



## NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

THIS NON - DISCLOSURE AND CONFIDENTIALITY AGREEMENT (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ between N Capital, LLC doing business as “Low Income Auto Repair Program”(hereafter “N Capital”) and \_\_\_\_\_ (hereafter “Recipient”). N Capital and Recipient shall be collectively referred to as the “Parties”.

1. Purpose. The Parties wish to explore certain business opportunities that may be of mutual interest; in connection with these possible opportunities, each Party may disclose to the other certain confidential technical and business information which the disclosing Party demands the receiving Party to treat as absolutely confidential at all times during the term of this Agreement and as set forth in Section 10 below. For the purpose of this Agreement, the use of the word “Party” in singular or plural, automatically includes all officers, directors, employees, agents, related operating and investment entities and the Parties’ heirs, successors and assigns

2. "Confidential Information" means any information disclosed by either Party to the other Party, either directly or indirectly, in writing, orally, electronic and or telephonic transmission or by inspection of tangible objects, including without limitation, documents, financial statements, tax returns, prototypes, samples, technical data, trade secrets, unpublished patent applications, know-how, discoveries, improvements, formats, study protocols, research procedures, information relating to research facilitators and or participants, tooling information, manufacturing techniques, facilities and equipment, research and development techniques, test results, research projects, product component sources and suppliers, information pertaining to costs, profits, other financial information and matters, markets and marketing strategies, sales, contracts, customers, prospects and distributors, product plans, services, software and the like, inventions, processes, designs, drawings, which is clearly marked as "Confidential" or "Proprietary" if communicated in writing or by electronic media with a similar marking, (Confidential Information so transmitted requires the receiving Party to acknowledge in writing, signed by an officer of the receiving Party, that receipt has occurred. Said confirming written receipt is to be sent to the disclosing Party as soon as practical.), by any medium without a confidentiality legend or by inspection, shall be considered Confidential information unless otherwise informed in writing by the disclosing Party. Confidential Information shall not, however, include any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure; (ii) becomes publicly known and made generally available after disclosure to the receiving Party through no action or inaction of the

receiving Party; (iii) is already in the possession of the receiving Party at the time of disclosure as shown by the receiving Party's files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving Party from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by the receiving Party without use of or reference to the disclosing Party's Confidential Information, as shown by dated documents and other competent dated evidence in the receiving Party's possession; or (vi) is required by law to be disclosed by the receiving Party provided that the receiving Party gives the disclosing Party immediate written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

3. Non-use and Nondisclosure. Each party agrees not to use any Confidential Information of the other Party for any purpose except to evaluate and engage in discussions concerning a potential business relationship between the Parties. Each Party agrees to limit disclosure of any Confidential Information of the other Party to those agents, professional advisors, or employees of the receiving Party who are required to have the information in order for the receiving Party to evaluate or engage in discussions and otherwise concerning the contemplated business relationship. Neither Party shall reverse engineer, disassemble or decompile any formulations, prototypes, software or any other tangible objects that are provided as the other Party's Confidential Information.

4. Non-Circumvention: Recipient acknowledges that it will or has received confidential information regarding the Low Income Auto Repair Program created and developed by N Capital and that it shall not circumvent the intentions of this Agreement by creating or developing a similar program to that offered by N Capital. The Parties hereby irrevocably agree not to circumvent, avoid, bypass, or obviate each other, directly or indirectly, with regard to each party's existing customers and suppliers, and to avoid payment or fees, commissions, or any form of compensation in any transaction with corporations, partnership or collateral, or funding, or any transaction involving products, commodity, or services, or addition, renewals, extensions, rollover, amendment, new contract, re-negotiations, parallel contract/agreement, or third party assignment hereof. Further the Parties agree they will not make contact with, solicit, deal with, or otherwise be involved with in any transaction(s) with regard to any source, supplier, client, strategic partner and/or entity that either Party introduces to or discusses with the other Party, unless authorized in writing and then only for the specific purpose and terms so designated.

5. Maintenance of Confidentiality. Each Party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other Party. Without limiting the foregoing, each Party shall take at least those measures that it takes to protect its own Confidential Information and shall ensure that its agents and employees who have access to the Confidential Information of the other Party have signed a nondisclosure agreement in content similar to the provisions hereof prior to any disclosure of Confidential Information to any such agent or employee. Both Parties, their heirs, successors and assigns, as well as their agents and employees, hereby agree permanently to never use for the benefit of itself, any business entity, government or individual(s) any Confidential Information as defined in this Agreement. Neither Party shall make any copies of the Confidential Information

of the other Party unless the same are previously approved in writing by an officer of the other Party. Each Party shall reproduce the other Party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original. Each Party shall immediately notify the other Party in the event of any unauthorized use or disclosure of the Confidential Information and agrees to take all actions available to it, including court action to remediate the breach of this Agreement with the offending Party bearing all costs, including legal.

6. No Obligation. Nothing herein shall obligate either Party to proceed with any transaction between them, and each Party reserves the right, in its sole discretion, to terminate any or all aspects of this Agreement concerning any business opportunity. This Agreement does not constitute a joint venture or any other kind or manner of business arrangement.

7. No Warranty. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS." NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS OR PERFORMANCE OF THE CONFIDENTIAL INFORMATION OTHER THAN TO REPRESENT THAT, AT THE TIME OF DISCLOSURE, THE DISCLOSING PARTY BELIEVES THE INFORMATION PROVIDED THEREIN TO BE CORRECT.

8. Return of Materials. All documents and any other tangible objects containing or representing Confidential Information which have been disclosed by either Party to the other Party, and all copies thereof which are in the possession of the receiving Party, shall be and remain forever the property of the disclosing Party and shall be promptly returned to the disclosing Party upon the disclosing Party's written request.

9. No License. Nothing in this Agreement is intended to grant any rights not already held by either Party to the other Party, including but not limited to: all Intellectual Property; any patent or patent provisional application and the like, trademarks, service marks and the like, mask work right or copyright of the other Party, nor shall this Agreement grant any Party any rights in or to the Confidential Information of the other Party except as expressly set forth herein.

10. Term. This Agreement shall have a term of two (2) years. The confidentiality obligations of the parties to this Agreement shall survive the termination of the Agreement forever, and continue the Effective Date of the Agreement.

11. Prohibition on Exportation. Each Party agrees that it shall not directly or indirectly export, re-export or transship products, technology, software and all other items/actions received pursuant to this Agreement, unless agreed otherwise by both Parties in writing, signed by an officer of both Parties.

12. Amendment: No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written instrument signed by both parties.

13. Entire Agreement: This Agreement sets forth the entire agreement and supersedes any prior agreements, written or oral, of the parties with respect to the transactions set forth herein.

14. Construction: In the event that any provision of this Agreement conflicts with the law under which this Agreement is to be construed, or if any such provision is held invalid by a court with jurisdiction over the parties to this Agreement, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with the applicable law, and the remainder of this Agreement shall remain in full force and effect. There shall be no presumption for or against either party as a result of such party being the principal drafter of this Agreement.

15. Independent Contractors: The parties to this Agreement are independent contractors. Neither party is an agent, representative, or partner of the other party. Neither party shall have any right, power or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture or partnership between the parties or to impose any liability attributable to such a relationship upon either party.

16. Governing Law: This Agreement will be governed by and construed in accordance with the laws of the State of Michigan, without giving effect to principles of conflicts of law.

17. Attorney's Fees: In any action or proceeding to enforce any of the terms or provisions of this Agreement or on account of the breach hereof, the party prevailing shall be entitled to recover all its expenses, including, without limitation, reasonable attorney's fees from the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**N CAPITAL, LLC**

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

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

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

**RECIPIENT:**

\_\_\_\_\_

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

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

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