

Confidentiality & Non-Disclosure Agreement

by and between Pro Business Solutions LLC and all
its entities as defined in section 2.2, represented
by

(“Provider”)
and

(“Recipient”)

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1 INTRODUCTORY PROVISIONS

1.1 PREAMBLE

THE AFOREMENTIONED ENTITIES REFERRED TO AS RECIPIENT AND PROVIDER ("PARTIES"), ENTER INTO THIS CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT (THE "AGREEMENT") ON _____.

1.2 RECITALS

1.2.1 THE AGREEMENT'S PURPOSE

PROVIDER IS EVALUATING THE POSSIBILITY OF ENTERING INTO CERTAIN TRANSACTIONS WITH RECIPIENT WHEREIN PROVIDER MAY SHARE INFORMATION WITH RECIPIENT THAT PROVIDER CONSIDERS CONFIDENTIAL INFORMATION AS DEFINED BELOW.

1.2.2 THE SUBJECT OF THE AGREEMENT

PROVIDER MAY PROVIDE CONFIDENTIAL AND PROPRIETARY INFORMATION TO RECIPIENT, SUBJECT, HOWEVER, TO THE SPECIFIC COVENANTS, AGREEMENTS, UNDERSTANDINGS, CONDITIONS AS STATED IN THIS AGREEMENT.

1.3 WORDS OF AGREEMENT

MUTUAL CONSIDERATION FOR THE TERMS OF THIS AGREEMENT ARE ALSO CONTAINED HEREIN.

2 DEFINITIONS

2.1 PURPOSE

THE PURPOSE OF THE DEFINITIONS SECTION IS TO GIVE DEFINITIONS FOR ANY WORDS THAT MAYBE EXCLUSIVELY USED IN THIS AGREEMENT.

2.2 Pro Business Solutions LLC

Pro Business Solutions LLC INCLUDES ITS: BOARD MEMBERS; DEPARTMENT MEMBERS; DEPARTMENT CHAIRS; FIELD MANAGERS; EMPLOYEES; VOLUNTEERS; UNION OF MUSCLE; AND ANY OTHERS INTIMATELY ASSOCIATED WITH PROVIDER.

2.3 RECIPIENT

A PARTY WHICH RECEIVES CONFIDENTIAL INFORMATION IS THE RECIPIENT.

2.4 CONFIDENTIAL INFORMATION

RECIPIENT AGREES THAT CONFIDENTIAL INFORMATION OF PROVIDER MIGHT INCLUDE, BUT NOT BE LIMITED TO G PROVIDER'S:

2.4.1 PRODUCTS, SERVICES, & EXTERNALITIES

TRADE SECRETS, FORMULAS, FILES AND DATA IN ANY FORM OR MEDIUM WHATSOEVER DISCLOSED OR MADE AVAILABLE BY PARTIES TO EACH OTHER THAT RELATES TO THE BUSINESSES AND BUSINESSES' MODELS AND RELATED PRODUCTS AND SERVICES, INCLUDING WITHOUT LIMITATION IDEAS, CONCEPTS, SKETCHES AND DRAWINGS, POLICIES, APPLICATION PROCEDURES, TECHNICAL DATA, KNOW-HOW, PRODUCT PLANS, SOFTWARE, PRICE LISTS, POTENTIAL MARKETS, ASSETS, FINANCIAL STATEMENTS, AND ANY COPIES OF ANY SUCH INFORMATION;

2.4.2 OPERATIONAL INFORMATION

BUSINESS PLANS, PROCESSES, METHODS, PROCEDURES, AND PRACTICES;

2.4.3 IDENTIFYING DATA

PERSONNEL, CUSTOMERS, AND SUPPLIERS; INFORMATION EXCHANGED DURING DISCUSSIONS other than those listed in Exhibit A;

2.4.4 DISCUSSIONS

INFORMATION EXCHANGED DURING DISCUSSIONS CONCERNING THE POTENTIAL RELATIONSHIP OR ANY KIND OF A PROPOSED TRANSACTION BETWEEN PARTIES; OR

2.4.5 DOCUMENTATION

ORGANIZATIONAL DOCUMENTATION INCLUDING BUT NOT LIMITED TO POLICIES, FORMS, OUTLINES, RECORDS, TEMPLATES, AND OTHER RELATED INFORMATION;

2.4.6 OTHER INFORMATION

PARTIES ACKNOWLEDGE THAT INFORMATION, WHETHER OR NOT IT IS NOVEL, COPYRIGHTED, OR PATENTED MAY NONETHELESS BE CONFIDENTIAL INFORMATION AND OR PROTECTED AS A TRADE SECRET.

3 COVENANTS

RECIPIENT AGREES AS FOLLOWS:

3.1 OBLIGATIONS OF PARTIES

IN CONSIDERATION OF THE DISCLOSURE TO RECIPIENT OF THE CONFIDENTIAL INFORMATION, RECIPIENT AGREES TO TREAT THE CONFIDENTIAL INFORMATION, AND TO HOLD ALL NOTES, RECORDS, CORRESPONDENCE, MEMORANDA, FILES, AND OTHER MEDIA OF ANY KIND THAT CONTAIN ANY CONFIDENTIAL INFORMATION, IN CONFIDENCE AND TO UNDERTAKE THE FOLLOWING OBLIGATIONS WITH RESPECT THERETO:

3.2 NOTIFICATION METHODS

PROVIDER MAY DISCLOSE CONFIDENTIAL INFORMATION IN CONFIDENCE PROVIDED THAT PROVIDER IDENTIFIES SUCH INFORMATION AS PROPRIETARY AND CONFIDENTIAL EITHER BY:

3.2.1 WRITTEN MATERIALS

MARKING IT, IN THE CASE OF WRITTEN MATERIALS, OR,

3.2.2 ORAL OR UNMARKED MATERIALS

IN THE CASE OF INFORMATION THAT IS DISCLOSED ORALLY OR WRITTEN MATERIALS THAT ARE NOT MARKED, BY NOTIFYING RECIPIENT OF THE PROPRIETARY AND CONFIDENTIAL NATURE OF THE INFORMATION, SUCH NOTIFICATION TO BE DONE ORALLY, BY E-MAIL OR WRITTEN CORRESPONDENCE, OR VIA OTHER MEANS OF COMMUNICATION AS MIGHT BE APPROPRIATE.

3.3 RECIPIENT RESPONSIBILITY

3.3.1 NONDISCLOSURE

WHEN INFORMED OF THE PROPRIETARY AND CONFIDENTIAL NATURE OF CONFIDENTIAL INFORMATION THAT HAS BEEN DISCLOSED BY PROVIDER, RECIPIENT WILL, REFRAIN FROM DISCLOSING SUCH CONFIDENTIAL INFORMATION TO ANY CONTRACTOR OR OTHER THIRD PARTY WITHOUT PRIOR, WRITTEN APPROVAL FROM PROVIDER AND WILL PROTECT SUCH CONFIDENTIAL INFORMATION FROM INADVERTENT DISCLOSURE TO A THIRD PARTY USING THE SAME CARE AND DILIGENCE THAT RECIPIENT USES TO PROTECT ITS OWN PROPRIETARY AND CONFIDENTIAL INFORMATION, BUT IN NO CASE LESS THAN REASONABLE CARE.

3.3.2 RETURN

THE RECIPIENT WILL HONOR ANY REQUEST FROM PROVIDER TO PROMPTLY RETURN OR DESTROY ALL COPIES OF CONFIDENTIAL INFORMATION DISCLOSED UNDER THIS AGREEMENT AND ALL NOTES RELATED TO SUCH CONFIDENTIAL INFORMATION.

3.3.3 INFORMING IN-HOUSE

RECIPIENT WILL ENSURE THAT EACH OF ITS EMPLOYEES, OFFICERS, DIRECTORS, OR AGENTS WHO HAS ACCESS TO CONFIDENTIAL INFORMATION DISCLOSED UNDER THIS AGREEMENT IS INFORMED OF ITS PROPRIETARY AND CONFIDENTIAL NATURE AND IS REQUIRED TO ABIDE BY THE TERMS OF THIS AGREEMENT.

3.3.4 VIOLATION NOTICE

RECIPIENT WILL PROMPTLY NOTIFY PROVIDER OF ANY DISCLOSURE OF SUCH CONFIDENTIAL INFORMATION IN VIOLATION OF THIS AGREEMENT OR OF ANY SUBPOENA OR OTHER LEGAL PROCESS REQUIRING PRODUCTION OR DISCLOSURE OF SAID CONFIDENTIAL INFORMATION.

3.3.5 USE OF CONFIDENTIAL INFORMATION

RECIPIENT MAY USE CONFIDENTIAL INFORMATION SOLELY AND EXCLUSIVELY FOR THE PROPOSED PURPOSE OF THE RELATIONSHIP OR FOR EVALUATING A POSSIBLE TRANSACTION WITH EACH PARTY,

3.3.5.1 DETRIMENTAL USE PROHIBITED

RECIPIENT WILL NOT USE CONFIDENTIAL INFORMATION IN ANY MANNER THAT IS PREJUDICIAL TO PROVIDER INCLUDING BUT NOT LIMITED TO UNDERTAKING ACTIVITIES, EITHER DIRECTLY OR INDIRECTLY THAT ARE COMPETITIVE IN NATURE TO PROVIDER.

3.4 OWNERSHIP

ALL CONFIDENTIAL INFORMATION DISCLOSED UNDER THIS AGREEMENT WILL BE AND REMAIN THE PROPERTY OF PROVIDER AND NOTHING CONTAINED IN THIS AGREEMENT WILL BE CONSTRUED AS GRANTING OR CONFERRING ANY RIGHTS TO SUCH CONFIDENTIAL INFORMATION ON RECIPIENT.

3.5 HARM

RECIPIENT AGREES THAT PROVIDER WILL SUFFER IRREPARABLE INJURY IF ITS CONFIDENTIAL INFORMATION IS MADE PUBLIC, RELEASED TO A THIRD PARTY, OR OTHERWISE DISCLOSED IN BREACH OF THIS AGREEMENT AND THAT PROVIDER WILL BE ENTITLED TO OBTAIN INJUNCTIVE RELIEF AGAINST A THREATENED BREACH OR CONTINUATION OF ANY SUCH BREACH AND, IN THE EVENT OF SUCH BREACH, AN AWARD OF ACTUAL AND EXEMPLARY DAMAGES FROM ANY COURT OF COMPETENT JURISDICTION.

3.6 DEVELOPMENT

THE TERMS OF THIS AGREEMENT WILL NOT BE CONSTRUED TO LIMIT RECIPIENT'S RIGHT TO DEVELOP INDEPENDENTLY OR ACQUIRE PRODUCTS WITHOUT USE OF PROVIDER'S CONFIDENTIAL INFORMATION. PROVIDER ACKNOWLEDGES THAT RECIPIENT MAY CURRENTLY OR IN THE FUTURE BE DEVELOPING INFORMATION INTERNALLY OR RECEIVING INFORMATION FROM OTHER PARTIES, WHICH IS SIMILAR TO THE CONFIDENTIAL INFORMATION.

3.6.1 DEVELOPING

NOTHING IN THIS AGREEMENT WILL PROHIBIT RECIPIENT FROM DEVELOPING OR HAVING DEVELOPED FOR IT PRODUCTS, CONCEPTS, SYSTEMS OR TECHNIQUES THAT ARE SIMILAR TO OR COMPETE WITH THE PRODUCTS, CONCEPTS, SYSTEMS OR TECHNIQUES CONTEMPLATED BY OR EMBODIED IN THE CONFIDENTIAL INFORMATION PROVIDED THAT RECIPIENT DOES NOT VIOLATE ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT IN CONNECTION WITH SUCH DEVELOPMENT.

3.7 RIGHTS TO DISCLOSE

NOTWITHSTANDING THE ABOVE, PROVIDER AGREES THAT INFORMATION WILL NOT BE DEEMED CONFIDENTIAL INFORMATION AND RECIPIENT WILL HAVE NO OBLIGATION TO HOLD IN CONFIDENCE SUCH INFORMATION, WHERE SUCH INFORMATION:

3.7.1 THIRD PARTY DISCLOSED

IS ALREADY KNOWN TO RECIPIENT, HAVING BEEN DISCLOSED TO RECIPIENT BY A THIRD PARTY WITHOUT SUCH THIRD PARTY HAVING AN OBLIGATION OF CONFIDENTIALITY TO PROVIDER; OR

3.7.2 PUBLIC KNOWLEDGE

IS OR BECOMES PUBLICLY KNOWN THROUGH NO WRONGFUL ACT OF RECIPIENT, ITS EMPLOYEES, OFFICERS, DIRECTORS, OR AGENTS; OR

3.7.3 INDEPENDENTLY DEVELOPED

IS INDEPENDENTLY DEVELOPED BY RECIPIENT WITHOUT REFERENCE TO ANY CONFIDENTIAL INFORMATION DISCLOSED HEREUNDER; OR

3.7.4 APPROVED

IS APPROVED FOR RELEASE (AND ONLY TO THE EXTENT SO APPROVED) BY PROVIDER; OR

3.7.5 REQUIRED BY LAW

IS DISCLOSED PURSUANT TO THE LAWFUL REQUIREMENT OF A COURT OR GOVERNMENTAL AGENCY OR WHERE REQUIRED BY OPERATION OF LAW.

3.8 RELATIONSHIP

NOTHING IN THIS AGREEMENT WILL BE CONSTRUED TO CONSTITUTE AN AGENCY, PARTNERSHIP, JOINT VENTURE, OR OTHER SIMILAR RELATIONSHIP BETWEEN THE PARTIES.

3.9 PUBLIC DISCLOSURE

PROVIDER MAY, WITHOUT PRIOR APPROVAL OF RECIPIENT, MAKE ANY PUBLIC ANNOUNCEMENT OF OR OTHERWISE DISCLOSE THE EXISTENCE OR THE TERMS OF THIS AGREEMENT.

3.10 NON-OBLIGATORILY DISCLOSURE

THIS AGREEMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND IN NO WAY CREATES AN OBLIGATION FOR PROVIDER TO DISCLOSE INFORMATION TO RECIPIENT OR TO ENTER INTO ANY OTHER AGREEMENT.

3.11 DURATION

THIS AGREEMENT WILL REMAIN IN EFFECT FOR A PERIOD OF TWO (2) YEARS FROM THE EFFECTIVE DATE UNLESS OTHERWISE TERMINATED BY PROVIDER GIVING NOTICE TO THE OTHER OF ITS DESIRE TO TERMINATE THIS AGREEMENT. THE REQUIREMENT TO PROTECT CONFIDENTIAL INFORMATION DISCLOSED UNDER THIS AGREEMENT WILL SURVIVE TERMINATION OF THIS AGREEMENT.

3.12 SECURITY

ALL CONFIDENTIAL INFORMATION BY RECIPIENT WILL BE HELD IN AN ENCRYPTED FILE, OR IF PHYSICAL, UNLOCK AND KEY; AND SENT THROUGH SECURE CHANNELS.

4 GENERAL PROVISIONS

4.1 SEVERABILITY AND MODIFICATION

IF ANY PROVISION CONTAINED OF THIS AGREEMENT IS DEEMED TO BE UNENFORCEABLE BY A COURT OF COMPETENT JURISDICTION, PARTIES AGREE THAT SUCH COURT MAY MODIFY AND ENFORCE SUCH PROVISIONS TO THE EXTENT THAT IT BELIEVES TO BE REASONABLE UNDER THE CIRCUMSTANCES EXISTING AT THE TIME AND TO THE EXTENT SUCH MODIFICATION PRESENTS THE BASIC INTENT OF THE PARTIES.

4.1.1 PROVISION VALIDITY

SUCH UNENFORCEABILITY WILL NOT AFFECT THE VALIDITY OF ANY OTHER PROVISION.

4.2 SURVIVAL OF COMMON LAW PROTECTION

CONFIDENTIAL INFORMATION OF PROVIDER WILL BE ENTITLED TO RECEIVE ANY AND ALL PROTECTIONS AVAILABLE UNDER APPLICABLE LAW, AND PROVIDER MAY SEEK TO ENFORCE ANY OF ITS RIGHTS IN THAT RESPECT.

4.3 SURVIVAL OF RESTRICTIONS AND OBLIGATIONS

THE RESTRICTIONS AND OBLIGATIONS OF THIS AGREEMENT WILL SURVIVE ANY EXPIRATION, TERMINATION OR CANCELLATION OF THIS AGREEMENT AND WILL BE BINDING UPON RECIPIENT, ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, AFFILIATES AND ANY AND ALL OTHERS ASSISTING RECIPIENT IN ITS EVALUATION OF THIS AGREEMENT.

4.4 NO OBLIGATION TO COMPLETE TRANSACTION

PROVIDER ACKNOWLEDGES THAT THIS AGREEMENT WILL NOT OBLIGATE OR BIND RECIPIENT TO ENTER INTO OR COMPLETE ANY ULTIMATE TRANSACTION WITH THE OTHER PARTY.

4.5 COSTS OF ENFORCEMENT

IN THE EVENT OF A DISPUTE BETWEEN THE PARTIES ARISING UNDER THIS AGREEMENT, THE PARTY PREVAILING IN SUCH DISPUTE WILL BE ENTITLED TO COLLECT SUCH PARTY'S COSTS FROM THE OTHER PARTY, INCLUDING WITHOUT LIMITATION COURT COSTS AND REASONABLE ATTORNEYS' FEES.

4.6 GOVERNING LAW

THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY THE SUBSTANTIVE LAWS OF, THE COMMONWEALTH OF VIRGINIA, WITHOUT REFERENCE TO PRINCIPLES GOVERNING CHOICE OR CONFLICTS OF LAWS.

4.7 TIME IS OF THE ESSENCE

WHEN COMPLYING WITH THESE TERMS; TIME IS OF THE ESSENCE.

4.8 ENTIRE AGREEMENT

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER CONTAINED IN THIS AGREEMENT, AND THERE ARE NO COVENANTS, TERMS OR CONDITIONS, EXPRESS OR IMPLIED, OTHER THAN AS SET FORTH OR REFERRED TO IN THIS AGREEMENT.

4.9 SUPERSEDING

THIS AGREEMENT SUPERSEDES ALL PRIOR AGREEMENTS BETWEEN THE PARTIES RELATING TO ALL OR PART OF THE SUBJECT MATTER IN THIS AGREEMENT.

4.10 EXTERNAL MODIFICATIONS

NO PARTY HAS MADE ANY REPRESENTATIONS, ORAL OR WRITTEN, MODIFYING OR CONTRADICTING THE TERMS OF THIS AGREEMENT.

4.11 INTERNAL MODIFICATION

THE PARTIES MAY NOT AMEND, MODIFY OR CANCEL THIS AGREEMENT EXCEPT AS PROVIDED HERE OR BY A WRITTEN AGREEMENT SIGNED BY ALL THE PARTIES TO THIS AGREEMENT.

4.12 MERGER

THIS AGREEMENT MAY BE EXECUTED IN MULTIPLE COUNTERPARTS, EACH OF WHICH WILL BE DEEMED AN ORIGINAL BUT ALL OF WHICH TAKEN TOGETHER WILL CONSTITUTE ONE AND THE SAME AGREEMENT.

5 SIGNATURES

PROVIDER:

NAME:

SIGNATURE:

DATE:

RECIPIENT:

NAME:

SIGNATURE:

DATE:

Exhibit A

(A list clients of Recipient gained previous to this agreement which are not but included under this agreement)