



## CONFIDENTIALITY, NON-DISCLOSURE, AND WORK FOR HIRE AGREEMENT

This Confidentiality, Non-Disclosure, and Work for Hire Agreement (the "Agreement") is entered into as of March 20<sup>th</sup>, 2012 (the "Effective Date") by and between \_\_\_\_\_ with address \_\_\_\_\_; ("CONTRACTOR"), and David L. Ross and Associates, Inc., a corporation organized and existing under the laws of New York, having its offices at 228 Park Avenue South, Suite 26-885, New York, NY 10003, USA ("DLR", and "CONTRACTOR" jointly or individually denominated as "Parties" or "Party").

With the exclusive purpose of negotiating and/or performing financial consulting services and operational assistance provided by DLR to CONTRACTOR ("**Purpose**"), DLR has furnished or may furnish CONTRACTOR certain information directly or indirectly relating to its business operations and such information is Confidential Information, as is defined below.

For the purposes of this Agreement, Confidential Information includes the following information, regardless of the form in which such information is communicated or maintained, that has been, is or will be disclosed by one party ("**DLR**") to another party ("**CONTRACTOR**") or its Representatives (as defined below): **(i)** all information related in any way to product, organizational, financial, and/or site location strategies and information, pricing policies, operational methods, and any other business affairs; **(ii)** all information related in any way to *know-how*, including but not limited to designs or reports, methods, techniques, processes, samples, materials, prototypes, patterns, sketches, models, photographs, computer records or software, specifications; **(iii)** all data, notes, reports, analyses, compilations, studies, files, interpretations, forecasts or records, and any other written or electronically stored documents or material prepared, which are based on, contain, refer to, reflect, or are otherwise related to Confidential Information; and, **(iv)** the Purpose, the existence of this Agreement and/or its terms and conditions.

The term "**Representative**" means any directors, officers, agents, employees and/or consultants of either party.

Parties acknowledge and agree that **(i)** all Confidential Information is and shall remain the exclusive property of DLR, and CONTRACTOR will not appropriate Confidential Information to its own use or the use of any third party; **(ii)** DLR shall have no liability to CONTRACTOR and any of its Representatives resulting from any use of Confidential Information by CONTRACTOR or any of its Representatives; **(iii)** DLR shall provide CONTRACTOR with such Confidential Information only for the period of time that will enable CONTRACTOR to achieve the Purpose.

Any unauthorized disclosure or use, whether intentional or unintentional, of DLR's Confidential Information will be detrimental to DLR. Accordingly, CONTRACTOR shall:

- hold Confidential Information in strict confidence in a manner adequate to protect DLR's rights, and not to disclose to third parties, including, but not limited to, its subcontractors, employers and related companies, potential investors, successors and/or assignees. In the event that CONTRACTOR is strictly required by law to disclose any Confidential Information, prior to such disclosure, it shall **(i)** immediately notify DLR of such request and all the particulars related therewith so that it may seek an appropriate protective order and **(ii)** furnish only that portion of Confidential Information which is legally required;
- use Confidential Information only for the Purpose;
- disclose only such portions of Confidential Information to its Representatives as is strictly required for the Purpose and only to those Representatives who have a need to know the



same and who have been informed at the time of disclosure of the confidential and proprietary nature of Confidential Information and of their obligations with respect thereto, and agreed in written to maintain the confidentiality of Confidential Information;

- notify DLR immediately of any unauthorized disclosure or use of Confidential Information of which CONTRACTOR become aware and fully cooperate with DLR in any defense of its proprietary rights in Confidential Information.

Confidential Information shall not be duplicated, reproduced, modified, changed and/or enhanced, in whole or in part, by CONTRACTOR, without DLR's prior written consent. At any time and within five (5) business days of the request of DLR for any reason whatsoever, Confidential Information shall be returned or destroyed, together with all materials, extracts or any reproductions prepared and based on it. CONTRACTOR shall confirm in writing any destruction of documents and materials.

#### WORK FOR HIRE

Any and all work between DLR and CONTRACTOR is considered work for hire under the 1976 US Copyright Act and relevant amendments and described at <http://www.copyright.gov/circs/circ09.pdf>

All concepts, ideas, copy, sketches, art-work, electronic files ("Materials") and other work related to projects or work in collaboration with DLR are or will become the property of DLR.

Work for hire includes functional working or graphical files but does not include native files or tools created by CONTRACTOR.

DLR may use any, all, some or none of the materials generated as it sees fit without any additional compensation.

To the extent that any of the Materials may not by operation of law be a work made for hire in accordance with the terms of this Agreement, Contractor hereby assigns all rights, titles, and interests in to any ownership of any kind to DLR. DLR shall have the right to obtain and hold in its name any copyrights, registrations, patents, or other proprietary rights which may be available.

Contractor represents and warrants to DLR that the Materials produced by Contractor do not and will not infringe on any copyright, personal or proprietary rights of others, and Contractor is not bound by any other agreement which may be in conflict with this agreement. Contractor will indemnify DLR from any damage, loss, including attorney's fees rising out any breach of this warranty.

#### This Agreement:

- does not create a relationship of –but not limited to- agency, partnership, joint venture between them nor grant the parties any right, title, interest or license in DLR's Confidential Information. Nothing in this Agreement shall be construed as an obligation of the parties to enter into any other agreement between them or prohibit the parties from using its own Confidential Information in any way, or providing the same or similar information to other parties and entering into agreements with other parties.
- shall become effective on the later date of signature by parties and shall terminate three (3) years after such effective date; providing, however, that where this Agreement is incorporated in whole or in part to a further agreement signed by the Parties, the Agreement shall terminate three (3) years after the



termination or expiration date of the agreement in which it has been incorporated. Notwithstanding the foregoing, CONTRACTOR will not be released from its obligations of confidentiality, non-use and non-disclosure, and the obligations to return or destroy documents and materials, until and unless **(i)** Confidential Information becomes a part of the public domain or **(ii)** DLR releases CONTRACTOR by written notice.

- is governed by the laws of the State of New York without regard to conflict of laws principles.
- is not assignable by the parties, and shall not be amended, except in writing signed by both parties. No failure or delay by DLR in exercising any right hereunder or any partial exercise thereof shall operate as a waiver or preclude any other or further exercise of any right hereunder. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of it, which shall remain in full force and effect.
- This document may be signed in counterparts and signed and transmitted electronically by fax, email, or other electronic means.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the respective dates set forth below by their duly authorized representatives.

A handwritten signature in black ink that reads "David L. Ross". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

[Name:]

[Name:] David L. Ross

[Date:]

[Title:] President

[Date:] March 20<sup>th</sup>, 2012