



## MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Nondisclosure Agreement (this “Agreement”), effective as of \_\_\_\_\_ (“Effective Date”), is entered into by and between **Hipterra, LLC**, a Utah limited liability company (“Hipterra”), located at **180 N. University Ave. Suite 260, Provo, UT 84601**, and \_\_\_\_\_ (“Counterparty”), located at \_\_\_\_\_.

Hipterra and Counterparty are each a “Party” and collectively the “Parties.”

### **1. Purpose**

The Parties wish to engage in discussions regarding a potential business relationship or transaction of mutual interest (the “Opportunity”). In connection with the Opportunity, each Party may disclose certain confidential, proprietary, or sensitive business information (“Confidential Information”). The Parties desire to protect all such information in accordance with the terms of this Agreement.

### **2. Confidential Information**

#### **2.1 Definition**

“Confidential Information” includes all information disclosed by a Party (“Discloser”) to the other Party (“Recipient”), whether disclosed before or after the Effective Date, and whether written, oral, digital, visual, electronic, or embodied in physical materials, including but not limited to:

- business plans, financial information, projections, client data
- intellectual property, formulas, technical materials, software, code, systems, security procedures
- investment materials, due-diligence information, analyses, models, processes
- trade secrets
- third-party information in Discloser’s possession
- the existence of discussions between the Parties and the existence and terms of this Agreement

Confidential Information also includes all summaries, analyses, notes, or other materials derived from such information.

Information reasonably understood to be confidential based on its nature or context is treated as Confidential Information regardless of marking.

#### **2.2 Exceptions**

Confidential Information does not include information that the Recipient can demonstrate:



1. was publicly known prior to disclosure;
2. becomes publicly known through no breach of this Agreement;
3. was already in Recipient's possession without obligation of confidentiality;
4. is lawfully received from a third party without breach of any obligation; or
5. is independently developed without use of or reference to Discloser's Confidential Information.

The Recipient bears the burden of proving an exception applies.

### **3. Non-Use, Non-Disclosure, and Care Standard**

#### **3.1 Non-Use**

Recipient shall not use any Confidential Information for any purpose other than evaluating, negotiating, or consummating the Opportunity.

#### **3.2 Nondisclosure**

Recipient shall not disclose Confidential Information to any person except to its directors, officers, employees, advisors, financing sources, and affiliates ("Representatives") who have a strict need to know for the Opportunity. Recipient shall ensure all Representatives comply with the obligations herein.

#### **3.3 Standard of Care**

Recipient shall use at least the same degree of care to protect Confidential Information as it uses to protect its own confidential information of similar nature, but no less than commercially reasonable measures.

#### **3.4 Reverse Engineering Prohibited**

Recipient shall not reverse engineer, decompile, disassemble, or otherwise attempt to derive the composition, underlying ideas, or inner workings of any Confidential Information, prototypes, software, or technology provided by Discloser.

### **4. Non-Circumvention (36 Months)**

For **thirty-six (36) months** from the Effective Date, neither Party shall knowingly circumvent, bypass, or avoid the other Party in connection with:

- introductions, contacts, or relationships shared under this Agreement;
- opportunities, transactions, or business dealings arising from the Confidential Information;



- efforts to structure, renegotiate, or consummate a transaction relating to the Opportunity without the introducing Party's knowledge and participation.

This clause does **not** prohibit each Party from pursuing business in the ordinary course of its existing operations or from engaging with third parties with whom it already maintains an active relationship.

## **5. Compelled Disclosure**

If Recipient is required by subpoena, court order, regulator, bank examiner, or applicable law ("Law") to disclose Confidential Information, Recipient shall:

1. provide prompt written notice to Discloser (if legally allowed);
2. cooperate with Discloser (at Discloser's expense) in seeking a protective order; and
3. disclose only the minimum Confidential Information legally required.

Nothing herein prevents disclosure to a bank examiner or regulator acting in the ordinary course of supervision, provided such request is not targeted at Discloser.

## **6. No Obligation to Proceed**

Nothing in this Agreement obligates either Party to move forward with the Opportunity or enter into any transaction. Either Party may terminate discussions at any time.

## **7. Return or Destruction**

Upon written request, Recipient shall promptly return or destroy all Confidential Information and provide written certification of such destruction.

Recipient may retain copies only as required for regulatory, internal compliance, or record-retention obligations, provided such retained copies remain fully confidential.

## **8. No License**

No license or rights (express or implied) under any patents, trademarks, copyrights, trade secrets, or other intellectual property are granted by this Agreement.

## **9. Term**

The confidentiality and non-circumvention obligations begin on the Effective Date and remain in effect for **three (3) years**, and trade secrets shall remain protected for as long as they qualify as trade secrets under applicable law.

This Agreement may be terminated earlier by either Party upon 30 days' written notice, but termination shall not affect obligations already accrued or continuing confidentiality obligations.

## **10. Remedies**



Recipient acknowledges that unauthorized use or disclosure of Confidential Information or breach of the non-circumvention clause may cause irreparable harm, and monetary damages may be inadequate. Discloser is entitled to seek injunctive relief, specific performance, and any other remedies available at law or equity. The prevailing Party in any legal action shall recover its reasonable attorney's fees.

## **11. Assignment**

Neither Party may assign this Agreement without the prior written consent of the other Party, **except** that either Party may assign it without consent in connection with:

- a merger, acquisition, change of control, or
- the sale of substantially all assets.

Any non-permitted assignment is void.

## **12. Outside Activity Acknowledgment**

Counterparty acknowledges that Hipterra and its affiliates may, in the ordinary course of business:

- Evaluate, develop, or pursue business opportunities that are similar to or competitive with those discussed under this Agreement;
- Engage with third parties operating in the same markets or sectors as Counterparty; and
- Have personnel serving in advisory, board, or operational roles across multiple ventures.

None of the foregoing shall constitute a breach of this Agreement, provided that Hipterra does not use Counterparty's Confidential Information in connection with any such activity.

## **13. Governing Law**

This Agreement is governed by and construed in accordance with the laws of the State of Utah, without regard to conflict-of-law principles.

All disputes shall be heard exclusively in the state or federal courts located in Utah County or Salt Lake County, Utah, and each Party hereby consents to the personal jurisdiction of such courts.

## **14. Entire Agreement; Amendments**

This Agreement constitutes the entire understanding between the Parties regarding the Opportunity and supersedes all prior agreements.

No amendment or waiver is effective unless in writing and signed by both Parties.

## **15. Counterparts and No Warranty**



This Agreement may be executed in counterparts (including electronically), each of which is deemed an original.

ALL CONFIDENTIAL INFORMATION IS PROVIDED “AS IS.” NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS OR PERFORMANCE OF ANY CONFIDENTIAL INFORMATION, OR WITH RESPECT TO NON-INFRINGEMENT OR OTHER VIOLATION OF ANY INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY OR OF RECIPIENT, EXCEPT AS OTHERWISE SET FORTH IN A DEFINITIVE WRITTEN AGREEMENT BETWEEN THE PARTIES CONCERNING THE OPPORTUNITY (IF ANY).

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**IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.**

**HIPTERRA, LLC**

By:

Name: Robb Miller

Title: Managing Member

Date: *EFFECTIVE DATE*

**COUNTERPARTY** *(to digitally sign below)*

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

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

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

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