



Mutual Non-Disclosure Agreement

This mutual non-disclosure agreement (“NDA”), dated _____, 2023 is between _____ (“Recipient”) with offices located at _____ and The Engenuity Group, LLC (“Engenuity”) with offices located 6204 Blue Nile Dr. Lawrence, KS 66049, as an agent for its client, who is hereby considered a third-party beneficiary.

The parties are contemplating a business relationship regarding EE client #1072, a New York City MEP/IT consulting engineering firm (the “Company”) and share a mutual desire to share sensitive non-public information on the terms further described in this NDA. In consideration of the mutual covenants along with other valuation consideration, the adequacy and sufficiency of which is acknowledged, parties will be bound by the following terms and conditions.

I. SCOPE

A. *Confidential Information*

The term “Confidential Information” is defined as non-public sensitive or proprietary material disclosed on or after the date hereof by one party (“Disclosing Party”) to the other (“Recipient”). The disclosure may be oral or written in any form including tangible, intangible and electronic media regardless of whether it is marked. Confidential Information includes any observations that a Recipient may make while in the Disclosing Party’s presence, or where the circumstances would reasonably suggest that the material is Confidential Information.

B. *Examples*

Examples of Confidential Information include, but are not limited to strategic plans, customer lists, sources of supply, cost data, pricing, financial statements, product mix, development plans, unpatented ideas, programming code, employee data, and sales strategies, notes, summaries or other derivative works made by Recipient containing the Confidential Information as well as the identity of a party’s client/s and any information, materials of the party’s client/s.

C. *Exclusions*

Confidential Information does not include material that (i) the Recipient or any of its Representatives (as defined below) possessed prior to its disclosure by the Disclosing Party, (ii) is independently developed by the Recipient or any of its Representatives without use of or reference to the Confidential Information, (iii) is or becomes available to the Recipient or any of its Representatives from a third party who, to the knowledge of the Recipient, had no corresponding obligation of confidentiality, or (iv) is or comes to be in the public domain via a method unrelated to and through no fault of Recipient in violation of this Agreement.

II. TREATMENT OF CONFIDENTIAL INFORMATION

A. *Use*

The Recipient will use Confidential Information solely for the purpose of evaluating or otherwise transacting business with the Disclosing Party. Circulation of Confidential Information within the Recipient’s organization will be limited to the Recipient’s affiliates and its and their respective directors, officers, members, managers, employees, agents, consultants, advisors, representatives, partners, prospective lenders and other prospective sources of capital (collectively, the Recipient’s “Representatives”) with a reasonable need to know in order to

accomplish essential job functions. As applicable, the Recipient will not reverse engineer, disassemble, decompile or design around proprietary services or intellectual property of Disclosing Party using it. With respect to Recipient, the term "Representatives" shall only apply to those persons who actually receive Confidential Information. Receipt of Confidential Information will not be imputed to any of Recipient's affiliates, affiliated funds or portfolio companies (thereby making any such person or entity subject to the provisions of this Agreement applicable to Recipient's Representatives) solely by virtue of the fact that one or more of Recipient's Representatives has received Confidential Information, unless and solely to the extent such Representative (i) conveys, shares or communicates, in any manner, Confidential Information to such affiliate, affiliated fund or portfolio company, or (ii) directly participates on behalf of such affiliate, affiliated fund or portfolio company in activities prohibited by this Agreement.

B. Storage

The Recipient will always protect Confidential Information while in its possession in a manner no less rigorous that it protects its own sensitive information. The Recipient will notify the Disclosing Party promptly if any Confidential Information is lost or obtained by a third party without authorization, regardless of fault.

C. Return

Upon termination or within ten (10) days after receipt of a written request, the Recipient will either return or confirm destruction (at the Recipient's option) of Confidential Information. The Recipient and its Representatives (i) may retain the Confidential Information to the extent such retention is required to demonstrate compliance with applicable law, or to comply with a bona fide document retention system or policy; (ii) may maintain backup copies as part of a disaster recovery plan implemented in the ordinary course of business; or (iii) shall not be required to return or destroy Confidential Information to the extent such Confidential Information is retained by respective counsel for evidentiary purposes.

D. Required Disclosure

Except as otherwise required by applicable law, Recipient may disclose Confidential Information in response to a validly issued and served subpoena. Prior to making such disclosure, the Recipient will notify Disclosing Party of receipt of the service of process, as soon as practicable, but in no case less than three (3) days from receipt. Upon receiving notice, the Disclosing Party may seek, at its sole cost, a protective order or other remedy. Recipient will cooperate with Disclosing Party by providing any necessary and proper assistance at no charge.

III. TERM

This NDA will commence upon the date of the execution by an authorized representative. This Agreement and all obligations arising hereunder shall automatically terminate of two (2) years from execution. However, obligations with respect to Trade Secrets as that term is defined and governed by applicable law will remain in effect until such time as the material is no longer a Trade Secret.

IV. NON-CIRCUMVENTION

The parties agree that the role of the business intermediary party is one where he is representing a client who has engaged the firm to find a suitable buyer/investor for the business, or an investor/buyer who has engaged firm to find suitable acquisition candidates and that in order to achieve that objective it is important that information flow from potential buyer/investor, the

business intermediary and its client must be one where the business intermediary is the direct recipient of all information and communications flow from either of the other two parties. Under no circumstances will the buyer/investor make any effort to circumvent that process and go directly to the intermediaries' client or others affiliated with that client unless an exception is made by the intermediary and its client and reduced to writing. This prohibition runs for two (2) years from the last date of interaction with the buyer/investor and the intermediary regarding this client.

V. MISCELLANEOUS

A. *Title*

Each Party retains title and interest to its respective Confidential Information. Recipient gains no other rights because of this NDA. Issuance of Confidential Information will not be construed as an assignment, grant, option or license of any such right.

B. *Freedom to Contract*

Neither party will be under any obligation to enter a business transaction including but not limited to a legally binding contract, investment, purchase or sale because of this NDA. This NDA does not prohibit or otherwise limit a party from engaging in business that may compete with the other party. However, Confidential Information cannot be used in a competing business that is detrimental to the Disclosing Party.

C. *Governing Law*

This NDA will be governed by the laws of the state of Delaware without giving effect to any choice or conflict of law provision or rule.

D. *No Warranty*

No express or implied representation or warranty is made of the accuracy or completeness of the Confidential Information. The Disclosing Party has no obligation to update Confidential Information as it may change.

E. *Assignment*

Neither Party may assign any of its rights or delegate any of its obligations with the prior written consent of the other. Purported assignments or delegations in violation of this NDA will be considered null and void.

F. *Waiver*

No waiver by any Party of any other the provisions will be effective unless explicitly articulated in writing and signed by the party waiving such provision.

G. *Acknowledgment*

Enginity and the Company understand that Recipient and its Representatives may currently or in the future be internally developing or receiving information from other parties that is similar to the Confidential Information. Accordingly, nothing contained in this Agreement shall restrict or prevent Recipient or its Representatives, now or in the future, from (i) developing products, concepts, services, or techniques that are similar to or compete with the Company, so long as neither Recipient or its Representatives have used any Confidential Information or provided any Confidential Information to any person in connection with the development of such products, concepts, services or techniques, or (ii) entering into any business arrangement (including an investment or acquisition) with companies that are similar to or compete or may in the future compete with the Company, so long as neither Recipient nor its Representatives have used any

Confidential Information or provided any Confidential Information to any person in connection with any such business arrangement in violation of the terms of this Agreement.


VI. SIGNATURE

A. Counterparts

This NDA may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. This Agreement may be executed or transmitted electronically. Electronic signatures will be deemed valid having the same legal as if it were physically executed. Use of an electronic signature will be consistent with the Electronic Signatures in Global and National Commerce Act (“E-Sign Act”), Title 15, United States Code, Sections 7001 et seq., the Uniform Electronic Transaction Act (“UETA”) and any applicable state law.

B. Authorized Representatives

Intending to be bound by the terms expressed in this NDA, the authorized representatives of each party affix their signature below to signify acceptance.

	THE ENGINUITY GROUP, LLC
By:	Signature: 
Name:	Name Printed: W. David Kimbrell
Its:	Its: CEO