



Mutual Non-Disclosure Agreement

This Mutual Non-Disclosure Agreement ("Agreement") is between HD Supply Support Services, Inc. and its Affiliates ("HDS") and _____ ("Vendor") is entered into on «Effective Date» (the "Effective Date").

1. As used herein, "Proprietary Information" means information and material relating to the business of the disclosing party and/or its affiliates or partners that (a) is proprietary or trade secret; (b) including but not limited to its corporate, employee, customer, financial and operational information; developed and future products, services and technology; and such other "know-how" relating to its operations or (c) has economic value, actual or potential, from not being generally known to or readily ascertainable by others who can obtain economic value from its disclosure or use and is subject to efforts by HDS and Vendor to maintain its secrecy, including without limitation (i) marking any written information with a legend identifying its confidential nature, (ii) identifying any presentation or communication, whether oral or written, as confidential immediately before, during or after its presentation or communication; or (iii) otherwise treating such information as confidential.
2. Proprietary Information shall not include information that (i) is or becomes (through no improper action or inaction by the receiving party or any affiliate, agent, consultant or employee) generally available to the public, or (ii) independently developed by the receiving party without use of the Confidential Information disclosed by the disclosing party (iii) was in its possession or known by it prior to receipt from the disclosing party, or (iv) was rightfully disclosed to it by a third party.
3. All Proprietary Information disclosed to or known by the receiving party in connection with its dealings with the disclosing party shall remain the property of the disclosing party and shall be maintained in confidence by the receiving party using the same care and discretion (but in no event less than reasonable) to protect and prevent disclosure as it employs with its similar information. Proprietary Information shall not be used, reproduced, distributed or disclosed by the receiving party except as authorized by the disclosing party and as reasonably necessary to evaluate and perform any analysis of business opportunities, products or services subject to the terms of this Agreement. Disclosure of the Proprietary Information by the receiving party shall be made only to employees, agents or professional advisors who (a) have a specific need to know such information and (b) are obligated to hold the Proprietary Information in confidence and otherwise to comply with the terms of this Agreement and (c) do not compete in any way with the software or services of the disclosing party. The receiving party shall diligently monitor all access to Proprietary Information, and upon request by the disclosing party, promptly furnish to the disclosing party a list of employees, agents or professional advisors having had access to the Proprietary Information of the disclosing party. At the request of the disclosing party, or if no definitive agreement is reached between the parties, the receiving party will (i) promptly return to the disclosing party all Proprietary Information of the disclosing party (including all copies, extracts or other reproductions thereof), and (ii) destroy any and all notes, memorandum, projections, reports or other documents prepared by or for the receiving party. Both parties acknowledge that unauthorized disclosure or use of Proprietary Information by it may cause the other party irreparable harm and significant injury that may be difficult to ascertain. Accordingly, the parties agree that each party shall have the right to seek and obtain immediate injunctive relief from any breach of this Agreement by the other party, which shall be in addition to any other rights and remedies.
4. The parties acknowledge that information disclosed is subject to change without notice. EACH PARTY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESSED OR IMPLIED, AND LIABILITY FOR THE PROPRIETARY INFORMATION THAT IT DISCLOSES, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE.
5. Except to the extent that a public announcement is required by law, each party acknowledges and agrees that it will not issue any press release or seek/respond to any publicity regarding the Proprietary Information, or discussions related to Proprietary Information, unless such release or publicity is consented to in writing by both parties prior to the release and/or response being distributed. Notwithstanding, in the event that the party receiving Proprietary Information is legally required by federal, state or securities statute, regulation, law or order to disclose any Proprietary Information, such party shall promptly notify the other party of such requirement prior to disclosure in order for the disclosing party to have the opportunity to seek an appropriate protective order and/or waive compliance with the terms of this Agreement. If in the reasonable opinion of counsel for the receiving party that such party is nonetheless compelled to disclose such Proprietary Information (even in the absence of an order or waiver) in order to avoid being found liable, in contempt, censured or suffer some other penalty under the law or order, then the receiving party may disclose such Proprietary Information without liability to the other party hereunder.
6. This Agreement shall remain effective for an additional three (3) years following the Effective Date or conclusion of any subsequent agreement between the parties, except that the obligations specified herein as they may relate to trade secrets shall remain in effect for as long as trade secret status is maintained pursuant to any applicable laws. This Agreement, and the rights and obligations under it, may not be assigned by either party without the prior written approval of the non-assigning party. Notwithstanding the foregoing, the rights and obligations herein will inure to the benefit of, and be binding upon, the parties and their successors and assigns.
7. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute together one and the same document. No modifications or additions of this Agreement or waiver of any of its terms will be effective unless set forth in a writing signed by an authorized representative of HDS and Vendor. If this Agreement or any part is held invalid or unenforceable, the parties agree to amend it in order to make it enforceable while achieving the economic and proprietary effect originally intended. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware.

HD Supply Support Services, Inc.

Vendor Name: _____

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____