**Attachment J-8**

**Contractor Company Non-Disclosure Agreement**

This attachment is in support of the Evolve Solicitation

A. Intending to be legally bound, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Contractor” company) hereby accepts the obligations contained in this Agreement in consideration of being granted conditional access to Department of State (DOS) confidential and non-public information. For purposes of this Agreement, “confidential or non-public information,” is defined as information generated by or in the possession of the DOS that is commercially valuable, trade secret, market sensitive, proprietary, related to a DOS enforcement or examination matter, subject to privilege, protected by the Privacy Act (5 U.S.C. § 552a), or otherwise deemed confidential or non-public by a division director or office head, and is not otherwise available to the public. This definition applies to confidential or non-public information in any form, including documents, electronic mail, computer files, conversations, and audio or video recordings. For purposes of this Agreement, examples of confidential or non-public information include corporate financial data provided to the DOS that has not been made public; DOS planned or contemplated courses of action regarding DOS examinations, investigations, and enforcement actions; and DOS personnel information covered by the Privacy Act, 5 U.S.C. § 552a.

B. The Contractor acknowledges that any conditional access to DOS confidential and non-public information is granted to Contractor for the sole purpose of performing its obligations under DOS Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “underlying Contract”). This Agreement does not grant Contractor access to information or materials that the DOS determines in its sole discretion is inappropriate for disclosure to Contractor.

C. Contractor acknowledges that the DOS Regulation concerning conduct of members and employees and former members and employees of the Agency expressly prohibit the improper use and unauthorized disclosure of confidential or non-public information or documents. See 5 C.F.R. § 2635.703 available at <http://edocket.access.gpo.gov/cfr_2003/5cfr2635.703.htm>. Contractor, for itself and its employees, agents, and subcontractors, agrees to be bound by the prohibitions of § 2635.703 and the terms set forth herein. Contractor, for itself and its employees, agents, and subcontractors, agrees not to disclose to any unauthorized person any confidential or non-public documents or information to which Contractor or its employees, agents, or subcontractors have access in the performance of duties under the underlying Contract.

D. In accordance with the Regulation at 5 C.F.R. § 2635.703, the Contractor, for itself and its employees, agents, and subcontractors, agrees not to engage, directly or indirectly, in any personal business transaction or private arrangement for personal profit the opportunity for which arises because of performance under the Contract, or that is based upon confidential or non-public information which the Contractor and its employees, agents, and subcontractors gain in the course of performance under the Contract.

E. In accordance with the Regulation at 5 C.F.R. § 2635.703, the Contractor, for itself and its employees, agents, and subcontractors, agrees not to disclose to any unauthorized person or release in advance of authorization for its release, any confidential or non-public document or information : (1) protected from disclosure under 5 U.S.C. §§ 552, 552a, and 552b or any rules or regulations of the DOS; or (2) in circumstances where the DOS has determined to accord such information confidential treatment, unless the DOS authorizes the disclosure of such information as provided for under 5 C.F.R. § 2635.703. Confidential and non-public information shall be shared with authorized persons only on a need-to-know basis.

F. For purposes of this Agreement, an "unauthorized person" is anyone other than (1) an officer or employee of the DOS, (2) an employee of the Contractor who has executed a non-disclosure agreement with the DOS under the Contract, (3) an employee of a subcontractor of the Contractor who has executed a non-disclosure agreement with the DOS under the Contract, and whose employer advises Contractor as such, or (4) any individual that the Contracting Officer expressly designates as a person authorized to receive the confidential or non-public information at issue.

G. Contractor acknowledges that other federal laws and regulations, including but not limited to the following, may also prohibit the disclosure of confidential and non-public information received pursuant to the Contract: the Government Trade Secrets Act (18 U.S.C. § 1905) (available at

<https://www.law.cornell.edu/uscode/text/18/1905>); and 18 U.S.C. § 641 (theft of public property or records) (available at <https://www.law.cornell.edu/uscode/text/18/641>). Contractor is aware of such laws and regulations and agrees to comply with the standards for protecting confidential and non-public information in accordance with the laws and regulations applicable to the specific information to which it has access.

H. If there is doubt as to whether a document or information is confidential or non-public, or whether a proposed recipient of a document or information is an unauthorized person, the Contractor shall request clarification from the Contracting Officer.

I. The Contractor acknowledges that it has received and read Regulation 5 C.F.R. § 2635.703 and has referred any questions regarding this Regulations or this Agreement to the Contracting Officer.

J. The Contractor acknowledges that disclosure of confidential or non-public information in violation of this agreement could subject the Contractor to administrative, civil, or criminal action, as appropriate, under Federal law and regulation. Violation of this Agreement may also constitute a ground for termination of the Contractor’s underlying Contract with the DOS, and/or suspension and debarment from receiving future federal contracts. Contractor understands that the DOS may seek any remedy available to it to enforce this Agreement, including but not limited to application for a court order prohibiting disclosure of information in violation of this Agreement.

K. Contractor hereby assigns to the DOS all royalties, remunerations, and emoluments that have resulted, will result, or may result from any personal business transaction inconsistent with the terms of this Agreement or any disclosure, publication, or revelation of confidential or non-public information inconsistent with the terms of this Agreement.

L. Each provision of this Agreement is severable. If a court should hold any provision of this Agreement unenforceable, all other provisions shall remain in full force and effect.

M. Contractor acknowledges that all conditions and obligations created by this Agreement apply during the performance of the underlying DOS Contract and thereafter with respect to information accessed by Contractor that remains confidential or non-public.

N. The Contractor acknowledges these provisions are consistent with and do not supersede, conflict with, or otherwise alter the obligations, rights, or liabilities created by existing statute relating to (1) classified information; (2) communications to Congress; or (3) the reporting to Congress, an Inspector General, the General Accountability Office, an authorized official at the Department of Justice or other law enforcement, or agency, or a court or grand jury of evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to Federal contract or a grant, or a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract or grant.

O. The person signing this Agreement on behalf of Contractor warrants that he or she has the authority to enter into this Agreement on behalf of Contractor.

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name and Title: *XXXXXXX* *XXXX*

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

This Agreement was accepted by the undersigned on behalf of the DOS as a prior condition of conditional access to confidential and non-public information.

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IRM/BMP/ITA/CM Representative Date

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Contracting Officer’s Signature Date

**PROVIDE A SIGNED COPY TO CONTRACTING OFFICER**

**PRIOR TO COMMENCEMENT OF WORK**