

NON-DISCLOSURE AGREEMENT

As of _____, 2012 (“Effective Date”), this Non-Disclosure Agreement (“Agreement”) governs the disclosure of information by and between _____, a Texas _____, located at _____, Austin, Texas (“Company”) and _____ (“Recipient”)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged by both parties, and in consideration of the mutual business purpose of a possible transaction between Company and Recipient, the undersigned Recipient hereby agrees and acknowledges:

- Definition of Confidential Information. As used herein, “Confidential Information” shall mean any and all technical and non-technical information provided by Company to the Recipient, including but not limited to (a) financial information of Company and the owners or Company, including but not limited to tax returns, information on income, revenues, expenses, losses and profits, (b) trade secrets, (c) copyrighted information and (d) proprietary information—ideas, techniques, sketches, drawings, works of authorship, models, inventions, know-how, processes, apparatuses, equipment, software programs, and formulae related to the current, future, and proposed products and services of each of the parties, and including, without limitation, their respective information concerning financial information, procurement requirements, purchasing, manufacturing, customer lists, investors, employees, business and contractual relationships, business forecasts, sales and merchandising, marketing plans and information the disclosing party provides regarding third parties.
- Exceptions to Confidential Information. The following shall not be considered Confidential Information if: (a) it was in the public domain at the time it was communicated to the Recipient by the Company; (b) it was developed by employees or agents of the Recipient independently of any information communicated to the Recipient by the other party; (c) the communication was in response to a valid order by a court or other governmental body, was otherwise required by law, or was necessary to establish the rights of either party under the Agreement.
- Handling of Confidential Information and Interference. Recipient agrees that at all times, and notwithstanding any termination or expiration of this Agreement, it shall hold in strict confidence and not disclose Confidential Information to any third party and shall use the Confidential Information only for a business relationship with Company. Recipient will not, either directly or indirectly, interfere with Company’s contracts and relationships, or prospective contracts and relationships, including, but not limited to, the Company’s current and/or potential customer or vendor contracts and relationships.
- Term and Termination. This Agreement shall cover disclosures up to one (1) year after the Effective Date. The Recipient’s obligations under this Agreement shall survive termination of the Agreement between the parties and shall be binding upon the Recipient’s heirs, successors and assigns for a period of ten (10) years after disclosure. Upon termination or expiration of the

Agreement, or upon written request of Company, the Recipient shall promptly return to Discloser all documents and other tangible materials representing Confidential Information and all copies thereof.

5. Warranties. Each party represents and warrants to the other party that (i) it has the requisite corporate authority to enter into and perform this Agreement, (ii) this Agreement constitutes its legally binding obligation, enforceable in accordance with its terms, and (iii) its execution and performance under this Agreement, including its disclosure of Confidential Information to the Recipient, shall not violate any third party's rights.

6. No Grant of Rights. Recipient recognizes and agrees that nothing contained in this Agreement shall be construed as granting any property rights, by license or otherwise, to any Confidential Information disclosed pursuant to this Agreement, or to any copyright, trademark, or other intellectual property right that has issued or that may issue, based on such Confidential Information. Recipient shall not make, have made, use or sell for any purpose any product or other item using, incorporating or derived from any Confidential Information.

7. Equitable Remedies. Recipient acknowledges that Recipient's breach of this Agreement may cause irreparable harm to Company for which Company is entitled to seek injunctive or other equitable relief as well as monetary damages.

8. Miscellaneous. Either party may assign this Agreement to any successor in interest who purchases or through change in control owns greater than fifty percent of the assets or equity of such entity and agrees in writing to be bound by the terms and conditions herein; any other assignment shall be void. This Agreement shall be governed by, enforced under, and construed and interpreted in accordance with the laws of Texas without reference to conflict of laws principles. Each party consent to venue and personal jurisdiction in Travis County, Texas. If any provision of this Agreement is found by a proper authority to be unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement is the complete and exclusive agreement regarding the disclosure of Confidential Information between the parties, and replaces any prior oral or written communications between the parties regarding Confidential Information.

In Witness Whereof, the parties hereto have caused this Confidentiality Agreement to be executed as of the Effective Date.

COMPANY:

By: _____

Name: _____

Title: _____

Date: _____

RECIPIENT:

By: _____

Name: _____

Title: _____

Date: _____