

MUTUAL CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ("Agreement") is made on this ___ day of _____, 2015 ("Effective Date") by and between nexB, Inc., having a place of business at 735 Industrial Road #101, San Carlos, CA 94070 ("nexB") and _____, having a place of business at _____ ("_____").

nexB and _____ would like to exchange certain information regarding _____ which may be considered trade secret, proprietary, confidential and/or sensitive information of each party and/or their respective subsidiaries and affiliates ("Confidential Information" as defined below in paragraph 4). To ensure the protection of such Confidential Information and in consideration of the agreement to exchange information, the parties agree as follows:

1. Neither party is required to disclose any particular information to the other and any disclosure is entirely voluntary and is not intended to, and shall not, create or modify any contractual or other relationship or obligation of any kind between the parties beyond the terms of this Agreement. Furthermore, neither this Agreement, nor any exchange of information under it, will be construed as creating, conveying, transferring, granting or conferring upon the other, any rights, including, but not limited to intellectual property rights, license or authority in or to the information exchanged.

2. Both parties acknowledge and agree that the exchange of information hereunder shall not commit or bind either party to enter into a contract or any other business arrangement. Neither party shall rely on any information exchanged as a commitment or an inducement to act or not to act in any given manner. Correspondingly, neither party shall be liable to the other in any manner whatsoever for any decisions, obligations, costs or expenses incurred, changes in business practices, plans, organization, products, services, or otherwise, based on either party's decision to rely on any information exchanged hereunder or use such information in accordance with this Agreement.

3. Each party agrees to use the Confidential Information only for the purpose of evaluating a potential transaction between them. Each party agrees to regard and preserve as confidential, all Confidential Information of the other which may be obtained from any source as a result of this Agreement. In maintaining confidentiality hereunder, each party agrees it shall not, without first obtaining the written consent of the other, disclose or make available to any person, firm or enterprise, reproduce or transmit, or use (directly or indirectly) for its own benefit or the benefit of others, any Confidential Information. Each party agrees that its own use and/or distribution of the other's Confidential Information shall be limited to its own employees on a "need to know" basis; provided, however, that the parties may disclose Confidential Information learned pursuant to this Agreement to its employees, employees of their respective parent, subsidiary and affiliated companies, and to consultants or other persons retained for purposes specifically and solely related to the use or evaluation of Confidential Information as provided for herein.

4. As used herein, "Confidential Information" shall include, but is not limited to, specific information relating to a project or work effort contemplated by the parties, as well as all other information related to either parties' past, present and future plans, businesses, activities, products, customers and suppliers. Both parties agree that the information will not be considered "Confidential Information" to the extent, but only to the extent, that such information:

- 4.1 is already known to the receiving party free of any confidentiality obligation at the time it is obtained;
- 4.2 is or becomes publicly known through no wrongful act of the receiving party;
- 4.3 is rightfully received by the receiving party from a third party without restriction and without breach of this Agreement;

4.4 is independently developed by the receiving party, which can be demonstrated by written record.

5. If the Confidential Information is subject to disclosure pursuant to an order, decree, subpoena or other validly issued judicial or administrative process requiring either party or their respective representatives (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Information, such party will promptly notify the other party of such request or requirement so that such other party may seek to avoid or minimize the required disclosure and/or to obtain an appropriate protective order or other appropriate relief to ensure that any Confidential Information so disclosed is maintained in confidence to the maximum extent possible by the agency or other person receiving the disclosure, or, in the discretion of such other party, to waive compliance with the provisions of this Agreement. In any such case, and in addition to the notice contemplated in this paragraph, the party in receipt of such Confidential Information will use its reasonable efforts, in cooperation with the other party or otherwise, to avoid or minimize the required disclosure and/or to obtain such protective order or other relief to protect the Confidential Information. If, in the absence of a protective order or the receipt of a waiver hereunder, a party or its representatives are compelled to disclose the Confidential Information or else stand liable for contempt or suffer other censure or penalty, such party will disclose only so much of the Confidential Information to the person compelling disclosure as it believes in good faith on the basis of advice of counsel is required by law. Such party shall give the other party prior notice of the Confidential Information it believes it is required to disclose.

6. Each party agrees and understands that the other party may be evaluating similar proposals and/or transactions with third parties, including, but not limited to potentially competing companies, and may be considering currently, or in the future projects similar to those being discussed by the parties pursuant to this Agreement. Nothing in this Agreement shall restrict the right of either party to create, protect (whether by patent, trademark, copyright, trade secret or other means), procure or market any products or services, including, but not limited to those that may be competitive with those offered by the other provided, however, such party has not used Confidential Information of the other for such purposes.

7. This Agreement shall not be construed to limit either party's right to independently develop or acquire products without use of the other party's Confidential Information.

8. Each party agrees to insure, by agreement, instruction or otherwise, compliance with these confidentiality obligations by its employees, agents, consultants and others who are permitted access or use (in accordance with the terms herein) of the Confidential Information of the other party. Each party agrees that if there is a breach or threatened breach of the provisions of this Agreement, the other party may have no adequate remedy in money or damages and accordingly shall be entitled to seek injunctive relief and any other appropriate equitable remedies for any such breach without proof of actual injury. The parties further agree that they will not oppose the granting of such relief and that it will not seek, and agree to waive any requirement for, the posting of any bond in connection therewith. Such remedies shall not be deemed to be the exclusive remedies for any breaches of this Agreement by a party or its representatives, and shall be in addition to all other remedies available at law or in equity.

9. If any of the provisions of this Agreement are held invalid, illegal or unenforceable, the remaining provisions shall be unimpaired.

10. IN NO EVENT SHALL EITHER PARTY BE LIABLE, ONE TO THE OTHER, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

11. THE PARTIES ACKNOWLEDGE THAT THE CONFIDENTIAL INFORMATION DISCLOSED IS PROVIDED "AS IS" AND THE DISCLOSING PARTY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

12. Neither party will use the other party's name or marks, refer to or identify the other party in any advertising or publicity releases or promotional or marketing correspondence to others without such other party's written approval. Neither party shall disclose the existence of this Agreement or that the parties are considering a proposed transaction without the other party's consent.

13. In the event of a breach, the breaching party will provide notice immediately to the other party.

14. At any time after the disclosure of any Confidential Information by either party, and at the request and option of the disclosing party, the receiving party agrees to promptly (i) return the confidential information of the disclosing party to the disclosing party or (ii) destroy the confidential information of the disclosing party and acknowledge in a sworn affidavit that all such confidential information has been destroyed.

15. Neither party may assign or otherwise transfer this Agreement, or any of its rights and obligations hereunder, to any third party without the consent of the other party and any attempt to do so will be in violation of this Section and shall be deemed null and void.

16. This Agreement may be executed in any number of counterparts, each of which shall be an original, but which together shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile. Any facsimile signatures shall have the same legal effect as manual signatures.

17. This Agreement shall be construed and interpreted fairly, in accordance with the plain meaning of its terms, and there shall be no presumption or inference against the party drafting this Agreement in construing or interpreting the provisions hereof, including contra preferentem.

18. The termination of any other agreement or business relationship between, or involving both parties, shall not relieve either party of its obligations with respect to Confidential Information disclosed pursuant to the terms hereof. This Agreement shall be governed in all respects by the substantive laws of the State of California without regard for conflict of law principles and any cause of action shall only be brought into a court of competent jurisdiction within the county of Santa Clara within the State of California.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the dates written below:

nexB Inc.

By: _____

By: _____

Name: Michael J. Herzog

Name: _____

Title: CEO & President

Title: _____

Date: _____

Date: _____