

NON-DISCLOSURE AGREEMENT

This Mutual Non-Disclosure and Confidentiality Agreement (the "**Agreement**"), is dated as of _____ (the "**Effective Date**"), and entered into by and between _____, having its principal place of business at _____ and _____, having its principal place of business at _____ (together, the "**Parties**", and each, a "**Party**").

WHEREAS, the Parties wish to engage in a potential business transaction described herein: _____ (the "**Purpose**"). The Purpose may require the Parties to share certain information that is non-public, confidential or proprietary in nature.

NOW, THEREFORE, in consideration of the terms and conditions set out in this Agreement, and for valuable consideration which is hereby acknowledged by both Parties, the Parties agree as follows:

1. Confidential Information. "**Confidential Information**" means all non-public, confidential, or proprietary information disclosed before or after the Effective Date by either Party (a "**Disclosing Party**") to the other Party (a "**Recipient**") or its affiliates, or to any of their respective employees, officers, directors, partners, shareholders, agents, attorneys, accountants, or advisors (collectively, "**Representatives**"). Confidential Information includes, but is not limited to:

(a) all information concerning the Disclosing Party's and its affiliates' business including information related to customers, suppliers, products, practices, services, sales, marketing, budgeting, forecasting and financial information, including information incorporated therein from third parties;

(b) the Disclosing Party's intellectual property including, but not limited to, copyrights, trademarks, patents, service marks, trade dress, trade secrets or any materials related to any of the foregoing;

(c) all materials that incorporate in any form, in whole or in part, of any of the foregoing;

(d) all other materials (the "**Notes**") prepared by or for the Recipient or its Representatives that are based on, or otherwise reflect, in whole or in part, any of the foregoing;

(e) all materials that are expressly designated as "Confidential" by the Disclosing Party;

(f) all other materials that a reasonable person would otherwise consider confidential, if disclosed in anticipation of the Purpose.

2. Non-Confidential Information. Unless otherwise delineated by applicable law, "Confidential Information" shall not include the following:

(a) information that is generally available to and known by the public other than through a breach of this Agreement by the Recipient or its Representatives;

(b) information provided to the Recipient from a third-party source, that is not intended to be confidential and provided that such third party has no obligation of confidentiality to the Disclosing Party;

(c) was developed by the Recipient, before being disclosed pursuant to this Agreement, such prior development having been appropriately documented; or

(d) was in the possession of the Recipient or its Representatives, before being disclosed pursuant to this Agreement, such prior possession having been appropriately documented

3. Recipient Obligations. The Recipient shall:

- (a) protect the Confidential Information with at least the same degree of care as the Recipient would protect its own Confidential Information;
- (b) limit any use the Disclosing Party's Confidential Information solely to the Purpose;
- (c) prevent any of its Representatives from reverse engineering any products or services based on the Confidential Information;
- (d) limit access to the Confidential Information to only Recipient's Representatives: (a) who need to access and know the Confidential Information to accomplish the Purpose; (b) who are informed of the confidential nature of the Confidential Information; and (c) who agree to be bound by the confidentiality obligations contained herein; and

Recipient acknowledges that it is responsible for any breach of this Agreement by any of its Representatives.

4. Associated Confidentiality Obligations. Unless otherwise delineated by applicable law, or by mutual agreement of the Parties, neither Party shall disclose: (a) the existence of the Confidential Information to any third party not involved in the Purpose; or (b) any discussions or negotiations associated with the Confidential Information or the Purpose.

5. Required Disclosure. In the event of a required disclosure of the Confidential Information under applicable federal, state, local law, regulation, or a valid order issued by a court or governmental agency (a "Legal Order") the Recipient shall: (a) provide notice to the Disclosing Party so it may seek an appropriate protective order or other remedy; and (b) provide reasonable assistance, at the Disclosing Party's expense, in opposing the Legal Order.

If, the Disclosing Party cannot limit or defeat the Legal Order, the Recipient or its Representatives shall limit their disclosure to only the portion of the Confidential Information which the Legal Order requires be disclosed.

6. Return or Destruction of Confidential Information. After the term of this Agreement, the Disclosing Party may make a written request to the Recipient for: (a) return of all the Confidential Information; or (b) destruction of all Confidential Information. The Disclosing Party may request, and the Recipient shall provide, written confirmation of either subsections (a) or (b) of this section.

7. Term, Termination and Survival of Obligations. The term of this Agreement shall commence on the Effective Date and shall automatically terminate _____ year(s) from the Effective Date. Either Party may terminate this Agreement at any time by providing written notice to the other Party. The confidentiality obligations contained herein shall continue for _____ year(s) following such termination.

8. No Representations or Warranties. The Disclosing Party and its Representatives expressly disclaim all representations and/or warranties, either expressed or implied, about the Confidential Information.

9. No Transfer of Rights, Title, or Interest. This Agreement does not transfer any intellectual property rights between either Party, both Parties maintaining all rights, title, and interests in their respective intellectual property rights. Nothing herein shall be construed as an assignment, grant, option, license, or other transfer of any intellectual property right between the Parties.

10. No Other Obligation. This Agreement creates no obligation by or between the Parties to enter any business arrangement, contractual or otherwise, of any kind.

11. Remedies. No remedies in law or equity for a breach of this Agreement are waived by the execution of this Agreement.

12. Governing Law, Jurisdiction, and Venue. This Agreement shall be governed by and construed in accordance with the internal laws of the State of _____ without reference to any choice or conflict of law provision or rule.

13. Alternative Dispute Resolution. Any unresolved dispute or controversy arising from or relating to this Agreement shall be finally resolved by binding alternative dispute resolution through the platform provided by New Era ADR, Inc. (<https://neweraadr.com/>) (the “**New Era Platform**”) in accordance with its rules and procedures by one professional neutral with substantial experience in resolving commercial disputes (a “**Neutral**”). The Neutral shall be selected from the appropriate list of Neutrals under the New Era Platform in accordance with the rules and procedures of the New Era Platform. Each party will bear its own costs in respect of any disputes arising under this Agreement; provided, however, that the prevailing party may be entitled to receive reimbursement of its reasonable expenses (including reasonable attorneys’ fees and all other expenses) incurred in connection therewith, at the Neutral’s discretion. Each party shall pay one-half (1/2) of the New Era Platform fees charged in connection with the prosecution of the arbitration.

14. Severability. If any term or provision of this Agreement is determined to be illegal or unenforceable in any jurisdiction, such provision shall be severed from the Agreement and the remaining provisions shall remain enforceable to the fullest extent permitted under applicable law.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original. This Agreement may also be transmitted by facsimile, email, or other means of electronic transmission and any such copy shall be treated as an original.

16. Assignment. Neither Party may assign any of its rights under this Agreement without the prior written consent of the other Party.

17. Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties regarding the subject matter contained herein. This Agreement may only be amended, modified, or supplemented by a written agreement, signed and executed by both Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the following parties have executed this Agreement.

By _____

Name:

Title:

Email:

By _____

Name:

Title:

Email: