

EXCLUSIVITY AGREEMENT

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This Exclusivity Agreement (this "**Agreement**") is entered into as of [EFFECTIVE DATE] (the "**Effective Date**") by and between:

[PARTY A LEGAL NAME], a [STATE] [ENTITY TYPE, e.g. limited liability company] with its principal place of business at [PARTY A ADDRESS] ("**Party A**"); and

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

Party A and Party B are each a "**Party**" and together the "**Parties**."

Recitals. The Parties are exploring [DESCRIBE THE POTENTIAL TRANSACTION OR RELATIONSHIP, e.g. a purchase of assets, a supply arrangement, an investment, or a strategic partnership] (the "**Proposed Transaction**"). To allow the Parties to negotiate the Proposed Transaction in good faith and to make commitments of time and resources without the risk of a competing deal, each Party is willing to deal exclusively with the other for a limited period on the terms below. In consideration of the mutual promises below, the Parties agree as follows.

1. Definitions and Interpretation

1.1 Proposed Transaction. "**Proposed Transaction**" means the potential transaction or relationship described in the Recitals and any reasonably related transaction the Parties pursue during the Exclusivity Period.

1.2 Exclusivity Period. "**Exclusivity Period**" means the period beginning on the Effective Date and ending on [END DATE OR NUMBER OF DAYS, e.g. 60 days after the Effective Date], unless extended or terminated under this Agreement.

1.3 Third Party. "**Third Party**" means any person other than the Parties and their respective affiliates and representatives.

1.4 Competing Proposal. "**Competing Proposal**" means any inquiry, proposal, or offer from a Third Party relating to a transaction that, if completed, would be inconsistent with or prevent the Proposed Transaction.

1.5 Interpretation. Headings are for convenience only. "Including" means "including without limitation." References to a Party include its affiliates and authorized representatives where the context requires.

2. Grant of Exclusivity

2.1 Mutual exclusivity. During the Exclusivity Period, each Party will deal exclusively with the other Party in connection with the Proposed Transaction and will not, directly or indirectly, pursue, negotiate, or enter into a Competing Proposal with any Third Party. [ALTERNATIVE: For one-way exclusivity, state that only [PARTY] grants exclusivity to [OTHER PARTY] and delete the mutual language.]

2.2 No solicitation. During the Exclusivity Period, neither Party will solicit, initiate, or knowingly encourage a Competing Proposal, or provide non-public information to a Third Party for the purpose of a Competing Proposal.

2.3 Notice of competing approaches. Each Party will promptly notify the other if it receives a Competing Proposal during the Exclusivity Period, and will describe the general nature of the approach, without being required to disclose the identity of the Third Party where doing so would breach a pre-existing confidentiality obligation.

2.4 Carve-outs. The exclusivity in this Section does not apply to [OPTIONAL: ordinary-course activities, pre-existing commitments listed in Exhibit A, or unsolicited approaches a Party is legally or fiduciarily required to consider].

3. Good-Faith Negotiation

3.1 Diligent pursuit. During the Exclusivity Period, the Parties will negotiate the terms of the Proposed Transaction in good faith and will work diligently and cooperatively toward a definitive agreement.

3.2 Information and access. Each Party will provide the other with reasonable access to information, personnel, and materials reasonably necessary to evaluate and document the Proposed Transaction, subject to the confidentiality obligations in Section 5.

3.3 No obligation to close. Nothing in this Agreement obligates either Party to enter into the Proposed Transaction or any definitive agreement. The Parties intend to be bound only by the provisions of this Agreement that are expressly stated to be binding (Sections 2, 3.1, 4, 5, 6, 7, and 8), and not to create any obligation to complete the Proposed Transaction itself.

4. Term, Extension, and Termination

4.1 Term. This Agreement begins on the Effective Date and continues for the Exclusivity Period unless terminated earlier under this Section.

4.2 Extension. The Parties may extend the Exclusivity Period by mutual written agreement.

4.3 Termination. Either Party may terminate this Agreement before the end of the Exclusivity Period if: (a) the other Party materially breaches and fails to cure within [NUMBER, e.g. 5] business days after written notice; or (b) the Parties agree in writing to abandon the Proposed Transaction.

4.4 Effect of termination. On termination or expiry, the exclusivity in Section 2 ends, but Sections 5, 6, 7, and 8 survive in accordance with their terms.

5. Confidentiality

5.1 Confidential treatment. Each Party will keep confidential the existence and terms of this Agreement, the fact that the Parties are discussing the Proposed Transaction, and any non-public information exchanged, and will use such information only to evaluate and pursue the Proposed Transaction.

5.2 Permitted disclosures. A Party may disclose such information to its representatives, advisors, lenders, and insurers who need it and are bound by confidentiality obligations at least as protective as these, and to the extent required by law or court order with prompt notice to the other Party where legally permitted.

5.3 Relationship to other NDAs. If the Parties have a separate non-disclosure agreement, that agreement governs the treatment of Confidential Information and this Section supplements but does not reduce its protections.

6. Remedies

6.1 Irreparable harm. Each Party acknowledges that a breach of Section 2 may cause irreparable harm for which monetary damages are inadequate, and that the non-breaching Party is entitled to seek injunctive or other equitable relief in addition to any other remedy, without the requirement of posting a bond except as required by applicable law.

6.2 Costs. [OPTIONAL: A Party that breaches Section 2 will reimburse the non-breaching Party for its documented out-of-pocket costs incurred in pursuing the Proposed Transaction, up to [AMOUNT]. This is a reimbursement of expenses, not a penalty.]

6.3 Cumulative remedies. The remedies in this Agreement are cumulative and in addition to any other remedy available at law or in equity.

7. Representations

7.1 Authority. Each Party represents and warrants that it has full power and authority to enter into and perform this Agreement, that this Agreement is duly authorized and binding on it, and that entering into it does not breach any law or agreement to which it is bound.

7.2 No conflicting exclusivity. Each Party represents that, as of the Effective Date, it is not subject to an exclusivity or no-shop obligation to a Third Party that would conflict with this Agreement, except as disclosed in Exhibit A.

8. General Provisions

8.1 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].

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

8.3 Assignment. Neither Party may assign this Agreement without the other's prior written consent.

8.4 Severability and waiver. If any provision is unenforceable, the rest remains in effect. A Party's failure to enforce a provision is not a waiver. Where the Exclusivity Period or any restriction is broader than enforceable under applicable law, it will be reduced to the maximum enforceable scope rather than voided.

8.5 Notices. Notices must be in writing and sent to the addresses above (or as updated in writing) and are effective on receipt.

8.6 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.

PARTY A

PARTY B

Signature: _____

Signature: _____

Printed name: [NAME]

Printed name: [NAME]

Title: **[TITLE]**

Title: **[TITLE]**

Date: _____

Date: _____

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