

**CONFIDENTIALITY AND NON-DISCLOSURE
AGREEMENT**

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (this “Confidentiality Agreement”) is entered into as of _____, 2010 by and between _____, its employees, assigns, partners, confidants or any third party related to or known by same and their subsidiaries and assigns (collectively the “Company”), and _____, their employees, assigns, partners, confidants or any third party related to or known by same, and their subsidiaries and assigns (collectively the “Recipient(s)”). The Recipient(s) and the Company may herein be referred to as the Party or Parties.

In connection with the desire of the Recipient(s) to explore a possible [INVESTMENT/ACQUISITION] transaction with Company, including but not limited to _____ [ENTER TRANSACTION TERMS HERE], (the “Transaction”), the Company will furnish to the Recipient(s) certain documentary materials which contain confidential and/or proprietary economic, commercial, marketing and financial information and which have been designated as such in writing by the Company.

For purposes of this Agreement, the term “Confidential Information” shall mean (i) any and all non-public and/or proprietary information (whether written or oral or recorded in any electronic or other format) with respect to the business, clients, products, intellectual property, operations, assets, financial condition and projections, plans and prospects of the Company, that is furnished by the Company to Recipient, including, without limitation, financial information, marketing information, client information, current and anticipated customer requirements, partnership or other agreements, billing and collections information, analyses, forecasts, operational methods, and training procedures and processes, owned by the Company or used in the course of its business, and (ii) all notes, analyses, compilations, studies, summaries and other material prepared by the Company to the extent containing or based, in whole or in part, upon any information included in the foregoing. All such Confidential Information shall be considered as trade secrets of the Company and is disclosed in confidence. The Company intends that any Confidential Information furnished to the Recipient shall be on the terms and provisions, and subject to the conditions, of this Agreement.

The Company is disclosing the Confidential Information to Recipients solely for the purpose of evaluating, negotiating, documenting and/or consummating the Transaction.

In consideration of the opportunity to review the Confidential Information, Recipient(s) hereby agree and promise to observe the following conditions, and recognizes this obligation as a binding and contractual obligation when this Confidentiality Agreement is executed.

Section 1 Non Disclosure and Use of Information

Recipient(s) agrees that, with respect to the Confidential Information, it will:

- (1) Hold the Confidential Information in confidence and use the Confidential Information solely for purposes of evaluating, negotiating, documenting and/or consummating a possible Transaction with the Company;
- (2) Grant access to such Confidential Information only to those of its employees, officers, directors, shareholders, representatives, and advisors (collectively, "Representatives") who have a legitimate need for such access in order for Recipient(s) to carry out its evaluation;
- (3) Advise any of those persons who are given access to the Confidential Information of the requirements of this Confidentiality Agreement and instruct them to abide by the terms of this Confidentiality Agreement;
- (4) Use reasonable care in protecting the confidentiality of the Confidential Information and afford such Confidential Information the same protection as it ordinarily affords for its own confidential and trade secret information;
- (5) Forego using such Confidential Information for any purpose other than evaluating, negotiating, documenting and/or consummating the potential Transaction; and
- (6) Upon receipt of a written request from the Company, Recipient will either destroy or return to the Company all documents or other recorded media in Recipient(s)' possession or control that contain any Confidential Information, provided, he may cause one copy of the Confidential Information to be maintained by its legal representative solely for the determination of any legal obligations under this Confidentiality Agreement. Notwithstanding anything to the contrary contained in this Confidentiality Agreement, no obligation or liability shall accrue hereunder with respect to any of the Confidential Information to the extent that such information (i) was already in Recipient(s)' possession prior to the date hereof; or (ii) becomes available to the public other than as a result of disclosure by Recipient(s) or its representatives.

Section 2 Company's Ability to Disclose Confidential Information

Recipient(s) agree to indemnify and hold harmless in full Company and its Representatives against any and all damages, reasonable costs and expenses of any nature whatsoever (including, but not limited to, reasonable attorney's fees) incurred by Company or by any such person in connection with the untruth of such representation or the breach of such warranty (collectively, "Damages"), but only if and to the extent that a court of competent jurisdiction determines in a final order that Recipient or Recipient's Representatives breached this Agreement and that such Damages were caused by such breach.

Section 3 Legal Proceedings Compelling Disclosure

In the event Recipient(s) becomes legally compelled to disclose any of the Confidential Information, he will provide to the Company prompt written notice so that the Company may

seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Confidentiality Agreement; provided that, pending the actions of the Company, nothing shall prevent him from disclosing the Confidential Information if it is required to do so by the legal proceedings. In the event that such protective order or other remedy is not obtained, or that the Company waives compliance with the terms of this Confidentiality Agreement, he will furnish only that portion of the Confidential Information which, upon the advice of its counsel, is legally required.

Section 4 Termination

By the execution hereof, and for a period of one (1) year from the date of this Confidentiality Agreement, Recipient(s) agrees to keep the Confidential Information confidential to the same extent as it keeps sensitive information with regard to its own internal affairs and with regard to the affairs of its customers and obligors confidential. Notwithstanding the foregoing, in the event Recipient(s) and the Company enter into a Transaction, this Confidentiality Agreement shall be of no force and effect and the terms of the definitive agreement executed and delivered with respect to the Transaction shall govern the obligations of Recipient(s) and the Company with respect to the Confidential Information.

Section 5 Enforcement

The parties acknowledge and agree that, in the event of any breach of this Confidentiality Agreement, the non-breaching party (as determined by a court of competent jurisdiction) might be irreparably harmed and unable to be made whole by monetary damages. Accordingly, it is agreed that the non-breaching party, in addition to any other remedy to which it may be entitled in law or equity, will be entitled to seek an injunction to remedy breaches of this Confidentiality Agreement and/or to compel specific performance of this Confidentiality Agreement. In the event of any litigation or judicial proceeding arising out of or in connection with this Confidentiality Agreement, the prevailing party shall immediately be reimbursed by the other party for its costs and expenses (including reasonable attorneys fees and expenses) incurred in connection with such litigation or proceeding.

Section 6 Notices

All notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms of this Agreement shall be in writing, and shall be sent to the Parties at the following addresses or facsimile numbers, as applicable:

If to _____, to it at:

If to the Company, to it at:

with a copy to:

[ATTORNEY]

or to such other address or facsimile number as a Party may have furnished to the other Parties in writing in accordance herewith. All notices, consents, directions, approvals, instructions, requests and other communications hereunder shall be sent and effective as follows: (a) on the business day delivered, when delivered personally, (b) seven days after mailing if mailed by registered or certified mail, return receipt requested (postage, prepaid); (c) on the next business day if sent by a nationally recognized express overnight courier with all costs prepaid and provided evidence of delivery is available; or (d) on the business day of facsimile transmission if received on a business day between the hours of 9:00 a.m. and 5:00 p.m. (Pacific Time) or on the next business day if received after that time, in each case with an automatic machine confirmation indicating the time of receipt.

Section 7 Modifications

This Confidentiality Agreement may be modified or waived only by a separate writing by the parties expressly so modifying or waiving this Confidentiality Agreement.

Section 8 Governing Law

This Confidentiality Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 9 No Assignment

This Agreement is not assignable by either Party without the prior written consent of the other Party. Any attempted assignment without such consent shall be *ab initio* null and void and of no force or effect. This Agreement shall be binding, upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. This Agreement may not be amended, modified, altered or waived, except by an instrument in writing signed by each of the Parties.

Section 10 Representations and Warranties

Each of the Parties represents and warrants to the other Party as follows: (a) that it has the corporate power and authority to enter into this Agreement and to perform its obligations hereunder; (b) its execution, delivery and performance of this Agreement has been duly authorized in accordance with all corporate power and authority; and (c) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization and other similar laws affecting creditor’s rights generally and by general equitable principles.

Section 11 Severability

If any of the provisions of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect or render invalid, illegal or unenforceable any other provision of this Agreement and to the extent permitted, such invalid, illegal or unenforceable provision shall be amended and reframed in a manner that will be enforceable. It is the intent of the Parties that this Agreement shall be enforced to the maximum extent permitted by applicable law.

Section 12 Counterparts

This Agreement may be signed in counterparts and shall become effective as if executed in a single, complete document upon its execution by all Parties. Facsimile signatures of the undersigned Parties will have the same force and effect as original signatures.

Section 13 Gender/Number

As used in this Agreement, the masculine, feminine, and neuter gender, and the singular and plural number, shall each be deemed to include the other whenever the context so indicates.

Section 14 Entire Agreement

This Agreement constitutes a single, integrated written contract expressing the entire agreement of the parties hereto relative to the subject matter hereof. All prior discussions and negotiations have been and are merged and integrated into, and are superseded by, this Agreement.

IN WITNESS WHEREOF, Each undersigned hereby agrees to the aforementioned terms and conditions and acknowledges that he or she has the authority to bind the respective party to the terms set forth herein:

[COMPANY NAME HERE]

[RECIPIENT NAME HERE]

By: _____

By: _____

Its: _____

Its: _____