



## MUTUAL NON-DISCLOSURE AGREEMENT

This NON-DISCLOSURE AGREEMENT (the "Agreement") entered into on this day \_\_\_\_\_  
(the "Effective Date"), by and between \_\_\_\_\_  
and Bryan Hauger Consulting, Inc., a Colorado corporation ("BH Consulting.")  
\_\_\_\_\_ and BH Consulting shall be  
collectively referred to as the Parties.

WHEREAS, the Parties wish to have detailed confidential discussions and exchange confidential  
information concerning relationships between the Parties which may include, but is not limited to  
\_\_\_\_\_

\_\_\_\_\_ and any other information or procedures that are treated as confidential by Discloser.

WHEREAS, during the course of the discussions and exchange of confidential information the Parties  
may disclose to one or more of the other Parties confidential, important, and/or proprietary trade secret  
information concerning itself and its activities.

NOW THEREFORE, to facilitate the free exchange of information, and for other good and valuable  
consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as  
follows:

### 1. Definitions.

1.1 "Discloser" shall mean the Party to the Agreement disclosing Confidential Information.

1.2 "Recipient" shall mean the Party, or Parties, to the Agreement receiving Confidential Information and  
shall include all affiliates, subsidiaries, and related companies of Recipient.

1.3 For purposes of this Agreement, the term "Representative" shall include Recipient's directors,  
officers, employees, agents, and financial, legal, and other advisors.

1.4 "Confidential Information" shall include all information or material that has or could have commercial  
value or other utility in the business or prospective business of the Discloser or its subsidiaries or affiliates.  
Confidential Information also includes all information of which unauthorized disclosure could be  
detrimental to the interests of the Discloser or its subsidiaries or affiliates whether or not such information  
is identified as Confidential Information by the Discloser. For the purpose of this Agreement, Confidential  
Information includes, but is not limited to, any and all information of the following or similar nature,  
whether or not identified as confidential: customer lists, customer and supplier identities and  
characteristics, agreements, marketing knowledge and information, sales figures, pricing information,  
marketing plans and business plans, strategies, forecasts, financial information, budgets, research papers,  
manufacturing procedures, patents, patent applications, processes, formulas, trade secrets, innovations,  
inventions, discoveries, improvements, research or development and test results, specifications, data,  
know-how, formats, plans, sketches, specifications, drawings, models, and any other information or  
procedures that are treated as confidential by Discloser. Confidential Information does not include



information that Recipient can demonstrate: (a) was in Recipient's possession prior to its being furnished to Recipient under the terms of this Agreement, provided the source of that information was not known by Recipient to be bound by a confidentiality agreement or other continual, legal or fiduciary obligation of confidentiality to the Discloser; (b) is now, or hereafter becomes generally known to the public by publication or otherwise, through no act or failure to act on the part of Recipient; (c) is rightfully obtained by Recipient from a third party, without breach of any obligation to the Discloser; or (d) is independently developed by Recipient without use of or reference to the Confidential Information.

2. Confidentiality. Recipient and its Representatives shall not disclose any of the Confidential Information, whether received prior to the Effective Date or thereafter, in any manner whatsoever, except as provided herein, and shall hold and maintain the Confidential Information in strictest confidence using at least the same standard of care it uses for its own confidential information of like importance. Recipient hereby agrees to indemnify Discloser against any and all losses, damages, claims, expenses, attorneys' fees incurred or suffered as a result of a breach of this Agreement by Recipient or its Representatives. The provisions of this section shall survive termination or expiration of this Agreement.

3. Use of Confidential Information. Recipient and its Representatives shall use the Confidential Information solely for the purpose contemplated herein and shall not use the Confidential Information in any manner detrimental to Discloser. Nothing in this Agreement shall be construed as granting any rights to any Recipient, by license or otherwise, to any of the Discloser's Confidential Information or intellectual property.

4. Confidentiality of Discussions. Neither Party shall make any statement, public announcement, release to any trade publication or the press, or inform any third party of the discussions contemplated herein without the prior written consent of the other Party. Review of this agreement by the legal counsel of the Parties is not considered a third party disclosure and is allowed under this agreement.

5. Term. The term of this Agreement shall be for a period of three (3) years from the Effective Date of this Agreement, unless extended longer or terminated earlier by written consent of the Parties. The obligations of confidentiality imposed by this Agreement shall continue for a period of seven (7) years after the termination of this Agreement.

6. Non-Solicitation of Employees. For a period of five (5) years following the termination of this Agreement, or any subsequent agreement between the Parties, the Parties shall not, directly or indirectly, solicit for employment or hire any employee of the other Party that has been contacted in connection with the confidential discussions recited above, except that the Parties shall not be precluded from hiring any such employee who has been terminated by the former Party employer prior to commencement of employment discussions by the prospective other Party employer and the prospective employee.

7. Return of Documents. Upon request by Discloser or termination or expiration of this Agreement, Recipient shall immediately return to the Discloser or destroy, as directed by Disclosure, any and all records, notes, and other written, printed or other tangible materials in its possession pertaining to the



Confidential Information. The returning of materials shall not relieve any Party from compliance with other terms and conditions of this Agreement.

8. No Additional Agreements. Neither the holding of discussions nor the exchange of material or information shall be construed as an obligation of any Party to this Agreement to enter into an agreement with another Party to this Agreement or prohibit any Party from providing the same or similar information to other parties and entering into agreements with other parties. Each Party to this Agreement reserves the right, in its sole discretion, to reject any and all proposals made by another Party or its Representatives with regard to a transaction between the Parties and to terminate discussions and negotiations at any time. Additional agreements of the Parties, if any, shall be in writing signed by each.

9. Irreparable Harm. The Parties understand and acknowledge that any disclosure or misappropriation of any of the Confidential Information in violation of this Agreement will cause the Discloser irreparable harm, the amount of which may be difficult to ascertain, and each Party therefore agrees that Discloser shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as shall be deemed appropriate. Such right of Discloser is in addition to the remedies otherwise available at law or in equity.

10. Survival. Rights and obligations that by their nature prescribe continuing rights and obligations, including but not limited to all obligations of confidentiality and indemnification, shall survive the termination or expiration of this Agreement.

11. Successors and Assigns. This Agreement and each Party's obligations hereunder shall be binding on the representatives, assigns, and successors of such Party and shall inure to the benefit of the assigns and successors of such Party; provided, however, that the rights and obligations of the Parties hereunder are not assignable without the prior written consent of all Parties. Notwithstanding the foregoing, a transfer of all or substantially all of the assets or capital stock by merger or acquisition shall not be considered an assignment. Any attempted assignments in violation of this section shall be void.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado and the United States of America.

13. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which taken together constitutes one and the same instrument. The person signing on behalf of each Party represents that he or she has the right and power to execute this Agreement.

14. Independent Contractors. Nothing contained in this Agreement shall place the Parties in a partnership, joint venture or agency relationship and no Party shall have the right or authority to obligate or bind another Party in any manner.

15. Severability. If any term of this Agreement is found to be unenforceable or contrary to law, it will be modified to the least extent necessary to make it enforceable, and the remaining portions of this Agreement will remain in full force and effect, or if such modification is not possible, the term shall be removed and the remaining agreement shall be in full force and effect.

4129 San Marco Drive  
Longmont, Colorado 80503



16. Entire Agreement. This Agreement expresses the full and complete understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous proposals, agreements, representations and understandings, whether written or oral, with respect to the subject matter. This Agreement may not be amended or modified except in writing signed by each Party to the Agreement. This Agreement shall be construed as to its fair meaning and not strictly for or against any Party. The headings hereof are descriptive only and not to be construed in interpreting the provisions hereof.

WHEREFORE, THE PARTIES have set their hands hereto, as indicated by the signatures below.

(Signature) \_\_\_\_\_

(Print Name) \_\_\_\_\_

(Print Title) As \_\_\_\_\_

(Company Name) \_\_\_\_\_

(Effective Date) \_\_\_\_\_

\_\_\_\_\_ (Signature)

Bryan E. Hauger, President  
Bryan Hauger Consulting, Inc.

\_\_\_\_\_ (Effective Date)