

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (“Agreement”) is entered into and effective as of this ____th day of _____, _____ (the “Effective Date”), by and between _____ (“Company”), and Chris Barsness doing business as Warrior Investment Funds and its affiliates (“Recipient”) (collectively, the “Parties”) and shall remain in effect for a period of 36 months from the Effective Date (the “End Date”).

RECITALS

WHEREAS, the Parties to this Agreement are entering into discussions or negotiations for the purpose of determining whether they may have a mutually beneficial interest in entering into further business relationships with the Company;

WHEREAS, in connection with these discussions, the Company will disclose to Recipient certain material, non-public, confidential and/or proprietary information regarding its business, financial position, results of operations, corporate structure, intellectual property, inventions, patent or patent applications, proposed brand names, domain name, strategic plans, financial plans, marketing concepts and ideas, operations and other information in written, electronic and/or verbal form (individually and collectively, the “Confidential Information”). The Confidential Information also includes any intellectual property, patents, patent applications, or other confidential or proprietary information owned by any founder, shareholder, officer, or director of the Company (“Related Party”) which may be licensed or otherwise acquired or owned by the Company;

WHEREAS, Recipient further acknowledges that the Confidential Information is a valuable, special and unique asset of the Company and the Related Party that does or may give the Company or a Related Party a competitive advantage over others who do not know or use it; and

WHEREAS, the Parties desire that the Confidential Information provided to Recipient be used solely for the purpose of evaluating further business relations or employment, and desire to set forth their agreement regarding the limited use and preservation of confidentiality of such Confidential Information. The Parties desire that this Agreement, their negotiations, discussions, due diligence, communications, and agreements are to be considered Confidential Information protected by this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein, the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Obligations to Preserve Confidential Information.** Except as expressly provided herein, Recipient expressly agrees that it shall, and shall cause any person to whom it discloses Confidential Information in accordance with the provisions of Section 4 hereof to: (a) hold in trust, keep absolutely confidential and not disclose to any third party or make any use of or permit others to use any of the Confidential Information; (b) not use the Confidential Information for any reason or purpose other than as authorized herein; (c) take all reasonable actions to

assure proper precautions have been taken to prevent unauthorized access to, or disclosure or loss or destruction of, Confidential Information; and (d) not directly or indirectly print, copy or otherwise reproduce, in whole or in part, any Confidential Information.

2. **Character of Confidential Information.** Confidential Information may, but need not, be marked as “Confidential,” “Proprietary,” or with other words indicating the sensitive nature of the Confidential Information, but failure to so mark any Confidential Information does not prevent it from being Confidential Information hereunder. Any information orally disclosed by the Company or any Related Party to Recipient will be deemed Confidential Information hereunder, and Recipient will not disclose to third parties, or fail to treat as Confidential Information, any information received orally from the Company or any Related Party.

3. **Exceptions.** For purposes of this Agreement, Confidential Information does not include information which: (a) becomes generally available to the public other than as a result of a violation of this Agreement; or (b) becomes available to Recipient or an affiliate thereof on a non-confidential basis from a source other than Recipient or any of its affiliates, provided that such source is not prohibited from disclosing such information pursuant to a confidentiality agreement.

4. **Disclosure.** Recipient may disclose Confidential Information to their accountant and attorney, on a “need to know” basis for the sole purpose of evaluating the proposed transaction. Notwithstanding any such disclosure, Recipient shall remain liable for any breach of this Agreement by any of such parties and Recipient shall notify their accountant or attorney of the confidential nature of the Confidential Information and the proposed transaction.

5. **Legal Action to Disclose.** If Recipient is confronted with legal action to disclose Confidential Information, Recipient will promptly notify the Company and any Related Party which may be affected by such disclosure. Recipient will reasonably assist the Company and the Related Party in obtaining a protective order requiring that any portion of the Confidential Information required to be disclosed be used only for the purpose for which a court issues an order or for such other purposes as required by law. Each party will bear its own legal expenses in connection with any such legal action.

6. **Rights in Confidential Information.** All Confidential Information will remain the property of the Company or the Related Party. At the Company or Related Party’s written request, the Confidential Information in any tangible form will be promptly returned or destroyed together with all copies thereof. Upon written request, Recipient will provide written certification of such return and/or destruction.

7. **Equitable Relief.** The Parties each acknowledge that should this Agreement be breached, remedies available at law are inadequate, and proving damages impracticable. The Parties therefore agree that, in addition to all other rights and remedies available at law or in equity, the Company or Related Party will be entitled to injunctive relief upon any such breach, and Recipient agrees to waive any requirement that the Company or Related Party post any bond or other security in connection with such injunctive relief. Recipient will pay to the Company or Related Party all attorneys’ fees and costs incurred by the Company or Related Party as a result of such breach.

8. **Notices.** All notices required under this Agreement shall be sent certified mail or overnight courier to the party’s business address.

9. **Term; Survival.** The term of this Agreement (“Term”) shall commence on the Effective Date, and the obligations of the parties under this Agreement shall continue until the specific End Date as indicated in the initial paragraph of this Agreement, or if no End Date is specified, no longer than twenty four (24) months following the Effective Date.

10. **Indemnification.** Recipient agrees to defend, indemnify and hold harmless the Company and Related Party and its affiliates from and against any claim, action, proceeding, liability, fine, loss, damage, cost or expense (including, without limitation, reasonable attorneys’ fees) arising out of any breach of Recipient’ obligations hereunder resulting in a claim for injury or damages to any person or entity.

11. **Governing Law; Arbitration.** This Agreement shall be governed by the laws of the State of Texas applicable to contracts made and to be performed therein, without regard to conflict of laws principles thereof. Any claim or controversy arising out of or relating to this Agreement, or breach thereof, shall be settled by arbitration under the rules of the American Arbitration Association, jurisdiction and forum reserved to the State of Texas, County of Dallas. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

12. **Invalidity.** In the event that any provision of this Agreement shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remaining provisions of this Agreement.

13. **Entire Agreement.** This Agreement contains the entire understanding by and between the parties hereto respecting the subject matter hereof, and supersedes any and all prior understandings or oral or written agreements between the parties respecting such subject matter.

14. **Waiver.** The waiver by any party to this Agreement of any one or more breaches or threatened breaches, if any, on the part of the other, shall in no way be construed to operate as a waiver of any other or future breaches or threatened breaches.

15. **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs and legal representatives. Recipient may not assign any rights or obligations under this Agreement.

16. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument binding on the parties.

17. **Relationship of the Parties.** Nothing in this Agreement or any acts of the Parties shall be construed, implied or deemed to create an agency, partnership, joint venture or employer and employee relationship between them. Neither this Agreement nor any of its provisions shall be considered or construed as a commitment by either Party to engage the other Party in any work or to purchase any products or services from the other Party.

18. **No Export.** Recipient shall not export, directly or indirectly, including but not limited to export in or on the Internet or other network service, any Confidential Information, technology or product or technical data acquired by Recipient from the Company or a Related Party under this Agreement without prior written consent. In the event written consent is given, Recipient shall be solely responsible for compliance with any export/import requirements and regulations required by any country.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have duly executed and delivered this Agreement as of the Effective Date.

“COMPANY”

“RECIPIENT”

By: _____

Name & Title

Signature

Print Name

Company

Title