

FINANCIAL INFORMATION NON-DISCLOSURE

This FINANCIAL INFORMATION NON-DISCLOSURE AGREEMENT (hereinafter the "Agreement") is entered into by and between _____ (hereinafter the "Disclosing Party") and _____ (hereinafter the "Receiving Party"), collectively known as the "Parties", as of this ___ day of _____, 20__.

Article I: Confidential Information

A. Definitions. For the purposes of this Agreement, all information and trade secrets concerning the business and affairs of the Disclosing Party is considered confidential and shall hereafter be referred to as "Confidential Information." Confidential Information includes, but is not limited to, data, formulae, designs, samples, products, apparatus, inventions, ideas, research and development, manufacturing and distribution methods and processes, materials, business plans, marketing plans, trade policies and secrets, financial statements, projections and budgets, sales information, personnel lists and backgrounds, customer lists, and any other materials or information provided or shown to the Receiving Party irrespective of the form or medium, and includes all documents, records, notes, or other material containing or based in information included in the foregoing.

B. Exceptions. Except as laid out in subsection (A) of this article, information is not deemed confidential if, through clear and convincing evidence, the Receiving Party establishes that the information:

- (i) was public knowledge at the time the Receiving Party obtained such information;
- (ii) becomes public knowledge after Receiving Party obtains such information, through no wrongful act or breach of agreement by the Receiving Party; or
- (iii) is required to be disclosed under applicable law.

C. Copies. Any and all summaries, documents, notes or materials regarding Confidential Information created or gathered by the Receiving Party shall also be considered Confidential Information and shall be subject to the terms of this Agreement.

Article II: Property Rights

Receiving Party Acknowledges and agrees that the Confidential Information is and shall remain the exclusive, valuable property of the Disclosing Party.

Article III: Non-Disclosure

A. Purpose. Receiving Party acknowledges and agrees that Confidential Information supplied by the Disclosing Party is being made accessible solely on the understanding that the knowledge derived therefrom is to be used exclusively for the purpose of evaluating the business for a potential proposal, transaction, negotiation, investment, or other business opportunity and the terms thereof shall be written out in a separate agreement.

B. Confidentiality. Receiving Party agrees not to disclose Confidential Information to any third party (individual, company, corporation, or other entity) or to use Confidential Information for any purpose other than the reasons mentioned in section (A) of this article. Receiving Party further agrees not to disclose the fact that Confidential Information has been exchanged, that discussions or negotiations are taking place concerning any potential transaction or investment, or any of the terms or conditions of this Agreement.

C. Representatives. Receiving Party shall limit the availability of Confidential Information to its employees and representatives who have a need to know, and who are directly involved in the evaluation of the business and any potential transaction. It is the duty and responsibility of the Receiving Party to inform each person to whom Confidential Information is transmitted that the information is confidential and that its use and disclosure are subject to the terms and conditions of this Agreement.

D. Legal Disclosure. Receiving Party may be required by law (through court or administrative order, subpoena or other such legal proclamation) to disclose Confidential Information for the purposes of aiding or taking part in a case involving a violation of the law. Receiving Party shall, if legally permissible, promptly notify the Disclosing Party of any such demand for disclosure so that the Disclosing Party may seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the Confidential Information. Notwithstanding the foregoing, if the Disclosing Party is unable to obtain a protective order, the Receiving Party may be compelled to disclose such Confidential Information and will not be held liable.

Article IV: Breach of Agreement

A. Indemnity. Receiving Party hereby agrees to hold the Disclosing Party harmless from any damages, costs or liabilities and agrees to keep the Disclosing Party indemnified with respect to damages arising out of or resulting from any unauthorized use or disclosure of the Confidential Information or other violation of this Agreement.

B. Injunctive Relief. Receiving Party understands and agrees that a breach of this Agreement on their part could cause the Disclosing Party irreparable harm, the extent of which would be insurmountable, and the Disclosing Party is therefore entitled to equitable relief, including injunctive relief and specific performance. Such remedies shall not be the exclusive remedies for any breach of this Agreement but shall be in addition to all other remedies available at law or in equity.

Article V: Survival

A. Termination. In the event of a successful transaction, upon termination of any relationship between the Parties, or at any time upon the request of the Disclosing Party, the Receiving Party shall promptly return and/or destroy all Confidential Information in its possession without retaining any copies thereof. If the Disclosing Party requested the return of all Confidential Information, and whether a transaction did or did not take place, the Receiving Party remains bound to the terms and conditions of this Agreement in perpetuity.

B. Severability. Should any provision within this Agreement be found by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If the

provision cannot be modified to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.

Article VI: Entire Agreement

This Agreement constitutes the entire understanding between the Parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the Parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.

Article VII: Governing Law

The validity, construction and performance of this Agreement shall be governed and construed in accordance with the laws of the State of _____ without giving effect to any conflict of laws provisions thereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates below.

Disclosing Party Signature _____ **Date** _____

Disclosing Party Printed Name _____

Receiving Party Signature _____ **Date** _____

Receiving Party Printed Name _____