

DUE DILIGENCE NON-DISCLOSURE AGREEMENT

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This Due Diligence Non-Disclosure Agreement (this "**Agreement**") is entered into as of [EFFECTIVE DATE] (the "**Effective Date**") by and between:

[DISCLOSING PARTY LEGAL NAME], a [STATE] [ENTITY TYPE] with its principal place of business at [ADDRESS] (the "**Disclosing Party**"); and

[RECEIVING PARTY LEGAL NAME], a [STATE] [ENTITY TYPE] with its principal place of business at [ADDRESS] (the "**Receiving Party**").

The Disclosing Party and the Receiving Party are each a "**Party**" and together the "**Parties**."

Recitals. The Parties are exploring a possible transaction, namely [DESCRIBE THE POTENTIAL TRANSACTION, e.g. an acquisition, investment, merger, or financing] (the "**Transaction**"). To evaluate the Transaction, the Disclosing Party will provide the Receiving Party with access to confidential business, financial, legal, and operational information for due-diligence review. The Disclosing Party is willing to provide that access only on the terms below. In consideration of the mutual promises in this Agreement, the Parties agree as follows.

1. Definitions

1.1 Confidential Information. "**Confidential Information**" means all non-public information disclosed by or on behalf of the Disclosing Party to the Receiving Party in connection with the Transaction, in any form, including financial statements, tax records, contracts, customer and supplier data, pricing, forecasts, employee and compensation data, intellectual property, and the analyses, notes, and reports the Receiving Party prepares that contain or reflect such information ("**Derivative Materials**").

1.2 Representatives. "**Representatives**" means a Party's directors, officers, employees, affiliates, and its legal, financial, accounting, and other professional advisors who are involved in evaluating the Transaction.

1.3 Transaction. "**Transaction**" has the meaning given in the Recitals.

2. Confidentiality and Permitted Use

2.1 Use limitation. The Receiving Party will use Confidential Information solely to evaluate, negotiate, and, if applicable, consummate the Transaction, and for no other purpose.

2.2 Non-disclosure. The Receiving Party will keep Confidential Information confidential and will not disclose it to any person other than its Representatives who need it for the permitted purpose.

2.3 Standard of care. The Receiving Party will protect Confidential Information using at least the same degree of care it uses for its own confidential information of like importance, and no less than reasonable care.

2.4 Representatives. The Receiving Party will inform its Representatives of the confidential nature of the information, direct them to comply with this Agreement, and remain responsible for any breach by its

Representatives as if it were its own.

3. Exclusions and Compelled Disclosure

3.1 Exclusions. Confidentiality obligations do not apply to information that: (a) is or becomes public through no fault of the Receiving Party or its Representatives; (b) was rightfully known to the Receiving Party without restriction before disclosure; (c) is rightfully received from a third party without restriction; or (d) is independently developed by the Receiving Party without use of or reference to the Confidential Information.

3.2 Compelled disclosure. If the Receiving Party or its Representatives are legally compelled to disclose Confidential Information, the Receiving Party will, to the extent legally permitted, promptly notify the Disclosing Party so it may seek a protective order, cooperate at the Disclosing Party's expense, and disclose only the portion legally required, while seeking confidential treatment.

4. Non-Solicitation and No Contact

4.1 No circumvention. During the evaluation and for **[NUMBER, e.g. 12]** months after, the Receiving Party will not use Confidential Information to circumvent the Disclosing Party in dealings with its customers, suppliers, or counterparties.

4.2 No solicitation of employees. During the same period, the Receiving Party will not solicit for employment any employee of the Disclosing Party whom it first learned of through the diligence process, except through general advertising not targeted at such employees. **[Adjust scope and duration with counsel; enforceability varies by jurisdiction.]**

4.3 Designated contacts. The Receiving Party will direct all diligence requests and communications through the Disclosing Party's designated contacts and will not contact the Disclosing Party's employees, customers, or suppliers about the Transaction without prior written consent.

5. No Representation; No Obligation

5.1 No warranty. Confidential Information is provided "as is." The Disclosing Party makes no representation or warranty as to its accuracy or completeness except as may be set out in a later definitive agreement. The Receiving Party will rely on its own evaluation.

5.2 No transaction obligation. This Agreement does not obligate either Party to proceed with or complete the Transaction, and either Party may end discussions at any time.

5.3 No license. Disclosure does not grant the Receiving Party any license or other right in the Disclosing Party's intellectual property.

6. Return or Destruction

6.1 On request or termination. On the Disclosing Party's written request, or if the Parties decide not to proceed, the Receiving Party will promptly return or destroy all Confidential Information and Derivative Materials and certify compliance in writing on request.

6.2 Retained copies. The Receiving Party may retain copies required by law, regulation, or its bona fide internal records-retention or backup policies, which remain subject to this Agreement for as long as retained.

7. Securities Law Acknowledgment

7.1 Material non-public information. The Receiving Party acknowledges that Confidential Information may include material non-public information and that applicable securities laws may prohibit trading in securities, or tipping others to trade, on the basis of such information. The Receiving Party will comply with all applicable laws.

8. Term and Survival

8.1 Duration. This Agreement begins on the Effective Date and continues for **[NUMBER, e.g. 2]** years, except that obligations relating to any information that constitutes a trade secret continue for as long as the information remains a trade secret under applicable law.

8.2 Survival. The Receiving Party's confidentiality obligations survive any return or destruction of Confidential Information for the periods stated above.

9. Remedies

9.1 Injunctive relief. Each Party acknowledges that a breach may cause irreparable harm for which money damages are inadequate, and that the non-breaching Party may seek injunctive relief in addition to any other remedy, without the need to post a bond except as required by law.

9.2 Cumulative remedies. Remedies under this Agreement are cumulative and do not waive any other remedy available at law or in equity.

10. General Provisions

10.1 Governing law and venue. This Agreement is governed by the laws of the State of **[STATE]**, without regard to its conflict-of-laws rules. The Parties submit to the exclusive jurisdiction of the state and federal courts located in **[COUNTY, STATE]**.

10.2 Assignment. Neither Party may assign this Agreement without the other's prior written consent, except to a successor in connection with a merger, acquisition, or sale of substantially all assets.

10.3 Severability. If any provision is unenforceable, a court may modify it to the minimum extent necessary to make it enforceable, and the remaining provisions stay in effect.

10.4 Waiver. A Party's failure to enforce a provision is not a waiver of that or any other provision.

10.5 Entire agreement; amendment. This Agreement is the entire agreement between the Parties on its subject and supersedes prior understandings on that subject. It may be amended only in a writing signed by both Parties.

10.6 Counterparts and electronic signature. This Agreement may be signed in counterparts and by electronic signature, each of which is an original and all of which together form one agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

DISCLOSING PARTY

RECEIVING PARTY

Signature: _____

Signature: _____

Printed name: **[NAME]**

Printed name: **[NAME]**

Title: **[TITLE]**

Title: **[TITLE]**

Date: _____

Date: _____

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