

## MUTUAL NONDISCLOSURE AGREEMENT

This Mutual Non-disclosure Agreement ("Agreement") is effective as of \_\_\_\_\_ 2020 between \_\_\_\_\_ (Receiving Party or Prospect(s)) and, New Commerce Communications, Inc./NCC International ("NCC") d.b.a Millitzer Capital, collectively, "the Parties".

### BACKGROUND

NCC is a business brokerage firm and represents owners of businesses ("Seller"). One of the intents of this agreement is to allow NCC to provide confidential information related to a Seller, potential Seller, or other information the Parties desire to exchange and remain Confidential.

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The Parties have agreed exchange certain information which includes a possible transaction and/or relationship involving a company or firm represented by NCC, or other activity not specifically outlined herein (the "Transaction"). In connection with the Transaction, the Parties have agreed to exchange information (which may be provided orally, in writing or in any other form or media) including but not limited to a Seller, the Prospects business and the Transaction from owners, employees, professionals, related individuals and/or agents of each party including Seller (hereinafter "Confidential Information"). The party providing any Confidential Information to the other party is referred to herein as the "Disclosing Party" and the party receiving any Confidential Information from the other party is referred to herein as the "Receiving Party" which may include information regarding the firm represented by NCC.

### TERMS AND CONDITIONS

1. Definition of Confidential Information. For purposes of this Agreement, "Confidential Information" shall include all information or material that has or could have commercial value or other utility in the business in which Disclosing Party is engaged or information provided by the Disclosing Party on the behalf of its clients. If Confidential Information is in written form, the Disclosing Party shall label or stamp the materials with the word "Confidential" or some similar warning either directly on the document or on a transmittal page including but not limited to e-mail communication. If Confidential Information is transmitted orally in the context of information such communications are deemed Confidential.

2. Exclusions from Confidential Information. Receiving Party's obligations under this Agreement do not extend to information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no fault of the Receiving Party; (b) discovered or created by the Receiving Party before disclosure by Disclosing Party; (c) learned by the Receiving Party through legitimate means other than from the Disclosing Party or Disclosing Party's representatives; or (d) is disclosed by Receiving Party with Disclosing Parties prior written approval.

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3. Obligations of Receiving Party. Receiving Party shall hold and maintain the Confidential Information in strictest confidence for the sole and exclusive benefit of the Disclosing Party. Receiving Party shall carefully restrict access to Confidential Information to employees, contractors and third parties as is reasonably required and shall inform those persons of the nondisclosure obligations and restrictions contained in this agreement and such employees, contractors and third parties shall be bound by the terms of this agreement. Receiving Party shall not, without prior written approval of Disclosing Party, use for Receiving Party's own benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of Disclosing Party, any Confidential Information. Receiving Party shall return to Disclosing Party or destroy and all records, notes, and other written, printed, or tangible materials in its possession pertaining to Confidential Information immediately if Disclosing Party requests it in writing.

4. Non-Circumvention. Prospect agrees that all third parties introduced to him/her by NCC represent significant efforts and working relationships that are unique to, and part of, the work product and intellectual capital of NCC. Therefore, without the prior specific written consent of NCC, Prospect agrees to refrain from conducting direct or indirect business dealings regarding, merger, acquisitions of any kind with any third party so introduced by NCC, with the exception of third parties with which Prospect has previously had a formal business relationship, for a period of two (2) years from Effective Date of this Agreement.

5. Time Periods. The nondisclosure provisions of this Agreement shall cover any Confidential information disclosed from the date as signed by the Receiving Party for a period of two years from the date the first Confidential Information is disclosed for the respective company or target. Receiving Party's duty to hold Confidential Information in confidence shall remain only until the Confidential Information qualifies as a trade secret or until Disclosing Party sends Receiving Party written notice releasing Receiving Party from this Agreement, whichever occurs first.

6. Relationships. Nothing contained in this Agreement shall be deemed to constitute either party a partner, joint venturer or employee of the other party for any purpose.

7. Introductions. The Receiving Party acknowledges and understands that NCC is a business broker. NCC's primary source of income is introducing one business to another whereupon a transaction may occur. Receiving Party agrees that for the duration of this Agreement it will not bypass NCC in any reasonable manner that would cause NCC to lose commissions or fees between Receiving Party and an entity or business opportunity introduced by NCC to Receiving Party.

8. The Parties agree that money damages in itself may not be a the only remedy for any breach of this Agreement, and the non breaching Party. The Parties, including the Seller that NCC represents, shall be entitled to enforce this Agreement by injunctive and other available relief, including without limitation specific performance.

9. Severability. If a court finds any provision of this Agreement invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to effect the intent of the parties.

10. Integration. This Agreement expresses the complete understanding of the parties with respect to the subject matter and supersedes all prior proposals, agreements, representations, and understandings. This Agreement may not be amended except in a writing signed by both parties.

11. Waiver. The failure to exercise any right provided in this Agreement shall not be a waiver of prior or subsequent rights.

This Agreement and each party's obligations shall be binding on the representatives, assigns and successors of such party. Each party has signed this Agreement through its authorized representative.

**Following Page Signature Page**

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**Prospect Party / Signed**

Dated: \_\_\_\_\_ 2020

\_\_\_\_\_

Company Name

\_\_\_\_\_  
Signature Line

\_\_\_\_\_

Print Name/Title

\_\_\_\_\_

Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Voice

\_\_\_\_\_  
Fax

\_\_\_\_\_  
E-mail

**New Commerce Communications, Inc.**

**dba Millitzer Capital**

Dated: \_\_\_\_\_ Same as Prospect \_\_\_\_\_ 2020

**Millitzer Capital**

\_\_\_\_\_

Thomas E. Millitzer, President

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