

# SAMPLE CONFIDENTIALITY AGREEMENT

*This Confidentiality Agreement ("**Agreement**") is made as of the later date this Agreement is signed by both parties "**Effective Date**" set out below, by and between the member indicated below ("**Member**"), and **COMPANY NAME**, a **STATE** limited liability company, having its principal place of business at **ADDRESS** ("**COMPANY**").*

## MEMBER INFORMATION:

Member's Full Legal Name:

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Address:	City:	State:	Zip Code:
Business . Phone:	Mobile Phone Number:	E-mail Address	

## Acceptance:

***WHEREAS**, Company wishes to provide the Member Confidential Information as defined herein to be used by the Member solely for assisting Company with certain organizational matters ("**Purpose**") and the Member is willing to receive such Confidential Information and protect its confidentiality as provided and agreed herein;*

***WHEREAS**, the Parties have executed this Agreement as of the Effective Date intending to be bound by the terms set out above by "**TERMS AND CONDITIONS**" attached hereto as "**EXHIBIT A**",*

MEMBER	COMPANY NAME
	<b>COMPANY NAME</b>
_____ (Signature)	By: _____
Printed Name: _____	Printed Name: _____
Date: _____	Title: _____
	Date: _____



## EXHIBIT A: TERMS AND CONDITIONS

1. **Confidential Information.** Company's "**Confidential Information**" means (a): any proprietary or non-public organizational and membership information disclosed by Company or its affiliates or other members to the Member, which information is designated as "confidential" or "proprietary" or, given the nature of the information or circumstances surrounding its disclosure, reasonably should be considered Confidential Information, together with (b) any copies, extracts, and portions of the foregoing. Confidential Information may include, without limitation, plans, services, research, financial information, client lists, customer lists, business forecasts, marketing plans and information, or relationships with third parties whether disclosed orally or in written, graphic or electronic form or obtained by a Member through observation or examination of information provided by Company. Confidential Information shall include without limitation Confidential Information of any affiliate, subcontractor or other third party provided by or through Company to the Member.

2. **Restricted Use and Non-Disclosure.** The Member shall only use Company's Confidential in order to further the Purpose of this Agreement and agrees to be bound by the restrictions hereunder.

A. The Member will not use any of Company's Confidential Information except for the Purpose for which it was disclosed as outlined above, or as otherwise specifically authorized and instructed in writing by authorized personnel of Company.

B. Without limiting the foregoing, the Member shall use the same degree of care to prevent the unauthorized use, dissemination or publication of Company's Confidential Information, as the Member uses to protect his/her own confidential information of similar nature and importance, but in no event less than a reasonable degree of care. The Member shall not make copies of Company's Confidential Information unless such copies are necessary for the Purpose set forth herein and provided that it shall ensure that any such copies reproduce Company's proprietary rights or confidentiality legend(s) in the same manner as in the original. The Member shall immediately notify Company in the event of any unauthorized use or disclosure of the Confidential Information.

C. Upon written request after termination or expiration of this Agreement, the Member shall (i) return or destroy all Confidential Information of Company; and (ii) not use such Confidential Information for any purpose. In addition, the Member shall destroy any ancillary documents in his/her possession that describe, contain or disclose any Confidential Information of Company. Notwithstanding anything else herein, each

D. The Member may disclose Confidential Information only to the extent necessary pursuant to law, or regulation, court order or other legal process ("**Required Disclosure**"), provided that, prior to making such disclosure, the Member has, if not otherwise prohibited by law or court order, (i) given Company prompt written notice of such Required Disclosure and, (ii) to the extent reasonably possible, at Company's sole cost and expense, given Company assistance and an opportunity to contest such Required Disclosure, including by seeking a protective order or other appropriate remedy to prevent or limit such disclosure. If, after providing notice and assistance as required herein, the Member remains subject to Required Disclosure, the Member (or its Representatives or other persons to whom such Required Disclosure is directed) shall disclose no more than that portion of the Confidential Information which, on the advice of the Member's legal counsel, such Required Disclosure specifically requires the Member to disclose.

E. Nothing in this Agreement grants or confers any right by license or otherwise, express or implied, to any trade secret, copyright, invention, discovery, or to any patent or other intellectual property right, by either Party to the other Party, nor does this Agreement grant the Member any rights in or to the Discloser's Confidential Information, except for the limited right to use and disclose the Confidential Information solely for the Purpose.

3. **Confidential Information Exclusions.** The restrictions on use and disclosure of Company's Confidential Information shall not apply to Confidential Information that:

(a) was publicly known and made generally available prior to the time of disclosure to the Member hereunder;

(b) becomes publicly known and made generally available after disclosure to the Member through no action or inaction of the Member or its Representatives;

(c) is in the possession of the Member, without confidentiality restrictions, at the time of disclosure by Company hereunder;

(d) is received by the Member from another party not under an obligation of confidentiality to Company with respect to such information;

(e) is developed by the Member independent of, and without the use of any Confidential Information received from Company hereunder.

4. **Term; Termination.** The term of this Agreement shall expire two (2) years after the Effective Date unless earlier terminated in writing by either Party. Either Party may terminate this Agreement upon thirty (30) days prior written notice to the other Party. The Member's obligations of confidentiality and non-use under this Agreement for each item of Confidential Information shall continue for a period of two (2) years following the termination or expiration of this Agreement, provided, however, that any Confidential Information that qualifies as a trade secret under the applicable law shall remain subject to obligations of confidentiality and non-use under this Agreement until the Member can demonstrate to Company's satisfaction the applicability of one of the exclusions set forth in Section 3.

5. **Miscellaneous.**

A. **No Public Statement.** The Member shall not make any public statement related to this Agreement, including, without limitation, the existence of this Agreement or any relationship between the parties and discussions between the Parties concerning the stated Purpose, without Company's prior written consent.

B. **Limited Right.** All of Company's Confidential Information is and shall remain the sole property of Company. Except for the limited right to use Company's Confidential Information for the Purpose as expressly provided herein, nothing contained in this Agreement shall be construed as granting or conferring on the Member any rights by license or otherwise in any of Company's Confidential Information or in any intellectual property rights related thereto.

C. **INJUNCTIVE RELIEF.** Each Party acknowledges and agrees the obligations hereunder are necessary and reasonable in order to protect Company's Confidential Information and monetary damages would be inadequate to compensate Company for any breach of this Agreement. Any breach or threatened breach will cause irreparable injury to Company and, in addition to any other remedies that may be available, in law, in equity or otherwise, Company is entitled to seek injunctive relief against the breach or threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

D. **FLORIDA LAW, VENUE, JURY TRIAL WAIVER.** This Agreement is to be construed, and the respective rights and duties of the Parties hereunder are to be determined, exclusively according to the laws of the State of Florida, United States of America, as if executed and fully performed in that state. The Parties consent that any action arising out of or relating to this Agreement, shall be brought in the courts found in Escambia County, Florida, and such courts shall have personal jurisdiction over the parties with respect to any such action. The Parties hereby affirmatively waive any right to a jury trial in any action between them.

E. **ENTIRE AGREEMENT.** This document contains the entire understanding between the Parties and supersedes all previous understandings, communications, representations and agreements, whether written or oral, with respect to the subject matter hereof. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision hereof and the invalidity or non-enforceability of any term or provision contained in this Agreement shall not void or impair this Agreement's remaining provisions, which shall remain in full force and effect. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties hereto.

F. **NOTICES.** All notices, requests, consents, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a internationally recognized overnight courier (receipt requested); or (c) when received when mailed by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on the first page of this Agreement (or such other address that may be designated from time to time in accordance with this Section).

G. **ASSIGNMENT.** Neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party. Any purported assignment in violation of this Section shall be null and void. Notwithstanding the foregoing, either Party may assign this Agreement without the prior consent of the other Party to: (a) any entity that controls, is controlled by, or is in common control with the assigning Party or (b) any successor in interest to the assigning party. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing contained herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.