



CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made and entered into effective this _____ day of _____, 20____ by and between **Cheever Capital Management, LLC**, an Oregon limited liability company (**hereinafter “CCM”**), 2360 14th Ave SE, Albany, Oregon, 97322, and the following (**hereinafter “Recipient”**):

Name/Title _____

Name/Title _____

Company _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Email _____

WITNESS

WHEREAS, the Recipient wishes to obtain certain confidential and proprietary information from CCM for the limited purpose of inspection and review regarding a possible business relationship, and/or Recipient investment with CCM;

WHEREAS, CCM is willing to provide such information to the Recipient for such limited purpose and under the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto agree as follows:

SECTION 1. DEFINITION OF CONFIDENTIAL INFORMATION

As used in this Agreement, the term **Confidential Information** means (1) proprietary information of CCM which is known to Recipient as being treated by CCM as confidential; (2) information marked or designated by CCM as confidential; (3) information, whether or not in written form and whether or not designated as confidential, which is known to Recipient as being treated by CCM as confidential; and (4) information provided to CCM by third parties which CCM is obligated to keep confidential and which is known to Recipient as being treated by CCM as confidential. **Confidential Information** includes, but is not limited to, term sheets, private placement memorandums, financial and technical information, intellectual property, discoveries, ideas, patents, synopsis of business plans and concepts, executive summaries, notes or other documents, visual concepts, depictions, specifications, techniques, models, data, computer programs, computer files, computer disks, documentation, processes, know-how, customer lists, client lists, employee lists, executive lists and marketing plans, including emails and letters containing the above described confidential items.

SECTION 2. OWNERSHIP

The Recipient acknowledges that all **Confidential Information** is and shall continue to be the exclusive property of CCM, whether or not prepared in whole or in part by CCM and whether or not disclosed or entrusted to the Recipient in connection with CCM.

SECTION 3. ACKNOWLEDGMENT OF RECEIPT OF CONFIDENTIAL INFORMATION

The Recipient acknowledges that they will have access to **Confidential Information**, the ownership and confidential status of which are highly important to CCM, and the Recipient agrees to the specific covenants contained in this Agreement.

SECTION 4. ACKNOWLEDGMENT OF IRREPARABLE HARM

The Recipient acknowledges that any disclosure of **Confidential Information** will cause irreparable harm to CCM.

SECTION 5. COVENANT OF NON-DISCLOSURE

The Recipient agrees not to disclose **Confidential Information**, directly or indirectly, under any circumstances or by any means, to any third person without the express written consent of CCM or as permitted in Section 8, below.

SECTION 6. COVENANT OF NON-USE

The Recipient agrees that they will not make any commercial or other use of **Confidential Information** nor will it transmit such **Confidential Information** to third parties, other than Recipient's attorneys, accountants and consultants, each of whom shall have first agreed to the terms of this Agreement.

SECTION 7. SAFEGUARD OF CONFIDENTIAL INFORMATION

The Recipient agrees to exercise the highest degree of care in safeguarding **Confidential Information** against loss, theft, or other inadvertent disclosure, and agrees generally to take all steps necessary to ensure the maintenance of confidentiality.

SECTION 8. EXCEPTIONS

This Agreement imposes no obligation on the Recipient with respect to any portion of **Confidential Information** which the Recipient can demonstrate:

- a. was generally available to the public prior to CCM's first disclosure thereto to Recipient or subsequently becomes generally available to the public through no fault of the Recipient;
- b. was in Recipient's possession prior to receipt from CCM and not acquired directly or indirectly from CCM;
- c. is lawfully received by the Recipient from a third party not directly or indirectly associated with CCM and having no obligation of confidentiality with respect thereto;
- d. is disclosed to third parties without obligation of confidentiality with the prior written consent of CCM;
- e. is independently developed by Recipient without breach of this Agreement; or
- f. was required pursuant to legal or administrative process, provided that Recipient shall exercise a good faith effort to inform CCM and allow it to oppose such production.

SECTION 9. RETURN OF CONFIDENTIAL INFORMATION

Upon written request of CCM the Recipient agrees to deliver promptly to CCM all **Confidential Information**, in whatever form, that may be in the Recipient's possession or control.

SECTION 10. SUBPOENAS

If the Recipient is served with any subpoena or other compulsory judicial or administrative process calling for production of **Confidential Information**, the Recipient agrees to immediately notify CCM in order that it may take such action as it deems necessary to protect its interests.

SECTION 11. REMEDIES

If the Recipient fails to abide by this Agreement, the parties agree that CCM will be entitled to specific performance, including immediate issuance of a temporary restraining order or preliminary injunction enforcing this Agreement, and to judgment for damages caused by the Recipient's breach, and to any other remedies provided by applicable law.

SECTION 12. SURVIVAL OF OBLIGATION

This Agreement may be terminated by CCM at any time upon thirty (30) days written notice to the Recipient. The termination of this Agreement shall not relieve the Recipient of the obligations imposed by Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13 and 15 of this Agreement with respect to **Confidential Information** disclosed to Recipient prior to the date of such termination of this Agreement, and the provisions of those Sections shall survive the termination of this Agreement for a period of three (3) years from the effective date of this Agreement.

SECTION 13. ATTORNEY FEES

Should a dispute arise related to breach of any of the terms and conditions of this Agreement, the Recipient and CCM agree that if a suit or action is filed, the prevailing party shall be entitled to its reasonable attorney fees and costs at trial and on appeal including those incurred after judgment is obtained.

SECTION 14. OREGON LAW APPLIES

The Recipient agrees that this Agreement shall be construed according to and governed by the laws of the State of Oregon.

SECTION 15. NEGATION OF LICENSES OR OTHER PRIVILEGES

No rights or licenses, express or implied, have been granted to the Recipient as a result of or related to this Agreement.

SECTION 16. SEVERABILITY

The Recipient agrees that the provisions of this Agreement are severable. If any section, sentence, clause or phrase of the document is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions.

Recipient Signature

Recipient Name/Title

Recipient Signature

Recipient Name/Title

Accepted By: _____
CCM Authorized Signature