NON-CIRCUMVENTION NON-DISCLOSURE AGREEMENT

1. **THE PARTIES**. This Non-Circumvention Non-Disclosure Agreement, hereinafter known as the "Agreement," created this _____, is by and between _____, hereinafter known as the "1st Party," and _____, hereinafter known as the "2nd Party," and collectively known as the "Parties."

    WHEREAS, this Agreement is created for the purpose of preventing the unauthorized disclosure of the confidential and proprietary information (the "Confidential Information").

    WHEREAS, the Parties hereto desire to have discussions related to, and may enter into, one or more business transactions (the "Purpose"). The Parties agree as follows:

2. **AGREEMENT TYPE**. Check one (1):

    ☐ - <u>Unilateral</u> – This Agreement shall be Unilateral, whereas the 1st Party shall have sole ownership of the Confidential Information with the 2nd Party being prohibited from disclosing the Confidential Information to be released by the 1st Party.

    ☐ - <u>Mutual</u> – This Agreement shall be Mutual, whereas the Parties shall be prohibited from disclosing the Confidential Information that is to be shared between one another.

3. **RELATIONSHIP**. The 1st Party's relationship to the 2nd Party can be described as _____, and the 2nd Party's relationship to the 1st Party can be described as _____.

4. **DEFINITION OF CONFIDENTIAL INFORMATION**. For the purposes of this Agreement, "Confidential Information" shall include, but not be limited to, documents, records, data, drawings, models, apparatus, sketches, designs, schedules, product plans, marketing plans, technical procedures, manufacturing processes, analyses, compilations, studies, software, prototypes, samples, formulas, methodologies, formulations, product developments, patent applications, know-how, experimental results, specifications, and other business information relating to the Party's business, assets, operations, or contracts furnished to the other Party and/or the other Party's affiliates, employees, officers, owners, agents, consultants, or representatives in the course of their work contemplated in this Agreement, regardless of whether such Confidential Information has been expressly designated as confidential or proprietary. Confidential Information also includes any and all work products, studies, and other materials prepared by or in the possession or control of the other Party, which contain, include, refer to, or otherwise reflect or are generated from any Confidential Information.

    However, Confidential Information does not include information that is: a) generally available to the public, b) widely used practices and/or algorithms, c) rightfully in the possession of the Parties prior to signing this Agreement, and d) independently developed or created without the use of any of the provided Confidential Information.

5. **OBLIGATIONS**. The obligations of the Parties shall be to hold and maintain the Confidential Information in the strictest of confidence at all times and to their agents, employees, representatives, affiliates, and any other individual or entity that is on a "need to know" basis. If

any such Confidential Information shall reach a third (3rd) party, or become public, all liability will be on the Party that is responsible. Neither Party shall, without the written approval of the other Party, publish, copy, or use the Confidential Information for their sole benefit. If requested, either Party shall be bound to return any and all materials to the requesting Party within seven (7) days. This Section shall not apply to the 1st Party if this Agreement is Unilateral as marked in Section 2.

6. **NON-CIRCUMVENTION**. Each Party shall deal exclusively with the other Party in connection with the Purpose and shall not, directly or indirectly, except in collaboration with or with the express written consent of the other Party; (a) enter into any transaction with a third party similar to, in competition with, or which otherwise could have the effect of preventing either Party from receiving the full benefit of the transactions of the Purpose; (b) solicit any third party to enter into any such transaction; (c) induce, solicit, procure, or otherwise encourage any third party or its representatives or respond to any solicitation from any of the same to enter into any such transaction; or (d) enter into any discussions, negotiations, agreements, arrangements, or understandings (whether written or oral) with any other person or entity regarding the Purpose or any transaction related to the Purpose, other than a Party to this Agreement and its representatives. This Section shall not apply to the 1st Party if this Agreement is Unilateral as marked in Section 2.

7. **TIME FRAME**. The bounded Party's(ies') duty to hold the Confidential Information in confidence shall remain in effect until such information no longer qualifies as a trade secret or written notice is given releasing such Party from this Agreement.

8. **INTEGRATION**. This Agreement expresses the complete understanding of the Parties with respect to the subject matter and supersedes all prior proposals, agreements, representations, and understandings. This Agreement may not be amended except in writing with the acknowledgment of the Parties.

9. **SEVERABILITY**. If a court finds that any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to affect the intent of the Parties.

10. **ENFORCEMENT**. The Parties acknowledge and agree that due to the unique and sensitive nature of the Confidential Information, any breach of this Agreement would cause irreparable harm for which damages and/or equitable relief may be sought. The harmed Party in this Agreement shall be entitled to all remedies available at law.

11. **GOVERNING LAW**. This Agreement shall be governed under the laws in the state of

_____.

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

1st Party's Signature: _____ Date: _____

Print Name: _____

2nd Party's Signature: _____ Date: _____

Print Name: _____