

This **CONFIDENTIALITY AGREEMENT** (the "Agreement") is made effective as of the [●] day of [●], 201[●] by and between **Cleary Gottlieb Steen & Hamilton LLP** ("CGSH"), a limited liability partnership with registered offices at One Liberty Plaza, New York, NY 10006 (the "Premises"), and [●] (the "Supplier") with registered office at [●] (each a "Party," and, together, the "Parties"). For the purposes of this Agreement, CGSH includes its wholly owned subsidiaries, as well as its affiliates, branches, and offices both in and outside the United States, and the Premises includes all offices of the foregoing.

In consideration of CGSH hiring the Supplier to perform [●] services (the "Services"), including as may be set forth in an agreement between the Parties (the "Services Agreement"), and since the Supplier may be provided with or come into contact with confidential and proprietary information belonging to CGSH or its clients (each a "Disclosing Party" and together the "Disclosing Parties") in connection with its provision of Services, the Supplier hereby agrees as follows:

1. SUPPLIER'S DUTY OF NON-DISCLOSURE

- A. "Confidential Information" means all confidential, proprietary, or non-public information of the Disclosing Parties (however recorded or preserved) that is disclosed or made available, directly or indirectly, by CGSH or its respective employees, officers, representatives or advisors to the Supplier or its affiliates, representatives, employees or agents, relating to the business of such Disclosing Party or that otherwise by its nature would be reasonably understood as confidential, whether provided in written or oral form and in any manner whatsoever. Without limiting the foregoing, Confidential Information may include confidential or proprietary information owned by a third party and used under license by a Disclosing Party.
- B. The Supplier agrees that it may only access and interact with any Confidential Information made available to it to the extent necessary for it to perform the Services. The Supplier further agrees that, as a recipient of Confidential Information: (i) except as expressly permitted by an applicable Services Agreement, it shall not, for any purpose, use, disclose, reproduce, transfer or reduce to writing or otherwise record the Confidential Information; (ii) it shall maintain in confidence the Confidential Information and shall, with respect to such Confidential Information, use the same degree of care and exercise reasonable efforts to protect such Confidential Information as it uses and exercises with respect to protecting its own similar confidential and/or proprietary information, but in all events no less than reasonable efforts and care; (iii) it shall only disclose Confidential Information to those of its or its affiliates' employees (a) to whom it is necessary to disclose such Confidential Information for performance of the Services, (b) to whom it has advised of the terms of this Agreement, and (c) who have agreed in writing to be bound by the terms of this Agreement; (iv) it shall cause the employees to whom the Confidential Information is disclosed pursuant to Section 1.B(iii) to comply with the terms of this Agreement, and it shall be responsible for such compliance and fully liable for any failure to comply; and (v) except as set forth in Section 1.B(iii), it shall not disclose or in any way disseminate or make available any Confidential Information disclosed or otherwise made available to it or in its possession to any other party.
- C. The Supplier shall be responsible for any breach of the terms of this Agreement by it and its affiliates, and their respective representatives, employees and agents, and shall take all reasonable measures to prevent such parties from using, disclosing, reproducing, transferring, reducing to writing or otherwise recording the Confidential Information as prohibited by this Agreement. If it becomes known to the Supplier that (i) it or its affiliates, representatives, employees or agents have breached any of the terms of this Agreement, or (ii) facts and/or circumstances exist that could be reasonably expected to result in disclosure of any Confidential Information, the Supplier shall in each case immediately notify CGSH of such breach, facts and/or

circumstances, and, in the case of (ii), shall use its best efforts to remedy the facts and/or circumstances that would lead to such disclosure (to the extent such facts and/or circumstances may be within the Supplier's control upon such exercise of best efforts).

- D. The Supplier agrees that the restrictions on use and disclosure of Confidential Information under this Agreement shall not apply to the Supplier for information that: (i) is now or hereafter becomes, through no act or failure to act on the part of the Supplier, generally known or available to the public other than through a breach of an obligation of confidentiality to CGSH; (ii) was known to the Supplier prior to encountering such information from the performance of its Services; (iii) was lawfully obtained by the Supplier from third parties, provided that such third parties were not restricted or obligated to keep such information confidential; or (iv) is required to be disclosed by law, any order of court or any competent regulatory authority, subject to the further provisions of this clause. In the event that the Supplier is required to disclose Confidential Information pursuant to the requirements of applicable law, rules, regulations, court or other governmental authority, the Supplier shall provide prompt advance notice (in writing, if practical) to CGSH in order to enable CGSH to contest such requirement of disclosure or seek an appropriate protective order, and shall disclose such Confidential Information only to the extent the Supplier reasonably determines it is legally compelled to disclose such Confidential Information and with respect to which it agrees to exercise its best efforts to obtain reliable assurance that confidential treatment will be accorded therefor.
- E. Confidential Information disclosed or made available under this Agreement and any intellectual property or proprietary rights therein are and shall remain the property of CGSH. Nothing in this Agreement shall be construed to imply the grant of any license to make, use or sell or otherwise commercialize any Confidential Information. Further, the Supplier acknowledges that any Confidential Information disclosed or made available to it is provided "AS IS" and that EACH DISCLOSING PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO ITS CONFIDENTIAL INFORMATION, INCLUDING BUT NOT LIMITED TO, THE QUALITY, ACCURACY, RELIABILITY, CORRECTNESS OR COMPLETENESS OF SUCH CONFIDENTIAL INFORMATION, AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES.
- F. Upon the termination of the Services for any reason or at the written request of a Disclosing Party at any time, the Supplier shall destroy (and promptly deliver a certification of such destruction) or promptly deliver to each Disclosing Party, or to the requesting Disclosing Party as the case may be, all tangible embodiments of such Disclosing Party's Confidential Information in the Supplier's or its employees' possession, including but not limited to copies, notes, packages, pictures, diagrams, computer memory media and all other tangible embodiments of, or materials containing, any portion of the Confidential Information.

2. DATA PROTECTION

Each Party shall (and shall procure that each of its relevant affiliates shall), and shall use reasonable endeavors to procure that any third party subcontractors shall, comply with their respective obligations under all applicable law regarding data protection in relation to all Personal Data and Confidential Information (together, "Protected Data") that is processed by it in the course of performing its obligations under this Agreement, and take such steps as are reasonably required by the other Party to ensure that the other Party is able to comply with such law. This includes maintaining a valid and up to date registration or notification under applicable law relating to data protection. "Personal Data" and "processing" and "processed" (when used in the context of

Personal Data) have the meanings given to those terms in the EU Data Protection Directive 95/46/EC and the applicable implementing legislation in any country including the Data Protection Act 1998 (the "Data Protection Laws").

CGSH acknowledges that, to the extent the Supplier is a data processor within the meaning of the Data Protection Laws, the Supplier shall (and shall use all reasonable endeavors to ensure that its sub-contractors shall) (i) only process Confidential Information, including any client data, in accordance with CGSH's instructions and (ii) bring into effect and maintain all reasonable technical and organizational measures to maintain security, prevent unauthorized or unlawful access to or processing of Personal Data, and accidental loss or destruction of, or damage to, Personal Data, having regard to the state of technological development and the cost of implementing the measures, so as to ensure a level of security appropriate to: (A) the harm that may result from breach of those measures; and (B) the nature of the Personal Data to be protected.

Further, the Data Protection Laws make it mandatory that CGSH obtain contractual guarantees from all third parties who will be given access to or who become aware of Protected Data during the course of their visits to the Premises in order that they may undertake the role of a service provider. The Data Protection Laws also require CGSH to ensure they have measures in place to prevent the unauthorized or unlawful use of Protected Data and to prevent accidental loss, destruction or damage to any personal information. The Supplier must therefore ensure, by way of written contract between it and its employees, subcontractors and individuals visiting the Premises on the Supplier's behalf (each a "Contractor" and, together, the "Contractors"), that if at any time a Contractor becomes aware of Protected Data the Supplier or its Contractors will not (i) share this information with anyone outside of CGSH, (ii) take any information away from the Premises, and/or (iii) duplicate or copy any Protected Data.

3. SURVIVAL; REMEDY

- A. This Agreement and the obligations herein shall survive indefinitely, regardless of whether or not the Supplier is still providing Services at the Premises.
- B. The Supplier acknowledges that the unauthorized use or disclosure of a Disclosing Party's Confidential Information or any breach of this Agreement by the Supplier may cause such Disclosing Party to suffer irreparable injury not compensable by monetary damages and for which such Disclosing Party may not have an adequate remedy at law. Accordingly, the Supplier agrees that CGSH will have the right to seek, without the posting of any bond or security or the giving of any undertaking as to damages or otherwise, specific performance or other injunctive or equitable relief from a court of competent jurisdiction as may be necessary or desirable to prevent, curtail or remedy any such unauthorized use or disclosure, whether threatened or actual. The rights of CGSH set forth in this paragraph shall be in addition to, and without prejudice to, any other rights that CGSH may have hereunder, whether at law or in equity.

4. MISCELLANEOUS

- A. To the extent any applicable Services Agreement contains terms with respect to confidentiality that conflict with, or are less restrictive with respect to the Supplier's obligations than, those set forth in Sections 1-3 herein, the terms of this Agreement govern.
- B. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws provisions. The Parties hereby agree and consent

to the personal jurisdiction of any federal or state court of competent jurisdiction sitting in the County and State of New York with respect to claims arising under or in connection with this Agreement.

- C. All notices, requests, consents, demands and other communications provided for by this Agreement shall be in writing and shall be deemed given and received when sent by first class mail at any general or branch post office enclosed in a registered or certified postpaid envelope, addressed to the Parties at the addresses set forth at the beginning of this Agreement, with a copy to the attention of the respective Parties as follows:

CGSH: Purchasing & Supply Group

Supplier: [e.g. General Counsel,]

or to such changed address as such Parties may have fixed by notice; provided, however, that any notice of change of address shall be effective only upon receipt. If any provision of this Agreement is invalid, illegal or incapable of being enforced by any rule, law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any provision is invalid, illegal or incapable of being enforced, such provision shall be construed by the appropriate judicial body by limiting and reducing such provision so as to be enforceable to the maximum extent under applicable law and consistent with the original intent of the Parties. This Agreement sets forth the entire agreement and understanding between the Parties as to the subject matter hereof and merges and supersedes all prior discussions, agreements and understandings of any kind and every nature between the Parties. Any and all prior arrangements, representations, promises, understandings and conditions in connection with such matter, and any representations, promises or conditions not expressly incorporated herein or expressly made a part hereof shall not be binding upon any Party. This Agreement shall not establish any relationship of partnership, joint venture, employment, franchise or agency between the Parties and shall not be construed to create any obligation on the part of either Party to retain the services of or to compensate the other Party in any manner. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

[Signature page follows]

Cleary Gottlieb Steen & Hamilton LLP

[•]

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(type or print)

Name: _____
(type or print)

Title: _____
(type or print)

Title: _____
(type or print)

Date	Editor	Position	Edit Description / Sections Updated	Approver
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