

## MUTUAL NONDISCLOSURE AGREEMENT

THIS MUTUAL NON DISCLOSURE AGREEMENT ("Agreement") is made and entered into as of \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ between NAI Capital, Inc., a California Corporation, and \_\_\_\_\_ whose legal residence is located at \_\_\_\_\_ (each, together with their affiliates and subsidiaries, a "Party" and collectively, the "Parties").

Purpose. The Parties wish to continue to explore and develop a business relationship of mutual interest and in connection with this relationship, each Party may disclose or may have already disclosed to the other certain "Confidential Information" (as defined below) which the disclosing Party (the "Disclosing Party") desires the receiving Party (the "Receiving Party") to treat as confidential. For purposes of this Agreement, (i) "Receiving Party" shall mean, as to any person, its directors, officers, employees, agents and advisors (including, without limitation, financial advisors, attorneys and accountants); and (ii) "person" shall be broadly interpreted to include, without limitation, any corporation, company partnership, other entity or individual.

1. "Confidential Information" shall mean all technical, financial, commercial, operational, marketing and other information and data, without regard to form or medium, relating to \_\_\_\_\_ located at \_\_\_\_\_ that is not generally known to the public, and that is disclosed by the Disclosing Party pursuant to this Agreement. By way of illustration, Confidential Information includes, but is not limited to, the following kinds of information and data: assets, liabilities, operations, financial conditions, plans, prospects, management, investors, products, strategies and techniques, research and development plans, methods, efforts and results; technology; inventions; know-how; computer codes and instructions; business or market studies; business and product development plans and efforts; personnel data; and information relating to the Company's actual and prospective customers, consultants, contractors and vendors and the nature and terms of the Company's relationship with any of them. Information communicated orally shall be considered Confidential Information if such information is confirmed in writing as being Confidential Information within a reasonable time after the initial disclosure. Confidential Information may also include information furnished to the Disclosing Party by third parties. Confidential Information shall not, however, include any information which:

- (a) was publicly known and made generally available in the public domain prior to the time of disclosure by the Disclosing Party;
- (b) becomes publicly known and made generally available after disclosure by the Disclosing Party to the Receiving Party through no action or inaction of the Receiving Party;
- (c) is already in the possession of the Receiving Party at the time of disclosure by the Disclosing Party as shown by the Receiving Party's files and records immediately prior to the time of disclosure;
- (d) is obtained by the Receiving Party from a third party without a breach of such third party's obligations of confidentiality;
- (e) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, as shown by documents and other competent evidence in the Receiving Party's possession; or
- (f) is required by law to be disclosed by the Receiving Party, provided that the Receiving Party gives the Disclosing Party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure.

2. Non-use and Non-disclosure. Each Party agrees not to use any Confidential Information of the other Party for any purpose except to evaluate and engage in discussions concerning the business relationship between the Parties and/or to further the business relationship between the Parties. Each Party agrees not to disclose any Confidential Information of the other Party to third parties or to such Party's employees, except to those employees of the Receiving Party who are required to have the information in order to evaluate or engage in discussions concerning the business relationship.

3. Maintenance of Confidentiality. Each Party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other Party. Without limiting the foregoing, each Party shall take at least those measures that it takes to protect its own most highly confidential information and shall ensure that its employees who have access to Confidential Information of the other Party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees. Neither Party shall make any copies of the Confidential Information of the other Party unless required to evaluate or engage in discussions concerning the business relationship,

provided however, that each Party shall reproduce the other Party's proprietary rights notices on any such copies, in the same manner in which such notices were set forth in or on the original.

4. No Obligation. Nothing herein shall obligate either Party to proceed with any transaction between them, and each Party reserves all rights, in its sole discretion, to terminate any discussions contemplated by this Agreement or any business relationship pursuant to the terms of the agreement covering such relationship. However, in the event of the Receiving Party after receiving Confidential Information proceeds with an offer to purchase either a company or asset as described within Confidential Information, the Receiving Party understands and recognizes that NAI Capital, Inc. and its associate Bob Elliott acted as the procuring cause in any such resulting transaction.

5. No Warranty. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS". EACH PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE.

6. Return of Materials. All documents and other tangible objects containing or representing Confidential Information which have been disclosed by either Party to the other Party, and all copies thereof which are in the possession of the other Party, shall be and remain the property of the Disclosing Party unless otherwise specifically agreed in any other written agreement between the Parties and shall be promptly returned to the Disclosing Party upon the Disclosing Party's written request.

7. No License. Nothing in this Agreement is intended to grant any Party any rights in or to the Confidential Information of the other Party except as expressly set forth herein or in other written agreements between the Parties.

8. Term. This Agreement shall be effective as of the date first written above and shall continue for a period of three (3) years, unless earlier terminated by written notice of one of the parties on thirty days' written notice. All obligations undertaken respecting Confidential Information shall survive termination of this Agreement for a period of three (3) years from date of termination.

9. Remedies. Each Party agrees that any violation or threatened violation of this Agreement may cause irreparable injury to the other Party, entitling the other Party to seek injunctive relief in addition to all legal remedies.

Miscellaneous. This Agreement shall bind and inure to the benefit of the Parties hereto and their successors and assigns. This Agreement shall be governed by the laws of the State of California, without reference to conflict of laws principles. The Parties hereto irrevocably submit to the jurisdiction of the State of California and the venue of Riverside County in any action brought by the Parties hereto concerning this Agreement or the performance thereof. Should any action or proceeding be brought to construe or enforce the terms and conditions of this Agreement or the rights of the parties hereunder, the losing party shall pay to the prevailing party all court costs and reasonable attorneys' fees and costs incurred in such action or proceeding. Except as otherwise specifically excepted, this document contains the entire agreement between the Parties with respect to the subject matter hereof, and neither Party shall have any obligation, express or implied by law, with respect to Confidential Information of the other Party except as set forth herein. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both Parties hereto.

NAI CAPITAL, INC.

Receiving Party

By: Robert C. Elliott

Name Printed: \_\_\_\_\_

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

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

75410 Gerald Ford

Address: \_\_\_\_\_

Palm Desert, CA 92211

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: 760-834-3624 Email: relliott@naicapital.com

Phone: \_\_\_\_\_ Email: \_\_\_\_\_