

DATE

RECIPIENT NAME

RECIPIENT TITLE

RECIPIENT ADDRESS

CONFIDENTIALITY AGREEMENT

Dear RECIPIENT NAME:

You have indicated to us that you have an interest in a possible business transaction with DISCLOSER NAME (the "Company"). Based upon your agreement to receive and keep the identity of the Company, its shareholders, and all materials and information regarding the Company in the strictest confidence, we are furnishing you with information concerning the Company for your review in determining whether to present a proposal for an acquisition of the Company (the "Purpose").

1. Evaluation Material. (a) You and your Representatives agree to treat any information concerning the Company, including but not limited to, all verbal representations, notes, analyses, compilations, studies or other documents, whether prepared by you or your Representatives, the Company or third parties (collectively, the "Evaluation Material") in accordance with the provisions of this letter agreement. (b) You will not have any obligations under this letter agreement with respect to a specific portion of the Evaluation Material that you can demonstrate with competent evidence that such Evaluation Material: (i) was or becomes generally available to the public other than as a result of a disclosure by you or your Representatives; (ii) was available to you on a non-confidential basis prior to its disclosure to you by us or the Company; (iii) becomes available to you from a third party provided that such third party is not known by you, after reasonable inquiry, to be bound by an obligation of confidentiality to us or the Company, or otherwise prohibited from transmitting such information to you; and (iv) was or is independently developed by you without use of the Evaluation Material, as evidenced by written and dated records kept in the ordinary course of business. The term "Representative," as used herein with respect to any entity includes any director, officer, employee, agent, partner, member, manager, consultant, persons contemplating providing capital or financing, or representative of such entity, including, without limitation, any accountant, attorney, investment banker or financial advisor.

2. No Disclosure or Use. (a) Except as required by law or otherwise provided herein, neither you nor your Representative will (i) disclose the Evaluation Material to anyone other than your Representatives who have signed confidentiality agreements containing, or are otherwise bound by, confidentiality obligations at least as restrictive as those contained herein, or are instructed by you to comply with the confidentiality restrictions herein, need to have access to the Evaluation Material and will take all necessary precautions to prevent other disclosures; (ii) use the Evaluation Material for any purpose other than the Purpose; (iii) use the Evaluation Material in any manner adverse or detrimental to the Company. You will cause your Representatives to keep the Evaluation Material confidential in accordance with the provision hereof; (b), in the event that you or your Representatives are required by a valid order of a court or other governmental body having jurisdiction, you will provide the Company with prompt prior written notice of such

disclosure and make a reasonable effort to obtain, or assist the Company in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the Evaluation Material so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued. If, in the absence of a protective order, you or your Representatives are nonetheless legally compelled to disclose the Evaluation Material, you and such Representatives may disclose only that portion of the Evaluation Material legally required to be furnished, you will provide the Company with written notice of the Evaluation Material to be disclosed as far in advance of its disclosure as is practicable and, upon the Company's expense, you and such Representatives will use your and their commercially reasonable efforts to obtain assurances that confidential treatment will be accorded to such information. You shall limit the disclosure, use of, and access to the Company's Evaluation Material solely to your Representatives to whom disclosure use, or access is necessary in connection with the Purpose. You shall be liable to the Company for any unauthorized or impermissible use or disclosure of the Company's Evaluation Material by any of your Representatives, employees or agents. You will immediately notify the Company in the event of any loss or unauthorized disclosure of any Evaluation Material.

3. No Disclosure of Negotiations. Except as required by law, neither you nor your Representatives will disclose to any person, that the Company is considering a possible transaction, that the Evaluation Material has been furnished to you, the fact that discussions or negotiations involving the Company are taking place or any of the terms, conditions or other facts with respect to any such possible transaction, including the status thereof.

4. No Warranty or Exclusivity. You hereby acknowledge (a) that the Evaluation Material is being furnished to you in consideration of your agreement hereto. Moreover, except as expressly set forth in a definitive agreement between the Company and you, neither the Company nor any of its respective directors, officers, employees or agents shall be deemed to make or have made any representation or warranty as to the accuracy or completeness of the Evaluation Material furnished at any time to you or your Representatives, nor shall any such persons have any liability to you or your Representatives relating to or arising from your or their use of any Evaluation Material or for any errors or omissions therefrom, and (b) that the Company reserves the right to negotiate with one or more prospective purchasers at any time and to enter into a definitive agreement with respect to the Company without prior notice to you. You acknowledge that neither the Company nor any of its officers, employees, stockholders, advisors, or agents make any representation or warranty (express or implied) as to the accuracy or completeness of any Evaluation Material and that neither Company nor any of its officers, employees, stockholders, advisors, or agents shall have any liability to you as a result of the selection or use of any Evaluation Material. You further acknowledge and agree that no agreement or understanding between you and the Company shall be deemed to exist unless and until a definitive agreement regarding a transaction is entered into by you and the Company. You agree that unless and until a definitive agreement regarding a transaction between you and the Company has been executed, neither the Company nor you would be under any legal obligation of any kind whatsoever with respect to such a transaction whether because of this letter agreement or any other written or oral expression with respect to any transaction or otherwise, except, in the case of this letter agreement, for the matters specifically agreed to herein. Furthermore, you acknowledge and agree that the Company reserves the right, in its sole discretion, to reject any and all proposals made by you or any of your Representatives with regard to a transaction

between you and the Company, to terminate discussions and negotiations with you or your Representatives at any time for any reason or no reason and to conduct any process for a transaction involving the Company as it may determine.

5. No Solicitation of Employees. Without the Company's prior written consent, neither you nor your Representatives or affiliated companies will for a period of two (2) years from the date hereof, directly or indirectly, hire or solicit for employment any person who is employed by the Company, *provided* that the foregoing restriction does not apply to general employment solicitations (e.g., ads, non-targeted searches) not targeted at such persons.

6. Property of the Company. The Evaluation Material is and will remain the sole property of the Company. You recognize and agree that nothing contained herein will be construed as granting any property rights, by license or otherwise, to any Evaluation Material disclosed hereunder, or to any invention or any patent, copyright, trademark, or other intellectual property right that has issued or that may issue, based on such Evaluation Material. Neither you nor your Representatives will make, have made, use or sell for any purpose any product or other item using, incorporating or derived from any Evaluation Material. Neither this letter agreement nor the disclosure of any Evaluation Material hereunder will result in any obligation on the part of either party to enter into any further agreement with the other, license any products or services to the other, or to require the Company to disclose any particular Evaluation Material. Nothing in this letter agreement creates or will be deemed to create any employment, joint venture, or agency between the parties. Evaluation Material will not be reproduced in any form except as required to accomplish the Purpose. Any reproduction of any Evaluation Material will remain the property of the Company and will contain any and all confidential or proprietary notices or legends that appear on the original, unless otherwise authorized in writing by the Company.

7. Return of Evaluation Material. Upon the request of the Company in writing at any time, you will promptly return to the Company or, at your election, destroy all written material containing or reflecting the Evaluation Material and you and your Representatives will not retain any copies, extracts or other reproductions in whole or in part of such written material; provided, however, that you shall: a) be permitted to retain copies of the Evaluation Material in accordance with policies and procedures implemented by you in order to comply with applicable law, regulation, professional standards or reasonable business practice; and b) not be required to destroy any computer records or files containing Evaluation Material that have been created pursuant to automatic archiving and back-up procedures that cannot be reasonably deleted, so long as any Evaluation Material that is retained in accordance with clauses A or B of this Paragraph 7 shall be kept confidential in accordance with the terms of this letter agreement. Upon the Company's request, you shall certify such return or destruction of the Evaluation Material in writing to the Company.

8. No Waivers. No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

9. Equitable Remedies. Money damages would not be a sufficient remedy for any breach of this letter agreement, and you agree that the Company shall be entitled to seek injunctive relief, specific performance or the appropriate equitable remedies for any such

breach. Any of such remedies shall not be deemed to be the exclusive remedy for any breach of this letter agreement, but shall be in addition to all other remedies available at law or in equity to the Company.

10. Governing Law. This letter agreement shall be governed by and construed in accordance with the laws of the State of **GOVERNING LAW STATE** without giving effect to conflict of law principles or rules. The costs and expenses arising out of the enforcement of rights and obligations under this letter agreement shall be paid by the party that is held responsible in any such enforcement matter.

11. Competition. Notwithstanding anything contained herein to the contrary, we acknowledge that you and your affiliates may now and in the future be direct competitors of the Company and that your receipt and possession of the Evaluation Material will not, in and of itself, prevent or restrict you in any way from carrying on your business in the ordinary course, including without limitation, making quotes or bids in direct competition with the Company, provided that in doing so you comply with the obligations of this letter agreement.

12. Effective Date. This letter agreement shall expire two (2) years from the date hereof.

13. You will not assign or transfer any rights or obligations under this letter agreement without the prior written consent of the Company and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

14. We agree that neither Company nor any of its affiliates shall be obligated to pay any fees on our behalf to any brokers, finders, or other parties claiming to represent you in this transaction. Without limiting the generality of the nondisclosure agreements contained herein above, it is further understood that you are strictly prohibited by this letter agreement from acting as a broker or an agent using any of the Evaluation Material provided to you.

[Remainder of page intentionally left blank]

Please confirm your agreement with the foregoing by signing the enclosed copy of this letter agreement in the space provided below and returning the copy to the undersigned

Sincerely,

DISCLOSER NAME

DISCLOSER TITLE

ACCEPTED AND AGREED TO:

RECIPIENT NAME

Date: **TODAY'S DATE**

Name: **RECIPIENT NAME**

Title: **RECIPIENT TITLE**