



**BENEFITSAPP  
MUTUAL NON-DISCLOSURE AGREEMENT**

THIS AGREEMENT is effective as of \_\_\_\_\_ between HealthBenefitApp LLC, a Maryland corporation (“BenefitsApp”) and \_\_\_\_\_ (the “Company”). The parties agree as follows:

**1. Purpose.** HealthBenefitApp and the Company intend to exchange certain Confidential Information (as defined below) in connection with the evaluation of a possible transaction between the parties (the “Transaction”). The parties desire to protect the Confidential Information disclosed by either party (the “Discloser”) to the other party (the “Recipient”) or its directors, officers, employees, agents, advisors (including, without limitation, financial advisors and legal counsel) and prospective banks or other institutional lenders, third party financiers or partners and the directors, officers, partners and employees of any such agents, advisors, lenders, financiers or partners (collectively, “Representatives”).

**2. Definition of Confidential Information.** “Confidential Information” means (a) all financial, technical, commercial and other information provided by Discloser or any of Discloser’s Representatives to Recipient, regardless of the form of communication, concerning, among other things, Discloser’s business, technologies, strategies, financial position, operations or assets including, but not limited to, Discloser’s financial information and data; research and development plans, methods and data; scientific and technical data; manufacturing and production data; business development, marketing and sales plans and data; and the identities of, discussions with and the course of dealing with any actual and prospective customers, contractors, vendors and other suppliers, and (b) all notes, analyses, compilations, forecasts, studies, interpretations, and other documents prepared by Recipient or any of Recipient’s representatives which contain, reflect or are based upon, in whole or in part, any information furnished by Discloser or any of Discloser’s representatives. Failure to mark any Confidential Information as confidential or proprietary shall not affect its status as Confidential Information under the terms of this Agreement. Confidential Information does not include information, data or know-how that: (i) becomes part of the public domain prior to or after the time of disclosure, through no improper action of the Recipient; (ii) was in the possession of the Recipient at the time of disclosure, as shown by the Recipient’s files and records immediately prior to the time of disclosure on a non-confidential basis; or (iii) is received by the Recipient from a third party, provided that such Confidential Information was not obtained by such third party, directly or indirectly, from the Discloser and provided that such third party is not known to the Recipient to be bound by a confidentiality agreement or to be otherwise prohibited from transmitting the information by a confidential, legal or fiduciary obligation.

**3. Non-Disclosure of Confidential Information.** The Confidential Information shall be kept confidential by the Recipient and the Recipient shall not use any Confidential Information for any purpose except to review such information in connection with the possible Transaction between the parties. The Recipient shall not disclose any Confidential Information to third parties other than the Recipient’s Representatives without the Discloser’s prior written consent. The Recipient shall disclose the Confidential Information only to those Representatives who are required to have the Confidential Information in order to evaluate or to undertake the Transaction. The Recipient shall require employees who have access to Confidential Information to sign or have signed a non-disclosure or other equivalent agreement that protects the Confidential Information. The Recipient shall take all reasonable measures to

protect the secrecy of, and avoid the unauthorized disclosure or use of, Confidential Information. Such measures shall include the highest degree of care that the Recipient utilizes to protect the Recipient's own confidential information of a similar nature. The Recipient shall notify the Discloser in writing of any misuse or misappropriation of any Confidential Information that may come to the Recipient's attention. Except as otherwise may be permitted pursuant to Section 5 of this Agreement, without the prior written consent of the Discloser, the Recipient shall not, and shall direct its Representatives not to disclose to any other person privately or by press release or other public communication: (a) that the Confidential Information has been made available to the Recipient; or (b) that discussions or negotiations are taking place concerning a potential Transaction or any of the terms, conditions or other facts with respect to any such Transaction.

**4. Return of Materials.** In the event that the parties do not proceed with the Transaction within a reasonable time, or at the Discloser's request, the Recipient shall: (a) discontinue all use of the Confidential Information; (b) return to the Discloser all materials furnished by the Discloser that contain Confidential Information; (c) erase or destroy any Confidential Information contained in computer memory or data storage apparatus; (d) remove the Confidential Information from any software that incorporates or uses the Confidential Information in whole or in part; and (e) warrant in writing to the Discloser, within thirty (30) days after the Discloser's request, that the Recipient has taken all actions described in the foregoing Subparagraphs 4 (a) - (d).

**5. Notice of Required Disclosure.** If the Recipient is required by judicial or administrative process to disclose the Confidential Information provided by the Discloser, then the Recipient shall promptly notify the Discloser in order to enable the Discloser a reasonable time to oppose such process. The Recipient shall not oppose any action by the Discloser to seek a protective order or other remedy. If, failing the obtaining of a protective order or other remedy by the Discloser, such disclosure is required, the Recipient shall use its reasonable best effort to obtain reliable assurances that the disclosure will be afforded confidential treatment.

**6. Proprietary Rights.** Any and all proprietary rights, including patent rights, copyrights, trademarks and trade secrets, in and to any Confidential Information shall be and remain in the Discloser, and Recipient shall not have any right, license, title or interest in or to any Confidential Information, except the limited right to review such Confidential Information in connection with the possible Transaction between the parties.

**7. Governing Law.** The parties hereby agree that any dispute between the parties regarding this Agreement shall be governed by the laws of the State of Maryland, notwithstanding any conflict-of-law doctrines of any jurisdiction to the contrary and each of the parties hereto hereby irrevocably submits to the jurisdiction of the courts of the state. In any action to enforce this Agreement, HealthBenefitApp and the Company hereby agree to the exclusive jurisdiction and venue of the courts of the State of Maryland in and for the county in which HealthBenefitApp maintains its principal place of business or the Federal District Court for such geographic location. Notwithstanding anything to the contrary set forth in the preceding sentence, each of HealthBenefitApp and the Company shall have the right to seek injunctive relief in any appropriate court and in any jurisdiction.

**8. Remedies.** Each party acknowledges that its obligations under this Agreement are necessary and reasonable in order to protect the Discloser and the Discloser's business, and each party expressly acknowledges that monetary damages would be inadequate to compensate the Discloser for any breach by the Recipient of the Recipient's covenants and agreements set forth in this Agreement. Accordingly, each party further acknowledges that any such violation or threatened violation will cause irreparable injury to the Discloser. In addition to any other remedies that may be available, in law, in equity or otherwise, the Discloser shall be entitled to obtain injunctive relief to enforce the provisions of this Agreement, and the



prevailing party in any such litigation shall be entitled to recover all reasonable expenses of litigation, including reasonable attorneys' fees and costs.

**9. Definitive Agreement.** The parties hereby agree that unless and until a definitive written agreement regarding the Transaction has been executed, neither party will be under any legal obligation of any kind whatsoever with respect to such Transaction by virtue of this Agreement, except for the matters specifically agreed herein.

**10. Miscellaneous.** This Agreement contains the entire agreement and understanding of the parties relating to the subject matter hereof and merges and supersedes all prior discussions, agreements and understandings of every nature between them. This Agreement may not be changed or modified, except by an agreement in writing signed by both of the parties. The failure or delay on the part of either party to exercise any right under this Agreement shall not be deemed a waiver of any rights under this Agreement. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute a single agreement. This Agreement shall be binding upon and for the benefit of the undersigned parties, their successors and assigns, provided that this Agreement and the right to review any Confidential Information disclosed hereunder may not be assigned without the prior written consent of the Discloser.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives and intending to be legally bound, hereby execute this Mutual Non-Disclosure Agreement on the date first written above.

HEALTHBENEFITAPP LLC

COMPANY

By: ## # # #

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

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

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

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

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