

**ICC SAMPLE**

**OF**

**CONFIDENTIALITY AGREEMENT**

This Agreement, made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between \_\_\_\_\_, a 'state' (the "Company") and 'Recipient Name', a 'state' entity ("Recipient").

WITNESSETH:

WHEREAS, the parties intend to enter into discussions relating to a possible resolution of certain financial matters between the Company and Recipient ("Client") and, in connection therewith, Recipient has been or may be given access to certain confidential and proprietary information of the Company (the Company herein referred to as the "Providing Party" and Recipient herein referred to as the "Recipient Party"); and

WHEREAS, the parties have entered into this Agreement in order to ensure that Recipient Party does not improperly utilize such information;

NOW, THEREFORE, for and in consideration of the premises and promises herein contained, the Parties hereby agree as follows:

1. Recitals. The recitals set forth above are incorporated herein by this reference and shall be part of this Agreement.

2. Proprietary Information. As used in this Agreement, the term "Proprietary Information" shall mean all valuable or potentially valuable information, whether communicated in oral, written, electronic or other form which is furnished by Providing Party to Recipient Party, including, without limitation, the Providing Party's business concept, product purchase and methods, equipment, operating techniques, marketing methods, products, financial information, demographic and trade area information, market penetration techniques, plans, schedules, drawings, customer information, customer profiles, preferences, statistics, product breakdowns, itemized costs, territories, development plans, software, engineering, hardware configuration, employee lists, employee files and their contents, employee pay rates, technical or scientific information (including without limitation all patents, copyrights, trademarks, service marks, trade names and dress, and applications relating to same, trade secrets, software, code, inventions, know-how and similar information), and any and all other business information.

3. Disclosure or Use of Proprietary Information. The Recipient Party shall hold in strict confidence and shall disclose such Proprietary Information only to the employees and agents of Recipient Party who have a need to know such Proprietary Information in order to assist the Recipient Party, provided such employees and agents shall be informed of the confidential nature of such information and shall agree to treat such information confidentially pursuant to the terms of this Agreement. The Recipient Party shall keep the Proprietary Information confidential and secure, and shall use at least the same standard of care to protect the Proprietary Information as the Recipient Party employs for the protection of its own proprietary information, but in no case less than a commercially reasonable standard of care. The Recipient Party shall not use the Proprietary Information except in connection with efforts to resolve the financial matters between Providing Party and Recipient Party (including, without limitation, the use of same in any litigation or other judicial process). Recipient Party's obligations hereunder shall expire on the later to occur of (a) five (5) years following the date of this Agreement or (b) three (3) years from the date on which Proprietary Information is last disclosed under this Agreement.

4. Limitations on Obligations. The obligations of the Recipient Party specified in Section 3 shall not apply to any Proprietary Information which is received from the Providing Party which (a) is or becomes generally available to the public through no act of the Recipient Party or its employees, agents or other person or entity which has received such Proprietary Information from or through the Recipient Party, (b) is approved for release by written authorization of an officer of the Providing Party, or (c) is appropriate or necessary to be disclosed in order to judicially or otherwise enforce Recipient Party's claims against Providing Party, or is required to be disclosed by proper order of a court of applicable jurisdiction (or governmental agency having proper authority) after adequate notice to the Providing Party to allow the Providing Party to seek a protective order or similar protective device therefor, the imposition of which protective order or similar protective device the Recipient Party agrees to approve, support and fully comply with.

5. No Rights Granted. Nothing in this Agreement is intended to grant to the Recipient Party any rights in or to the Providing Party's Proprietary Information, except the specific rights granted herein.

6. Equitable Relief. Recipient Party acknowledges that Providing Party will be irreparably harmed by any breach hereof, that monetary damages would be inadequate and that Providing Party shall have the right to have an injunction or other equitable remedies imposed in relief of, or to prevent or restrain, such breach. Recipient Party agrees that Providing Party shall also be entitled to any and all other relief available under law or equity for such breach.

7. Miscellaneous. This Agreement shall be construed and interpreted in accordance with the laws of the State of \_\_\_\_\_. Any action to enforce this Agreement may be instituted in any state or federal court in \_\_\_\_\_, and each party submits to personal jurisdiction in such courts.

EXECUTED as of the \_\_\_ day of \_\_\_\_\_, 20\_\_.

**COMPANY**

**RECIPIENT**

Address \_\_\_\_\_

Address \_\_\_\_\_

City, ST Zip \_\_\_\_\_

City, ST Zip \_\_\_\_\_

Tel: \_\_\_\_\_

Tel: \_\_\_\_\_

Fax: \_\_\_\_\_

Fax: \_\_\_\_\_

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

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

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

(Title)

(Title)