**CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

Confidentiality and Non-Disclosure Agreement (this “Agreement”) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2022, between OptConnect Management, LLC “OptConnect”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Company”).

OptConnect and the Company wish to have discussions regarding (the “Permitted Purpose”) and, in order to further the purposes of such discussions, the Company may share with OptConnect Confidential Information (as hereinafter defined) with respect to the Company, and OptConnect may share with the Company Confidential Information with respect to OptConnect, which is nonpublic, confidential or proprietary in nature. The parties acknowledge that such Confidential Information has been provided with the understanding that such Confidential Information shall remain confidential and will be utilized solely for the Permitted Purpose and that a condition to the sharing of such Confidential Information is the parties’ mutual willingness to enter into and comply with the provisions of this Agreement. The parties hereto desire to set forth their rights and obligations regarding such Confidential Information.

NOW THEREFORE, in consideration of the foregoing, the mutual covenants contained herein and other valid consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. As used herein, “Confidential Information” means all information that is non-public, confidential or proprietary in nature furnished by or on behalf of a party hereto (the “Delivering Party”) to the other party hereto (the “Receiving Party”) or its Representatives which relates to the Delivering Party or its affiliates, whether furnished before, on or after the date of this Agreement and whether furnished orally, visually or in written, electronic or any other form or manner, together with analyses, compilations, studies or other documents or records prepared by the Receiving Party or any of its Representatives to the extent that such analyses, compilations, studies, documents or records contain or otherwise reflect or are generated from such information. The term “Confidential Information” does not include information that the Receiving Party can prove (a) is or becomes generally available to the public other than as a result of a disclosure by the Receiving Party or its Representatives in breach of this Agreement, (b) was or is obtained by the Receiving Party or one of its Representatives on a non-confidential basis from a third party who, after reasonable inquiry, is not known by the Receiving Party to be bound by a confidentiality obligation to the Delivering Party or (c) was or is independently developed by the Receiving Party or its Representatives without the aid or use of, or reference to, directly or indirectly, any Confidential Information.

The term “Representatives” means, with respect to any person, such person’s affiliates and such person’s and its affiliates’ respective directors, officers, managers, partners (general or limited), employees, agents, advisers (including, without limitation, consultants, financial advisors, investment bankers, attorneys and accountants), contractors, subcontractors and other representatives, in each case who receive Confidential Information. The term “person” means any individual, corporation, company, partnership, trust, limited liability company or other entity or third party.

1. The Receiving Party agrees that it will not, and will direct its Representatives not to, (a) disclose or otherwise disseminate the Delivering Party’s Confidential Information to any person (other than the Receiving Party and its Representatives) except as expressly permitted by this Agreement or (b) use the Delivering Party’s Confidential Information, or permit it to be accessed or used, for any purpose other than in connection with the Permitted Purpose. The Receiving Party further agrees that it will, and will direct its Representatives to, protect and safeguard the confidentiality of the Delivering Party’s Confidential Information. The Receiving Party agrees that it shall be responsible for any action or failure to act by its Representatives that would constitute a breach or violation of this Agreement by its Representatives. If the Receiving Party or any of its Representatives is requested or required by court order, subpoena or other legal, regulatory or supervisory process or requirement to disclose any of the Delivering Party’s Confidential Information, the Receiving Party or such Representative, as the case may be, will give, to the extent practicable and permissible by applicable law or regulation, prompt notice thereof to the Delivering Party so that the Delivering Party may, at its own cost and expense, seek a protective order or confidential treatment of such Confidential Information. The Receiving Party or its Representative may disclose that portion, and only that portion, of the Delivering Party’s Confidential Information, which, in the advice of its legal counsel, it is required or requested to disclose, and will exercise reasonable efforts to seek assurance that the Delivering Party’s Confidential Information so disclosed will be treated confidentially. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information without notice to the Delivering Party in connection with general requests from legal or regulatory authorities not specifically directed at the Delivering Party or its Confidential Information.
2. All of the Delivering Party’s Confidential Information disclosed pursuant to this Agreement will be and will remain the property of the Delivering Party. No transfer of any rights to Confidential Information is intended or implied hereunder. At any time upon the Delivering Party’s request, the Receiving Party shall, and shall direct its Representatives to, promptly (at the Receiving Party’s option) return, destroy or delete the Delivering Party’s Confidential Information held by it or its Representatives (whether directly or on behalf thereof), and will not retain any copies, extracts or other reproductions, in whole or in part, of such material. Notwithstanding the foregoing, the Receiving Party and its Representatives may retain the Delivering Party’s Confidential Information in accordance with applicable document retention laws or regulatory rules and regulations or the Receiving Party’s or its Representatives’ record retention policies and back-up archiving procedures; provided, that in each case, such retained copies shall remain subject to the terms of this Agreement.
3. Each party represents and warrants that this Agreement is a valid and binding obligation of such party, enforceable against it in accordance with its terms.
4. The Receiving Party agrees that money damages would be both incalculable and an insufficient remedy for any breach or threatened breach of its or its Representatives obligations under this Agreement and that, in addition to any other remedy available to the Delivering Party, the Delivering Party shall be entitled to seek appropriate injunctive relief and specific performance, without posting a bond or other security or proof of actual damages, in the event of any such breach or threatened breach by the Receiving Party or any of its Representatives.
5. The Receiving Party acknowledges and agrees that neither the Delivering Party nor any of its Representatives is making any representations or warranties, express or implied, as to the accuracy or completeness of the Confidential Information provided to the Receiving Party. The Receiving Party agrees that neither the Delivering Party nor any of its Representatives shall have any liability to the Receiving Party or to any of its Representatives as a result of the use of the Delivering Party’s Confidential Information by the Receiving Party and its Representatives except as provided in any definitive agreement relating to the Permitted Purpose.
6. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware applicable to agreements made and to be performed within such state. To the fullest extent permitted by law, each party waives trial by jury in any action, proceeding or counterclaim brought by or on behalf of either party with respect to any matter relating to this Agreement. Each party agrees that any service of any process, summons, notice or document sent by registered or certified mail (postage pre-paid) to its address set forth on the signature page hereto shall be effective service of process for any action, suit or proceeding brought against it in any court; provided that nothing herein shall affect the right to serve process in any other manner permitted by law.
7. This Agreement shall remain in effect for three years from the effective date hereof. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, and all prior agreements, understandings, writings, or negotiations, whether written or oral, are hereby superseded. This Agreement may be modified or amended only by a separate writing signed by each of the parties hereto expressly so modifying or amending this Agreement. No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and permitted assigns. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same instrument.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF the parties hereto have caused their duly authorized representatives to execute and deliver this Agreement as of the date first above written.

OPTCONNECT MANAGEMENT, LLC

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

Name:

 Title:

Address: 865 West 450 North

 Suite 1

 Kaysville, UT 84037

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Name:

Title:

Address: \_\_\_\_\_\_\_\_\_