



B R E E Z E • E A S T E R N

Be Ready. Be Sure.

BREEZE-EASTERN LLC

NON-DISCLOSURE AGREEMENT

Company Name – Project Designator _____

Signed _____

35 Melanie Lane, Whippany, New Jersey 07981-1638 Phone: (973) 602-1001 Fax: (973) 739-9334

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (the "Agreement") is effective as of the _____ day of _____ (the "Effective Date"), by and between _____ a corporation having offices at _____ (hereinafter _____), and Breeze-Eastern LLC, a Delaware corporation, having offices at 35 Melanie Lane, Whippany, NJ 07981 (hereinafter "Breeze-Eastern").

Whereas, _____ and Breeze-Eastern (collectively, "the Parties") contemplate that they may exchange financial, business and/or technical information relating to the _____ (the "Program")

NOW THEREFORE, in consideration thereof, the Parties agree as follows:

1. Definitions

- a. "Disclosing Party" means the Party disclosing information to the other with respect to the Program.
- b. "Receiving Party" means the Party receiving information from the other with respect to the Program.
- c. "Proprietary Information" means any information, knowledge or data received by the Receiving Party from the Disclosing Party with respect to the Program, which is clearly marked with proprietary legends by the Disclosing Party at the time of disclosure and, if the Proprietary Information is orally or visually disclosed, which is reduced to writing and clearly designated in writing as proprietary within thirty (30) days of initial disclosure.

2. Covenants

- a. The Receiving Party shall safeguard the Proprietary Information by using at least those efforts used in the protection of its own proprietary information to prevent its disclosure to or use by third parties, provided that such standard of care is no less than reasonable care under the circumstances.

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- b. The Receiving Party shall use such Proprietary Information only in furtherance of the Program for the mutual benefit of the Parties.
- c. In the event that the Disclosing Party furnishes sample products or other equipment or material ("Items") to the Receiving Party, which are suitably marked to identify them as encompassing Proprietary Information of the Disclosing Party, the items so received shall be used and the Proprietary Information derived from said Items shall be treated as Proprietary Information transferred pursuant to this Agreement.
- d. All Proprietary Information and Items shall remain the property of the Disclosing Party and shall be promptly returned to the Disclosing Party or destroyed upon:
 - (i) completion of the work, in conjunction with the Disclosing Party;
 - (ii) the termination of the Agreement; or
 - (iii) the request of the Disclosing Party.

Destruction shall be certified in writing by an officer, vice president or functional equivalent, except that a legal file copy may be retained.

- e. The obligations under this Agreement as to any Proprietary Information or item shall continue for five (5) years from the expiration or earlier termination of this Agreement.
- f. No breach of this Agreement shall occur if any Proprietary Information is disclosed and any one of the following occurs or has occurred:
 - i. such information is in the public domain at the time of initial disclosure to the Receiving Party by the Disclosing Party, or subsequently enters the public domain through no negligence or wrongful act of the Receiving Party;
 - ii. such information is known to the Receiving Party prior to the time of initial disclosure, as evidenced by competent and contemporaneous written documentation;

- iii. such information is rightfully received by the Receiving Party, without restriction as to further disclosure, from a third party who had the lawful right to disclose such information;
 - iv. such information is independently developed by the Receiving Party without the use of or reference to Proprietary Information;
 - v. such information is required to be disclosed pursuant to proper governmental or judicial process, provided that notice of such process is promptly provided to the Disclosing Party in order that it may have every reasonable opportunity to intervene in such process to contest such disclosure; or
 - vi. such information is disclosed by the Receiving Party to a third party with the prior written consent of the Disclosing Party and subject to the third party's prior written agreement not to make further disclosure and to use the information only for the furtherance of the purposes set forth herein.
- g. Each party represents and warrants that it has the full right and authority to enter this Agreement and to disclose the Proprietary Information to the Receiving Party pursuant to the terms and covenants hereof.

3. Disclaimers

- a. This Agreement shall not be construed as a teaming, joint venture or other such arrangement. Nothing in this Agreement shall grant to either Party the right to make commitments of any kind for or on behalf of the other Party without the prior written consent of the other Party.
- b. Neither party hereto shall be liable for incidental, special, or consequential damages for a breach of this Agreement.
- c. The Disclosing Party does not, by virtue of disclosure of Proprietary Information to the Receiving Party, grant the Receiving Party any right

or license under any patents, copyrights or trade secrets, other than those rights granted to the Receiving Party in Paragraph 2 (b).

- d. Neither Party makes any warranty or representation as to the accuracy or completeness of any Proprietary Information disclosed under this Agreement.

4. Term

This Agreement shall expire two (2) years after the Effective Date unless terminated earlier upon the end of a thirty (30) day period after receipt of a written notice by one Party from the other; provided, however, that such termination shall not affect the Receiving Party's obligations relative to Proprietary Information received prior to the effective date of such termination, as such obligations are defined in paragraph 2 (e) above.

5. Assignment

This Agreement and the rights and duties hereunder may not be assigned or otherwise transferred by either of the Parties without the prior written consent of the other. If this Agreement is so assigned or otherwise transferred, it shall be binding on all successors and assigns.

6. Classified Information and Restrictions on Export

To the extent that the Receiving Party requires access to any Proprietary Information which carries a U.S. Government military security classification, the Receiving Party shall additionally safeguard such classified Proprietary Information in accordance with the appropriate provisions of the National Industrial Security Program Operating Manual (NISPOM) [DoD 5220.22M] and the corresponding provisions. Technical Proprietary Information originating in the United States, whether classified or otherwise, shall not be disclosed by the Receiving Party to any person foreign to the United States in violation of the Export Administration Regulations of the United States Department of Commerce [Title 15 of the Code of Federal Regulations, Parts 768 to 799, inclusive], the International Traffic in Arms Regulations of the United States Department of State [Title 22 of the Code of Federal Regulations, Parts 120 to 130, inclusive], or any other applicable laws or regulations of the United States. The

Receiving Party shall control access to any information received hereunder in accordance with all applicable U.S. Export Laws and Regulations.

7. Miscellaneous

- a. The following individuals are designated as the person to receive Proprietary Information from the Disclosing Party:

Breeze-Eastern LLC _____

35 Melanie Lane _____

Whippany, NJ 07981 _____

Attn: _____

Either party can change the individual designated by written notice to the other.

- b. This Agreement may not be modified except in writing, signed by a duly authorized official of each of the parties.
- c. If any of the provisions of this Agreement are invalid under any applicable statute or rule of law, such provisions or portions thereof are, to the extent invalid, deemed to be omitted without affecting the continued validity of the remaining provisions hereof.
- d. This Agreement shall be governed by and interpreted under the law of the State of New Jersey, U.S.A. It is further agreed that any suit or legal action with respect to any dispute between the Parties arising out of or in connection with this Agreement, which cannot otherwise be resolved by the Parties, shall be brought in the Superior Court of New Jersey, Morris County, or the United States District Court for the District of New Jersey, Newark Vicinage, and both Parties hereby specifically submit to the jurisdiction of said court(s) for the resolution of such disputes, waiving any and all objections which they might

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otherwise have to the jurisdiction of said courts over their persons. However, notwithstanding anything to the contrary in the foregoing, in the event that either Party in its sole discretion deems it necessary to bring an action for injunctive relief to restrain a violation or threatened violation of this Agreement, it may (but shall not be required to) bring any such action in any other tribunal having jurisdiction over any person participating in the violation or threatened violation.

- e. This Agreement constitutes the entire understanding between the Parties concerning the treatment of Proprietary Information and supersedes all previous understandings, agreements, communications, and representations, whether written or oral, with respect thereto.
- f. This Agreement may be executed in counterparts, with signature pages exchanged by mail, email or facsimile, each of which shall be deemed an original, and a compilation with all executed signature pages shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have as of the day and year first above written executed this Agreement through their duly authorized representatives.

Breeze-Eastern LLC

By:_____ By:_____

Title:_____ Title:_____

Date:_____ Date:_____