

MUTUAL CONFIDENTIALITY NON-DISCLOSURE AGREEMENT

This MUTUAL CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (this “Agreement”) is made as of ____ / ____ / _____, by and between JEM Engineering, LLC (“JEM”), a Maryland limited liability company with a principal place of business at 8683 Cherry Lane, Laurel, Maryland 20707, and _____ (“Supplier”), with a principal place of business at _____ (Supplier’s Address).

JEM and Supplier may be collectively referred to as “Parties” herein.

WHEREAS, JEM possesses confidential and/or proprietary information related to its business, products, systems, methodologies, and/or services including, without limitation, its computer software, in source code and object code form, and the designs, drawings, graphics, and writings contained therein (the “JEM Information”), along with all documents (including electronic documents and computer files), papers, samples, specifications, schedules, drawings, bills of material, and other materials and information containing the JEM Information (regardless of the medium of disclosure and whether such information is in tangible or intangible form). The “product” of any JEM Information shall be deemed to include any device, design, or invention embodying such JEM Information or which utilizes such JEM Information in its design, manufacture, or production;

WHEREAS, Supplier possesses confidential and/or proprietary information related to its business, products, systems, methodologies, and/or services (the “Supplier Information”), along with all documents (including electronic documents and computer files), papers, samples, specifications, schedules, drawings, bills of material, and other materials and information containing the Supplier Information (regardless of the medium of disclosure and whether such information is in tangible or intangible form). The “product” of any Supplier Information shall be deemed to include any device, design, or invention embodying such Supplier Information or which utilizes such Supplier Information in its design, manufacture, or production;

WHEREAS, it is the mutual desire of the Parties to disclose certain Confidential Information (as defined below) to the other party, subject to the terms of this Agreement;

NOW THEREFORE, in consideration of the receipt of Confidential Information and the mutual promises made herein, the parties agree as follows:

1. Definitions.

- a. JEM Information and Supplier Information shall hereinafter collectively be referred to as the “Confidential Information.
- b. The party disclosing Confidential Information shall be referred to as the “Disclosing Party” and the party receiving that information shall be referred to as the “Receiving Party.”

2. **Use of Confidential Information.** The Receiving Party shall (a) hold all Confidential Information received from the Disclosing Party in strict confidence; (b) use such Confidential Information only for the purpose of evaluating the possibility of entering into a business relationship or other commercial arrangement between the parties relating to the Confidential Information; (c) reproduce the Confidential Information only to the extent necessary for the purpose of evaluating the possibility of entering into a business relationship or other commercial arrangement between the parties relating to the Confidential Information; (d) restrict disclosure of the Confidential Information to its employees with a need to know (and advise such employees of the obligations of confidentiality contained herein); (e) not disclose such Confidential Information to any third party, including but not limited to any manufacturer or independent contractor, without prior written approval of the Disclosing Party; and (f) abide by all restrictions of

the Arms Export Control Act (22 USC 2751 et seq.), and the Export Control Reform Act (50 USC 4801 et seq.), including restrictions on the disclosure of export controlled data to foreign nationals and prohibited parties, and restrictions on access to export controlled data by foreign nationals and prohibited parties. In addition, with respect to any equipment, component, software, or other items sold, leased, loaned, or otherwise delivered to the Receiving Party by the Disclosing Party, Receiving Party agrees that it shall not attempt to reverse engineer, disassemble, decompile, or otherwise analyze the physical construction of any such items, and shall not export or re-export (within the meaning of U.S. or other export control laws or regulations) any of the Confidential Information or any product thereof.

The terms and conditions governing the Receiving Party's use of Confidential Information as set forth hereinabove shall not apply to any Confidential Information which the Receiving Party can demonstrate:

- i. was wholly and independently discovered or developed by the Receiving Party without use of the Confidential Information;
 - ii. is or has become generally available to the public without breach of this Agreement by the Receiving Party;
 - iii. was in the Receiving Party's possession prior to the execution of this Agreement, provided that the source of such information was not bound by any obligation of confidentiality;
 - iv. is approved for release by written authorization of the Disclosing Party, but only to the extent of and subject to such conditions as may be imposed in such written authorization;
 - v. is received by the Receiving Party from a third party without, to the knowledge of the Receiving Party, violation of any duty of confidentiality by that third party, or
 - vi. is disclosed in response to a valid order of a court or other governmental body in the United States or any political subdivision thereof, but only to the extent of and for the purposes of such order; provided, however, that the Receiving Party shall first notify the Disclosing Party in writing of the order and permit the Disclosing Party to seek an appropriate protective order.
3. **Designation.** Documents, papers, samples, specifications, and other materials and information disclosed by the Disclosing Party shall be subject to the terms of confidentiality contained herein if in writing or other tangible form and whether marked as "proprietary," "confidential," or with similar indicia of confidentiality when disclosed to the Receiving Party and identified (orally or otherwise) as Confidential Information at the time of disclosure or, if not disclosed in tangible form, identified (orally or otherwise) as Confidential Information at any time. The parties agree to use reasonable efforts to summarize, in general terms, the content of oral disclosures which are proprietary or confidential within two (2) weeks of such disclosure, but failure to provide such summary shall not affect the nature of the Confidential Information disclosed if such Confidential Information was identified as confidential or proprietary when orally disclosed.
4. **Affiliates.** For the purposes of this Agreement, the term "Affiliate" shall mean any entity which directly or indirectly controls, is controlled by, or is under common control with a party to this Agreement as of the Effective Date. Neither party is authorized to disclose Confidential Information to its Affiliates under the terms of this Agreement.
5. **No License or Representations.** No license to any trademark, service mark, patent, copyright, trade name, mask work, or any other intellectual property right is either granted or implied by this Agreement or any disclosure of Confidential Information by the Disclosing Party hereunder, and any such license shall be evidenced by a separate agreement entered into by and between the parties.

6. **No Obligation to Contract or Disclose.** Nothing contained in this Agreement shall be construed as an obligation of one party to enter into a contract, subcontract, or other business relationship with the other party, or to disclose or furnish information to the other party. Nothing contained in this Agreement shall be deemed to create a partnership, joint venture, employer-employee, or independent contractor relationship between the parties for any purpose. Any other agreement between the parties shall be at the discretion of the parties and shall be evidenced by separate, written agreement(s) executed by the parties. Unless otherwise agreed, each party shall bear its own costs and expenses in connection with the execution of this Agreement.
7. **Ownership; Return of Information.** All Confidential Information shall remain the sole property of the Disclosing Party which originally disclosed such Confidential Information, and all materials containing any such Confidential Information (including all copies made by the Receiving Party) shall be returned to the Disclosing Party immediately upon (1) the Receiving Party's determination that it no longer has a need for such Confidential Information, (2) the demand of the Disclosing Party, or (3) the termination or expiration of this Agreement. Upon request of the Disclosing Party, the Receiving Party, through its President or another officer under authority of the President, shall certify in writing that all materials containing such Confidential Information (including all copies thereof) have either been returned to the Disclosing Party or destroyed/deleted (as applicable).
8. **Disclaimer of Liability, Warranty.** Neither party, as the Disclosing Party, assumes responsibility for any loss or damage to the Receiving Party, its customers, or any third parties that is caused by or arising from the Confidential Information and the disclosure thereof to the Receiving Party. Neither party, as the Disclosing Party, makes warranties of any kind, expressed or implied, as to the accuracy or completeness of the Confidential Information. EXCEPT AS EXPRESSLY STATED IN A WRITING SIGNED BY THE DISCLOSING PARTY, THE DISCLOSING PARTY MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, WRITTEN OR ORAL, IN CONNECTION WITH THE CONFIDENTIAL INFORMATION THAT IT DISCLOSES TO THE RECEIVING PARTY, AND ANY AND ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY AND SPECIFICALLY DISCLAIMED. THE CONFIDENTIAL INFORMATION IS PROVIDED "AS IS" AND "WITH ALL FAULTS," WITH THE ENTIRE RISK AS TO SATISFACTORY QUALITY AND PERFORMANCE HELD BY THE RECEIVING PARTY. IN NO EVENT SHALL THE DISCLOSING PARTY BE LIABLE TO THE RECEIVING PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, BUSINESS INTERRUPTION, LOSS OF PROFITS, REVENUE, DATA, OR GOODWILL, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE FURNISHING, PERFORMANCE, OR USE OF CONFIDENTIAL INFORMATION DISCLOSED TO THE RECEIVING PARTY UNDER THIS AGREEMENT.
9. **Term and Termination.** Receiving Party shall maintain the Confidential Information in confidence in accordance with the terms of this Agreement for a period of ten (10) years from the date of receipt of the Confidential Information except, however, that, in the event Receiving Party receives confidential trade secrets of the Disclosing Party (designated as such by the Disclosing Party either orally or in writing at the time of disclosure), the Receiving Party shall hold such trade secrets in strict confidence in accordance with the terms of this Agreement for so long as the Confidential Information constitute trade secrets (as that term is understood and defined under Maryland law).

This Agreement shall become effective on the Effective Date and shall terminate upon the happening of the earlier of:

- a. A written notice of either party to the other of its election, with or without cause, to terminate this Agreement; or
- b. The expiration of five (5) years from the Effective Date of this Agreement.

Termination of this agreement shall not affect either party's obligations of confidentiality undertaken herein relating to Confidential Information or to trade secrets received as a Receiving Party. All obligations undertaken herein as a Receiving Party relating to Confidential Information and to confidentiality of trade secrets shall survive and continue after termination or expiration of this Agreement.

