**MUTUAL NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT**

This Mutual Non-Disclosure and Confidentiality Agreement (the “Agreement”) is made this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_, by and among **ABC Company**, a Maryland Corporation, having offices located at **[your address]**, and**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, a Corporation/LLC, having offices located at\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  **ABC Company** and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_are each referred to herein as “Party” and collectively as “Parties”.

 WHEREAS, the Parties acknowledge that during their preliminary discussions that it will be necessary and desirable that the Parties exchange certain Confidential Information.

 WHEREAS, the Parties concur that it is in their mutual best interests to respect the confidentiality of said Confidential Information.

 NOW THEREFORE, in consideration of the foregoing, and the promises and mutual covenants and conditions hereinafter set forth, it is mutually agreed by and between the Parties hereto as follows:

**1. Disclosure of Information**  The Parties acknowledge that as a result of their discussions and negotiations that each Party will acquire from the other Party certain proprietary and Confidential Information (as defined in Section 2 herein) of a special and unique nature. As a material inducement to each Party disclosing Confidential Information to the other Party for the purposes of this Agreement, each respective Party covenants and agrees that it shall keep absolutely secret and confidential and not disclose or release directly or indirectly to any person, or entity, any Confidential Information, and will cause it’s agents and representatives to do the same.  Each Party will take the necessary steps to inform each of it’s agents and representatives of, and cause each of it’s agents and representatives to comply with, the obligations set forth herein.  Confidential Information shall be utilized solely for purposes of assessing the appropriateness of the Parties entering into the proposed Service Contract Agreement, and shall not be used by either Party or the agents and representatives of either Party for any other reason.  If either Party or any agent or representative of either Party becomes legally compelled by law, process or order of any Court or governmental agency or otherwise to disclose any Confidential Information, that Party shall give prompt notice thereof to the other Party whose Confidential Information is sought to be compelled to permit said Party to seek a protective order or to take other appropriate action. Notwithstanding the foregoing, neither Party shall be required to maintain the confidentiality of any information which: (1) Through no act or failure on the part of a Party, or it’s agents and representatives, to whom the Confidential Information was disclosed to, is now, or hereafter becomes generally known or available by publication by a third party, or otherwise; or (ii) Is disclosed pursuant to the lawful requirement of a governmental agency or any order of a court of competent jurisdiction or by the operation of law.

**2. Definition of Confidential Information.**  For purposes of this Agreement, the term “Confidential Information” shall mean any and all trade secrets, financial information, or other confidential or proprietary information of, or relating to a Party, it’s customers, including, but not limited to, the following information: (a) financial data, internal files, books and records, financial statements, financial projections, tax returns, unpublished price lists, pricing policies, quoting procedures, and other unpublished pricing information; (b) business plans (including, without limitation, marketing development and expansion plans; (c) practices, activities, applications or rights as to copyrights, trade secrets, trademarks, service marks and the like, which are not publicly available; (d) customer and prospect information which is not publicly available, including, without limitation, customer and prospect lists, customer and prospect files, data or financial information provided by or about prospective, existing or past customers; (e) contracts, agreements, arrangements, accounts or commitments with any customer, contractor, subcontractor, employee or any other person or entity: (f) discoveries, acquisitions, methods, product designs, product improvements, formulas, processes, training manuals, research, source codes, object codes, program documentation, and related user information manuals; (g) information or materials received by either Party from a third party in confidence , or subject to a non-disclosure agreement; and (h) all written, documented, recorded or tangible forms or reproductions of the Confidential Information, and all copies or reproductions which are or were ever made of the same. Without limiting the generality of the foregoing, any document or item marked as “confidential” shall be deemed Confidential Information.

**3. Intellectual and Proprietary Property Rights.**  Nothing contained in this Agreement shall be construed as granting to either Party a license, express or implied, under any  patent, copyright, trade secret, or other intellectual property right now or hereinafter owned, obtained, or licensable by either Party to this Agreement.

**4. Return of Information.**  In the event that either Party ceases negotiations and/or discussions relative to entering into or fulfilling the Service Contract Agreement,  each Party shall immediately return all Confidential Information disclosed by the other Party to that Party, including but not limited to all original and copies of documents, disks, reports, formulas, software, patents, drawings, plans, notes, records, specifications, and flowcharts.

**5. Injunctive Relief.**  Each Party understands and agrees that the other Party may suffer irreparable harm in the event that the Party breaches any of its obligations under this Agreement and that monetary damages may be inadequate to compensate the non-breaching Party for such breach.  Accordingly, each Party agrees that, in the event of a breach of any of the provisions of this Agreement, the non-breaching Party, in addition to and not in limitation of any other rights, remedies or damages available to the non-breaching Party at law or in equity, shall be entitled to a temporary injunction in order to prevent or to restrain any such breach by the breaching Party, or by the breaching Party’s partners, agents, representatives, servants, employers, employees or any other persons directly or indirectly acting for or with them.

**6. No Assignment.**  Other than with respect to a “successor” as that term is defined in Corporations and Associations Article, Section 1-101(u) of the Maryland Annotated Code, neither this Agreement nor any part hereof or interest herein shall be assigned by either Party.  Each party and any successor in interest shall continue to be liable for the performance of all of its obligations hereunder, whether arising before or after any such merger, consolidation or purchase.

**7**.  **Form of Agreement.**  This Agreement does not constitute a joint venture, partnership, of other form of business arrangement. The Parties understand and agree that  each Party shall bear its own costs and losses resulting from its performance of this Agreement.  If either Party realizes a profit or suffers a loss from its performance of this Agreement, the other Party shall not be entitled to share in any such profit or be required to contribute to any such loss unless the Parties otherwise agree in a writing signed by both Parties.

**8. Burden and Benefit.**  This Agreement shall be binding upon, and shall inure to the benefit of each Party hereto, and it’s respective heirs, personal and legal representatives, and successors.

**9. Governing Law.**  This Agreement is made in the State of Maryland and it is the intent of the Parties hereto that all questions with respect to the construction of this Agreement and the rights, duties, obligations, and liabilities of the Parties shall be determined in accordance with the applicable provisions of the laws of the State of Maryland, exclusive of its conflict of the rules.

**10. Notices.**  Any notice required to be given hereunder shall be sufficient if in writing, and sent by certified or registered United States mail, postage prepaid, to each Party’s principal office or address.

**11. Entire Agreement.**  This Agreement (and any exhibits or attachments hereto) contains the full, entire and integrated agreement and understanding by and between the Parties with respect to the subject matter and covenants herein described, and no representations, promises, agreements or understandings, written or oral, not herein contained shall be of any force or effect.  No change or modification hereof shall be valid or binding unless the same is in writing and signed by the parties hereto.  No waiver of any provision of this Agreement shall be valid unless the same is in writing and signed by the party against whom such waiver is sought to be enforced; moreover, no valid waiver of any provision of this Agreement at any time shall be deemed a waiver of any other provision of this Agreement at such time nor will it be deemed a valid waiver of such provision at any other time.

**12. Severability**.  Any provision of this Agreement which is held by a Court of competent jurisdiction to be prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability, without invalidating or rendering unenforceable the remaining provisions of this Agreement.

**13. Headings**.  The headings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any of the provisions of this Agreement.

**14. Gender and Number**.  Whenever used in this Agreement, the singular shall include the plural and vice versa, and the use of any gender shall include all genders and the neuter.

**15. Counterparts**.  This Agreement may be executed in two (2) counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

 IN WITNESS WHEREOF, each Party has caused this Agreement to be executed by their respective Presidents, and attested to by their respective Secretaries or Assistant Secretaries, thereunto duly authorized, as of the date first above written.

ATTEST:     **ABC Company**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Name**, **Title**

 ATTEST:      \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Website: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Company Name:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Email:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Company Representative Signature and Title)

Mailing Address and Contact Information: Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Street: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ State, Zip: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PLEASE scan and email executed copy to: email address**