

## TRI-PARTY NON-DISCLOSURE, CONFIDENTIALITY AND NON-USE AGREEMENT FOR GENERAL USE

THIS TRI-PARTY NON-DISCLOSURE, CONFIDENTIALITY AND NON-USE AGREEMENT (this "Agreement") is dated as of \_\_\_\_\_, and is between CATALYST CORPORATE FEDERAL CREDIT UNION ("Catalyst"), \_\_\_\_\_ ("Member") and \_\_\_\_\_ ("Vendor").

The parties to this Agreement have determined to establish terms governing the confidentiality of certain information that one party ("Owner") may disclose to the other parties ("Recipient") in connection with the evaluation of the proposed or existing business relationship between the parties. In addition, Catalyst acknowledges that certain of its Confidential Information disclosed to Member may also be disclosed to Vendor. The parties therefore agree as follows:

1. For purposes of this Agreement, "Confidential Information" includes information, data or material that is deemed proprietary by the Owner of the information, data or material, information that a reasonable person would recognize as being confidential information related to the Owner's business, information that may be marked "confidential" or "proprietary, or, if orally transmitted, designated as "confidential" by the Owner, and that is not generally known by the public or by parties that are competitive with, or are otherwise in an industry, trade or business similar to, the Owner.
  - a. Confidential Information also includes (but is not limited to) the following types of information and other information of a similar nature (whether or not reduced to writing): any and all software whether in completed form or in a stage of development; designs; drawings; specifications; techniques; models; data; source code; object code; "look and feel"; database schemas; algorithms; documentation; user manuals; diagrams; flow charts; consulting methods and techniques; research; development; processes; procedures; "know-how"; methods of production, use, implementation, operation or application; trade secrets; patents, copyrights or trademarks (whether now existing, or for which applications may be pending or may hereafter be made, acquired or granted) for any of the Owner's software or other property, or for any improvements, enhancements or modifications thereto; physical security systems, access control systems, or specialized recovery equipment or techniques; and the details of computer operations and recovery procedures.
  - b. Confidential Information also includes (but is not limited to) the following types of information and other information of a similar nature (whether or not reduced to writing): data regarding business practices; customer names, customer contracts, contact personnel at customers, and other information related to customers; discoveries; ideas; concepts; marketing techniques and materials; marketing and development plans; pricing, price lists, pricing policies and financial information; product philosophies; positions relative to competitors; and reviews of actual deliverables of advisory, consulting or development projects.
  - c. Confidential Information also includes (but is not limited to) any information described or referenced in this Paragraph 1 that the Owner obtains from a subsidiary or other party and that the Owner treats as proprietary or designates in writing as Confidential Information, whether or not owned or developed by the Owner.

The failure of a party to mark as "confidential" any of the information described or referenced in this Paragraph 1 will not affect the status of that information as part of the Confidential Information protected by this Agreement.

2. Each party will use the same reasonable efforts to protect the Confidential Information of the other parties as it uses to protect its own proprietary information and data. Disclosure of the Confidential Information will be restricted on a "need to know" basis to those individuals who: (a) are participating or who would participate in the proposed business relationship between the parties to this Agreement; and (b) are advised of the existence of this Agreement and agree to be bound by its terms.

If the Confidential Information includes or incorporates any nonpublic personal information about a member of a credit union or about any other consumer or natural person, each party to this Agreement agrees that it will not use any such nonpublic personal information for any purpose other than those purposes mutually upon by the parties to this Agreement, including (as an example but without limiting the generality of the foregoing restriction) evaluation of the feasibility of servicing and processing of transactions in the ordinary course of business.

3. No party will make any reproductions, disclosure or use of any Confidential Information of the other party (whether for the Recipient's own benefit, or to the detriment of the Owner, or otherwise), except as follows:

- a. The Recipient may use Confidential Information furnished by the Owner in furtherance of the purpose for which disclosure was made by the Owner to the Recipient.
- b. The Recipient may use Confidential Information in accordance with any written authorization received from the Owner.

4. The limitations on reproduction, disclosure or use of Confidential Information will not apply if (and no party will be liable for reproduction, disclosure or use of Confidential Information to the extent that) any of the following conditions as to such information exist:

- a. Prior to the Recipient's receipt of the information under this Agreement, the information had been developed independently by the Recipient, or was lawfully known to the Recipient, or had been lawfully received by the Recipient from other sources, provided that: (i) such other sources did not receive the information due to a breach of an agreement with the Owner, of which breach the Recipient had knowledge; and further provided that (ii) the Recipient believes in good faith that such other sources lawfully came to possess the information.
- b. Subsequent to the Recipient's receipt of the information under this Agreement, the information is published by the Owner or is disclosed by the Owner to others without restrictions on its disclosure or use.
- c. The Recipient is required by law to make such disclosure, provided that the Recipient exerts its best efforts to provide a pre-disclosure opportunity for the Owner to contest the disclosure requirement.
- d. Information publicly known that is generally employed by the industry, trade or business at or after the time either party first learns of such information, or generic information or knowledge that either party demonstrably would have learned in the course of its work in

the industry, trade or business, will not be deemed to be part of the Confidential Information.

5. Because of the confidential nature of the Confidential Information, each party to this Agreement understands and agrees that the Owner may suffer irreparable harm in the event that the Recipient fails to comply with any of the Recipient's obligations under this Agreement and that monetary damages may be inadequate to compensate the Owner for such noncompliance or breach. Accordingly, the Recipient agrees that the Owner, in addition to any other remedies available to it at law or in equity for actual damages, will be entitled to seek injunctive relief to enforce the terms of this Agreement.

6. The obligations under this Agreement will continue for so long as the Owner treats the Confidential Information disclosed to the Recipient hereunder as confidential. Upon request, the Recipient agrees to promptly return to the Owner all originals and all copies of any and all of the Confidential Information that the Recipient may have obtained from the Owner (and further agrees not to retain any copies or reproductions of any of such Confidential Information, in any form, format or medium).

7. The Owner will not have any liability or responsibility under this Agreement for any errors or omissions in, or any business decisions made by the Recipient in reliance on, any Confidential Information disclosed to the Recipient under this Agreement.

8. This Agreement, and all actions, causes of action, or claims of any kind (whether at law, in equity, in contract, in tort, or otherwise) that may be based upon, arise out of, or relate to this Agreement, or the negotiation, execution, or performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, including without limitation Texas laws relating to applicable statutes of limitation, without regard to applicable conflicts of laws provisions or principles of comity which would cause this Agreement to be interpreted or governed by the applicable law of any state other than the State of Texas.

9. **The parties voluntarily and irrevocably submit to the jurisdiction of the courts of the State of Texas and the federal courts of the United States of America located in Collin County, Texas, over any dispute between or among the parties related to or arising out of this Agreement, and each party irrevocably agrees that all such claims in respect of such dispute shall be heard and determined exclusively in such courts. The parties hereby irrevocably consent to the jurisdiction of such courts and hereby waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any such dispute related to or arising out of this Agreement brought in such court or any defense of inconvenient form for the maintenance of such dispute. Each party agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.**

10. This Agreement contains the full and complete understanding of the parties with respect to the subject matter hereof and it supersedes all prior representations and understandings, whether oral or written. This Agreement will be binding upon and will inure to the benefit of the successors and assigns of the parties hereto.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the parties have signed, to be effective as of the date set forth above.

CATALYST CORPORATE FEDERAL  
CREDIT UNION

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

Address for Notices:  
Catalyst Corporate Federal Credit Union  
Attn: \_\_\_\_\_  
6801 Parkwood Boulevard  
Plano, TX 75024-7198  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Type of entity: Federal Credit Union

[NAME OF MEMBER]

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

Address for Notices:  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Type of entity: \_\_\_\_\_

[NAME OF VENDOR]

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

Address for Notices:  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Type of entity: \_\_\_\_\_

Send completed form to  
[duediligence@catalystcorp.org](mailto:duediligence@catalystcorp.org)