

This **CONFIDENTIAL NON-DISCLOSURE AGREEMENT ("NDA")** is entered into on the Effective Date (hereafter defined) by and between Henderson Machine, Inc., a Florida corporation ("**Discloser**") and the recipient named in the signature block below ("**Recipient**").

#### **Background**

In contemplation of a potential business relationship between RECIPIENT and Discloser, Discloser agrees in this NDA to provide certain confidential and proprietary information to RECIPIENT. Discloser is willing to provide such confidential and proprietary information to RECIPIENT for the limited purposes and conditions set forth in this NDA.

1. **Confidential Information.** The term "Confidential Information" as used in this NDA shall mean all: Intellectual Property (hereafter defined), trade secrets, know-how, process, technique, specialized equipment, programs, engineering, software, methods of production, production capabilities, other product information, formula, recipe, or research and development, including all
  - 1.1 Information with respect to business practices and procedures, customer names and lists of any kind, methods of sales, marketing and distribution, customer account records, memoranda, personnel records and policies, education materials, names and any information about any products or product sources, pricing information, cost information, and financial information, and;
  - 1.2 Information concerning the business affairs, property, methods of operation or other data of vendors and customers of Discloser.
2. **Intellectual Property.** "Intellectual Property" means individually and collectively all inventions, improvements and/or discoveries, patentable or unpatentable, copyrightable, or uncopyrightable, held by Discloser.
3. **Term and Termination.** This NDA shall begin on the Effective Date written below.
4. **Acknowledgments.** The parties acknowledge and agree that the Confidential Information is proprietary to, and potentially a valuable trade secret of, Discloser, and that any disclosure or unauthorized use thereof may cause irreparable harm and loss to Discloser.
5. **Obligations of Secrecy.** In consideration of the disclosure of Confidential Information, RECIPIENT shall:
  - 5.1 Unless otherwise required by law or court order, keep the Confidential Information private and hold the Confidential Information in strictest confidence; it being understood that RECIPIENT shall inform their agents, employees, contractors or other affiliated persons (their "**Affiliates**") of the confidential nature of the Confidential Information and shall require their Affiliates to hold such Confidential Information in confidence and to the extent that such Affiliates do not do so, RECIPIENT shall be responsible;
  - 5.2 Utilize reasonably prudent procedures designed to prevent disclosure to others of the Confidential Information received from Discloser; and
  - 5.3 Not disclose the Confidential Information of Discloser without the prior written consent of Discloser.
6. **Use and Return of Information.** RECIPIENT shall:
  - 6.1 Use the Confidential Information for the limited purposes of evaluating the potential business relationship between the parties; and
  - 6.2 Return all the Confidential Information, including all copies and records thereof, to Discloser upon demand.
7. **Limitations on Obligations of Secrecy.** The obligations set forth in this NDA shall not apply to the disclosure of Confidential Information that (i) may be required by law or court order, or
8. (ii) that may be required by RECIPIENT to enforce their rights under this NDA or any other agreement with Discloser. Before any disclosure is made pursuant to a legal requirement, RECIPIENT shall make reasonable efforts to, if permitted by applicable laws or regulations, give advance written notice of such disclosure to Discloser so that Discloser may seek a protective order against such disclosure.
9. **Remedies.** In the event of a breach or threatened breach by RECIPIENT of the provisions of this NDA, Discloser shall be entitled to seek a preliminary and permanent injunction restraining RECIPIENT from disclosing or using, in whole or in part, any Confidential Information. **Discloser shall also be entitled to pursue and receive any other remedies available to it for such breach or threatened breach, including monetary damages that result from loss of business to any other party or a lowering in the prices received by Discloser from its customers.**
10. **Governing Law; Forum Selection.** The laws of the State of Florida (without giving effect to its conflict of law principles) shall govern all matters arising out of or relating to this NDA and all the transactions contemplated hereby, including, without limitation, the validity, interpretation, construction, performance, and enforcement of this NDA. The forum selected for any proceeding or suit related to a dispute between the parties arising out of or relating to this NDA or the transactions contemplated hereby shall be in a federal or state court of competent jurisdiction located in Broward County, Florida (the "**Designated Courts**"). Each party consents to the exclusive jurisdiction of the Designated Courts for the purpose of all legal actions and proceedings arising out of or relating to this NDA or the transactions contemplated hereby. Each party agrees that the exclusive choice of forum set forth in this Section does not prohibit the enforcement of any judgment obtained in the Designated Courts in any other appropriate forum.
11. **Attorneys' Fees.** If any legal action, arbitration, or other proceeding is brought for the enforcement of this NDA, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this NDA, the successful or prevailing party or parties will be entitled to recover reasonable attorney fees and other costs incurred in that action or proceeding, in addition to any other relief to which they may be entitled.
12. **Waiver.** No waiver of any provision of this NDA, and no consent to any departure by any party from the terms and conditions of this NDA, shall be effective unless such waiver or consent is given in writing by the party against whom such waiver or consent is sought to be enforced (in which case the waiver or consent shall be effective only in the specific instance, and only for the specific purpose, for which it was given). No failure or delay by a party in exercising any right or remedy or requiring the satisfaction of any condition under this NDA, and no course of dealing between the parties, shall operate as a waiver or estoppel of any right or remedy of such party hereunder, or limit or prevent the subsequent enforcement of any provision of this NDA by such party.
13. **Authority.** Each individual executing this NDA on behalf of an entity represents and warrants that (a) he or she is duly authorized to execute and deliver this NDA on behalf of the entity; (b) the entity has all requisite power and authority to execute, deliver and perform under this NDA; (c) the execution, delivery and performance by the entity has been duly authorized by all necessary action, corporate or otherwise, on the part of the entity; and (d) this NDA is binding upon the entity. To the extent that any such person signing this on behalf of an entity does not have such authority, such person shall be responsible personally for the acts of them personally and for the acts of the entity in violation of this NDA.

This NDA is executed and made effective as of \_\_\_\_\_ (the "**Effective Date**") by and between the Recipient and the Discloser.

**RECIPIENT:**

Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_, individually

Company: \_\_\_\_\_



**DISCLOSER:**

Henderson Machine, Inc., a Florida Corporation

By:   
Pamela Henderson, Vice President