



## Non-Disclosure Agreement Disclosure by Both Parties

This Non-Disclosure Agreement (this “Agreement”) is made between the American Heart Association, Inc. (“AHA”), a New York not-for-profit corporation, having its principal offices at 7272 Greenville Avenue, Dallas, Texas 75231-4596, and:

Business or  
Individual’s Name  
(defined as a  
“Person” for  
purposes of this  
Agreement):

Address:

Effective Date:

AHA and the Person are each referred to as a “Party” and collectively, the “Parties.” Each Party (the “Disclosing Party”) desires to provide certain Confidential Information (as defined below) to the other Party (the “Receiving Party”), solely for the purpose of a possible working relationship between the Parties (the “Purpose”), all subject to the terms of this Agreement. All Confidential Information is and shall remain the exclusive property of the Disclosing Party.

This Agreement sets out the Parties' agreement regarding use and disclosure of Confidential Information.

1. “Confidential Information” means all non-public, confidential or proprietary information disclosed on or after the Effective Date and conspicuously marked as “Confidential” or “Proprietary”, or if not so marked or if disclosed orally, designated or identified as “confidential” at the time of initial disclosure and summarized in a writing provided to the Receiving Party within five (5) business days of its disclosure.
2. For a period of one (1) year following the Effective Date (the “Restricted Period”), the Receiving Party and its directors, officers, employees, agents, consultants, advisors or other representatives, including legal counsel, accountants and financial advisors of each respective Party (collectively, “Representatives”) shall not: (i) disclose any Confidential Information to others outside the Receiving Party and its Representatives who need to know such Confidential Information in connection with the Purpose and who are covered or bound by confidentiality obligations no less restrictive than those contained within this Agreement, or (ii) use the Confidential Information for any purpose other than in connection with the Purpose. Nothing herein shall be construed or deemed to grant to the Receiving Party any rights in or to any of the Confidential Information, including, without limitation, any licenses, trademarks, inventions, copyrights, patents, or any other intellectual property rights of the Disclosing Party. If Confidential Information is disclosed in violation of this Section, the Party who disclosed such information must promptly notify the other Party of the disclosure. Notwithstanding the foregoing, each Party’s rights and obligations under this Agreement shall survive the expiration or termination of this Agreement for a period of three (3) years from the date of initial disclosure of each item of Confidential Information and in no event shall this Agreement be construed to prohibit AHA from disclosing funding or other resources provided to it by Person or any other Party.
3. The Receiving Party agrees to take reasonable measures to avoid disclosure and unauthorized use of the Confidential Information of the Disclosing Party during the Restricted Period. Without limiting the foregoing, the Receiving Party shall take at least those measures that it takes to protect its own most highly confidential information. The Receiving Party shall reproduce any of the Disclosing Party’s proprietary rights notices on any copies in the same manner in which such notices were set forth in or on the original.

4. The Receiving Party shall not be obligated to protect the confidentiality of information which (1) is generally known or available to the public, or which may later become generally known or available to the public, except where such entry is the result of an unauthorized disclosure by the Receiving Party, its agents or employees; (2) was in the lawful possession of Receiving Party without confidentiality restrictions prior to receipt of such information under this Agreement, or comes into the lawful possession of Receiving Party without confidentiality restrictions from a third party having a lawful right to disclose such information; (3) is independently generated by Receiving Party and not derived from Confidential Information; (4) is disclosed by Disclosing Party to a third party without a similar restriction; or (5) is required or requested to be produced by Receiving Party, its agents or employees, by law, regulation, court order, subpoena or other legal process (collectively, a "Legal Process Request"). However, in the event of any Legal Process Request, the Receiving Party shall (i) promptly notify the Disclosing Party of the existence, terms and circumstances surrounding the Legal Process Request, (ii) consult with the Disclosing Party on the advisability of taking steps to resist or narrow the Legal Process Request, (iii) if disclosure of such Confidential Information is required, furnish only such portion of the Confidential Information as the Receiving Party is advised by counsel in writing is legally required to be disclosed, and (iv) cooperate with the Disclosing Party in its efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the Confidential Information that is required to be disclosed.

5. Each Party acknowledges that the Receiving Party may currently or in the future be developing information internally or receiving information from third parties that may be similar to Disclosing Party's Confidential Information. Nothing in this Agreement shall be construed as a representation or inference that Receiving Party will not develop or review products, services or plans for itself or others that may compete with or be similar to products, services or plans contemplated by Disclosing Party's Confidential Information.

6. The Parties agree that neither Party shall be under any legal obligation of any kind whatsoever, or otherwise be obligated to enter into any business or contractual relationship, investment, or transaction, by virtue of this Agreement, except for the matters specifically agreed to herein.

7. The Disclosing Party represents and warrants that the disclosure of Confidential Information will not infringe, violate or misappropriate the intellectual property rights of any third party, and that the disclosure does not and will not violate any other contract or obligation to which the Disclosing Party is a party, including covenants not to compete and confidentiality agreements. Otherwise, the Disclosing Party makes no warranties, express, implied or otherwise, regarding its accuracy, completeness or performance. Neither the Disclosing Party nor its Representatives shall be liable to the other Party or any of its Representatives relating to or resulting from the other Party's use of any of the Confidential Information or any errors therein or omissions therefrom. Notwithstanding the foregoing, the Parties may agree to certain other warranties and representations concerning specific Confidential Information relied upon in the formation of a subsequent agreement.

8. At any time during or after the term of this Agreement, at the Disclosing Party's written request, the Receiving Party and its Representatives shall promptly destroy all copies, whether in written, electronic or other form or media, of the Disclosing Party's Confidential Information, and certify in writing to the Disclosing Party that such Confidential Information has been destroyed. In addition, the Receiving Party shall also destroy all copies of any notes created by the Receiving Party or its Representatives and certify in writing to the Disclosing Party that such copies have been destroyed. Notwithstanding the foregoing, the Receiving Party shall each be entitled to retain copies of all Confidential Information in accordance with policies and procedures implemented to the extent required to document a decision not to proceed with a transaction or otherwise cease discussions, or to comply with legal and regulatory requirements, or by such party's internal document retention policies.

9. The terms of this Agreement shall be construed in accordance with the laws of the state of Texas without regard to its conflict of laws provision. The courts located in Dallas County, Texas will have exclusive jurisdiction to adjudicate any dispute arising out of this letter agreement (to the exclusion of venue in any other jurisdiction), except with regard to injunctive relief.

10. The Receiving Party acknowledges that in the event of a breach of the terms of this Agreement by the Receiving Party or its Representatives, the Disclosing Party may not be made whole by monetary damages. Accordingly, the Disclosing Party, in addition to any other remedy to which it may be entitled in law or in equity, shall be entitled to an injunction to prevent breaches of this Agreement, and to an order compelling specific

performance of this Agreement. In carrying out their respective obligations under this Agreement, the Parties shall comply with all applicable laws and regulations.

11. This Agreement represents the entire understanding and agreement between the Parties with respect to non-disclosure of Confidential Information and supersedes any prior or contemporaneous agreements, whether oral or written, expressed or implied. Should any provision of this Agreement be held to be invalid, illegal or unenforceable, that provision shall be severed and the validity and enforceability of the remaining provisions shall not in any way be impaired or affected.

12. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement, and may be delivered electronically.

13. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other Party. Any purported assignment or delegation in violation of this Section shall be null and void.

**AMERICAN HEART ASSOCIATION, INC.**

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

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

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

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

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

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