

This **CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT** dated [AGREEMENT DATE] (the “**Agreement**”)

BETWEEN:

[**RECEIVING PARTY**], whose principal place of business is located at [RECEIVING PARTY PLACE OF BUSINESS], (hereinafter, “**Receiving Party**”)

and

[**DISCLOSING PARTY**], whose principal place of business is located at [DISCLOSING PARTY PLACE OF BUSINESS] (hereinafter, “**Company**”)

(each a “**Party**” and collectively, the “**Parties**”)

RECITES:

- A. The Parties consider it desirable for Company to disclose Confidential Information to the Receiving Party for the limited purpose of [PURPOSE] (the “**Permitted Purpose**”); and
- B. The Parties wish to define herein the obligations of the Receiving Party with respect to the handling and disclosure of Confidential Information that may be disclosed to the Receiving Party by Company in connection with the Permitted Purpose.

TERMS

In consideration of the mutual covenants and conditions set forth herein, the Receiving Party, intending to be legally bound, agrees as follows:

1. Definitions

(a) “**Business Information**” includes, but is not limited to, information relating to intellectual property, business plans, financial information, products, services, manufacturing processes and know-how, technical information, sources of supply, strategic plans, advertising and marketing plans, customer lists, sales, profits, pricing methods, personnel and business relationships.

(b) “**Confidential Information**” includes, but is not limited to, Company’s Intellectual Property Information, Business Information and Trade Secrets, whether or not reduced to writing or other tangible expression, which Company may disclose to the Receiving Party; provided however that Confidential Information shall not include any information which (i) was already known to the Receiving Party prior to the time of disclosure by Company as evidenced by written records, (ii) is available or becomes generally available to the public other than through a breach of this Agreement by the Receiving Party, (iii) is acquired or received rightfully and without confidential limitation by the Receiving Party from a third party, or (iv) is independently developed by the Receiving Party without breach of this Agreement.

(c) “**Effective Date**” means the date written at the top of the first page of this Agreement;

(d) “**Intellectual Property Information**” includes, but is not limited to, information relating to research and development, discoveries, improvements, processes, know-how, drawings, blueprints, specifications, samples, formulae, notes, patents, copyrights, trademarks, trade names, and patent, trademark and copyright applications; and

(e) “**Trade Secrets**” means information that (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

2. The Receiving Party agrees that it shall only use Confidential Information for the Permitted Purpose and for no other purpose whatsoever.

3. The Receiving Party agrees to take all necessary and appropriate steps to keep confidential and protect Confidential Information including: (i) restricting access to all Confidential Information received from the other to

those employees who have a “need to know” and advising such employees of their obligations to handle the Confidential Information with the highest degree of care and prudence to prevent a violation of this Agreement; and (ii) not using, disclosing, or allowing access to such Confidential Information by any third party, except as authorized by Company in writing. The Receiving Party further agrees to keep confidential the existence of this Agreement and that it is meeting with or receiving information from Company, except as may be required by law.

4. The Receiving Party agrees it shall be liable for any breach of this Agreement by its employees, employees of its affiliates or subsidiaries and by any consultant, agent, or other third party to whom it has communicated Confidential Information.

5. If the Receiving Party becomes legally required to disclose Confidential Information, or any part thereof, the Receiving Party will give Company prompt notice of such requirement to the extent that the Receiving Party is legally able to do so. If Company waives compliance with any of the terms of this Agreement or is unable to obtain a protective order or other appropriate remedy with respect to such disclosure of Confidential Information, then the Receiving Party will disclose only that portion of the Confidential Information necessary to ensure compliance with such legal requirement. Any Confidential Information that is disclosed pursuant to a legal obligation shall maintain its confidential character if the disclosure does not result in the information becoming generally known or available to third parties without restrictions on further disclosure. The Receiving Party has the burden of proving the foregoing exceptions and must notify Company within forty eight hours from the time of disclosure upon such exceptions.

6. The Receiving Party agrees that Confidential Information is and will remain the property of Company and all such Confidential Information in tangible form and copies thereof will be returned promptly to Company upon request, except that the Receiving Party may retain one copy of Company's confidential information for regulatory and risk management purposes provided that such copy is securely maintained in a secure location at the Receiving Party's principal place of business or by the Receiving Party's legal counsel. No use of such Confidential Information is permitted except as provided in this Agreement, and the Receiving Party agrees not to rely upon, in any manner, Confidential Information except as authorized by this Agreement. No grant of any of Company's intellectual property rights, including any license implied or otherwise, is given or intended to be given.

7. Samples of products (“**Samples**”) provided by Company to the Receiving Party for its evaluation, together with products made therefrom and information obtained by the Receiving Party as a result of the evaluation thereof shall be deemed Confidential Information subject to this Agreement. The Receiving Party may evaluate the Samples for the Permitted Purpose only, and shall not, without the prior written consent of Company, chemically analyze, disassemble, sell, show or give the Samples, products made therefrom, or the evaluation results, to any third party. The Samples and products made therefrom shall be returned or disposed of as specified by Company. Test results obtained by the Receiving Party in connection with testing conducted on Samples shall be made available to Company upon their achievement.

8. This Agreement will be effective as of the Effective Date, but will apply to any Confidential Information disclosed to the Receiving Party by Company prior to such date. This Agreement shall expire:

- (a) as to subsequent disclosures of Confidential Information, on the later of five (5) years from and after the Effective Date or five (5) years from the expiry or termination of any other agreement between the Parties related to the supply of goods and/or services in relation to the Permitted Purpose; and
- (b) as to any Confidential Information disclosed prior to the date of any termination under subsection (a) above, for a further period of five (5) years from and after such date; provided that this Agreement shall continue in full force and effect with respect to any Trade Secret for such additional period as such information remains a Trade Secret.

9. The Receiving Party acknowledges and will not contest that unauthorized disclosure or other violation, or threatened violation of this Agreement by the Receiving Party will cause irreparable damage to Company. The Receiving Party agrees that Company will be entitled to seek an injunction prohibiting the Receiving Party from any such disclosure, attempted disclosure, violation or threatened violation without the necessity of proving damages or furnishing a bond or other security. The Receiving Party hereby indemnifies and holds Company harmless from and against all damages, losses and costs (including reasonable attorneys' fees) resulting from any such actual, attempted or threatened disclosure or violation.

10. Neither this Agreement nor anything disclosed or provided pursuant to this Agreement creates or should be construed to create, in any manner, any obligation to enter into any contract or business arrangement nor does it obligate either Party to purchase any service or item from the other or offer for sale any products using or incorporating Confidential Information.

11. The Receiving Party agrees and acknowledges that neither Company nor its shareholders, officers, employees, agents or advisors make any representation or warranty (express or implied) as to the accuracy and completeness of Confidential Information except as may be expressly represented or warranted in any subsequent agreement concluded between the Parties.

12. This Agreement may not be amended or modified, nor may any right or remedy of any Party be waived, except in writing, signed by such Party. The waiver by any Party of the breach of any term or provision hereof by any other Party will not be construed as a waiver of any other subsequent breach.

13. The rights and obligations of the Parties pursuant to this Agreement shall be in addition to and shall not derogate from either Party's obligations under any other agreement between them. In the event of any conflict between any provision(s) of this Agreement and those of any other agreement between them, the more restrictive provision(s) shall apply.

14. This Agreement is governed by and will be construed in accordance with the laws of the province of Nova Scotia and the laws of Canada applicable therein. The Receiving Party attorns to the exclusive venue and jurisdiction of the Courts of Nova Scotia, and waives any arguments under the conflict of laws removing such exclusive venue, jurisdiction or governing law.

15. The Receiving Party affirms that the individual(s) executing this Agreement has the authority to bind the Receiving Party to the terms hereof.

16. The Parties acknowledge and agree that each and every term of this Agreement is of the essence. If any one or more of the provisions contained in this Agreement should be declared invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby so long as the commercial, economic and legal substance of the transaction contemplated hereby are not affected in any manner materially adverse to any Party. Upon such a declaration, the Parties shall modify this Agreement so as to carry out the original intent of the Parties as closely as possible in an acceptable manner so that the purposes contemplated hereby are consummated as originally contemplated to the fullest extent possible.

17. An electronic copy or facsimile of a party's signature shall be binding upon the signatory with the same force and effect as an original signature.

[RECEIVING PARTY]

Per: _____

Name: _____

Title: _____