

## Non-Disclosure Agreement

### BETWEEN:

\_\_\_\_\_

- and -

\_\_\_\_\_

### WHEREAS:

1. Both parties are desirous of exchanging information generally for the purpose of exploring a potential amalgamation of their businesses for their mutual benefit (the "Business Relationship");
2. Each party desires to protect the confidentiality of the information that may be exchanged;

### IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:

1. **Disclosure and Proposed Business Relationship**
  - 1.1 During the course of the discussions and analyses necessary to determine whether a mutually beneficial Business Relationship between the parties can be established, each party may disclose to the other certain "Confidential Information", either directly, as by verbal or written communications to the other or by permitting employees, agents or advisors of the other access to "Confidential Information". These disclosures are made upon the basis of the confidential relationship established between the parties and upon each party's agreement that, unless specifically authorized in writing by the other, it will:
    - (a) use such Confidential Information solely for the purpose of evaluating the potential Business Relationship between the parties;

- (b) promptly return to the disclosing party, upon its request, any and all tangible material containing Confidential Information, including all copies and notes, computer media, and other data or copies thereof, whether such material was made or compiled by the receiving party or furnished by the disclosing party;
- (c) take reasonable precautions to protect from disclosure to any other party Confidential Information disclosed to it by the other;
- (d) not duplicate any documents or other Confidential Information supplied in any format by the disclosing party;
- (e) not duplicate, disassemble, decompile, reverse engineer, or create derivative works of any software created by or on behalf of the disclosing party; and
- (f) not use any software supplied by the disclosing party to the receiving party unless specifically licensed to do so.

## 2. **Definition of Confidential Information**

- 2.1 For the purposes of this agreement, "Confidential Information" shall mean all data and information that is of value to the disclosing party, is not generally known to competitors of the disclosing party, and which is communicated to the other party during discussions exploring the potential Business Relationships.
- 2.2 Confidential Information shall include but not be limited to all trade secrets and all data and information pertaining or related to the disclosing party, its current or proposed business, its marketing plans, discoveries, computer programs, business methods, compositions, inventions and discoveries, customer lists, and financial information, which:
  - (a) the receiving party may be aware of, be exposed to, be provided with or develop in connection with or as a result of the receiving party's relationship with the disclosing party;
  - (b) from the circumstances should be treated as confidential, whether or not it is identified or marked as "confidential"; and
  - (c) is not known to the public and is not released to the public by the disclosing party.

### 3. **Non-Disclosure Obligations**

3.1 During and after the receiving party's relationship with the disclosing party, the receiving party agrees:

- (a) to keep confidential and not to disclose to any other party, including employees of the receiving party who are not directly involved in exploring the potential Business Relationship all Confidential Information;
- (b) not to use any Confidential Information except in relation to exploring the potential Business Relationship;

without the disclosing party's prior written consent or as required by law.

3.3 The receiving party may disclose Confidential Information of the disclosing party to those of its employees who are directly involved in exploring the potential Business Relationship and its legal and accounting advisors provided that the receiving party first ensures that such employees and advisors are legally are subject to obligations no less stringent than are contained herein, to maintain the confidentiality of the disclosing party's Confidential Information. The receiving party acknowledges and agrees that it shall at all times remain liable to the disclosing party for any breach by such employees or advisors of such obligations.

3.2 The receiving party's obligations as outlined in this section shall terminate with respect to any item of Confidential Information at such time as that item of Confidential Information becomes known to the public, other than through the fault of the receiving party.

3.3 The parties recognize and agree, so as to permit the fullest of discussion and disclosure, that neither party will make use of the fact of these discussions or the Confidential Information to the detriment or adverse interest of the other party in proceedings of any nature whatsoever, public or otherwise.

### 4. **Equitable Remedies**

4.1 In the event of a breach, or threatened breach, of any of the foregoing provisions, the parties agree that the harm suffered by the injured party would not be compensable by monetary damages alone and, accordingly, that the injured party shall, in addition to other available legal or equitable remedies, be entitled to an injunction against such breach or threatened breach.

5. **General Provisions**

- 5.1 In the event that any provisions of this agreement are found to be invalid, inapplicable or unenforceable, such provisions shall be deemed to be deleted from this agreement. The invalidity, inapplicability or unenforceability of any such provisions shall not affect the remaining provisions of this agreement.
- 5.2 This agreement and its application or interpretation shall be governed exclusively by the laws of the Province of Ontario.
- 5.3 Any notice or other communication required or permitted in this agreement shall be in writing and shall be deemed to have been received on the day of service if delivered personally or the next day if sent by courier, facsimile transmission or other means of electronic transmission, or five days after mailing if mailed by first class mail, registered or certified, postage prepaid, and addressed to the respective parties at the following addresses:

**IN WITNESS WHEREOF**, the parties hereto have duly executed this agreement this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_

\_\_\_\_\_

Per: \_\_\_\_\_

Per: \_\_\_\_\_

Name:

Name:

Office:

Office:

I have authority to bind the Corporation

I have authority to bind the Corporation