

Non-Disclosure Agreement

Instructions:

Please complete the Non-Disclosure Agreement and return the executed agreement to Betsy Hendry at Commercial Property Southwest Florida, LLC via email at bhendry@cpswfl.com or via fax 239-454-0947.

After we received the executed Agreement we will forward to the bank for their review, once we receive the executed agreement back from the bank we will email you the password to access the documents on the Data Vault.

Thank you for your interest.

MUTUAL NONDISCLOSURE AGREEMENT

THIS MUTUAL NONDISCLOSURE AGREEMENT (the "Agreement") is made and entered into as of this ____ day of _____, 20____, by and between Fifth Third Bank, an Ohio banking corporation ("Fifth Third"), having a place of business at 38 Fountain Square Plaza, Cincinnati, Ohio 45263 and _____, ("Company") a _____ having a place of business at _____ (collectively, the "Parties").

WHEREAS, Fifth Third and the Company are desirous to enter into discussions regarding a potential business relationship (the "Potential Transaction") and the Parties may engage in discussions with respect thereto and may explore whether or not to proceed with one or more agreements between the Parties resulting from such discussions (each a "Primary Agreement"); and

WHEREAS, in the course of such exploration of the Potential Transaction, the Parties may receive information from each other which is confidential; and

WHEREAS, the Parties desire to maintain the confidential nature of such information.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions.**

"Affiliate" means any corporation or other business entity or entities that directly or indirectly controls, is controlled by, or commonly owned or controlled by a party or its parent, or is under common control with the relevant party and all other entities wholly or partially owned by such Affiliate.

"Confidential Information" means all information relating to the Potential Transaction and/or potential Primary Agreement or received by a party (the "Receiving Party") from the other party (the "Furnishing Party") in the course of evaluating the Potential Transaction, (including confidential information disclosed by the Furnishing Party which relates to or is owned by its licensors, suppliers, partners, contractors and agents), in whatever form (tangible, intangible, electronic, oral or otherwise), including without limitation, the terms and/or existence of this Agreement and the Potential Transaction, the terms and/or existence of any Primary Agreement, technical processes and formulas, source codes, product designs, sales, cost, unpublished financial information, customer information, product and business plans, projections, marketing data, trade secrets, specifications, programs, instructions, object code, intellectual property rights, technical know-how, methods and procedures for operation, benchmark test results, information about employees, marketing strategies, services, customer names, business or technical plans and proposals (in any form), any information relating to the customers, business, financial condition, operations, assets and liabilities; business plans; software programs and enhancements, upgrades and modifications thereof; user and other manuals; documents;

specifications; financial reports, statements and projections; client lists, marketing material, data, data listing, and other information; project plans and case studies; sample deliverables; references; and all copies, summaries, outlines or other representations of any of the foregoing; and all notes, analyses, compilations, studies, interpretations or other documents prepared by the Recipient which contain, reflect or are based upon, in whole or in part, the information furnished to the Recipient and any other information which is or should reasonably be understood to be confidential or proprietary to the Furnishing Party.

"Related Persons" means: (i) any Affiliate of Recipient; and (ii) any officers, employees, agents, contractors and advisors or such Recipient or any Affiliate of such Recipient.

2. **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. The Receiving Party acknowledges and agrees that any and all Confidential Information received by it under this Agreement and/or any Primary Agreement is of a confidential, proprietary and/or trade secret nature to the Furnishing Party (or its licensors, suppliers, partners, contractors and agents) and that the Furnishing Party (or its licensors, suppliers, partners, contractors and agents) owns all intellectual property rights in any applicable Confidential Information. The Receiving Party agrees to: (1) protect Confidential Information received hereunder from unauthorized use and disclosure with at least the same degree of care that it utilizes with respect to its own similar proprietary information, but in no event less than a reasonable standard of care and use same solely and exclusively in connection with the evaluation of the Potential Transaction and/or implementation or enforcement of the Primary Agreement or this Agreement; and (2) ensure that all copyright, trademark and other proprietary notices affixed to or displayed on such Confidential Information will not be removed or modified and will be reproduced on any copies thereof.

3. **Non-exclusive.** The Parties hereby expressly acknowledge that the dealings between the Parties pertaining to the Potential Transaction shall not be exclusive and that Fifth Third shall continue to have the right to have discussions and enter into contracts with third parties regarding the subject matter of Confidential Information and/or the Potential Transaction. The Company further acknowledges and agrees that Fifth Third may conduct any process including the signing of a definitive agreement with any other parties without notification to the Company and the Company shall have no claims whatsoever resulting therefrom.

4. **No Agency.** The Company represents, warrants and covenants that the Company is acting solely in its individual capacity and is not acting as an agent for any other person or entity.

5. **Permitted Use.** Confidential Information of the Furnishing Party may be used only by the Receiving Party to: (1) evaluate the Potential Transaction; (2) develop a transaction proposal for the Potential Transaction; or (3) as otherwise mutually agreed in writing by the Parties.

6. **Permitted Disclosures.** The Receiving Party agrees to hold all Confidential Information of the Furnishing Party in strict confidence and the Receiving Party will (1) copy or

reproduce it ONLY as permitted herein; and (2) disclose or distribute it to Related Persons, or any non-affiliated third parties, but only to the extent that such non-affiliated third parties are informed by the Receiving Party of the confidential nature of the information and are subject to the terms of a confidentiality agreement binding such non-affiliated third party to keep the Confidential Information confidential. Subject to Section 7 hereof, the Receiving Party further agrees that neither it, nor any Related Person, nor any non-affiliated third party to whom such permitted disclosure has been made shall disclose, orally or in writing, or by any other means, or permit the disclosure of, any of the Confidential Information to any third party or otherwise use or permit the use of any Confidential Information of the Furnishing Party without the prior written consent of the Furnishing Party. The Receiving Party understands that it will be responsible for any breach of this Agreement by its Related Persons or any such or non-affiliated third parties with whom the Receiving Party has shared the Confidential Information. The Receiving Party will promptly inform the Furnishing Party of any actual or suspected breach of this Confidentiality Agreement by it (including its contractors and agents) upon becoming aware of such actual or suspected breach and agrees to reasonably cooperate with the Furnishing Party in the incident response process.

7. **Required Disclosures.** The confidentiality provisions of this Agreement will not apply to any Confidential Information that the Receiving Party can show: (1) is or subsequently becomes publicly available without breach of any obligation owed to the Furnishing Party; (2) was known to the Receiving Party prior to the Furnishing Party's disclosure of such information to the Receiving Party; (3) is independently developed by the Receiving Party without reference to the Furnishing Party's Confidential Information; (4) the Receiving Party obtains from a person other than the Furnishing Party, other than in breach by such person of any obligation of confidence to the Furnishing Party; or (4) is used by the Receiving Party in order to enforce any of its rights, claims or defenses under, or as otherwise contemplated in, the Primary Agreement or this Agreement.

Nothing in this Agreement will be deemed to prevent the Receiving Party from disclosing any Confidential Information received hereunder pursuant to any regulatory, self-regulatory or supervisory authority having appropriate jurisdiction, any applicable law, regulation or court order, including, without limitation, the Securities Act of 1933 and the Securities Exchange Act of 1934, provided that (1) such disclosure will be limited to the minimum acceptable level of disclosure; (2) that such Receiving Party, unless prohibited by such regulatory, self-regulatory or supervisory authority, or such law, regulation or court order, will notify the Furnishing Party of the imminent disclosure as soon as is practicable and in all events with sufficient prior notice to allow the Furnishing Party to seek a protective order or otherwise to object; and (3) that the Receiving Party will minimize or prevent such disclosure to the maximum extent allowed under applicable law, regulation or court order.

8. **No Representations.** The Parties hereby acknowledges that (a) unless otherwise stated in writing, neither Party has made nor shall it make any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information or any of the information or materials provided to Company in contemplation of the Potential Transaction, including but not limited to any statements of principal balances, accrued or unpaid interest, any values or conditions relating to the subject matter of these materials, any collateral, assets or properties relating to the subject matter of these materials, any financial statements, financial

information or creditworthiness regarding any property or any persons or entities associated with the transactions which are the subject matter of these materials, or any other matter; and (b) any estimates or projections with respect to future performance included in the Confidential Information are not to be relied on as a representation or assurance of future results. The Company agrees that it will perform its own independent underwriting, analysis and investigation with respect to all relevant legal and business matters, including all due diligence investigations and credit analyses, as it shall deem appropriate under the circumstances as described above, in making its own decisions and evaluations with regard to the Potential Transaction. The Company further agrees that it has not and will not rely upon any representations or warranties from Fifth Third, except as may be specifically set forth in any definitive agreement executed by Company and Fifth Third.

9. **Return of Materials.** The Receiving Party shall within 14 days following receipt of a written request from the Furnishing Party return to the Furnishing Party, or at the Receiving Party's option destroy all documents and other materials in its possession, custody or control which contain any of the Furnishing Party's Confidential Information, and certify to the Furnishing Party that it has destroyed the Confidential Information provided that the Receiving Party may retain any Confidential Information as may be required by law, regulatory agency or competent or listing authority. In any event, and notwithstanding anything to the contrary contained herein, the Receiving Party's retention of the Furnishing Party's Confidential Information shall, unless otherwise agreed to in writing executed by the Furnishing Party after the date of this Agreement, be subject to the ongoing terms and conditions of this Agreement without expiration.

10. **Remedies.** The Receiving Party acknowledges that its breach of this Agreement will cause the Furnishing Party (or its licensors, suppliers, contractors and agents) irreparable injury for which monetary damages will not make the other party whole. Accordingly, in addition to all other available remedies, the Furnishing Party (or its licensors, suppliers, contractors and agents) will be entitled to equitable or injunctive relief as and where it deems fit in the event of an actual, attempted or threatened breach of any obligation of the Receiving Party (including its contractors and agents) under this Agreement. Further, the Company agrees to indemnify and hold harmless Fifth Third, its directors, officers, shareholders and employees and its affiliates for any costs or expenses (including reasonable attorney's fees) incurred by Fifth Third, its directors, officers, shareholders and employees out of any claim or action arising from any alleged breach of this Agreement by the Company, or its agents, employees or any other person or entity acting on behalf of the Company, except for any such claim or action that directly arises out of willful misfeasance, negligence or reckless disregard of the duties of, and by, Fifth Third. No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege hereunder.

11. **Survival.** The obligations of confidentiality and limitation of use, disclosure, and access set forth herein shall survive the termination or expiration of all dealings between the parties regarding the Primary Agreement, for a period of five (5) years from the date of such termination or expiration. The obligations of confidentiality and limitation of use, disclosure and access set forth herein relating to Nonpublic Personal Information shall survive in perpetuity.

The Parties acknowledge that Nonpublic Personal Information, as that term is used and defined in 15 U.S.C. Section 6801, et. seq., which may include all information regarding Fifth Third's customers, such as names, addresses, telephone numbers, account numbers, customer lists, data and other information ("Nonpublic Information"), will be or may be disclosed pursuant to this Agreement.

12. **Entire Agreement.** This Agreement contains the entire agreement of the parties hereto with respect to its subject matter and shall amend, supplement, and supersede any and all prior agreements between Fifth Third and Company as it pertains to any access that the Receiving Party may have to the Furnishing Party's Confidential Information relating to the Potential Transaction.

13 **No Joint Venture.** Nothing in this Agreement shall be deemed to create, either express or implied, the power in any party to bind the others. This Agreement is not intended to be a joint venture, partnership or other formal business organization, and neither party is under any obligation to enter into any further agreement with the other party. Only the representations and warranties which are made in a final definitive agreement regarding the Potential Transaction contemplated hereby, when, as and if executed, and subject to such limitations and restrictions as may be specified therein, will have any legal effect. Fifth Third reserves the right to withdraw any loan(s) or offers at any time. This Agreement shall not be construed in any manner to be an obligation by Fifth Third or any other party to enter into any definitive agreement or to result in any claim whatsoever by one party against the other for reimbursement of cost for any efforts expended with respect to the Potential Transaction or the Confidential Information.

14. **Binding Agreement.** This Agreement shall be binding upon the permissible assigns of the parties hereto and shall not be modified except in writing duly signed by all parties. Company shall not assign any of its rights or obligations hereunder without the prior written consent of Fifth Third.

15. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Ohio or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Ohio. The parties hereto agree and consent to the exclusive jurisdiction of the federal and state courts having a *situs* in Hamilton County, Ohio, for any actions arising out of this Agreement.

16. **No Waiver.** No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege hereunder.

17. **Waiver of Jury Trial.** Each of the Parties hereby waives the right to a trial by jury in any proceedings or litigation brought against the other of them with respect to this Agreement.

18. **Counterparts.** The Parties may execute this Agreement in any number of duplicate originals, each of which constitutes an original, and all of which, collectively,

constitutes on only one agreement. The transmission of an executed copy of this Agreement by fax in the manner hereby contemplated shall be deemed to constitute execution and delivery of an original executed copy.

19. **Severability.** The parties hereto agree that the terms set forth herein are reasonable in the circumstances and further agree that if any provision set forth above is determined to be illegal or unenforceable in any jurisdiction such provision shall be severable from this Agreement only to the extent of such illegality or unenforceability in such jurisdiction without affecting the remaining provisions hereof.

20. **No Further Obligation.** Neither this Agreement nor the disclosure by the Furnishing Party of Confidential Information to the Receiving Party shall result in any obligation on the part of either Party to enter into any further agreement with the other with respect to the subject matter hereof or otherwise, to purchase any products or services from the other or to require either Party to disclose any particular information to the other.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

FIFTH THIRD BANK

By: _____

Print Name: _____

Title: _____

COMPANY

By: _____

Print Name: _____

Title: _____

Address: _____

Telephone No. : _____

Fax No. : _____

Email: _____