

MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Non-Disclosure Agreement (the "*Agreement*") is made and entered into as of this date: _____ between **Jacobson Engineering LLC** and _____.

1. **Purpose.** The parties wish to explore a business opportunity of mutual interest and/or project at hand and in connection with this opportunity, each party may disclose to the other certain confidential technical, business and customer information which the disclosing party desires the receiving party to treat as confidential

2. "**Confidential Information**" means any information disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects including without limitation either party's company operating plans. Confidential Information may also include, information disclosed to a disclosing party by third parties. Confidential information shall not, however, include any information that (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) 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; (iii) 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; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; (v) 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.

3. **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 a potential business relationship between the parties and/or the project at hand. 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 contemplated business relationship. Neither party shall reverse engineer, disassemble or decompile any prototypes, software, research, reports or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder.

4. **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 the same are previously approved in writing by the other party. Each party shall reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which

such notices were set forth in or on the original.

Notwithstanding, this Agreement shall not preclude the disclosure of Confidential Information that 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.

5. **No Obligation.** Nothing herein shall obligate either party to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the business opportunity and/or continued projects or work assignments.

6. **No Warranty.** All confidential information is provided "as is". Each party makes no warranties, express, implied or otherwise, regarding its accuracy, completeness or performance.

7. **Return of Materials.** All documents and other tangible objects containing or representing Confidential Information that have been disclosed by either party to the other party, and all copies thereof that are in the possession of the other party, shall be and remain the property of the disclosing party and shall be promptly returned to the disclosing party upon the disclosing party's written request.

8. **No License.** Nothing in this Agreement is intended to grant any rights to either party under any patent, mask work right or copyright of the other party, nor shall this Agreement grant any party any rights in or to the Confidential Information of the other party except as expressly set forth herein.

9. **Term.** The obligations of each receiving party hereunder shall survive for 2 years or, if earlier, until such time as all Confidential Information of the other party disclosed hereunder becomes publicly known and made generally available through no action or inaction of the receiving party.

10. **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. Each party shall be entitled to recover the cost of enforcing the understanding and agreements as reflected herein, including, without limitation, any attorney's fees incurred.

11. **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 Utah, without reference to conflict of laws principles. 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 trade secret or proprietary 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.

12. **Severability.** In the event any term of this Agreement is found by any court to be void or otherwise unenforceable, the remainder of this agreement shall remain valid and enforceable as though such term were absent upon the date of its execution.

Jacobson Engineering LLC _____

Signature

Signature

Print Name & Title

Print Name & Title

Date

Date