

# EXCLUSIVITY AGREEMENT

Parties: \_\_\_\_\_

**This Exclusivity Agreement (the “Agreement”) is entered into by and between:**

Disclosing Party: \_\_\_\_\_

Receiving Party: \_\_\_\_\_

## 1. Purpose

The Disclosing Party intends to disclose certain confidential and proprietary information (“Confidential Information”) to the Receiving Party solely for the purpose of evaluating a potential business relationship or transaction (the “Purpose”).

## 2. Exclusivity

During the term of this Agreement, the Receiving Party agrees to negotiate exclusively and in good faith with the Disclosing Party with respect to the Purpose and shall not, directly or indirectly, engage in discussions or negotiations with any other party regarding the same or similar subject matter.

## 3. Confidential Information

Confidential Information includes all written, electronic, oral, or other information disclosed by the Disclosing Party to the Receiving Party, whether marked confidential or not, including but not limited to business plans, financial data, customer lists, trade secrets, and technical information.

## 4. Non-Disclosure and Use Restrictions

The Receiving Party shall hold all Confidential Information in strict confidence and shall not disclose it to any third party without the prior written consent of the Disclosing Party. The Receiving Party shall use Confidential Information solely for the Purpose and shall take all reasonable measures to protect its confidentiality.

## 5. Exclusions

Confidential Information does not include information that (a) is or becomes publicly available through no fault of the Receiving Party; (b) was known to the Receiving Party prior to disclosure by the Disclosing Party without restriction; (c) is independently developed by the Receiving Party without use of or reference to the Disclosing Party’s Confidential Information; or (d) is rightfully obtained from a third party without breach of any confidentiality obligation.

## 6. Term

This Agreement shall commence on the date of execution and shall continue for a period of one (1) year unless earlier terminated by either party upon thirty (30) days prior written notice.

## 7. Return or Destruction of Materials

Upon termination or at the request of the Disclosing Party, the Receiving Party shall promptly return or destroy all documents and materials containing Confidential Information and certify in writing that such return or destruction has been completed.

## 8. No License or Ownership

Nothing in this Agreement grants the Receiving Party any rights, by license or otherwise, to any Confidential Information except as expressly set forth herein.

## 9. No Obligation to Proceed

Neither party shall be under any obligation to proceed with any transaction or relationship as a result of this Agreement, and each party reserves the right to terminate discussions at any time without liability.

#### **10. Remedies**

The Receiving Party acknowledges that any breach of this Agreement may cause irreparable harm to the Disclosing Party, which monetary damages may not adequately remedy. Accordingly, the Disclosing Party shall be entitled to seek injunctive relief and specific performance without the necessity of posting bond or proving actual damages.

#### **11. Governing Law and Venue**

This Agreement shall be governed by and construed in accordance with the laws of the State of \_\_\_\_\_ without regard to its conflict of law principles. The parties consent to the exclusive jurisdiction and venue of the state and federal courts located in \_\_\_\_\_ County, \_\_\_\_\_ for any disputes arising out of or relating to this Agreement.

#### **12. Entire Agreement; Amendments**

This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements. Any amendments or modifications must be in writing and signed by both parties.

#### **13. Severability**

If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue in full force and effect.

#### **14. Waiver**

No failure or delay by either party in exercising any right or remedy under this Agreement shall constitute a waiver of such right or remedy.

#### **15. Assignment**

Neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party, except to a successor in interest of the entire business and assets.

#### **16. Notices**

All notices under this Agreement shall be in writing and deemed given when delivered personally, sent by nationally recognized overnight courier, certified mail return receipt requested, or by electronic means capable of confirming transmission and receipt, to the addresses set forth above or such other address as either party may designate by notice.

#### **17. Counterparts**

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

#### **18. Headings**

Headings used in this Agreement are for convenience only and shall not affect the interpretation of any provision.

#### **19. Relationship of Parties**

The parties are independent contractors, and nothing in this Agreement shall be construed to create a partnership, joint venture, or agency relationship.

#### **20. Signatures**

The parties have caused this Agreement to be executed by their duly authorized representatives as of the date of signing.

**DISCLOSING PARTY SIGNATURE**

**RECEIVING PARTY SIGNATURE**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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