

MUTUAL CONFIDENTIALITY AGREEMENT

This Agreement is entered into this ____ day of _____ 2024, by and between **Bank of Clarke** and _____, collectively referred to as “Parties” and each individually as a “Party”.

Each Party who provides confidential information or trade secrets to the other hereunder shall be referred to herein as a “Provider” and each Party who receives confidential information or trade secrets from the other hereunder shall be referred to as a “Recipient.” If each Party provides information or trade secrets to the other, then each shall be a “Provider” and each a “Recipient” such that all terms of this Agreement shall be mutual.

WHEREAS each Party intends to provide the other with certain business information which the Provider considers to be confidential and proprietary; and

WHEREAS each Party is willing to assure the other that it will receive and hold such information in confidence and trust and use and disclose such information only in support of the Purpose (as defined herein) for which it is provided.

WHEREAS Provider possesses certain ideas and information that is confidential and proprietary to Provider (hereinafter “Confidential Information” as defined below).

NOW THEREFORE, in consideration for the mutual undertakings of the Provider and the Recipient under this Agreement, the parties agree as follows:

1. Definitions.

- 1.3 “Purpose” shall mean the evaluation of a potential transaction or business relationship between the parties.
- 1.4 “Representative” shall mean any officer, director, manager, employee, trustee, investor, financing source, attorney, accountant, advisor, consultant, agent, independent contractor, or other authorized representative of either Party.
- 1.5 “Trade Secrets” shall mean any information, without regard to form, including, but not limited to, technical or nontechnical data, a program, a method, a technique, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which is not commonly known by or available to the public and which information: (a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy, or such other meaning as shall be assigned to that term from time to time by applicable state law. “Trade Secrets” also is deemed to include any customer information.

1.6 “Confidential Information” shall mean, without regard to form, (i) any confidential and proprietary information which is special and unique in nature; (ii) information that is non-public and not generally known or available to Provider’s competitors; or (iii) any information provided to Recipient by Provider clearly marked “confidential” on its face. Provider agrees to disclose, and Recipient agrees to receive, the Confidential Information in furtherance of the Purpose. The Parties agree that if they reach mutual agreement concerning a transaction, the terms of any such transaction will be described in a separate, written agreement between the parties.

2. Confidentiality.

- (a) **Nonuse.** Recipient agrees not to use the Confidential Information in any way, except for the Purpose set forth above.
- (b) **Nondisclosure.** Recipient shall not disclose Confidential Information directly or indirectly, under any circumstances by any means, to any person(s) not a party to this Agreement without the written consent of Provider nor shall Recipient directly or indirectly use, copy, digest or summarize any of the Confidential Information except for the Purpose. Recipient agrees to use its commercially reasonable efforts to prevent and protect the Confidential Information, or any part thereof, from disclosure to any person other than Recipient’s employees having a need for disclosure in connection with the Purpose set forth above.
- (c) **Protection of Secrecy.** Recipient agrees to take all commercially reasonable steps to protect the secrecy of the Confidential Information, and to prevent the Confidential Information from falling into the public domain or into the possession of unauthorized persons. Recipient shall exercise care in safeguarding the Confidential Information against loss, theft, or other inadvertent disclosure and shall generally take steps to ensure maintenance of confidentiality.

3. Limits on Confidential Information. Confidential Information shall be deemed proprietary, and the Recipient shall have no obligation with respect to such information where the information:

- (a) was known to Recipient prior to receiving any of the Confidential Information from the Provider.
- (b) has become publicly known without any wrongful act of Recipient.
- (c) was received by Recipient without breach of this Agreement from a third party without restriction as to the use and disclosure of the information; or
- (d) was independently developed by Recipient without use of the Confidential Information.

4. **Ownership of Confidential Information.** Recipient agrees that all Confidential Information shall remain the property of Provider. Nothing contained herein shall be construed as granting or implying any transfer of rights to Recipient in the Confidential Information, or any patents or other intellectual property protecting or relating to the Confidential Information.
5. **Non-Solicitation.** Neither Party will attempt to hire any employee of the other that such party learns about as a result of conversations, information, and data shared through this agreement for a period of one year from the date of execution of this document unless expressly agreed to, in writing, by both parties.
6. **Term and Termination.** This Agreement shall terminate three (3) years from the date hereof; provided, that the obligations of this Agreement with respect to Confidential Information disclosed during the term of this Agreement shall be continuing until the Confidential Information disclosed to Recipient is no longer confidential or until Recipient no longer possesses any Confidential Information.
7. **Survival of Rights and Obligations.** This Agreement shall be binding upon inure to the benefit of, and be enforceable by (a) Provider, its successors, and assigns; and (b) Recipient, its successors, and assigns.
8. **Return of Information.** It is agreed and understood by the parties that all Confidential Information furnished in writing by Provider to Recipient hereunder shall be and remains the exclusive property of Provider and will either be returned to Provider upon request or destroyed by Recipient, in either case within ten (10) days of written request by Provider. If Recipient elects to destroy such Confidential Information in its Possession, Recipient shall provide a written certificate to Provider confirming said destruction within ten days thereafter; provided, however, that the foregoing shall not apply to copies of the Confidential Information to the extent required to be retained by Recipient pursuant to applicable law, regulation, or Recipient's internal document retention policies, or normal computer backups; and, provided, further, that such copy shall only be used for purposes of complying with such law, regulation, or document retention policy.
9. **Limitations of Use.** Nothing contained in the Agreement shall be deemed to grant any rights or licenses to Recipient under or with respect to Confidential Information or any patents, patent applications or copyrights (published or unpublished) relating thereto which are owned or controlled by Provider.
10. **Other Remedies.** Due to the unique nature of the Confidential Information, the Parties agree any actual or threatened breach of this Agreement will cause irreparable injury to the disclosing party, for which a remedy at law may be inadequate. Therefore, Provider shall be entitled to seek equitable or injunctive relief in addition to other remedies to which it may be entitled at law or in equity. In any action for equitable relief, the parties waive any requirement for the posting of a bond or security.
11. **Entire Agreement.** This Agreement constitutes and expresses the entire agreement and understanding between the parties hereto in reference to all matters herein referred to; all

previous discussions, promises, representations and understandings relative thereto, if any, between the parties hereto, being herein merged.

12. **Modifications.** This Agreement may not be modified in any manner except by written amendment approved in writing by both parties.

13. **Choice of Law.** The terms and conditions of this Agreement shall be construed under the laws of the Commonwealth of Virginia.

14. **Legally Required Disclosure.** In the event that Recipient or any of its representatives are requested by, or become legally compelled by order or other legal process from any court, law enforcement agency, administrative agency, or other state or federal governmental regulator or self-regulatory organization having competent jurisdiction, to disclose any Confidential Information (by oral questions, requests for information or documents in legal proceedings or otherwise), Recipient shall, unless prohibited by law or regulation, promptly supply Provider with written notice of the existence, terms and circumstances surrounding such potential disclosure, so that Provider may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. If such protective order or other remedies are not obtained, or Provider waives compliance with the other provisions of this Agreement, Recipient will furnish only that portion of Confidential Information that Recipient's counsel advises that Recipient is legally required to furnish. Notwithstanding the foregoing, Recipient may disclose Confidential Information without notice to the Provider in response to a request from a legal or regulatory authority which is received in the ordinary course of business and is not specifically targeted at the Provider or the Confidential Information, solely for the purpose of complying with the regulatory authority.

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

Bank of Clarke

Brandon Lorey
Signature

President & CEO
Title

7/9/2024
Date

Signature

Title

Date