

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Non-Disclosure Agreement ("Agreement") is made and entered into on the ____ day of _____, 2019 (the "Effective Date"), by and between _____ ("Budare Bistro Bistro") and _____ (the "Recipient"). Budare Bistro Bistro and the Recipient shall be referred to herein individually as a "Party" and collectively referred to herein as the "Parties".

WHEREAS, in connection with a proposed business relationship which Budare Bistro Bistro (the "Disclosing Party") discloses to the Recipient certain Confidential Information (defined below) before entering into a business relationship (the "Transaction"); and

WHEREAS, the Recipient agrees to receive such Confidential Information subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the above-stated premises as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions:

- a. **"Confidential Information"** shall mean information, whether written or oral, received by the Recipient or its Representatives (defined below) (either after or before the Effective Date) that relates to the Disclosing Party and is not generally available to the public, or which would reasonably be considered confidential and/or proprietary or which is marked "Confidential" or "Proprietary" by Disclosing Party. Without limiting the generality of the foregoing, Confidential Information includes (i) information relating to business operations, internal structure, financial or other economic information, confidential reports and lists of patients and referrers of patients, the nature and type of services, equipment and methods used and preferred by Disclosing Party's patients and the fees paid by such patients, pricing, accounting, personnel relations, marketing, patient health information, and patient or employee data or statistics, (ii) data, data bases, office software and other office systems, procedures, manuals, reports, programs, tapes, rolodexes, telephone and address books, card decks, listings, programming, and any other instruments, records or documents relating or pertaining to patients serviced by Disclosing Party; and (iii) all analyses, compilations, forecasts, studies, evaluations, or other documents prepared in connection with the review and possible consummation of the business relationship.
- b. **"Representatives"** shall mean the respective stockholders, partners, members, directors, officers, employees, affiliates, co-owners of any affiliates, representatives (including, without limitation, financial advisors, brokers, attorneys and accountants), or agents of the Recipient.

2. Non-Disclosure Obligations.

- (a) The Recipient, for a period beginning with the Effective Date, and continuing for three years from the cessation of unsuccessful negotiations or the consummation of the Transaction (by execution of the relevant document(s)), whichever occurs first, shall maintain and protect the confidentiality of the Confidential Information. The Recipient further agrees not to use Confidential Information for any purpose, except for the purposes of the Transaction.
- (b) Without the prior written consent of the Disclosing Party, the Recipient will not allow its Representatives to disclose to any unauthorized third party: (i) the fact that any valuation, investigation, discussions or negotiations are taking place concerning a possible Transaction involving the Parties, (ii) the fact that the Parties have requested or received Confidential Information from each other; or (iii) any of the terms, conditions or other facts with respect to the possible Transaction, including the status of the Transaction, the substance of any negotiations or any of the terms of this Agreement or its existence.
- (c) The Recipient shall limit access to the Confidential Information to those Representatives (i) who need to know such information solely for the purpose of developing or evaluating the Transaction; (ii) who have been informed of the confidential nature of such information; and (iii) who agree to act in accordance with the terms of this Agreement. The Recipient shall cause its Representatives to observe the terms of this Agreement and shall be responsible for any breach of this Agreement by any of its Representatives.
- (d) The restrictions set forth in this Section 2 shall not apply with respect to Confidential Information which the Recipient can clearly demonstrate (i) is already available to the public; (ii) becomes available to the public through no fault of the Recipient or its Representatives; (iii) is already known to the Recipient on a non-confidential basis, as shown by written records in its possession at the time that the Confidential Information was received; or (iv) becomes available on a non-confidential basis from a source that, to the best of the knowledge of the Recipient, is not under an obligation to the Disclosing Party.

3. Proprietary Interest. Nothing in this Agreement shall be construed to grant to Recipient a license to any Confidential Information disclosed or to any patents, trademarks, copyrights or any other intellectual property derived from the Confidential Information disclosed,

4. Disclosures Required By Law. In the event the Recipient is required by law, regulation or legal process to disclose any of the Confidential Information, the Recipient will promptly notify the Disclosing Party in writing prior to such disclosure. In such event, Disclosing Party may seek an appropriate protective order or waive compliance with the terms of this Agreement.

5. Return or Destruction of Confidential Information. If requested in writing by the Disclosing Party, Recipient will promptly deliver to the Disclosing Party all documents and other materials comprising Confidential Information, in the possession or under its control or its Representatives, together with all copies and summaries thereof; or provided that the Disclosing Party provides its prior written consent, the Recipient will destroy all documents and other materials constituting Confidential Information in its possession or under the control of its Representatives. Notwithstanding the delivery or destruction of Confidential Information and related materials required by this Section 5, any and all duties or obligations existing under this letter will remain in full force and effect.

6. Accuracy of Information. All Confidential Information disclosed hereunder is provided "AS IS". Disclosing Party, at this time, makes no implied or express representations or warranties as to the accuracy or completeness of the Confidential Information.

7. Costs and Liabilities. Except for the breach of any terms of this Agreement, neither Party nor any of its Representatives will have any liability to the other Party (except as may be provided by a separate agreement).

8. Remedies. Recipient acknowledges that remedies at law may be inadequate to protect the Disclosing Party against any actual breach of this Agreement, and without prejudice to any other rights and remedies otherwise available, the Recipient agrees that the Disclosing Party shall be entitled to seek injunctive or other equitable relief as a remedy for any such breach in a court of competent jurisdiction. Such a remedy shall not be deemed to be the exclusive remedy for a breach of this Agreement but shall be in addition to all other remedies available at law or equity. In the event of litigation relating to this Agreement, the substantially losing Party shall reimburse the substantially prevailing Party their costs and expenses, including, without limitation, reasonable legal fees and expenses, incurred in connection with all such litigation.

9. No Waiver. The Parties agree that no failure or delay by a Party in exercising any right, power or privilege hereunder will operate as a waiver thereof; nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

10. Choice Of Law. The Parties mutually acknowledge and agree that this Agreement shall be construed and enforced in accordance with the laws of the State of Florida, excluding any choice of law provisions. The Parties agree to consent to the exclusive jurisdiction of the state and federal courts of Indiana to resolve any dispute arising from this Agreement and waive any defense of inconvenient or improper forum.

11. Entire Agreement. This Agreement represents the entire agreement between the Parties concerning the subject matter hereof. No modifications of this Agreement or waiver of the terms and conditions hereof will be binding upon a Party unless approved in writing by the Parties.

12. Headings. The headings used herein are for convenience only and shall not be considered in construing or interpreting any of the provisions of this Agreement.

13. Assignment. The Parties shall not have the right to assign or transfer this Agreement or any rights or obligations hereunder to any other Party without prior written consent of the other Party.

14. Counterpart Signatures. This Agreement may be signed in counterparts with the same effect as if both Parties had signed one and the same document.

15. Notice. No notice or other communication shall be deemed given unless sent in any of the manners, and to the persons, as specified in this paragraph. All notices and other communications hereunder shall be in writing and shall be deemed given: (a) upon receipt if delivered personally (unless subject to clause (b) or if mailed by registered or certified mail return receipt requested); (b) at noon on the business day after dispatch if sent by a nationally recognized overnight courier for next morning delivery; or (c) upon the completion of transmission (which is confirmed by telephone or by a statement generated by the transmitting machine) if transmitted by telecopy or other means of facsimile which provides immediate or near immediate transmission to compatible equipment in the possession of the Recipient.

16. Miscellaneous. The terms and provisions of this Agreement shall be deemed severable, and in the event that any term or provision hereof or portion thereof is deemed or held to be invalid, illegal or unenforceable, such provision shall be conformed to prevailing law rather than voided, if possible, in order to achieve the intent of the Parties and, in any event, the remaining terms and provisions of this Agreement shall nevertheless continue and be deemed to be in full force and effect and binding upon the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the Effective Date.

BUDARE BISTRO NDA:

By: _____
Name: _____
Title: _____

RECIPIENT:

By: _____
Name: _____
Title: _____