

**MUTUAL NON-DISCLOSURE AGREEMENT**

This Nondisclosure Agreement (the "**Agreement**") is made effective as of \_\_\_\_\_ (the "**Effective Date**") between \_\_\_\_\_ ("**Counter Party**") with principal offices at \_\_\_\_\_ and Buildscale, Inc. (d/b/a Vidyard) with principal offices at: 8 Queen St. N Unit 1, Kitchener, ON Canada (referred to as "**Vidyard**" and together with Counter Party as the "**Parties**" and individually as a "**Party**").

**Whereas** the Parties have agreed to exchange written and verbal technical, financial, business, market, and related information, and may exchange prototypes and samples of products or potential products (collectively, "**Products**") and or processes and techniques (collectively, "**Processes**") which may be either proprietary or confidential in nature, or both, in order to facilitate discussions relating to a potential business relationship between the Parties.

**Now, therefore**, the Parties agree as follows:

- 1. Definition. "Confidential Information"** means any information concerning the business, properties, affairs or finances of a Party, including, without limitation, trade secrets, business and financial information, customer lists, business studies and analyses, terms and conditions relating to the provision of any Products, Processes or related services (including price) and any and all offers, proposals, notes, memoranda, reports, lists and records, whether written, printed or in digital format, oral, electronic or disclosed in visual form or otherwise, relating to any matter within the scope of the business of the disclosing Party or concerning any of its dealings or affairs is disclosed in circumstances that would lead a reasonable person to believe such information is confidential, and/or includes any and all intellectual property owned by the disclosing Party, including, without limitation, all technical information, technical data, inventions, Products, Processes, data, algorithms, designs, methods, know-how, processes, copyrights, patents, trade secrets, software, models, patterns, drawings, specifications, prototypes, discoveries, techniques, systems, works of authorship, ideas and concepts. The Parties acknowledge and agree that the terms of any price quotations, details of subscription and/or service plans, contracts, offers, promotions, rates and/or discounts provided by the disclosing Party are confidential.
- 2. Obligation of Confidentiality.** All Confidential Information acquired by a receiving Party, directly or indirectly is, and shall be treated by the receiving Party, as valuable, proprietary and Confidential Information of the disclosing Party, and the receiving Party shall use 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 the receiving Party uses to protect its own Confidential Information of a similar nature. Each Party agrees that it shall keep all Confidential Information received from the other strictly confidential and that it shall not disclose, directly or indirectly, any Confidential Information to any third parties unless explicitly authorized by the disclosing Party, or to any of its employees except for those of its employees, directors, officers, agents and advisors (collectively, "**Representatives**") who have a legitimate need to know such Confidential Information for purposes for which it was disclosed. The receiving Party shall advise all authorized third parties and Representatives of the confidentiality obligation contained in this Agreement and shall ensure that such individuals are: (i) subject to a non-disclosure agreement with the receiving Party that is not less restrictive than the terms of this Agreement; or (ii) have an independent obligation to maintain the confidentiality of such Confidential Information. The receiving Party shall not make use of any of the Confidential Information, other than for the purpose for which it was provided, without the disclosing Party's prior written consent. The receiving Party shall not reverse engineer, decompile or disassemble any software or Products which is Confidential Information.
- 3. Misappropriation or misuse of Confidential Information.** Each Party will advise the other in writing of any misappropriation or misuse by the receiving Party or its Representatives of such Confidential Information of which it may become aware.
- 4. Ownership of Confidential Information.** All right, title and interest in and to the Confidential Information is and shall remain with the disclosing Party. Neither Party shall acquire any intellectual property rights, including patents, designs, trademarks, copyright or trade secrets or any license under any trade secret, patent, patent application, industrial design, trademark, copyright, mask work, confidential process, formula, plan, computer program, data in or to any Confidential Information of the other pursuant to this Agreement, except the limited

rights to use the Confidential Information to carry out the purposes set forth herein. No license to either party of any trademark, patent, Product, Process, copyright or any other intellectual property right is either granted or implied by this Agreement or any disclosure hereunder.

5. **Exceptions to Confidentiality Provisions.** Each Party agrees that they shall have no obligations under this Agreement with respect to any Confidential Information of the disclosing Party which: (i) was lawfully known or in the possession of the receiving Party, prior to disclosure from the disclosing Party, without an obligation to keep it confidential (ii) is or becomes publicly available without breach of this Agreement; (iii) is received from another source who can disclose the Confidential Information lawfully and without an obligation to keep it confidential (iv) is independently developed by the receiving Party by individuals with no knowledge of, and without use of or access to the disclosing Party's Confidential Information; (v) or is disclosed by the receiving Party with the disclosing Party's prior written approval; provided that, notwithstanding the foregoing, any use by a Party of Confidential Information to obtain information that would satisfy the conditions set out in paragraphs (i) – (iv) above shall, for greater certainty, constitute a breach of this Agreement.
6. **Disclosure Required by Law.** Each Party may disclose the other's Confidential Information if required to be disclosed by a court of competent jurisdiction or other governmental authority, provided, however, that the Party so ordered will, to the extent permitted by applicable law, (i) give prompt written notice to the other of any such order and (ii) will not disclose any Confidential Information until the disclosing Party has been provided with a reasonable opportunity to limit or prevent such disclosure, and in the event the disclosure cannot be prevented, shall disclose only to the extent required and only that portion thereof required to be disclosed.
7. **Return or Destruction of Confidential Information.** Each of the Parties agrees that, upon written request, all Products and all documents, disks, and any other materials (including all copies) containing Confidential Information, will be, at the option of the receiving Party, (i) returned to the disclosing Party or (ii) destroyed by the receiving Party who shall, at the written request of the disclosing Party, provide written confirmation of such destruction.
8. **Relationship.** The Parties do not intend that any agency or partnership relationship be created between them as a result of entering into this Agreement.
9. **Remedies for Breach.** Any unauthorized disclosure and use of Confidential Information by a receiving Party may cause irreparable harm to the disclosing Party for which damages may not be an adequate remedy. In the event of a breach of this Agreement, a disclosing Party shall, in addition to any other rights or remedies it may have in law or equity under this Agreement or otherwise, be entitled to seek an injunction preventing the breaching Party from further use of the Confidential Information.
10. **Term.** This Agreement begins on the Effective Date and remains in effect until twelve (12) months thereafter ("Term"). Either Party may terminate this agreement for any reason by providing the other Party 30 days' advance written notice. The confidentiality obligations contained herein shall continue to bind the Parties and their successors and permitted assigns and Representatives from the date of first receipt of any item of Confidential Information and shall survive the term, or any earlier termination, of this Agreement for a period of eighteen (18) months unless such Confidential Information is a trade secret of the disclosing Party, which such obligations will be binding for so long as such Confidential Information remains a trade secret.
11. **Assignment / Successors.** This Agreement, as well as any of its obligations or rights, may not be assigned to any third party without the prior written consent of the non-assigning Party, which consent will not be unreasonably withheld, provided however, that either Party shall have the right to assign this Agreement, as well as any of its obligations or rights, to any affiliate or subsidiary company, or to any third party in connection with the transfer of all or substantially all of the assets of the business relating to this Agreement, or by the sale or transfer of the voting stock or shares of the assigning Party resulting in a change in its effective control. Subject to the limitations set forth in this Agreement, this Agreement shall become binding upon and inure to the benefit of each of the Parties hereto and their respective successors and permitted assigns.
12. **Facsimile Transmission.** This Agreement may be executed and delivered by facsimile or other electronic means of transmission, and upon receipt such transmission shall be deemed delivery of an original.

13. **Governing Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the Province of Ontario (excluding any conflict of laws rule or principles which might refer such construction to the laws of another jurisdiction).
14. **No Commitment.** The Parties understand and agree that discussions hereunder are exploratory only and that no commitment or representation has been made or is made by either Party that will result in the development, manufacture, marketing, sale or supply of any product or service by either Party for or to the other Party whatsoever.
15. **Entire Agreement.** This Agreement contains the entire agreement of the Parties relating to the subject matter hereof and supersedes all proposals, negotiations, representations, warranties, conditions and agreements, collateral or otherwise, oral or written, relating thereto made prior to the execution hereof. All additions or modifications to this Agreement must be made in writing and must be signed by both parties.
16. **Independent Construction.** Each provision, or part thereof, of this Agreement shall be construed separately and independently from each other. Accordingly, if any provision of this Agreement is found to be unenforceable or invalid, such provision shall be ineffective to the extent of such unenforceability or invalidity, without affecting the remaining provisions of this Agreement. In such case, the Parties agree to recognize and give effect to such valid and enforceable provision or provisions which correspond as closely as possible with their mutual commercial intent. The same applies to any gaps or omissions in this Agreement.
17. **Export Laws.** The Parties shall comply with all applicable laws relating to the import, export and re-export of Confidential Information disclosed hereunder.

**IN WITNESS THEREOF**, the Parties have caused this Agreement to be duly executed on the dates set forth below:

**BUILDSCALE, INC.**

By: \_\_\_\_\_  
 Name:  
 Title:

I have authority to bind the Corporation

Date: \_\_\_\_\_

**Counter Party**

By: \_\_\_\_\_  
 Name:  
 Title:

I have authority to bind the Corporation

Date: \_\_\_\_\_