

RECIPROCAL CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT THIS RECIPROCAL
CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

(this "Agreement"), dated and effective as of _____, 20____, is made by and among the Parties listed on the signature page(s) hereto (individually a "Party" and collectively the "Parties").

WHEREAS, the Parties are engaged in discussions regarding a possible business agreement between the Parties to _____; and

WHEREAS, in connection with such discussions, it is anticipated that each Party may find it necessary or desirable to disclose to the other Party(ies) certain proprietary and confidential information regarding the Party's business (defined below as the Confidential Information). The Parties are entering into this Agreement in order to assure the confidentiality of such Confidential Information in accordance with the terms of this Agreement. As used in this Agreement, each Party who receives Confidential Information of the other Party shall be a "Receiving Party", and the Party making such disclosure to a Receiving Party shall be a "Disclosing Party".

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. Definition of Confidential Information. "Confidential Information" shall mean all tangible and intangible information, including, without limitation, design documents, drawings, processes, research and all other technical, financial, operational, commercial and proprietary information, know-how, show-how, and trade secrets of any description (the "Disclosed Materials"), and any information otherwise obtained, directly or indirectly, by Receiving Party that concerns or relates to the business, operations or intellectual property of the Disclosing Party or is otherwise acquired in connection with the discussions among the Parties, regardless of whether such Confidential Information is marked as "Confidential." The Parties agree that this Agreement is not intended to restrict the use or disclosure of any portion of such information which:

- (a) is already known by the Receiving Party at the time of its disclosure;
- (b) is or becomes publicly known through no fault of the Receiving Party;
- (c) is received from a third party free to disclose it to the Receiving Party;
- (d) is independently developed by either Party, or by employees or consultants of either Party without knowledge of or access to the Confidential Information as evidenced by written records contemporaneously maintained; or
- (e) is communicated to a third Party with the express written consent of the Disclosing Party.

2. Obligation of Confidentiality. The Receiving Party agrees to hold in confidence and not disclose to any third parties any of the Confidential Information of the Disclosing Party without the prior consent of the Disclosing Party. The Receiving Party agrees to use the same degree of care (and in any event not less than reasonable care) to safeguard the confidentiality of the Confidential Information that it uses to protect its own secret information.

3. Use of Confidential Information. The Receiving Party agrees to use Confidential Information received from the Disclosing Party to evaluate any future business arrangement between the Parties, and not for any other purpose. The Receiving Party shall only provide Confidential Information of the Disclosing Party to its employees, agents, contractors or representatives, as applicable (the "Representatives"), on a need-to-know basis for such Representative to evaluate and assess the business arrangement between the Parties contemplated herein. All Confidential Information furnished pursuant to this Agreement shall be returned promptly by the Receiving Party to the Disclosing Party upon request by the Disclosing Party.

4. Required Disclosure. If the Receiving Party is requested or required by subpoena, court order, or similar process to disclose any Confidential Information, the Parties agree that the Receiving Party will provide the Disclosing Party with prompt notice of such request(s) so that the Disclosing Party may seek an appropriate protective order and/or waive the Receiving Party's compliance with the provisions of this Agreement.

5. No Violation. Each Party represents that its compliance with the terms of this Agreement will not violate any duty which such Party may have to any other person or entity, including obligations concerning providing services to others, confidentiality of proprietary information and assignment of inventions, ideas, patents, or copyrights.

6. General. This Agreement shall not be assigned by any Party without the written consent of the other Parties. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the Parties. This Agreement shall be construed and interpreted in accordance with the laws of the State of North Carolina, without regard to its principles concerning the application of laws of other jurisdictions. This Agreement is the entire agreement between the Parties concerning the disclosure of Confidential Information and supersedes all prior oral and written agreements between them with regard to the subject matter herein. No waiver, alteration or cancellation of any of the provisions of this Agreement shall be binding unless in writing and signed by the Party to be bound. The Parties may execute this Agreement in counterparts, each of which shall be deemed an original, but all of which together constitute one and the same agreement. This Agreement may be delivered by facsimile transmission, and facsimile copies of executed signature pages shall be binding as originals. A Party's failure to enforce any provision of this Agreement shall neither be construed as a waiver of the provision nor prevent the Party from enforcing any other provision of this Agreement.

[signature page follows]