

**THIS CONFIDENTIALITY AGREEMENT** (the "**Agreement**") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2023 (the "**Effective Date**");

Between:

**HARRIS & PARTNERS INC.**, in its capacity as the proposal trustee of **DYNALEO INC.** and **DYNALEO GROUP SERVICES INC.** (the "**Companies**"), and not in its personal or corporate capacity (the "**Proposal Trustee**")

- and -

[**Potential Bidder**] (the "**Potential Bidder**" and together with the Proposal Trustee, the "**Parties**" and each a "**Party**")

## **BACKGROUND:**

- A. On May 23, 2023, the Companies each filed a Notice of Intention to Make a Proposal ("**NOI**") under Section 50.4 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**") and the Proposal Trustee consented to act as proposal trustee to each of the Companies in respect of the NOI proceedings.
- B. On May 30, 2023, the Honourable Justice D.B. Nixon of the Court of King's Bench of Alberta (the "**Court**") granted an Order (the "**SISP Order**") authorizing the Companies, with the assistance of the Proposal Trustee, to pursue all avenues for the sale of, or investment in, their business operations as a going concern (the "**Business**") or assets in the Business, in whole or in part (the "**Assets**"), subject to the prior approval of the Court.
- C. In conjunction with the Companies, the Proposal Trustee shall conduct the sale and investment solicitation process (the "**SISP**") approved by the Court in the SISP Order.
- D. This Agreement has been provided to potentially interested parties or any parties on request, along with a Teaser Letter (as defined in the SISP). Any party wishing to participate in the SISP must deliver to the Companies and the Proposal Trustee, among other things, an executed copy of this Agreement, which shall inure to the benefit of any purchaser of the Business or Assets, or any portion thereof.
- E. The Companies have agreed to allow the Potential Bidder (and, if applicable, the Potential Bidder's legal counsel or financial advisors) to access confidential information regarding the Business or Assets upon the execution and delivery of this Agreement by the Potential Bidder to the Companies and the Proposal Trustee.

**NOW THEREFORE**, in consideration of good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

### **1. Definitions and Interpretation**

#### **1.1 Definitions:** In this Agreement, except as otherwise expressly provided:

- (a) "**Confidential Information**" means the particulars regarding the Companies, the Business and/or Assets and includes, without limitation, all inspections, reports, analyses, compilations, data, studies, notes, interpretations, memoranda or other documents, which

the Companies shall provide to the Potential Bidder. Confidential Information excludes any information that is, as at the Effective Date, in the public domain through no fault of the Potential Bidder, and any information that, after the Effective Date, becomes part of the public domain through no fault of the Potential Bidder; and

- (b) **"Person"** means a natural person; sole proprietorship; syndicate; estate; an individual in his capacity as trustee, executor, administrator or other legal or personal representative; firm; trust; pension plan; partnership; joint venture; association; corporation; unincorporated organization; union; governmental body; or other entity and a successor to any such Person.
- (c) **"Transaction"** means the transaction that results from the SISP.

**1.2 Interpretation:** In this Agreement, except as otherwise expressly provided:

- (a) all words and personal pronouns will be read and construed as the number and gender of the Parties required and the verb will be read and construed as agreeing with the required word and pronoun;
- (b) any reference in this Agreement to the Companies, the Proposal Trustee or the Potential Bidder will include and will be deemed to be a reference to such Party's successors, affiliates and permitted assigns; and
- (c) the division of this Agreement into articles and sections and the use of headings is for convenience of reference only and will not modify or affect the interpretation or construction of this Agreement or any of its provisions.

**2. Confidentiality and Non-Disclosure**

**2.1 Disclosure:** Any Confidential Information disclosed by the Proposal Trustee to the Potential Bidder is and shall at all times remain the property of the Companies, and shall be disclosed without conveying any right, title or interest of any nature whatsoever in or to such Confidential Information. All Confidential Information disclosed by the Proposal Trustee to the Potential Bidder shall be disclosed without any license to use, sell, exploit, copy or further develop in any way such Confidential Information.

**2.2 Non-Disclosure:** The Potential Bidder shall: (a) receive and maintain all Confidential Information in confidence; (b) keep all Confidential Information strictly secret and confidential and take all necessary steps and precautions to ensure that no other person will gain access to the Confidential Information or any part thereof; and (c) not make any disclosure of or any use of the Confidential Information except for the purpose of evaluating a Transaction and shall not take advantage of or use any of the Confidential Information to solicit investors, creditors, customers or suppliers of the Proposal Trustee or for any other reason.

**2.3 Maintaining Confidentiality:**

- (a) Except as may be required by applicable law, the Potential Bidder will not divulge any Confidential Information to other persons unless first approved by the Proposal Trustee in writing, in which case any permitted disclosure shall be limited to the extent necessary to allow the Potential Bidder to evaluate and consider the Confidential Information for the purpose of evaluating a Transaction. To the extent disclosure is made to any third party,

such third parties are to be instructed that the Confidential Information is confidential and must first agree to keep such Confidential Information confidential.

- (b) In the event the Potential Bidder becomes legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigation, demand, order or other legal process) to disclose any of the contents of the Confidential Information, the Proposal Trustee agrees that the Potential Bidder may do so without liability, provided that the Potential Bidder: (a) cooperates with the Proposal Trustee in any attempts it may make to obtain a protective order or other appropriate assurance that confidential treatment will be afforded the Confidential Information, and (b) if no protective order is obtained and disclosure is required, (i) furnish only that portion of the Confidential Information that, in the Potential Bidder's counsel's opinion, the Potential Bidder is legally compelled to disclose, and (ii) take all reasonable measures to obtain reliable assurance that confidential treatment will be accorded the Confidential Information

**2.4 Maintenance:** The Potential Bidder shall store the Confidential Information securely and ensure that appropriate physical, technological and organizational measures are in place to protect the Confidential Information against unauthorized or unintended access, use or disclosure. The Potential Bidder shall not retain the Confidential Information for longer than is necessary to enter into and complete the Transaction, as the case may be.

**2.5 Continuing Obligations Regarding Confidentiality:** The obligations of confidentiality and non-disclosure contained in this Agreement will survive the completion of the Transaction or notice of termination and will be binding on the Potential Bidder whether or not any such Transaction proceed.

**2.6 Responsibility for Others:** The Potential Bidder agrees that it will be responsible for any breach of this Agreement by its respective directors, officers, employees, advisors, representatives, consultants, agents, affiliates and related Persons, as the case may be.

### **3. Representations, Warranties & Covenants**

**3.1 No Representation or Warranty:** Neither the Companies nor the Proposal Trustee: (a) make any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information; or (b) shall be liable to the Potential Bidder or to any other Person for any losses, liabilities, damages, claims, demands or expenses resulting from, connected with or arising out of the Potential Bidder's possession or use of the Confidential Information. Nothing in this Agreement or in the disclosure of the Confidential Information confers any interest in the Confidential Information in or on the Potential Bidder.

**3.2 Communication:** The Potential Bidder agrees that all (a) contacts and communications regarding the Confidential Information or a Transaction, (b) requests for additional information or Confidential Information, (c) requests for facility tours or management meetings with the Companies, and (d) discussions or questions regarding procedures, will be submitted or directed only to \_\_\_\_\_. The Potential Bidder further agrees that under no circumstances will the Potential Bidder contact (directly or indirectly) any director, officer, shareholder, employee or other representative of the Companies or any of their affiliates regarding a possible Transaction or the Confidential Information without the prior written consent of the Proposal Trustee. The Potential Bidder further agrees that under no circumstances will the Potential Bidder discuss or otherwise communicate any aspect of the Confidential Information or a Transaction to any member of the management of the Companies without the express written

permission of the Proposal Trustee. Without the Proposal Trustee's prior written consent, the Potential Bidder shall not, and shall direct the Potential Bidder's representatives not to, make any contact of any nature (directly or indirectly) regarding a possible Transaction (including inquiries or requests concerning Confidential Information) with any person involved in or having had a business relationship with the Companies, including but not limited to any employee, dealer, supplier, customer, creditor, bank or other lender of or to the Companies.

- 3.3 Non-Solicitation:** The Potential Bidder agrees that they will not, for a period of twelve (12) months after the date hereof, initiate the solicitation for employment of any person who is now employed by the Proposal Trustee or any customers or suppliers of the Proposal Trustee that the Potential Bidder did not already have a pre-existing contractual arrangement with. The foregoing does not prohibit the Potential Bidder from making general non-targeted solicitations for employment or from employing any person who is now employed by the Proposal Trustee who might respond to such a general non-targeted solicitation of employment.

#### **4. Termination & Enforcement**

- 4.1 Termination by Discloser:** The Proposal Trustee may elect at any time to terminate further access by the Potential Bidder to the Confidential Information. If at any time the Potential Bidder determines not to proceed with a Transaction, the Potential Bidder will promptly notify the Proposal Trustee in writing. Following any request by the Proposal Trustee, the Potential Bidder agrees (a) to promptly re-deliver to the Proposal Trustee all written Confidential Information and any other written material containing or reflecting any of the Confidential Information in the possession of the Potential Bidder, (b) the Potential Bidder will not retain any copies, extracts or other reproductions in whole or in part, mechanical or electronic, of such written material, and (c) all the notes prepared by the Potential Bidder will be destroyed, with all such destruction being confirmed by the Potential Bidder to the Proposal Trustee in writing.

- 4.2 Indemnity:** The Potential Bidder will indemnify and save the Companies and the Proposal Trustee harmless from and against any and all liabilities, losses, costs, damages, claims, demands, suits, actions, expenses and disbursements of whatever kind and nature which may be incurred by, imposed upon, asserted against, or demanded from, the Companies in connection with any breach of or non-compliance with the provision of this Agreement by the Potential Bidder or by its respective directors, officers, employees, advisors, representatives, agents, affiliates or related Persons.

#### **5. General**

- 5.1 Waiver:** No delay or omission of the Companies in the exercise of any right accruing upon any default of the Potential Bidder, or either of them, will impair such right or be construed as a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by the Companies of any breach of, or a default in, any of the terms and conditions of this Agreement by the Potential Bidder will not be construed or interpreted to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement.

- 5.2 Remedies Generally:** All of the remedies of the Proposal Trustee specified in this Agreement or otherwise available at law or in equity will be available in every instance and will not be exclusive or in the alternative but will be cumulative and may be exercised at such times and in such order as may be beneficial in the circumstances.

- 5.3 Entire Agreement:** This Agreement constitutes the entire agreement between the Parties and supersedes all prior contracts, agreements and understandings pertaining to the subject matter of this Agreement. No amendment, modification or alteration of this Agreement shall be binding unless executed in writing by the Parties. There are no representations, warranties, collateral agreements or conditions affecting this transaction other than as are expressed or referred to herein in writing.
- 5.4 Assignment:** This Agreement may not be assigned by the Potential Bidder without the prior written consent of the Proposal Trustee.
- 5.5 Enurement:** This Agreement shall enure to the benefit of the Parties and the Companies and their successors and assigns and shall be binding upon the Parties and the Companies and their successors and permitted assigns.
- 5.6 Severability:** Any article, section or other subdivision or any other provision of this Agreement that is deemed to be, or becomes, void, illegal, invalid or unenforceable will be severable from this Agreement and ineffective to the extent of such voidability, illegality, invalidity or unenforceability and will not invalidate, affect or impair the remaining provisions of this Agreement, which will be severable from any void, illegal, invalid or unenforceable article, section or other subdivision or provision.
- 5.7 Governing Law:** This Agreement and its application and interpretation will be governed by and construed in accordance with the laws in force in the Province of Alberta, and each of the Parties irrevocably submits to the jurisdiction of the Courts in the NOI proceedings for the interpretation and enforcement of this Agreement.
- 5.8 No Recourse:** The Potential Bidder shall have no recourse against the Proposal Trustee in either its personal or corporate capacity.
- 5.9 Amendment:** This Agreement may only be amended by written agreement signed by the Parties.
- 5.10 Liability of Potential Bidder:** If the Potential Bidder consists of more than one Person, the covenants of the Potential Bidder will be joint and several covenants of each such Person.
- 5.11 Electronic Copies and Counterparts:** This Agreement may be executed and delivered by electronic means of transmission and the Parties may rely upon such copies of the Agreement so delivered as though such copies are originals of this Agreement. This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered will be deemed to be an original, and all such counterparts together will constitute one and the same instrument and, notwithstanding the date of execution, will be deemed to be dated as of the date written at the beginning of this Agreement.

*[Remainder of the page left blank; signature page to follow]*

**IN WITNESS WHEREOF** the Parties have duly executed this Agreement as of the Effective Date.

**HARRIS & PARTNERS INC.**, in its capacity as  
Proposal Trustee of **DYNALEO INC.** and  
**DYNALEO GROUP SERVICES INC.**, and not in  
its personal or corporate capacity

---

Per:  
Title:

Potential Bidder Name:

---

Per:  
Title:

---

Witness Name: