

MUTUAL CONFIDENTIAL DISCLOSURE AGREEMENT

In order to protect certain confidential information which may be disclosed between them, UnitedLayer, LLC, a Delaware limited liability company (UL), and \_\_\_\_\_, a \_\_\_\_\_ (“Company”) agree to the following terms and conditions to cover disclosure and receipt of the Confidential Information:

1. **Effective Date:** This Agreement applies to Confidential Information received prior to and after the date that Recipient signs this Agreement.

2. **Recipient and Disclosing Party:** “Recipient” means the party that receives Confidential Information. “Disclosing Party” means the party whose Confidential Information is disclosed.

3. **Confidential Information:** “Confidential Information” means any and all proprietary information that is disclosed by a Disclosing Party to a Recipient, including, but not limited to, matters of a technical nature such as trade secret processes or devices, techniques, data, formulas, inventions (whether or not patentable), plans, specifications and characteristics of products planned or being developed, and research subjects, methods and results; matters of a business nature such as information about costs, margins, pricing policies, markets, sales, suppliers, customers, prospects, employees, product plans and marketing plans or strategies; and other information of a similar nature that is not generally disclosed by Disclosing Party to the public. Confidential Information includes any and all information inherent in the Confidential Information, including information made available to Disclosing Party to by third parties that Disclosing Party is required to maintain confidential. Recipient’s obligations hereunder shall only extend to Confidential Information that relates to the purpose stated in this Agreement, or that although not related to such purpose, is nevertheless disclosed as a result of the parties’ discussions, and that should reasonably have been understood by Recipient, because of legends or other markings, the circumstances of disclosure, or the nature of the information itself, to be proprietary and confidential to Disclosing Party. Confidential Information may be disclosed in written or other tangible form (including on magnetic media) or by oral, visual or other means.

4. **Exclusions:** This Agreement imposes no obligation upon Recipient with respect to information that (a) is or becomes a part of the public domain without breach of this Agreement, however, the act of copyrighting shall not be deemed to be placing the copyrighted material in the public domain; (b) Recipient can establish by prior record was already known to it or was in its possession or in the possession of an affiliate at the time of disclosure and was not acquired, directly or indirectly, from Disclosing Party; (c) Recipient obtains from a third party; provided however, that such information was not

obtained by such third party, directly or indirectly, from Disclosing Party under an obligation of confidentiality toward Disclosing Party; or (d) Recipient can establish was independently developed by persons in its employ or otherwise who had no contact with and were not aware of the content of the Confidential Information.

5. **Disclosure Compelled by Law:** Recipient may disclose or produce any Confidential Information if and to the extent required by any discovery request, government regulation, subpoena, court order or governmental action, provided that Recipient immediately notifies the Disclosing Party of such obligation so that the Disclosing Party may appear, object and obtain a protective order or other appropriate relief regarding such disclosure. In any event, Recipient shall disclose only that portion of the Confidential Information that, in the opinion of its legal counsel, is legally required to be disclosed and will exercise reasonable efforts to ensure that any such information so disclosed will be accorded confidential treatment by such court or government authority.

6. **Purpose:** Recipient shall use the Confidential Information only for the purpose of \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

7. **Restrictions:** Except as may be authorized by Disclosing Party in writing, Recipient will (a) not disclose Confidential Information to any third party; (b) make or copy the Confidential Information only as reasonably required for the purpose specified above; (c) not deliver, distribute, display, demonstrate or otherwise make available the Confidential Information to any third party except as permitted under this Agreement; (d) not reverse engineer, decompile or disassemble any computer program included in the Confidential Information; (e) not remove or obliterate markings on Confidential Information indicating its proprietary or confidential nature; (f) not use any Confidential Information; and (g) make the Confidential Information available only to those of its employees, agents, attorneys, consultants and other representatives (“Representatives”) who have a need to know the same for the purpose specified above, who have been informed that the Confidential Information belongs to Disclosing Party and is subject to this Agreement and who have agreed or are otherwise obligated to comply with this Agreement.

8. **Standard of Care:** Recipient shall protect Disclosing Party’s Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination, or publication

of the Confidential Information as Recipient uses to protect its own Confidential Information of a like nature.

9. **Duration of Obligations:** Recipient’s obligations under this Agreement shall expire one (1) year from the date the parties cease discussions of the Business Transaction. The obligations of this Agreement shall survive termination of this Agreement.

10. **No License Granted/Return or Destruction of Information:** Neither party acquires any intellectual property rights under this Agreement except the limited right necessary to carry out the purpose set forth in this Agreement. All Confidential Information shall remain the property of the Disclosing Party. At Disclosing Party’s written request, Recipient will either destroy and certify such destruction or promptly return to Disclosing Party all those materials which comprise Confidential Information and any copies.

11. **Right to Proceed with Business:** This Agreement shall not be construed as a non-competition agreement, an allocation of markets, or other restriction on either party’s ability to develop or market products or services (subject to the prohibition on Recipient’s use of Disclosing Party’s Confidential Information).

12. **Warranties:** Disclosing Party warrants to Recipient that it has the right to make the disclosures covered by this Agreement, however the Confidential Information is made available “AS IS”. Notwithstanding any language to the contrary, the parties are not obligated to disclose any particular information to the other party.

13. **No Partnership:** The parties do not intend that any agency or partnership relationship be created between them by this Agreement.

14. **Governing Law:** When a party seeks enforcement of its rights or Recipient’s obligations under this Agreement, this Agreement is made under, and shall be construed according to the laws of California and Recipient consents to the jurisdiction of the courts in such location. The prevailing party in any such action shall be entitled to recover its costs and expenses thereof, including reasonable attorneys’ fees.

15. **Additional Remedies:** The protections afforded to the Confidential Information under this Agreement are in addition to, and not in lieu of, the protections afforded under any applicable trade secrets law, including the Uniform Trade Secrets Act. Disclosing Party may suffer irreparable harm and have no adequate remedy at law if Recipient breaches this Agreement. In such event or the threat of any such event, Disclosing Party may, in addition to any and all other remedies, seek injunctive relief, specific performance and/or other equitable remedies without proof of monetary damages or the inadequacy of other remedies.

16. **Amendments:** No addition or modification to this Agreement shall be effective unless made in writing and signed by both parties.

17. **Assignment:** Neither party may assign its rights or delegate its obligations under this Agreement without the consent of the other party, however, either party may assign this Agreement to any entity controlled by, controlling, or under common control with that party that possesses the capability to fulfill the obligations described in this Agreement. The obligations imposed by this Agreement on Recipient shall be binding on any division, subsidiary, assignee, transferee, successor, receiver or representative of Recipient.

**UNITEDLAYER, LLC**  
200 Paul Avenue, Suite 110  
San Francisco, California 94124

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

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By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_