

Mutual Confidentiality Agreement

This Mutual Confidentiality Agreement (this “**Agreement**”), effective as of the later of the two dates appearing on the signature page below (the “**Effective Date**”), is between _____ (“_____”), and _____ (“_____”), regarding a potential strategic relationship (the “**Relationship**”). This Agreement refers to _____ and _____ collectively as the “**Parties**” and each, individually, a “**Party**”

WHEREAS, the Parties wish to discuss the possibility of a mutually beneficial business arrangement (the “**Purpose**”).

WHEREAS, the Parties must share certain information that is non-public proprietary or confidential to carry out the Purpose.

WHEREAS, the Parties acknowledge that the benefit of receiving such information shall be sufficient basis for entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. In connection with the Purpose, either party (“**Disclosing Party**”) may disclose Confidential Information (as defined below) to the other party (“**Recipient**”). Recipient shall use the Confidential Information solely for the Purpose and, subject to Section 4 below, shall not disclose such Confidential Information other than to its employees, contractors, officers, directors, attorneys, accountants, and financial advisors (collectively, “**Representatives**”) who: (a) need access to such Confidential Information for the Purpose; (b) are informed of its confidential nature; and (c) are bound by confidentiality obligations no less protective of the Confidential Information than the terms contained herein. Recipient shall safeguard the Confidential Information from unauthorized use, access, or disclosure using no less than a commercially reasonable degree of care. Recipient will be responsible for any breach of this Agreement caused by its Representatives. Recipient agrees to notify Disclosing Party in writing of any misuse or misappropriation of the Confidential Information of Disclosing Party that may come to Recipient’s attention.

2. “**Confidential Information**” means all non-public proprietary or confidential information of Disclosing Party, in oral, visual, written, electronic, or other tangible or intangible form, whether or not marked or designated as “confidential,” that contain any of the following:

(a) all information concerning the past, present and future business affairs of the Disclosing Party and its affiliates and of their customers, suppliers

and other third parties, including, without limitation, finances, customer information, supplier information, products, services, organizational structure and internal practices, forecasts, sales and other financial results, records and budgets, and business, marketing, development, sales and other commercial strategies;

(b) the Disclosing Party's unpatented inventions, ideas, methods and discoveries, trade secrets, know-how, unpublished patent applications and other confidential intellectual property;

(c) all designs, specifications, documentation, components, source code, object code, images, icons, audiovisual components and objects, schematics, drawings, protocols, processes, and other visual depictions, in whole or in part, of any of the foregoing;

(d) any third-party confidential information included with, or incorporated in, any information provided by the Disclosing Party to the Recipient or its Representatives; and

(e) all notes, analyses, compilations, reports, forecasts, studies, samples, data, statistics, summaries, interpretations and other materials (collectively, the "**Notes**") prepared by or for the Recipient or its Representatives that contain, are based on, or otherwise reflect or are derived from, in whole or in part, any of the foregoing.

3. Except as required by applicable federal, state or local law or regulation, Confidential Information shall not include information that:

(a) is or becomes generally available to the public other than as a result of Recipient's or its Representatives' breach of this Agreement;

(b) is obtained by Recipient or its Representatives on a non-confidential basis from a third-party that was not legally or contractually restricted from disclosing such information;

(c) was in Recipient's or its Representatives' possession prior to Disclosing Party's disclosure hereunder; or

(d) was or is independently developed by Recipient or its Representatives without using any Confidential Information.

4. If Recipient or any of its Representatives is required by applicable law or a valid legal order to disclose any Confidential Information, Recipient shall notify Disclosing Party of such requirements so that Disclosing Party may seek, at Disclosing Party's expense, a protective order or other remedy, and Recipient shall reasonably assist Disclosing Party therewith. If Recipient remains legally compelled to make such

disclosure, it shall: (a) only disclose that portion of the Confidential Information that it is required to disclose; and (b) use reasonable efforts to ensure that such Confidential Information is afforded confidential treatment.

5. On Disclosing Party's request, Recipient shall, at Disclosing Party's discretion, promptly return to Disclosing Party or destroy all Confidential Information in its and its Representatives' possession other than Notes, and destroy all Notes; provided, however, that Recipient may retain copies of Confidential Information that are stored on Recipient's IT backup and disaster recovery systems until the ordinary course of deletion thereof. Recipient shall continue to be bound by the terms and conditions of this Agreement with respect to such retained Confidential Information.

6. This Agreement imposes no obligation on either party to disclose any Confidential Information or to negotiate for, enter into, or otherwise pursue the Purpose. Disclosing Party makes no representation or warranty, expressed or implied, as to the accuracy or completeness of the Confidential Information, and will have no liability to Recipient or any other person relating to Recipient's use of any of the Confidential Information or any errors therein or omissions therefrom.

7. Disclosing Party retains its entire right, title, and interest in and to all Confidential Information, and no disclosure of Confidential Information hereunder will be construed as a license, assignment, or other transfer of any such right, title, and interest to Recipient or any other person.

8. The rights and obligations of the Parties under this Agreement expire three years after the Effective Date; provided that with respect to Confidential Information that constitutes a trade secret under applicable law, such rights and obligations will survive such expiration until, if ever, such Confidential Information loses its trade secret protection other than due to an act or omission of Recipient or its Representatives.

9. Recipient acknowledges and agrees that any breach of this Agreement will cause irreparable harm and injury to Disclosing Party for which money damages would be an inadequate remedy and that, in addition to remedies at law, Disclosing Party is entitled to equitable relief as a remedy for any such breach. Recipient waives any claim or defense that Disclosing Party has an adequate remedy at law in any such proceeding. Nothing herein shall limit the equitable or available remedies at law for Disclosing Party.

10. The laws of _____ shall govern this Agreement and all matters relating to it, including its construction, without regard to any conflict of laws provisions. A party wishing to institute any legal suit, action, or proceeding relating to this Agreement must do so in a(n) _____ court. Each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

11. All notices must be in writing and may either be sent prepaid by nationally recognized courier, or via certified or registered mail, return receipt requested, to the relevant party at the address set forth in the preamble, or to the email address appearing beneath each Party's authorized signature, below. All notices are effective upon actual receipt.

12. This Agreement constitutes the entire agreement of the Parties with respect to its subject matter, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, whether written or oral, with respect to such subject matter. This Agreement may only be amended, modified, waived, or supplemented by another agreement in writing signed by both parties.

13. The individuals signing this Agreement represent and warrant that:

(a) they are duly authorized and have legal capacity to execute and deliver this Agreement on behalf of themselves and the Party they represent; and

(b) this Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date hereof.

_____	_____
By: _____	By: _____
Date: _____	Date: _____
Name: _____	Name: _____
Title: _____	Title: _____
Email: _____	Email: _____