

Disclaimer: This NDA sample is provided for informational purposes only and should not be considered legal advice. It is recommended to consult with the appropriate legal professionals or licensed attorneys for advice pertaining to specific business needs. Please consult with your attorney.

Non-Disclosure Agreement

This Non-Disclosure entered into as of this date, _____, (the "Agreement"), is made between _____ ("Disclosing Party"), and _____ ("Recipient").

Background

The Parties hereto desire to participate in discussions/demo regarding software applications involving _____ (the "Transaction"). During these discussions/demos, Disclosing Party may share certain proprietary information with the Recipient. Therefore, the parties agree to the following:

Terms

1. Definition of Confidential Information

1.1 Information. For purposes of this Agreement, "Information" shall mean, without limitation, all that pertains to the Transaction, all intellectual property, strategic information, financial statements or projections, business plans, prototypes, drawings, data, trade secrets, business records, customer lists, supplier agreements, partnership or joint venture agreements, license agreements, marketing plans, employee lists, policies and procedures, information relating to processes, technologies or theory and any or all other information which may be disclosed by the Disclosing Party to the Recipient in accordance with this Agreement.

1.2 Exclusions. Confidential Information shall not include information which: (i) was known by the Recipient prior to receiving the Confidential Information from the Disclosing Party; (ii) becomes rightfully known to the Recipient from a third-party source not known by the Recipient to be under an obligation to Disclosing Party to maintain confidentiality; (iii) is or becomes publicly available through no fault of or failure to act by the Recipient in breach of this Agreement; (iv) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation; or (v) is or has been independently developed by employees, consultants or agents of the Recipient without violation of

the terms of this Agreement or reference or access to any Confidential Information.

2. Disclosure of Confidential Information

2.1 Non-Disclosure of Information. The Recipient acknowledges the competitive value and confidential nature of the Information and the damages that would result to the Disclosing Party if any such information were disclosed. Therefore, the Recipient shall: (i) keep the Information confidential; (ii) use the same degree of care to avoid unauthorized disclosure of the Information as it employs with respect to its own information which it does not desire to disclose; and (iii) at all times use at least reasonable care to avoid unauthorized disclosure of information. Disclosure may be authorized only by express written consent communicated by the Disclosing Party to Recipient.

3. Term

3.1 Period of Agreement. This Agreement shall remain in effect for a two-year term (subject to a one year extension if the parties are still discussing and considering the Agreement at the end of the second year). Notwithstanding the foregoing, the Recipient's duty to hold in confidence Confidential Information that was disclosed during term shall remain in effect indefinitely.

3.2 Return of Confidential Information. Upon termination, the Recipient shall return all Confidential Information or, at the request of the Disclosing Party, destroy it.

4. Disclaimer

The Recipient understands that neither the Disclosing Party nor any of its representatives or advisors has made or herein makes any representation or warranty as to the accuracy or completeness of the Information.]

5. Remedies

Damages for breach of confidentiality under a breach of contract theory are typically difficult to quantify and the loss cannot be measured fully in money damages. Thus, the harm is irreparable.

5.1 Because the harm may be impossible to quantify, the Disclosing party may be eligible for liquidated damages in the event of a breach of the terms of this Agreement.

6. Miscellaneous

- 6.1** The Disclosing Party retains all rights of ownership to the Confidential Information. No title is transferred upon acknowledgment of this agreement.
- 6.2** The Disclosing Party and Recipient are independent of one another and this Agreement does not establish any relationship between the parties.
- 6.3** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.
- 6.4** The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of the remainder of this Agreement or any other provision hereof.
- 6.5** This Agreement may be executed in any number of counterparts each of which shall be deemed an original, but all of such taken together shall constitute only one Agreement, superseding all prior understandings, oral or written. It is expressly understood and that this Agreement does not obligate either party to enter into any other or further agreements.

The parties have executed this agreement as of the date first written above.

Disclosing Party

Signed:_____

Recipient

Signed:_____