



## CONFIDENTIALITY AGREEMENT

THIS AGREEMENT ("Agreement") is made this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ located at \_\_\_\_\_ (the "Recipient").

WHEREAS, Mill Creek Partners ("Broker") has been engaged by a certain company or companies (collectively, the "Companies", and each individually a "Company") to assist the Companies in facilitating the sale of their respective businesses;

WHEREAS, each Company is the owner of certain "Confidential Information" as such term is defined below;

WHEREAS, each Company has provided Broker with its Confidential Information with the understanding that (a) Broker may deliver such Confidential Information to prospective purchasers for their evaluation of such Company; and (b) such Confidential Information shall be kept in strict confidence by all recipients thereof except to the extent necessary for such prospective purchaser to evaluate such Company;

WHEREAS, Recipient is a prospective purchaser as contemplated above and, in order to evaluate the financial and other aspects of certain of the Companies, desires to review the Confidential Information of such Companies; and

WHEREAS, Recipient acknowledges that receipt of Confidential Information relating to any of the Companies is conditioned upon its agreement to the terms of this Agreement.

NOW THEREFORE, with the foregoing premises deemed incorporated by reference, and in consideration of Recipient's receipt of the Confidential Information from certain of the Companies, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Recipient, intending to be legally bound, agrees as follows.

1. "Confidential Information" shall mean all data disclosed by any of the Companies, or their respective agents or representatives, to the Recipient, including, without limitation, all financial data, reports, trade secrets, techniques, processes, operations, formulae, product specifications, know-how, compositions, inventions, discoveries, designs, sketches, drawings, samples, formats, plans, analyses, strategies, forecasts, concepts, ideas, names, addresses, and/or any other materials obtained from such Company or its representatives both prior to and subsequent to executing this Agreement. Confidential Information shall also include the knowledge that such Company may be seeking to complete a transaction for the sale of certain of its assets. Confidential Information shall be deemed not to include information which (i) is or becomes generally available to the public, other than as a result of a disclosure in violation of this Agreement by Recipient, (ii) becomes available to Recipient on a non-confidential basis from a source which, to the Recipient's knowledge, is entitled to disclose it to Recipient, (iii) was known by Recipient prior to its disclosure to Recipient by the Company, or (iv) is developed by Recipient without the benefit of Confidential Information.

2. All Confidential Information is considered highly sensitive and strictly confidential. Accordingly, Recipient agrees that it shall maintain such Confidential Information in strict confidence and shall not disclose or otherwise provide or transfer, directly or indirectly, any of the Confidential Information to any third parties except as expressly permitted herein. Recipient shall not use or exploit the Confidential Information for any purpose other than evaluating the desirability of Recipient's purchase of assets of certain of the Companies. Recipient shall limit disclosure and transfer of Confidential Information to Recipient's employees, officers, representatives, directors, attorneys, consultants, accountants, advisors and agents that have a legitimate need to review the Confidential Information in evaluating Recipient's purchase of the assets. Recipient shall require such third parties to be bound by this Agreement. The actions of Recipient's employees, officers, agents, directors, consultants or advisors shall be deemed the actions of the Recipient with respect to the Confidential Information, and any unauthorized use or disclosure of Confidential Information by such third parties shall constitute a material breach hereof. Recipient may disclose the Confidential Information as may be required by law, regulation or legal process, provided Recipient provides any Company affected by such disclosure of Confidential Information thirty (30) days prior written notice of Recipient's intention to disclose such Confidential Information.

3. This Agreement shall terminate one (1) year from the date of signing. Upon termination hereof, all Confidential Information shall be immediately returned to the Company providing such Confidential Information or its representatives or destroyed in accordance with the reasonable instruction of such Company. Recipient's obligations herein regarding non-disclosure of the Confidential Information shall survive the termination of this Agreement.

4. It is further understood that Broker has been engaged by the Companies to assist in the facilitation of a transaction between the Companies and prospective purchasers. In the course of Broker's engagement by the Companies, Broker has conducted no independent investigation as to the accuracy of the Companies' representations or warranties in reference to their respective businesses, their financial statements, tax returns, or other reports or documents in reference to their respective businesses, or any other aspects of the Companies or their respective businesses. Broker has not conducted any audit or verification of any Company's underlying financial records. Broker has neither appraised nor otherwise independently determined the value of any assets or other property owned by the Companies. Recipient shall direct all communications and requests for information regarding any of the Companies through Broker. Any verbal or written communications by Broker to Recipient regarding any of the Companies shall be considered Confidential Information.

5. Recipient acknowledges that, in the event of any disclosure of Confidential Information or other breach of this Agreement by Recipient, the affected Company may suffer irreparable harm which may not be adequately compensated for by monetary damages alone. Accordingly, Recipient agrees that in the event of a breach by Recipient hereunder, in addition to any other remedies at law or in equity that it may have, any Company affected by Recipient's breach hereunder shall be entitled, without the requirement of posting a bond or other security, to injunctive and or other preliminary or equitable relief.

6. Recipient hereby indemnifies and agrees to defend and hold harmless the Companies, their respective shareholders, directors, officers, employees and agents, including Broker, from and against any damages, losses, costs and expenses (including, without limitation, attorney's fees) suffered by any such party as a result of a breach of this Agreement by Recipient or persons for whom Recipient is responsible, or suffered as a result of the enforcement by such Company of this Agreement, or any other exercise of rights by such Company relating to Recipient's failure to preserve the Confidential Information as contemplated in this Agreement. If any Company shall prevail in any action at law or in

equity relating to Recipient's failure to preserve the Confidential Information as contemplated in this Agreement, Recipient shall pay such Company's costs and expenses, including reasonable attorneys' fees, incurred by such Company in bringing such action.

7. This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania. This Agreement may not be amended or any provision hereof waived in whole or in part except by a writing signed by both parties hereto.

IN WITNESS WHEREOF, the Recipient has caused this Agreement to be executed as of the date first above written.

RECIPIENT:

**[NAME OF RECIPIENT]**

By: \_\_\_\_\_

Name:

Its:

Date: