anti-virus, encryption and password authentication security measures for desktop and laptop workstations, mobile devices and removable media, or (ii) at the request of Company, use Company's own laptop and equipment.

**1.6 Background checks.** At Company's request, Contractor shall consent to a background check commensurate with those conducted in the financial services industry, including relevant criminal and sanctions screening activities. Contractor acknowledges that commencing Services is contingent upon satisfactory completion of background checks.

## **2. Protection of Company's Confidential Information.**

**2.1 Confidential Information.** During the term of this Agreement and thereafter, Contractor shall keep confidential and prevent the disclosure of Confidential Information and Company Information as defined herein. Contractor shall not use or deliver or permit to be used or delivered Confidential or Company Information to or for anyone other than authorized employees of the Company or persons designated by such duly authorized employees of the Company. For the purposes of this Agreement, "Confidential Information" means and includes any and all of the following relevant to the Company and/or its affiliates: (i) intellectual property and work product as defined in this Agreement; (ii) information, know-how and data, whether commercial, technical or non-technical, which is in any way disclosed to Contractor in connection with this Agreement and the Contract Services; (iii) all diagrams, plans, drawings, models, prototype devices, specifications, data and notes, memoranda and other writings of a technical or economic nature which are furnished to Contractor by the Company for the performance of the Contract Services hereunder or which Contractor prepares or procures in the course of, or for the performance of, such Contract Services; (iv) information pertaining to customer lists, pricing, marketing, personnel, marketing or financing; and (v) any confidential information which Company has received from a third party. Such Confidential Information will be and remain the property of the Company. Company now owns and will hereafter develop, compile and own certain proprietary techniques, trade secrets, and confidential information which have great value in its business (collectively, "**Company Information**"). Company will be disclosing Company Information to Contractor during Contractor's performance of the Services. Company Information includes not only information disclosed by Company, but also information developed or learned by Contractor during Contractor's performance of the Services. Company Information is to be broadly defined and includes all the information which has or could have commercial value or other

utility in the business in which Company is engaged or contemplates engaging or the unauthorized disclosure of which could be detrimental to the interests of Company, whether or not such information is identified by Company. By way of example and without limitation, Company Information includes any and all information concerning discoveries, developments, designs, improvements, inventions, formulas, software programs, processes, techniques, know-how, data, research techniques, customer and supplier lists, marketing, sales or other financial or business information, scripts, and Company product modifications, configuration changes, customizations, conversions, interfaces, integrations, migrations, reports, inventions, extensions or derivative works of any of the foregoing (“Derivatives”), and improvements and enhancements to any of the above. Company Information also includes like third-party information which is in Company's possession under an obligation of confidential treatment.

**2.2 Protection of Company Information.** Contractor always agrees that during or subsequent to the performance of the Services, Contractor will keep confidential and not divulge, communicate, or use Company Information, except for Contractor's own use during the Term of this Agreement to the extent necessary to perform the Services. Contractor further agrees not to cause the transmission, removal or transport of tangible embodiments of, or electronic files containing, Company Information from Company's principal place of business, without prior written approval of Company. Contractor agrees to Non-disclosure Agreement as Exhibit C of this Agreement.

**2.3 Exceptions.** Contractor's obligations with respect to any portion of the Company Information as set forth above shall not apply when Contractor can document that (i) it was in the public domain at the time it was communicated to Contractor by Company; (ii) it entered the public domain subsequent to the time it was communicated to Contractor by Company through no fault of Contractor; (iii) it was in Contractor's possession free of any obligation of confidence at the time it was communicated to Contractor by Company; or (iv) it was rightfully communicated to Contractor free of any obligation of confidence subsequent to the time it was communicated to Contractor by Company.

**2.4 Company Property.** All materials, including without limitation documents, drawings, drafts, notes, designs, computer media, electronic files and lists, including all additions to, deletions from, alterations of, and revisions in the foregoing (together the “**Materials**”), which are furnished to Contractor by Company or which are developed in the process of performing the Services, or embody or relate to the Services, the Company Information or the Innovations (as defined below), are the property of Company, and shall be returned by Contractor to Company promptly at Company's request together with any copies thereof, and in any event promptly upon expiration or termination of this Agreement for any reason. Contractor is granted no rights in or to such Materials, the Company Information or the Innovations, except as necessary to fulfill its obligations under this Agreement. Contractor shall not use or disclose the Materials, Company Information or Innovations to any third party.

### **3. Prior Knowledge and Relationships.**

**3.1 Prior Inventions and Innovations.** Contractor has disclosed on Exhibit D to this Agreement, a complete list of all inventions or innovations made by Contractor prior to commencement of the Services for Company and which Contractor desires to exclude from the application of this Agreement. Contractor will disclose to Company such additional information as Company may request regarding such inventions or innovations to enable Company to assess their extent and significance. Company agrees to receive and hold all such disclosures in confidence.

**3.2 Other Commitments.** Except as disclosed on Exhibit D to this Agreement, Contractor has no other agreements, relationships or commitments to any other person or entity which conflict with Contractor's obligations to Company under this Agreement. Contractor agrees not to enter into any agreement, either written or oral, in conflict with this Agreement.

### **4. Assignment of Contractor's Inventions and Copyrights.**

**4.1 Disclosure.** Contractor will promptly disclose in writing to Company all works, products, discoveries, developments, designs, innovations, improvements, inventions, formulas, processes, techniques, know-how and data (whether or not patentable, and whether or not at a commercial stage, or registrable under copyright or similar statutes) which are authored, made, conceived, reduced to practice or learned by Contractor (either alone or jointly with others) during the period Contractor provides the Services as a result of performing the Services including any concepts, ideas, suggestions and approaches related thereto or contained therein (collectively, the “**Innovations**”).

**4.2 Assignment.** Contractor hereby assigns and agrees to assign to Company, without royalty or any other consideration except as expressly set forth herein, all worldwide right, title and interest Contractor may have or acquire in and to (i) all Materials; (ii) all Innovations (iii) all worldwide patents, patent applications, copyrights, mask work rights, trade secrets rights and other intellectual property rights in any Innovations; and (iv) any and all “moral rights” or right of “droit moral” (collectively “**Moral Rights**”), that Contractor may have in or with respect to any Innovations. To the extent any Moral Rights are not assignable, Contractor waives, disclaims and agrees that Contractor will not enforce such Moral Rights. Contractor agrees that such assignment shall extend to all languages and including the right to make translations of the Materials and Innovations. Additionally, Contractor agrees, at no charge to Company, but at Company's sole expense, to sign and deliver to Company (either during or subsequent to Contractor's performance of the Services) such documents as Company considers desirable to evidence the assignment of all rights of Contractor, if any, described above to Company and Company's ownership of such rights and to do any lawful act and to sign and deliver to Company any document necessary to apply for, register, prosecute or enforce any patent, copyright or other right or protection relating to any Innovations in any country of the world.

**4.3 Power of Attorney.** Contractor hereby irrevocably designates and appoints each of Company and its Chief Operating Officer as Contractor's agent and attorney-in-fact, to act for and in Contractor's behalf and stead, for the limited purpose of executing and filing any such document and doing all other lawfully permitted acts to further the prosecution, issuance and enforcement of patents, copyrights or other protections which employ or are based on Innovations with the same force and effect as if executed and delivered by Contractor.

**4.4 Representations and Warranties.** Contractor represents and warrants to Company that (a) Contractor has full power and authority to enter into this Agreement including all rights necessary to make the foregoing assignments to Company; that in performing under the Agreement; (b) Contractor will not violate the terms of any agreement with any third party; and (c) the Services and any work product thereof are the original work of Contractor, do not and will not infringe upon, violate or misappropriate any patent, copyright, trade secret, trademark, contract, or any other publicity right, privacy right, or proprietary right of any third party. In compliance with Section 6.8 of this Agreement, Contractor shall defend, indemnify and hold Company and its successors, assigns and licensees harmless from any and all claims, actions and proceedings, and the resulting losses, damages, costs and expenses (including reasonable attorneys' fees) arising from any claim, action or proceeding based upon or in any way related to Contractor's breach or alleged breach of any representation, warranty or covenant in this Agreement, and/or from the acts or omissions of Contractor.

## **5. Termination of Agreement.**

**5.1 Term.** This Agreement shall be effective from the date first listed above for the period set forth on Exhibit A, or until completion of the Services, as applicable, unless sooner terminated by either party in accordance with the terms and conditions of this Agreement (“**Term**”). At all times, Company may terminate for convenience, with or without cause, with one (1) week's prior notice to Contractor. If the Company exercises its right to terminate the Agreement, any obligation it may otherwise have under this Agreement shall cease immediately, except that Company shall be obligated to compensate Contractor through official date of termination. If Contractor exercises its right to terminate the Agreement, any obligation it may otherwise have under this Agreement shall cease immediately. Additionally, this

Agreement shall automatically terminate upon Contractor's death. In such event, the Company shall be obligated to pay Contractor's estate or beneficiaries only the accrued but unpaid compensation and expenses due as of the date of death.

**5.2 Continuing Obligations of Contractor.** The provisions of Sections 1.1 (as relates to creation and ownership of copyright), 1.2, 1.3, 2, 3, 4, 5.2, and 6 shall survive expiration or termination of this Agreement for any reason.

## **6. Additional Provisions.**

**6.1 Governing Law and Attorney's Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its choice of law principles. The Parties consent to exclusive jurisdiction and venue in the federal and state courts sitting in Harris County, Texas. In any action or suit to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and other expenses.

**6.2 Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, the successors, executors, heirs, representatives, administrators and permitted assigns of the parties hereto. Contractor shall have no right to (a) assign this Agreement, by operation of law or otherwise; or (b) subcontract or otherwise delegate the performance of the Services without Company's prior written consent which may be withheld as Company determines in its sole discretion. Any such purported assignment shall be void.

**6.3 Severability.** If any provision of this Agreement shall be found invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to reasonably effect the intent of the parties.

**6.4 Entire Agreement.** This Agreement, including the Exhibits, constitutes the entire understanding and agreement of the parties with respect to its subject matter, it shall control and supersede all prior and contemporaneous agreements or understandings, inducements or conditions, express or implied, written or oral, between the parties.

**6.5 Injunctive Relief.** Contractor acknowledges and agrees that in the event of a breach or threatened breach of this Agreement by Contractor, Company will suffer irreparable harm and will therefore be entitled to injunctive relief to enforce this Agreement.

**6.6 Contractor's Remedy.** Contractor's remedy, if any, for any breach of this Agreement shall be solely in damages and Contractor shall look solely to Company for recover of such damages. Contractor waives and relinquishes any right Contractor may otherwise have to obtain injunctive or equitable relief against any third party with respect to any dispute arising under this Agreement. Contractor shall look solely to Company for any compensation, which may be due to Contractor hereunder.

**6.7 Company Policy and Procedures.** Company will require Contractor to adhere to Company policies during the assignment related to industry-standard business conduct, privacy, confidentiality and information security requirements. Company will provide Contractor with copies of all policies and will require Contractor and Contractor's employees to acknowledge receipt and understanding of requirements, where necessary.

**6.8 Indemnification.** Contractor shall indemnify and hold Company harmless from any loss or liability arising from performing Services hereunder.

- a. Indemnity. Contractor shall indemnify, defend and hold harmless the Company, its directors, officers, employees, subsidiaries and affiliates (collectively the "Indemnified Parties"), from and

against any claim, action, damage, injury, loss or expense (including reasonable attorneys' fees) (collectively "Losses") arising out of the Contractor's: (i) breach of any representation, warranty or covenant under this Agreement; (ii) violation of any applicable laws; (iii) fraud, negligent act or omission or willful misconduct in the performance of their obligations under this Agreement. Furthermore, Contractor agrees to indemnify, defend and hold harmless the Indemnified Parties from any and all Losses arising out of or in connection with all claims that the Contract Services infringe or misappropriate any third party's intellectual property rights.

- b. **Indemnity Procedures.** Whenever an Indemnified Party learns of a third-party claim that, if allowed (whether voluntarily or by a judicial or quasi-judicial tribunal or agency), would entitle such Indemnified Party to indemnification under this Agreement, before paying the same or agreeing thereto, the Indemnified Party shall promptly notify Contractor in writing. The Indemnified Party's right to indemnification shall be diminished by the failure to give such prompt notice only to the extent that such failure to give such notice prejudices the interests of the Contractor. If within ten (10) business days from the date of such notice, Contractor requests in writing that such claim not be paid, the Indemnified Party shall not pay the same, provided that Contractor proceeds promptly to investigate, negotiate, settle, litigate or otherwise contest, in good faith, such claim. Contractor shall have the right to reasonably select and control legal counsel and lead any investigation, negotiation, settlement, litigation or other context. At Indemnifying Contractor's request and cost, Indemnified Party agrees to participate in any such investigation, negotiation, settlement, litigation or other contest. If any suit or proceeding involving the potential imposition of criminal liability upon an Indemnified Party or a potential or actual conflict of interest between Indemnified Party and Contractor, the Indemnified Party may, in its reasonable discretion, either defend such suit or proceeding or settle the claim that is the basis thereof, without the consent of Contractor, provided that Contractor shall reimburse the Indemnified Party for its reasonable and documented out of pocket expenses, court costs and attorney's fees. The Indemnified Party shall not be required to refrain from paying any claim that has matured by a court judgment or decree, unless an appeal is duly taken therefrom and execution thereof has been stayed, nor shall it be required to refrain from paying any claim where the delay to pay such claim would result in the foreclosure of a lien upon any of the property of the Indemnified Party, or where any delay in payment would cause the Indemnified Party an increased economic loss, unless the contractor shall have agreed to compensate the Indemnified Party for such loss.

**6.9 Agency.** Contractor is not Company's agent or representative and has no authority to bind or commit Company to any agreements or other obligations.

**6.10 Amendment and Waivers.** Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived, only by a writing signed by the party to be bound. The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of any party to enforce any of the provisions hereof shall not be construed to be a waiver of the right of such party thereafter to enforce such provisions.

**6.11 Time.** Contractor agrees that time is of the essence in this Agreement.

**6.12 Notices.** Any notice, demand, or request with respect to this Agreement shall be in writing and shall be effective only if it is delivered by personal service, by air courier with receipt of delivery, or mailed, certified mail, return receipt requested, postage prepaid, to the address set forth below; or by electronic mail with receipt of such communication confirmed. Such communications shall be effective when they are received by the addressee; but if sent by certified mail in the manner set forth above, they shall be effective five (5) days after being deposited in the mail. Any party may change its address for such communications by giving notice to the other party in conformity with this section.

If to Beyond: Beyond Finance, LLC

ATTN: Chief Executive Officer  
7322 Southwest Freeway, Suite 1200  
Houston, TX 77074

With a copy to: Beyond Finance, LLC  
ATTN: General Counsel / Legal Department  
7322 Southwest Freeway, Suite 1200  
Houston, TX 77074

If to Contractor: Nate Berkopec  
Email: nate.berkopec@speedshop.co  
Address: 1-1-30-1 Hamatake, Chigasaki, Japan, 253-0021

**CAUTION:** THIS AGREEMENT AFFECTS YOUR RIGHTS TO INNOVATIONS YOU MAKE PERFORMING YOUR SERVICES AND RESTRICTS YOUR RIGHT TO DISCLOSE OR USE COMPANY'S CONFIDENTIAL INFORMATION DURING OR SUBSEQUENT TO YOUR SERVICES. CONTRACTOR HAS READ THIS AGREEMENT CAREFULLY AND UNDERSTANDS ITS TERMS. CONTRACTOR HAS COMPLETELY FILLED OUT EXHIBIT C TO THIS AGREEMENT.

**Accepted and Agreed to:**

**BEYOND FINANCE, LLC**

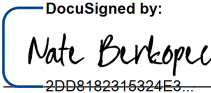
By:  506876E2B4A641B...

Name: Yongsoo Kim

Title: Chief Financial Officer

Date: 9/25/2024 | 4:16 PM EDT

**CONTRACTOR**

By:  2DD8182315324E3...

Name: Nate Berkopec

Date: 9/25/2024 | 10:52 PM PDT

## **EXHIBIT A**

### **Description of Services**

Independent Contractor Agreement between Company and Contractor as of the execution date of this agreement.

#### **Title**

Contractor's title at the Company will be Consultant

#### **Retainer portion:**

Contractor shall provide the following consulting services:

- Ruby on Rails performance monitoring and roadmap management.
- Automated alerts, monitors and dashboards for the Ruby on Rails application performance.
- A monthly written report on the performance and scalability of the Ruby on Rails application.
- Code contributions ("pull requests") fixing web application performance issues.
- "Pull request reviews" for performance-related changes.
- Asynchronous chat with Contractor.
- Synchronous calls with Contractor.

#### **Audit portion:**

Contractor shall provide the following consulting services:

- Four week audit to assess the performance of Company's Ruby on Rails web application and related infrastructure.

#### **Deliverables:**

- Contractor shall provide a written report with findings and actionable recommendations from the performance audit.
- Contractor and Company shall have a 1 hour discussion Contractor's audit findings.

#### **Supervisor**

Contractor's supervisor will be Sergio Rabiela.

**Term of Agreement:** 1 Year, can be extended by mutual agreement of the Parties

**Start Date:** October 1, 2024

**End Date:** October 1, 24, 2025

**Location of Work:** Contractor may perform the Services at any location selected by Contractor.

**Confidential Information (as defined in Section 2.1 of the Independent Contractor Agreement) may be utilized:**

*Exhibit A*  
*Page 1 of 2*



☐ Only at Company's business premises

☒ At Contractor's business premises, or Contractor's employee's premises, provided that appropriate confidentiality procedures and arrangements are observed, and terms related to Section 1.5 are observed.

☐ Other:

## **EXHIBIT B**

### **Payment**

Independent Contractor Agreement between Beyond Finance, LLC a California limited liability company (“**Company**”), and Speedshop Ltd Co (“**Contractor**”) effective as of May 24, 2024.

#### **Retainer portion:**

This work shall be billed at \$3,000/month. Within seven (7) days following the end of each calendar month, Contractor shall issue an invoice to Company and Company shall pay to Contractor the total undisputed amount due and payable under the invoice within thirty (30) days of receipt of the invoice.

Additional work beyond the above services can be done at a rate of \$300/hr, with mutual agreement between the parties as to scope and details of work.

#### **Audit portion:**

The audit shall be billed at a fixed fee of \$16,000. Upon completion of the audit, Contractor shall issue an invoice to Company for \$16,000 and Company shall pay to Contractor the total undisputed amount due and payable under the invoice within thirty (30) days of receipt of the invoice.

Paid through UpWork, Paypal or another such online billing service of Company’s preference.

## EXHIBIT C

### MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Non-Disclosure Agreement (“Agreement”) is made and entered into as of May 24, 2024, by and between Speedshop Ltd Co (“referred to as “CONTRACTOR”) and Beyond Finance, LLC, a California limited liability company, with its principal place of business located at 7322 Southwest Freeway, Suite 1200, Houston, TX 77074 (referred to herein as “BEYOND”). CONTRACTOR and BEYOND are sometimes referred to in this Agreement as the “Parties” or a “Party”.

BEYOND and CONTRACTOR intend to disclose Confidential Information about its respective business for the purpose of engaging in a consulting arrangement (“Purpose”). In consideration thereof, CONTRACTOR and BEYOND agree as follows:

#### 1. **Certain Definitions.**

“Confidential Information” and “Company Information” shall have the same meaning as used in the Independent Contractor Agreement executed effective as of May 24, 2024 between the Parties.

“Disclosing Party” means the Party disclosing the Confidential Information.

“Recipient” means the Party receiving the Confidential Information.

“Affiliate” means any person or entity controlling, controlled by or under common control with a Party.

2. **Purpose.** The use of the disclosed Confidential Information is limited to the Purpose set forth above. Confidential Information shall not be used for any other purpose without the express prior written permission of the Disclosing Party.

3. **Term.** This Agreement governs disclosures of Confidential Information from the date Confidential Information is disclosed to the end of the ongoing business relationship between the Parties. Nothing in this Agreement, however, shall obligate the Disclosing Party to disclose any particular information to the other during this period. Either Party may terminate this Agreement upon thirty (30) days prior written notice to the other. Notwithstanding such right of termination, all rights and obligations hereunder shall survive with respect to Confidential Information disclosed prior to such termination.

4. **Non-Disclosure.** The Recipient shall not disclose (or permit the disclosure of) any Confidential Information to anyone other than its Affiliates and its and its Affiliates’ officers, directors, employees, consultants, contractors, agents or third-party financing sources (a) with a reasonable need to know the Confidential Information, (b) who are legally obligated to preserve the confidentiality of the information and (c) have been informed of the Recipient’s obligations of confidentiality under this Agreement. The Recipient shall be liable for any use or disclosure of

Confidential Information by such parties. The Recipient shall not de-compile, disassemble or reverse engineer any Confidential Information without the Disclosing Party's express written consent. The Recipient shall protect against unauthorized use or disclosure of Confidential Information by using the same degree of care (but no less than a reasonable degree of care) it uses with respect to its own proprietary information of like nature. The Parties agree that the Confidential Information is proprietary to and a valuable trade secret and asset of the Disclosing Party and that any unauthorized use or disclosure thereof will cause irreparable harm and loss to the Disclosing Party for which there may be no adequate remedy at law. In such event, the Disclosing Party shall be entitled to injunctive relief to prohibit such unauthorized use or disclosure without the necessity of posting bond or other security or proving actual damages.

5. **Forced Disclosure.** In the event that disclosure of Confidential Information is required by written order of a judicial, legislative, or administrative authority of competent jurisdiction, the Recipient, to the extent not prohibited by law, must first notify the Disclosing Party in writing prior to the disclosure and shall reasonably cooperate with the Disclosing Party in limiting the scope of the proposed disclosure. The Parties shall assist each other in taking all reasonable steps for obtaining further appropriate means of limiting the scope of the required disclosure of the Confidential Information.

6. **Ownership.** All Confidential Information remains the property of the Disclosing Party and no license or other right to Confidential Information is granted or implied by this Agreement. Promptly, upon the Disclosing Party's written request, all Confidential Information which is in the Recipient's possession or control shall be either returned to the Disclosing Party or destroyed at the Disclosing Party's instruction and expense. At the Disclosing Party's written request, the Recipient shall promptly certify the same in writing and that no copies have been retained by it and its officers, directors, employees, consultants, contractors or agents

7. **Compliance with Laws.** The Parties agree that Confidential Information shall be used in compliance with all applicable laws, including, any applicable provisions of the Interagency Standards for Safeguarding Customer Information issued pursuant to the U.S. federal Gramm-Leach-Bliley Act, 15 U.S.C. Section 6801 et seq. ("GLBA").

8. **Waiver and Severability.** The failure of either Party to enforce any right under this Agreement shall not be deemed a waiver of that right. The rights and remedies in this Agreement regarding the failure of either Party to comply with the terms and conditions of this Agreement are not exclusive and are in addition to any other rights and remedies available to either Party as provided in law or equity. Additionally, the invalidity in whole or in part of any condition of this Agreement shall not affect the validity of any other part or condition.

9. **Assignment.** Neither Party may assign its rights under this Agreement without prior written consent of the other Party. Subject to the limitations in this Agreement, this Agreement will inure to the benefit of and be binding upon both Parties, their successors and permitted assigns.

10. **Governing Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, USA without regard to the conflicts of laws of any state. The Parties hereto submit themselves to the exclusive jurisdiction of the courts of the

Harris County, Texas, expressly waiving any venue or jurisdiction to which they may be entitled by their present or future domiciles. The prevailing party shall be entitled, in any action relating to this Agreement, to recover all costs and expenses, including attorneys' fees incurred because of any legal action arising in relation to this Agreement.

11. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions with respect to the disclosure of Confidential Information. No changes, modifications or waivers are to be made to this Agreement unless evidenced in writing by both Parties to this Agreement.

**EXHIBIT D**  
**Prior Inventions and Innovations**

NONE