



NON-DISCLOSURE AGREEMENT

This NON-DISCLOSURE AGREEMENT is made and entered into as of the date of the last signature below (Effective Date), between the Regents of New Mexico State University (NMSU), located at Anderson Hall, 1050 Stewart St, Las Cruces, NM 88003-8002, and Collaborator.

Key Terms:

Collaborator:	BorderPlex Digital Assets, LLC
Collaborator's Address	600 Congress Ave, Suite 15041 Austin, TX 78701
NMSU's Responsible Person	Name: Dr. Pei Xu
	Address:
	Telephone:
	Email Address: pxu@nmsu.edu
Collaborator's Responsible Person	Name: Harvey Powers
	Address (if different than above): [same as above]
	Telephone: 713-458-0598
	Email Address: hpowers@borderplexdigital.com
Purpose of Information Exchange:	Fixed Price, Cost Reimbursable Agreement that provides support to the NM OSE investigation into the brackish resource in the Santa Teresa area.

WHEREAS, NMSU and Collaborator desire to disclose to each other Proprietary Information (as defined below) for the sole purpose of exchanging information related to the Purpose of the Information Exchange (See Key Terms).

NMSU and Collaborator agree as follows:

- 1.1 NMSU and Collaborator each agree to employ reasonable efforts to keep in confidence and prevent the disclosure to any person(s) outside their respective organizations or any

person(s) within their organizations not having a need to know, all information received from the other which is designated in writing and by appropriate stamp or legend to be of a proprietary nature or confidential (hereafter "Proprietary Information") and will not use Proprietary Information for purposes other than the Purpose; provided, however, neither party will be liable for disclosure or use of such information if the same is

- (a) in the public domain at the time of disclosure, or is subsequently made available to the general public without restriction by the disclosing party;
- (b) known to receiving party at the time of disclosure without restrictions on its use or is independently developed by the receiving party; and there is adequate documentation to demonstrate either condition;
- (c) used or disclosed with the prior written approval of the disclosing party;
- (d) disclosed without restriction to the receiving party from a source other than the disclosing party; or;
- (e) used or disclosed after a period of five (5) years after the date of receipt.

- 1.2 In the event any law or governmental or judicial order requires the disclosure of Proprietary Information, the recipient of such Proprietary Information's Responsible Person must promptly but in any event prior to such disclosure notify the originator of the Proprietary Information's Responsible Person and provide reasonable aid and assistance if the originator decides to oppose such law or governmental or judicial order. The recipient will not be liable for any disclosure of Proprietary Information made pursuant to such law or governmental or judicial order if it has complied with the provisions of this paragraph.
- 1.3 No sheet or page of any written material will be labeled Proprietary Information that is not, in good faith, believed to contain Proprietary Information. A recipient of Proprietary Information hereunder will have no obligation with respect to any portion of any written material which is not so labeled, or any information received orally or visually unless it is identified by the originator at time of disclosure as being Proprietary Information and a written summary of such oral or visual communication, specifically identifying the items of Proprietary Information, is furnished to the recipient within thirty (30) business days after the initial disclosure.
- 1.4 If any portion of either NMSU or Collaborator's Proprietary Information falls within any one of the above exceptions, the remainder will continue to be subject to the foregoing prohibitions and restrictions.

2. Each party must protect the Proprietary Information of the other party using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication of the confidential information as that party uses to protect its own Proprietary Information of comparable importance.
3. [The Responsible Person or designee, see Key Terms, is the only person that is authorized to send or receive Proprietary Information under this agreement.]
4. Prior to disclosure of Proprietary Information to any employee, board member, consultant, or advisor, each party must fully advise such person that he or she is required to hold in confidence all information and that such information is not to be disclosed to persons outside his or her organization or to any other person not directly concerned with furthering the Purpose. The parties will maintain between themselves and their employees, board members, consultants, and advisors duly binding agreements by such persons as may be necessary to fulfill their obligations under this Agreement.
5. This Agreement may be terminated at any time by either party giving thirty (30) days prior written notice to the other party. Unless earlier terminated, this Agreement and the exchange of Proprietary Information will expire one (1) year from the Effective Date and any information exchanged after such termination or expiration will not be considered Proprietary Information. The parties' obligation to protect Proprietary Information will survive any such expiration or termination.
6. No rights or obligations other than those expressly recited herein are to be implied from this Agreement. No rights or benefits are conferred to any third-party by or through this Agreement.
7. All documents, drawings and writings disclosing Proprietary Information and all copies thereof must be returned promptly by a party to the other party upon receipt of a request therefor or following termination or expiration of this Agreement, except that recipient may keep one archival copy for evidentiary purposes only. All Proprietary Information provided to the receiving Party will remain the property of the initial disclosing Party.
8. This Agreement merges all prior discussions and is the entire understanding and agreement of the parties relating to the protection of Proprietary Information; neither party will be bound by any additional or other representation, condition, or promise except as subsequently set forth in a writing signed by the party to be bound.
9. This Agreement does not create any obligation upon a Party to provide information to

another Party. This Agreement does not create a joint venture, partnership, or other form of business association between the Parties.

10. The parties must adhere to any applicable U.S. and foreign export control laws and regulations and may not export or re-export any technical data or products received or the direct product of such technical data except in compliance with the applicable export control laws and regulations of the U.S. and any foreign country.
11. The failure of a Party to enforce a right under this Agreement will not be deemed a waiver of any subsequent right.
12. Disclaimers: EACH DISCLOSING PARTY PROVIDES PROPRIETARY INFORMATION SOLELY ON AN "AS IS" BASIS AND WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND CONCERNING ITS ACCURACY OR COMPLETENESS.
13. The validity and interpretation of this Agreement will be governed by the laws of the State of New Mexico, applicable to agreements made and to be performed wholly within such jurisdiction.

IN WITNESS WHEREOF, duly authorized representatives of the undersigned parties have executed this Non-Disclosure Agreement as of the Effective Date.

REGENTS OF NEW MEXICO STATE UNIVERSITY

for

Alisha A. Giron

Date

Associate Vice President, Research Administration

COLLABORATOR



Harvey Powers February 14, 2025

Chief Financial Officer