

MUTUAL NONDISCLOSURE AGREEMENT

This Mutual Nondisclosure Agreement (the "Agreement") is made as of _____, 202__, by and between [COMPANY NAME], a [STATE/COUNTRY] corporation, with principal offices at [STREET ADDRESS], [CITY, STATE ZIP CODE] ("Company"), and Industry Innovation and Intelligence, Inc., a North Carolina corporation, with principal offices at 13515 Serenity Street, Huntersville, North Carolina 28078 ("3Iinc"). Company and 3Iinc may hereinafter also be referred to as "Party" or together as "Parties".

1. **Purpose.** Company and/or its affiliates and 3Iinc wish to exchange certain Confidential Information (as defined below) to assist in facilitating a transaction between Company and 3Iinc's benefiting either directly or indirectly Company and 3Iinc (the "Relationship"). This Agreement is intended to allow Company and 3Iinc to discuss and evaluate the other's Confidential Information while protecting such Confidential Information (including Confidential Information previously disclosed between Company and 3Iinc) against unauthorized use or disclosure.

2. **Definition of Confidential Information.** "Confidential Information" means any oral, written, recorded, graphic or machine-readable information or data including, but not limited to, that which relates to patents, patent applications, research, product plans, products, developments, inventions, processes, contracts, designs, drawings, engineering, manufacturing, technical, formulae, markets, software (including source and object code), hardware configuration, computer programs, algorithms, business plans, agreements with third parties, templates of standard and/or form agreements intended to be used with potential customers, agreement duration (whether such agreement is currently in effect, terminated or proposed), competitive terms and/or provisions of agreements (whether such agreement is currently in effect, terminated or proposed), competitive pricing strategies, services, customers, marketing, sales, operation, performance, cost, or finances of the disclosing Party or its affiliates.

3. **Nondisclosure of Confidential Information**

(a) Company and 3Iinc agree not to use any Confidential Information disclosed to it by the disclosing Party for any purpose other than to facilitate the consideration of the Relationship. Neither Party shall disclose or permit disclosure of any Confidential Information to any person other than its affiliates, partners, members, or shareholders, and its and their respective directors, officers and employees, agents, legal counsel, and/or consultants and advisors (collectively, "Representatives") who are required to have the information to facilitate consideration of the Relationship; provided that (i) the receiving Party shall be responsible for each such Representative's compliance with the terms of this Agreement that are binding on the receiving Party and (ii) the receiving Party shall take commercially reasonable measures to cause each such Representative to comply with the terms of this Agreement that are binding on the receiving Party. The Parties agree to take all reasonable measures to protect the secrecy of and avoid disclosure or use of the Confidential Information in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information. Such measures shall include, but not be limited to, at least the same degree of care that the receiving Party utilizes to protect its own Confidential Information of a similar nature, which shall be no less than reasonable care. Each Party agrees that it will not decompile, reverse engineer or disassemble any portion of the Confidential Information. Each Party agrees to notify the other Party in writing of any actual or suspected misuse, misappropriation or unauthorized disclosure of the Confidential Information which may come to a Party's attention.

(b) **Exceptions.** Notwithstanding the above, Company and 3Iinc shall not have liability to the other with regard to any Confidential Information of the other which the receiving Party can reasonably demonstrate:

- (i) was in the public domain at the time it was disclosed or has entered the public domain through no fault of the receiving Party;
- (ii) was known to the receiving Party, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure;
- (iii) is disclosed with the prior written approval of the disclosing Party;
- (iv) is or was developed by the receiving Party independently and without reference to any Confidential Information disclosed by the disclosing Party; or
- (v) is disclosed pursuant to any applicable law, rule, regulation, order, judgment, or requirement of a court, administrative agency, or other governmental body, or any securities association, stock exchange or national securities quotation system, or is disclosed in connection with any litigation or regulatory proceeding or investigation; provided, however, that in the event the receiving Party is compelled to disclose, such Party shall, to the maximum extent permitted by law, provide prompt notice of such court order or requirement to the disclosing Party to enable the disclosing Party to seek a protective order or otherwise prevent or restrict such disclosure.

4. Return of Materials. Any materials or documents that have been furnished in connection with the Relationship shall be promptly returned to the disclosing Party, accompanied by all copies of such documentation, within ten (10) days after the earlier of (a) the Relationship has been rejected or concluded or (b) the written request of either Party. Notwithstanding the foregoing, (i) the receiving Party may retain one copy of any Confidential Information to the extent relevant to comply with any legal, regulatory, or documented internal retention obligation, (ii) the receiving Party may retain that portion of Confidential Information that may be found in electronic archives of its computer backup systems, (iii) if any Confidential Information is incorporated into presentation information provided to the management of the receiving Party or its affiliates or Representatives, such presentation material may be retained by the receiving Party or such affiliates or Representatives; and (iv) the receiving Party may create and retain an abstract describing the type of Confidential Information that it receives sufficient to document the nature and scope of the Parties' discussions under this Agreement. Notwithstanding the return or retention of Confidential Information, in accordance with this Section 4, each Party shall continue to be bound by its other obligations of confidentiality contained in this Agreement until the later of the eventual destruction of all Confidential Information or the expiration of the confidentiality obligations set forth in this Agreement.

5. No Rights Granted. Nothing in this Agreement shall be construed as granting any rights under any patent, copyright or other intellectual property right of a Party, nor shall this Agreement grant a Party any rights in or to the other Party's Confidential Information other than the limited right to review such Confidential Information solely for the purpose of facilitating the consideration of the Relationship. Neither Party has an obligation under this Agreement to enter into a Relationship or other agreement with the other Party.

6. Representations and Warranties. Company and 3Iinc make no representations or warranties with respect to the accuracy, completeness or correctness of the Confidential Information. Neither the disclosing Party nor any Representative of the disclosing Party shall have any liability to the

receiving Party or any Representative of the receiving Party pursuant to the terms of this Agreement resulting from the use of the Confidential Information.

7. **Term.** The foregoing commitments of each Party shall survive any termination of the Relationship between the Parties, and shall continue for a period terminating three (3) years following the date of this Agreement, unless the Agreement is terminated earlier by mutual written agreement of the Parties.

8. **Successors and Assigns.** The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided that Confidential Information of the disclosing Party may not be assigned without the prior written consent of the disclosing Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, a Party may assign or delegate this Agreement and the rights, interests or obligations under this Agreement, in whole or in part, by operation of law or otherwise, to any party, currently existing or to be formed, to which the assigning Party assigns or delegates its interest in the Relationship. Nothing in this Agreement, express or implied, is intended to confer upon any entity other than the Parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

9. **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the Parties agree to renegotiate such provision in good faith. In the event that the Parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement, (b) the balance of the Agreement shall be interpreted as if such provision were so excluded and (c) the balance of the Agreement shall be enforceable in accordance with its terms.

10. **Independent Contractors.** Company and 3Iinc are independent contractors, and nothing contained in this Agreement shall be construed to constitute Company and 3Iinc as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking.

11. **Governing Law; Jurisdiction.** This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the Parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of North Carolina, without giving effect to principles of conflicts of law.

12. **Remedies.** The Parties agree that their obligations set forth in this Agreement are necessary and reasonable in order to protect the other Party and its business. The Parties expressly agree that due to the unique nature of Company's and 3Iinc's Confidential Information, monetary damages would be inadequate to compensate the disclosing Party for any breach by the receiving Party of its covenants and agreements set forth in this Agreement. Accordingly, the Parties agree and acknowledge that any such violation or threatened violation shall cause irreparable injury to disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the non-breaching Party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the breaching Party, without the necessity of proving actual damages. In no event shall either Party be liable to the other for any special, incidental, consequential, or punitive damages in connection with this Agreement or the obligations set forth herein, whether arising in tort, contract, indemnity, strict liability or otherwise.

13. **Amendment and Waiver.** Any term of this Agreement may be amended with the written

consent of Company and 3Iinc. Any amendment or waiver effected in accordance with this Section shall be binding upon the Parties and their respective successors and assigns. Failure to enforce any provision of this Agreement by a Party shall not constitute a waiver of any term hereof by such Party.

14. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

15. **Entire Agreement.** This Agreement is the product of both of the Parties hereto, and constitutes the entire agreement between such Parties pertaining to the subject matter hereof, and merges all prior negotiations and drafts of the Parties with regard to the transactions contemplated herein. Any and all other written or oral agreements existing between the Parties hereto regarding such transactions are expressly canceled.

The Parties have executed this Mutual Nondisclosure Agreement as of the date first above written.

Insert Company Name

By: _____

Name: Insert Officer's Name

Title: Insert Officer's Title

Address: Insert Company's Address

Industry Innovation and Intelligence, Inc.

By: _____

Name: David A. Doctor (704-661-8131)

Title: Vice President

Address: 13515 Serenity Street, Huntersville, North Carolina 28078