



**Confidentiality Agreement**  
**Between New Eagle Consulting , LLC**  
**And**  
**[Company Name]**

This Confidentiality Agreement (“**Agreement**”) is effective as of \_\_\_\_\_, 20\_\_ (“**Effective Date**”), by and between \_\_\_\_\_ (“**Company**”), an organization having its principal office at \_\_\_\_\_ and New Eagle Consulting, LLC, organized and existing under the laws of the State of Michigan and with an address of 5220 S State Road Ann Arbor , MI 48108 (hereinafter referred to as “**New Eagle**”). New Eagle and Company may each be referred to individually hereafter as a “**Party**” or collectively as the “**Parties**.”

In consideration of the mutual obligations contained in this Agreement, Company and New Eagle hereby agree as follows:

1. **Authorized Contacts.** The exclusive points of contact with respect to the transmission and control of Information exchanged between the Parties hereunder are designated below. Any changes to these designees must be made by written notice to the other Party.

[Company Name]  
[Individual Contact Name]  
[Company Address]  
[Company Address]  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**New Eagle Consulting , LLC**  
Mary M Swortzel  
5220 S State Road  
Ann Arbor, MI 48108  
Phone: 734.929.4557  
Email: [mswortzel@neweagle.net](mailto:mswortzel@neweagle.net)

2. **Subject Matter.** In connection with discussions between the Parties regarding \_\_\_\_\_ (“**Subject Matter**”), each Party may wish to disclose Information to the other Party on a confidential basis.

3. **Definitions.** In addition to the definitions provided elsewhere in this Agreement, the following definitions will apply:

- a. “**Affiliate**” means any other person or entity controlling, controlled by, or under common control with the Party, whether directly or indirectly.
- b. “**Disclosing Party**” means a Party that provides Information to another Party to this Agreement.

- c. “Information” means any information, sample, data, or knowledge regarding the Subject Matter which is provided hereunder by the Disclosing Party or its Representatives to the Receiving Party or its Representatives, whether provided orally or by handwritten, printed, electronic, or other means. Information includes, without limitation, products, processes, formulas, data and know-how, software, documentation, program files, drawings, source and object code, standards, specifications, economic and financial data, development and marketing plans, forecasts, employee information, customer lists, customer information, vendor information, product information, operational information, and knowledge relating to Disclosing Party’s business and the Subject Matter, as well as all notes, analysis, documents, compilations, studies, interpretations, or other materials in any form prepared by the Receiving Party to the extent they contain or reflect Information.
  - d. “Receiving Party” means a party that receives Information from another Party to this Agreement.
  - e. “Representative(s)” means and includes any and all directors, officers, employees, agents, advisors, or other designated representatives of a Party or its Affiliate(s). For New Eagle, Representatives include third party collaborative individuals and organizations who are obligated to New Eagle under terms at least as restrictive as those contained in this Agreement to not disclose Information to any third party.
4. **Confidentiality Obligations.** The Receiving Party is required to: (i) hold in confidence and not disclose to any third party any Information received hereunder, exercising a degree of care not less than the care used by Receiving Party to protect its own confidential and proprietary information, and in any event no less than a reasonable degree of care; (ii) restrict disclosure of Information solely to its Representatives who need to know the Information for the sole purpose of evaluating the Subject Matter; (iii) advise its Representatives who receive Information that they are subject to the terms of this Agreement to the same extent as if they were parties hereto; (iv) be liable to Disclosing Party for any breach of this Agreement by its Representatives; and (v) not disclose to any third party the occurrence of discussions and receipt of Information under this Agreement without express written authorization from the Disclosing Party.
5. **Term.** The obligations of each Party receiving Information shall extend for three (3) years from the Effective Date; except that obligations with regard to any trade secrets shall continue in effect until such Information is no longer maintained as a trade secret by the Disclosing Party.
6. **Use of Information.** Each party shall only use, and permit the use of, the Information to evaluate the Subject Matter and may not use the Information for any other purpose without express written permission from an authorized representative of the Disclosing Party. The Parties shall only disclose the Information to its Representatives who have a legitimate business need for such information and only for and to the extent required to accomplish the purposes encompassed by the Subject Matter. Neither Party shall be precluded from conducting other activities or working on other projects because of its knowledge of the Information. The Parties acknowledge that the Receiving Party and other persons to whom Information is disclosed under this Agreement may retain mental impressions of the Information, and that such persons may now or in the future be working on other projects, whether or not related to the Subject Matter. Subject to the use

restrictions of this section, such persons and the Receiving Party shall not be precluded from working on other projects solely because of the retained mental impressions of the Information.

7. **Return or Destruction of Information.** Information disclosed under this Agreement will remain the property of the Disclosing Party. Promptly upon request by the Disclosing Party, the Receiving Party will, at Receiving Party's option, either destroy or return to the Disclosing Party all Information (in whatever form is in Receiving Party's possession, including hardcopy, electronic, and magnetic media) without retaining any copies or reproductions thereof except as expressly provided in this section. Receiving Party may retain, and will not be required to destroy, any board materials of Receiving Party and any electronic media retained as part of Receiving Party's ordinary back-up procedures, in each case that may contain or refer to any Information to the extent such materials and media are retained in the ordinary course of Receiving Party's business, consistent with past practices. Any Information so retained will remain subject to the obligations set forth in this Agreement for so long as such Information is retained. Receiving Party will confirm in writing to the Disclosing Party its compliance with this section upon request.

8. **Exclusions.** Information does not include any information which:

- a. Is published or otherwise becomes available to the public other than as a result of a breach of this Agreement by the Receiving Party;
- b. Can be demonstrated by the Receiving Party to have been in its possession on a non-confidential basis prior to receipt under this Agreement;
- c. Is obtained by the Receiving Party without restriction from a third party who, to the reasonable belief of Receiving Party was not legally or contractually restricted from disclosing the Information ;
- d. Is independently developed by the Receiving Party without use of the Information; or
- e. Is disclosed by the Receiving Party to a third party with the written approval of the Disclosing Party without requirement of confidentiality.

9. **Legally Required Disclosures.** If a Receiving Party or its Representative(s) is required to disclose any Information to respond in a legal proceeding, (including without limitation a deposition, interrogatory, subpoena, audit, or civil investigative demand), the Receiving Party is required to use commercially reasonable efforts to give the Disclosing Party prompt written notice so that the Disclosing Party has the opportunity to seek to prevent or limit such disclosure and to seek confidential treatment of any Information required to be disclosed. The Receiving Party may disclose only that portion of the Information which in the opinion of their legal counsel is legally required to be disclosed.

10. **Remedies.** Money damages may not be a sufficient remedy for any breach or threatened breach of this Agreement by the Receiving Party or its Representatives. In addition to all other remedies available at law (which neither Party waives by exercise of its rights under this section), the Disclosing Party is entitled to seek specific performance, as well as injunctive and other equitable relief as a remedy for any such breach or threatened breach. The Parties hereby waive, and agree to use commercially reasonable efforts to cause their Representatives to waive, any requirement for the securing or posting of any bond or the showing of actual monetary damages in connection with a claim for breach or threatened breach. **ANYTHING IN THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, NEITHER PARTY NOR ITS REPRESENTATIVES SHALL BE LIABLE TO THE OTHER PARTY OR ITS**

REPRESENTATIVES FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, REMOTE, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS, LOST REVENUES, OR LOST BUSINESS OPPORTUNITIES HOWSOEVER ARISING UNDER THIS AGREEMENT.

11. **Disclaimer of Warranties.** The Disclosing Party represents and warrants only that it has the right and authority to disclose the Information to the Receiving Party. In furnishing any Information hereunder, the Disclosing Party makes no warranty, guarantee, or representation, either expressed or implied, of its adequacy, accuracy, sufficiency or freedom from defects or that the use or reproduction of any information shall be free from any patent, trade secret, trademark or copyright infringement. The Disclosing Party shall not be liable in damages of whatever kind or for any costs, expenses, risks, or liabilities as a result of the other Party's receipt or use of, or reliance on, any such information furnished hereunder. Neither this Agreement nor the disclosure of Information shall be construed as granting the Receiving Party any ownership, license or other right to the Information.

12. **Entire Agreement.** This agreement contains the entire understanding between the Parties concerning the exchange of Information relative to the Subject Matter stated herein, and supersedes any prior agreements, oral or written. This Agreement may not be modified, except by written amendment duly executed by an authorized representative of each party. All authorizations and notices hereunder shall be forwarded to the point of contact identified in this Agreement.

13. **Disclaimer of Other Obligations.** Nothing in this Agreement shall grant to a Party the right to make commitments of any kind for, or on behalf of, another party. This Agreement is not intended to be, nor shall it be construed as, a joint venture, teaming relationship, partnership, license agreement or other formal business arrangement. If the Parties wish to commit to any transaction related to the Subject Matter, they may do so only by entering into a separate definitive written agreement signed by authorized representatives of each Party.

14. **Severability.** If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such provision will be deemed amended to the minimum extent necessary to be valid and enforceable and in keeping with the Parties' original intent as nearly as practicable. If such amendment is not possible, the affected provision will be deemed deleted. In either event, the remaining provisions of this Agreement shall remain valid and enforceable.

15. **Governing Law.** This Agreement shall be governed in all respects by the laws of the State of Michigan, without regard to the conflicts of laws principles thereof. The Parties hereby irrevocably submit to the personal jurisdiction of the appropriate state and federal courts located in Ann Arbor, Michigan.

16. **Assignment.** Neither party shall assign, or in any manner transfer, any Information received hereunder or its interests in this Agreement or any part hereof, without first obtaining the prior written approval of the other party. This Agreement inures to the benefit of and is binding upon successors and permitted assigns of the Parties.

17. **Counterparts.** This Agreement may be signed in one or more counterparts (including electronically transmitted copies) each of which shall be deemed on and the same original. Electronic signatures shall valid and acceptable in accordance with applicable law.

18. **Compliance with Laws; Trading Restrictions.** Each Party agrees that with respect to this Agreement it will strictly follow all laws and regulations, including those pertaining to the export of technical data from the United States. Each Party acknowledges that it is aware (and that prior to the disclosure of any Information to any Representative, such Representative will be advised) that the United States securities laws prohibit any person who has material non-public information about a company from purchasing or selling securities of such company or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities. Neither Party may, and neither Party will permit its Representatives to, use the Information in any way that breaches United States securities laws.

**IN WITNESS WHEREOF**, New Eagle and Company have caused this Agreement to be executed by their duly authorized representatives as evidenced by their signatures below.

New Eagle Consulting , LLC

[Company Name]

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_