Founders Agreement

The undersigned (each a “**Founder**” and together the “**Founders**”) are collaborating with the purpose of developing together a Business Concept, as defined below.

The following business idea (the “**Business Concept**”) is the subject of this Agreement:

[DESCRIBE BUSINESS IDEA]. The Business Concept is defined broadly and will include any pivots or changes of strategy agreed by the Founders at any time in accordance with this Agreement and any other binding agreements between the Founders.

In connection with creating the Business Concept, and in consideration for a mutually agreeable framework which will serve as the foundation for the Founders to successfully develop the Business Concept, the undersigned hereby agree as follows:

Transfer of Ownership to Company Upon Formation

**Ownership.** The Founders own the Business Concept pursuant to this Agreement. The Founders will transfer the Business Concept to a [Delaware corporation] (the “**Company**”) that will be formed by the Founders within [three (3) months] of the execution of this Agreement.

**Transfer.** Each Founder will grant and assign to the Company immediately upon its formation all of his or her right, title, and interest in and to the Business Concept, including all ideas (however formed or unformed) and labor and work product that results from any task or work performed by the Founder that relates to the Business Concept for the full term of such rights (“**Intellectual Property**”). Each Founder will also perform any and all acts and execute all documents and instruments as may be required by the Company at its sole discretion to perfect title in the Business Concept.

The Founders hereby irrevocably grant the Company power of attorney to execute and deliver any such documents on their behalf and in their name and to do all other lawfully permitted acts to transfer the Intellectual Property to the Company and further the transfer, issuance, prosecution and maintenance of all rights in and to the Intellectual Property, to the fullest extent permitted by law, if they do not promptly transfer all Intellectual Property to the Company. This power of attorney is coupled with an interest and will not be affected by a Founder’s subsequent incapacity.

**Consent to Future Transfers.** Any future agreement that requires an ownership interest in the Business Concept to be transferred to a third party before the formation of the Company must be agreed upon by each Founder. In the event of such an agreement, the obligations of this Agreement must be disclosed to that third party.

Business Structure and Ownership

**Ownership Structure.** Upon formation of the Company, and subject to the other provision of this Agreement, the ownership interests (each a “**Percentage Interest**”) in the Company will reflect the following:

|  |  |  |
| --- | --- | --- |
| Person | Company Role | Percentage Interest |
| [FOUNDER 1] | [Chief Executive Officer] | [XX]% |
| [FOUNDER 2] | [Chief Operating Officer] | [XX]% |
| [FOUNDER 3] | [Chief Technology Officer] | [XX]% |
|  | **TOTAL** | **[XX]%** |

**Dilutive Impact of Future Equity Grants.** The Founders agree that any future equity grants to employees, independent contractors and/or investors will dilute the Founders equally.

**Founders as Directors.** Upon formation of the Company, the Founders agree that each Founder will be appointed to serve as a Director of the Company. The Founders agree that no other individuals will serve as the initial Directors of the Company. The Founders and the Company may later choose to add Directors in accordance with the procedures in the Company’s governing documents for modifying the composition of the Board of Directors.

Founders’ Vesting Schedules

All Founders’ Percentage Interests in the Company will vest pursuant to a four (4)-year vesting schedule beginning the day the Company is formed. A Founder’s Percentage Interest will vest 1/48th per month in exchange for continuous and consecutive service to the Business Concept. Should a Founder cease working with the Company within one (1) year of its formation (the “**One-Year Cliff**”), that Founder will forfeit any previously vested Percentage Interest.

Impact of Certain Events on Vesting

The Percentage Interest issued to each Founder will vest accordingly:

**Unvested Ownership.** If a Founder who is subject to a vesting schedule departs the Company prior to full vesting of that Founder’s Percentage Interest, the remaining portion of any unvested Percentage Interest will be split equally among the remaining Founders, subject to their own respective vesting schedules.

**Sabbatical.** A Founder will be allowed to take a single, complete break from providing any services to the Company (a “**Sabbatical**”) of up to six (6) consecutive months from the Company. Upon the first day of a Sabbatical, all Percentage Interest vesting for that Founder will pause. Time on Sabbatical will be excluded for the purpose of calculating the One-Year Cliff. Upon the Founder’s return to the Company, vesting will resume on the previous schedule. For every full three (3) months of Sabbatical taken, a Founder will forfeit 1.5% of that Founder’s remaining unvested Percentage Interest. The forfeited Percentage Interest will be split equally among the remaining Founders, subject to their own respective vesting schedules. If a founder is on Sabbatical for more than a full three (3) months, that Founder will forfeit that Founder’s seat on the Company’s Board of Directors. Such seat will be reinstated at the earliest regularly scheduled Board election or vacancy, consistent with the Company’s bylaws, upon a Founder’s return to the Company.

**Part-Time Work.** A Founder will be allowed to work for the Company on a part-time basis. Part-time will mean any work performed when the Company is not the Founder’s sole employer. For every full three (3) consecutive or non-consecutive months a Founder works for the Company on a part-time basis, that Founder will forfeit 1.00% of that Founder’s remaining unvested Percentage Interest. The forfeited interest will be split equally among the remaining Founders, subject to their own respective vesting schedules. Should a Founder work on a part-time basis for a full twelve (12) consecutive or non-consecutive months, that Founder will meet with the Company’s Board of Directors to re-evaluate that Founder’s role and vesting schedule.

Founders’ Rights

Each Founder will have the same rights (including but not limited to voting and distribution rights) accorded to the Percentage Interest issued to each Founder.

Transfers of Ownership

**Transfer Restrictions.** No Founder will sell, pledge or otherwise transfer (collectively “**Transfer**”) to an individual or entity who is not a Founder within the meaning of this agreement (a “**Third Party**”) any vested Percentage Interest acquired under this Agreement, or any interest in such Percentage Interest, without the prior written authorization of the Company’s Board of Directors.

**Right of First Refusal.** If a Founder proposes Transfer to a Third Party any vested Percentage Interest acquired under this Agreement, or any interest in such Percentage Interest, the Company will have a right of first refusal with respect to all (and not less than all) of such Percentage Interest proposed to be Transferred (a “**Right of First Refusal**”). To the maximum extent allowed by law, this right will apply to involuntary Transfers or other Transfers made by operation of law (including, but not limited to, Transfers resulting from death, divorce, or incapacity). Such Right of First Refusal will operate as follows:

The Founder seeking to Transfer that Founder’s Percentage Interest will deliver a written notice (a “**Notice**”) to the Company stating:

the Founder’s bona fide intention to Transfer such Percentage Interest;

the name and the address of the proposed transferee;

the amount of the number of Percentage Interest to be transferred; and

the purchase price and terms of payment for which the Founder proposes to Transfer such Percentage Interest.

Within 60 days after receipt of the Notice, the Company or its designee will have the first right to purchase or obtain such Percentage Interest, upon the price and terms of payment designated in the Notice. If the Notice provides for the payment of non-cash consideration, the Company at its option may pay the consideration in cash equal to the Company’s good faith estimate of the present fair market value of the noncash consideration offered. Should the Company not respond to the Notice within 60 days of receipt, the Company will be deemed to have declined to exercise the Right of First Refusal.

If the Company or its designee elects not to purchase or obtain all of the Percentage Interest designated in the Notice, then the Founder may Transfer the Percentage Interest referred to in the Notice to the proposed transferee, provided such Transfer:

is completed within 30 days after the expiration of the Company's right to purchase or obtain such Percentage Interest;

is made at the price and terms designated in the Notice; and

the proposed transferee agrees to be bound by the transfer restrictions outlined in this Agreement and the Company’s governing documents immediately upon receipt of such Percentage Interest.

# Drag Along and Tag Along

Any vested Percentage Interest held by the Founders is subject to drag along (“**Drag Along**”) and tag along (“**Tag Along**”) rights. Drag Along rights in this context permit an acquirer to force a minority shareholder to sell that shareholder’s Percentage Interest on the same terms as all other Percentage Interests being sold so long as the Company’s Board of Directors has authorized the sale and it has been duly ratified. Tag Along rights in this context permit a minority shareholder to force an acquirer to acquire a pro rata amount of that minority shareholder’s Percentage Interest on the same terms as all other Percentage Interests proposed to be acquired by that acquirer so long as the Company’s Board of Directors has authorized the sale and it has been duly ratified.

Buyback

Should a Founder depart the Company prior to the Company receiving third-party investments totaling, in aggregate, $[1,000,000] or more, the Company will have the right to buy back the departed Founder’s vested Percentage Interest at the price paid by that Founder for the Percentage Interest.

Preferential Dilution

For this purposes of this provision, “**Cause**” will mean:

1. a Founder’s death, disability, or incapacity such that the Founder is no longer able to perform the Founder’s duties with the Company;
2. a Founder being convicted of, or pleading nolo contendere to, a felony or misdemeanor;
3. a Founder committing an act of fraud, bad faith, moral turpitude, or willful misconduct against the Company; or
4. any action or inaction taken by a Founder that the Company’s Board of Directors, in its sole discretion, believes is to the detriment of the Company.

Cause also includes any of the above grounds regardless of whether the Company learns of them before or after terminating a Founder’s employment.

**Two to One Dilution.** If a Founder:

### is on Sabbatical;

is working for the Company on a part-time basis;

is terminated by the Company with Cause; or

resigns from the Company without Cause,

and the Company, by action of its Board of Directors, modifies the ownership structure of the Company in any way resulting in the dilution of ownership held by the Founders, any vested equity held by that Founder will be subject to accelerated dilution at a rate of two (2) to one (1) as compared to remaining Founders. This provision may be waived by all Founder’s written assent at the time of dilution.

**Five to One Dilution.** If a Founder:

### is terminated by the Company with Cause; or

resigns from the Company without Cause,

and the Company, by action of its Board of Directors, modifies the ownership structure of the Company in any way resulting in the dilution of ownership held by the Founders, any vested equity held by that Founder will be subject to accelerated dilution at a rate of five (5) to one (1) as compared to remaining Founders. This provision may be waived by all Founder’s written assent at the time of dilution.

Sale of the Company

Sale of the Company to an interested third party will take place only if the sale is authorized by the Company’s Board of Directors, has been duly ratified, and otherwise conforms to all applicable state and federal laws.

Confidentiality

The Founders will keep the Business Concept confidential. A Founder may disclose the Business Concept only on an as-needed basis and only upon agreement of all Founders. Upon the formation of the Company, the Founders may further detail and define any additional confidentiality obligations.

Contractual Communication and Dispute Resolution

**Schedule**. If the Founders have not yet formed a Company within [three (3) months] of executing this Agreement, the Founders will have 15 additional days to take substantial steps toward forming the Company. If the Company has still not been formed after 15 days, the Founders will execute a separation agreement which divides rights to the Business Concept and any other assets accumulated by the Founders in pursuit of developing the Business Concept. The Founders will further define any and all confidentiality obligations related to the Business Concept within the separation agreement.

**Arbitration**. In the event that the Founders are not able to agree on a separation agreement, the Founders will submit to a binding confidential arbitration to be held in Ithaca, New York (or other location agreed upon by all Founders) and conducted by a mutually agreed to arbitrator. Should Founders be unable to agree upon a single arbitrator, each will select an arbitrator to serve on an arbitration panel in lieu of a single arbitrator. In the event an arbitration panel is utilized, the arbitrators, as selected by the Founders, will internally determine which arbitrator will serve as the chair of the proceedings. In doing so, the arbitration panel will ensure that it has an odd number of arbitrators. Should there be an even number of arbitrators on the panel, the arbitrators, as selected by the Founders, will be empowered to appoint one additional arbitrator to chair the proceedings and break any tie votes that may arise.

Arbitration will be conducted in accordance with rules promulgated by the American Arbitration Association (AAA) as in effect at the time of the arbitration. Alternative rules may be utilized if agreed upon by all Founders.

All provisions of this Agreement, including confidentiality provisions, will be binding up through the end of this arbitration process. Costs of the arbitration will be borne equally by all Founders. Decisions made by an arbitrator will be final unless unanimously modified by agreement of the Founders.

Agreement and Deadlock

**Decision Threshold.** Unless otherwise specified in the Company’s governing documents, a majority vote of the Founders will be necessary to authorize the Company’s actions. This provision will not apply to the following actions, each of which will require the unanimous approval of all Founders who remain with the Company:

### Alter the monetary compensation of any Founders.

Amend, modify, or waive any provisions of the Company’s constituent documents or this Agreement.

Issue any additional Percentage Interest, equity securities, or other securities.

Appoint or remove any officers of the Company.

Authorize a transaction involving an actual or potential conflict of interest between a Founder and the Company.

Authorize the payment of any dividend or return of capital;

Incur any indebtedness, pledge or grant Liens on any assets, or guarantee, assume, endorse, or otherwise become responsible for the obligations of any other person, in each case in excess of $[50,000] in a single transaction or series of related transactions, or in excess of $[200,000] in the aggregate at any time outstanding.

Make any loan or advance to, or a capital contribution or investment in, any person.

Enter into or effect any transaction or series of related transactions involving the purchase, lease, license, exchange, or other acquisition (including by merger, consolidation, sale of stock, or acquisition of assets) by the Company of any assets and/or equity interests, other than in the ordinary course of business consistent with past practice.

Enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange, or other disposition (including by merger, consolidation, sale of stock, or sale of assets) by the Company of any assets and/or equity interests, other than sales of inventory in the ordinary course of business consistent with past practice.

Settle any lawsuit, action, dispute, or other proceeding or otherwise assume any liability with a value in excess of $[10,000] or agree to the provision of any equitable relief by the Company;

Dissolve, wind up, or liquidate the Company or initiate a bankruptcy proceeding involving the Company.

**Deadlock.** Should a vote among the Founders not result in a conclusive outcome, the Founders will, at any Founder’s demand, submit to a binding confidential arbitration in accordance with the arbitration procedures set forth in Section (12)(b).

Should any Founder object to arbitration, that Founder may, at that Founder’s own election, invoke a [“Russian Roulette”] [“Texas Shootout”] [“Dutch Auction”] buy-sell right. The invoking Founder will serve notice to the other Founders stating the notifying Founder’s perceived value of the joint venture. The Founders receiving the notice must then either sell all their respective Percentage Interests to the other Founder at that price or purchase all of the invoking Founder’s Percentage Interest at that price.

Representations and Warranties

Each Founder represents and warrants that such Founder is not a party to any other agreement that would restrict such Founder’s ability to perform its obligations as set forth in this Agreement. Each Founder represents and warrants that no third party can claim any rights to any intellectual property or other proprietary right possessed by that Founder as it relates to the Business Concept.

Re-evaluation

The Founders agree that this Agreement will be reevaluated [five (5) months] after its execution. All Founders agree to, in good faith, examine the document, and evaluate any changes as they might see necessary to further the best interests of the Company. [At the time of re-evaluation, the Founders will also evaluate and attempt to agree corporate officer assignments.] Nothing in this section will be construed to compel the Founders to amend any provision of this Agreement during the reevaluation.

Amendment

This Agreement may be amended at any time by the unanimous written agreement of all Founders.

Choice of Law

This Agreement will be governed by and construed in all respects in accordance with the laws of the State of [New York] without giving effect to any choice or conflict of law provision or rule that would cause the application of laws of any other jurisdiction.

By signing below, the Founders submit that they agree to all of the above terms and conditions.

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[FOUNDER 1] Date

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[FOUNDER 2] Date

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

[FOUNDER 3] Date