

MUTUAL NON-DISCLOSURE AGREEMENT

THIS AGREEMENT governs the disclosure of information by and between:

Assiter & Associates, LLC, dba Assiter Auctioneers (Assiter)
And

As of _____ ("Effective Date").

1. **Definition of Confidential Information.** As used herein, "Confidential Information" shall mean any and all tangible or intangible information and materials related to Assiter/Company, an affiliated company, any respective customer or contractor (including identity, characteristics and activities), that is provided by either party to the other, including but not limited to: (a) patent(s) and patent applications, (b) trade secrets, (c) copyrighted information, and (d) proprietary information—business plans, strategies, ideas, techniques, sketches, drawings, works of authorship, models, inventions, know-how, processes, apparatuses, equipment, algorithms, software programs, software source documents, databases, data processing or communications networking systems, data, and formulae related to the current, future, and proposed products and services of each of the parties, and including, without limitation, their respective information concerning research, technology, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, customer lists, investors, employees, business and contractual relationships, business forecasts or forecast assumptions, operations, methods of doing business, records, assets, sales and merchandising, marketing plans, and information the disclosing party provides regarding third parties; information or materials designated or identified as confidential at the time of disclosure; information apparent to a reasonable person that such information or materials are of a confidential or proprietary nature; or any information that relates to a person and that could be used, either directly or indirectly, to identify such person, whether a natural person or a legal entity ("Personal Information").

2. **Identification of Confidential Information.** If the Confidential Information is embodied in tangible material (including without limitation, software, hardware, drawings, graphs, charts, disks, tapes, prototypes and samples), it shall be labeled as "Confidential" or bear a similar legend. If the Confidential Information is disclosed orally or visually, it shall be identified as such at the time of disclosure.

3. **Exceptions to Confidential Information.** Each party's obligations under this Agreement with respect to any portion of the other party's Confidential Information shall terminate when the party to whom Confidential Information was disclosed (the "Recipient") can document that: (a) it was in the public domain at the time it was communicated to the Recipient by the other party; (b) it entered the public domain subsequent to the time it was communicated to the Recipient by the other party through no fault of the Recipient; (c) it was in the Recipient's possession free of any obligation of confidence at the time it was communicated to the Recipient by the other party; (d) it was rightfully communicated to the Recipient free of any obligation of confidence subsequent to the time it was communicated to the Recipient by the

other party; (e) it was developed by employees or agents of the Recipient independently of and without reference to any information communicated to the Recipient by the other party; (f) it was communicated by the other party to an unaffiliated third party free of any obligation of confidence; (g) the communication was in response to a valid order by a court or other governmental body, was otherwise required by law, (provided that: the Receiving Party promptly notifies the Disclosing Party to allow the Disclosing Party time to seek a protective order; the Receiving Party provides the Disclosing Party with reasonable cooperation in its efforts to contest such disclosure at the Disclosing Party's expense; the Receiving Party Discloses only the portion of the Confidential Information required), or was necessary to establish the rights of either party under this Agreement; or (h) it was not legended as Confidential Information of the disclosing party and if disclosed orally or visually, it was not identified as Confidential Information of the disclosing party at the time of such communication

4. **Handling of Confidential Information**. Each party agrees that at all times and notwithstanding any termination or expiration of this Agreement it will hold in strict confidence and not disclose to any third party Confidential Information of the other, except as approved in writing by the other party to this Agreement, and will use the Confidential Information for no purpose other than for the performance of assigned job responsibilities with the other party to this Agreement. Each party shall only permit access to Confidential Information of the other party to those of its employees or authorized representatives having a need to know and who have signed confidentiality agreements or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein. As such, the Receiving Party will adopt, maintain and follow security practices and procedures that are sufficient to safeguard the Disclosing Party's Confidential Information from unauthorized disclosure, access, use or modification; misappropriation, theft, destruction, or loss; or inability to account for such Confidential Information. Express written consent will be obtained before removing Confidential Information from the residing premises.

5. **Residual Knowledge**. Recipient may enhance its knowledge and experience retained in intangible form in the unaided memories of its directors, employees/contractors and advisors as a result of viewing Discloser's Confidential Information. So long as Recipient complies with Section 4 of this Agreement, Recipient may develop, disclose, market, transfer and/or use such knowledge, experience and intellectual property that may be generally similar to Discloser's Confidential Information, and Discloser shall not have any rights in such knowledge, experience or intellectual property nor any rights to compensation related to the Recipient use of such knowledge, experience or intellectual property, nor any rights in Recipient's business endeavors.

6. **Term and Termination**. The Recipient's obligations under this Agreement shall survive termination of the Agreement between the parties and shall be binding upon the Recipient, his/her heirs, successors and assigns for a period of five (5) years unless agreed upon by Assiter and the Company, and provided, however, that the obligations of confidentiality assumed under this Agreement regarding Personal Information shall continue to survive beyond such five year period. The provisions of the Agreement that, by their nature and content, are intended to survive the completion, rescission, termination or expiration of this Agreement (including without limitation obligations regarding Personal Information) shall so survive and continue to bind the Parties for the maximum period of time permitted under applicable law. Upon termination or expiration of the Agreement, or upon written request of the

other party, each party shall promptly return (or purge its systems and files of, and suitably account for) all Confidential Information or copies thereof supplied to or otherwise obtained by the Receiving Party. Notwithstanding any other provision in this Agreement, Assiter (or any affiliated companies that is a US registered broker-dealer and rightfully obtains Company's Confidential Information pursuant to this Agreement) shall be entitled to retain copies of such Confidential Information for archival purposes solely to satisfy obligations under any applicable laws.

7. **Warranties.** Each party represents and warrants to the other party that (i) it has the requisite corporate authority to enter into and perform this Agreement, (ii) this Agreement constitutes its legally binding obligation, enforceable in accordance with its terms, and (iii) its execution and performance under this Agreement, including its disclosure of Confidential Information to the Recipient, will not result in a breach of any obligation to any third party or infringe or otherwise violate any third party's rights.

8. **Representation Concerning Information.** Each Party represents that it will endeavor to provide only information and materials that it believes to be reliable and relevant for the purposes contemplated by this Agreement. However, neither Party, nor any of their respective representatives, makes any representation or warranty as to the accuracy or completeness of the information or materials disclosed by such Party. Each Party does, however, represent and warrant that its disclosure of information to the Receiving Party will not infringe (whether direct, contributory, by inducement or otherwise), misappropriate or violate the intellectual property or proprietary rights of any third party, or violate the laws, regulations or orders of any governmental or judicial authority.

9. **No Export.** Neither party shall export, directly or indirectly, any technical data acquired from the other pursuant to this Agreement or any product utilizing any such data to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval.

10. **No Reverse Engineering.** Each of the parties agrees that the software programs of the other party contain valuable confidential information and each party agrees it will not modify, reverse engineer, decompile, create other works from, or disassemble any software programs contained in the Confidential Information of the other party without the prior written consent of the other party.

11. **No Grant of Rights.** The parties recognize and agree that nothing contained in this Agreement shall be construed as granting any property rights, by license or otherwise, to any Confidential Information of the other party disclosed pursuant to this Agreement, or to any invention or any patent, copyright, trademark, or other intellectual property right that has issued or that may issue, based on such Confidential Information. Neither party shall make, have made, use or sell for any purpose any product or other item using, incorporating or derived from any Confidential Information of the other party.

12. **Legends.** The Receiving Party will not remove any copyright or other proprietary notice of confidentiality contained on or included in the Disclosing Party's Confidential Information, and will reproduce any such notice on any reproduction, modification or translation of the Disclosing Party's Confidential Information.

13. **Notification and Cooperation.** If the Receiving Party becomes aware of any threatened or actual violation of the obligations or restrictions agreed to by the Receiving Party with respect to the Disclosing Party's Confidential Information, the Receiving Party will immediately notify the Disclosing Party thereof and the Receiving Party will assist the Disclosing Party with its efforts to, cure or remedy such violation. The Receiving Party will be liable to the Disclosing Party for any non-compliance by its agents or contractors to the same extent it would be liable for non-compliance by its employees.

14. **Equitable Remedies.** Recipient acknowledges that Recipient's breach of this Agreement may cause irreparable harm to Discloser for which Discloser is entitled to seek injunctive or other equitable relief to prevent or curtail any such breach, threatened or actual, without posting a bond or security and without prejudice to such other rights as may be available under this Agreement or under applicable law, as well as monetary damages.

15. **Personal Information.** Company hereby acknowledges that Assiter and its affiliated companies are subject to internal policies, laws and regulations which govern and restrict the collection, storage, processing, dissemination and use of Personal Information, including any Personal Information relating to Assiter's, and its affiliated companies' respective customers, suppliers and Personnel, its franchisees and sales associates affiliated with such franchisees. Company agrees not to collect, store, process, disseminate or use any Personal Information obtained from Assiter or its affiliated companies except to the extent otherwise expressly directed by Assiter in writing (either within the provisions of the Agreement or otherwise). Company further acknowledges that Assiter and its affiliated companies are global companies and may, from time to time, collect, store, process, disseminate or use Personal Information relating to Company, or any person (natural person or legal entity) that Company assigns or engages (whether directly or indirectly) to exercise its rights or fulfill its obligations under this Agreement (collectively "Company Personal Data"). Company consents, and will ensure that each person assigned or engaged to interact with Assiter or its affiliated companies in connection with the subject matter of this Agreement consents, to the collection, storage, processing, dissemination or use of such Company Personal Data by Assiter and its affiliated companies for all purposes relating to their administration of the Agreement or of their respective vendor management programs.

16. **Publicity.** The Parties will hold in confidence, and will not disclose (or permit or suffer any of its Personnel to disclose) the existence, nature or terms of this Agreement or the existence, nature or content of the Parties' communications, discussions, evaluations or negotiations in connection with any potential business relationship. Neither Party will use the other Party's proprietary indicia, trademarks, service marks, trade names, logos, symbols or brand names, or otherwise refer to or identify the other Party in advertising, publicity releases, or promotional or marketing publications or correspondence to third parties without, in each case, securing the prior written consent of the other Party.

17. **Waiver.** No course of dealing, failure by a Party to require the strict performance of any obligation assumed by the other hereunder, or failure by a Party to exercise any right or remedy to which it is entitled, shall constitute a waiver or cause a diminution of the rights or obligations provided under this Agreement. No provision of this Agreement shall be deemed to have been waived by any act or knowledge of a Party, but only by a written instrument signed

by a duly authorized representative of the Party to be bound thereby. Waiver by a Party of any default shall not constitute a waiver of any other or subsequent default.

18. **Modification.** The terms, conditions, covenants and other provisions of this Agreement may hereafter be modified, amended, supplemented or otherwise changed only by a written instrument that specifically purports to do so and is signed by a duly authorized representative of each Party.

19. **Miscellaneous.** Neither party shall transfer or assign this Agreement to any other person or entity, by operation of law or otherwise, without the prior written consent of the other party. Any such attempted assignment shall be void and of no effect. This Agreement shall be governed by, enforced under, and construed and interpreted in accordance with, the laws of the state of Texas without reference to conflict of laws principles. Each party consents to venue and personal jurisdiction in the state of Texas. If any provision of this Agreement is found by a proper authority to be unenforceable or invalid such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole and in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute on instrument. Neither party will assign or transfer any rights or obligations under this Agreement, including by operation of law, without the prior written consent of the other party. The Agreement is the complete and exclusive agreement regarding the disclosure of Confidential Information between the parties, and replaces any prior oral or written communications between the parties regarding Confidential Information. This Agreement may be signed in multiple copies, each of which shall constitute the same instrument. Signatures exchanged by facsimile shall be deemed to be originals for all purposes. Once completely executed, any reproduction of this Agreement made by reliable means shall be considered an original.

IN WITNESS WHEREOF, the parties hereto have caused this Mutual Non-Disclosure Agreement to be executed as of the Effective Date.

By: _____

By: _____

Date: _____

Date: _____

Address: _____

Address: _____
