



PROPRIETARY INFORMATION MUTUAL NON-DISCLOSURE AGREEMENT

By and between:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and

Microcomm Consulting  
121 Florence Drive  
Cogan Station PA 17728 USA

THIS AGREEMENT (hereinafter referred to as the "AGREEMENT"), made and dated the \_\_\_\_ day of \_\_\_\_\_ between \_\_\_\_\_, by its affiliate (if applicable, \_\_\_\_\_ (Individually and collectively hereinafter referred to as "\_\_\_\_\_"), a \_\_\_\_\_ corporation, having a place of business in \_\_\_\_\_ and Microcomm Consulting (hereinafter referred to as "Microcomm") also hereinafter be referred to as the "Party" or "Parties", respectively.

WHEREAS, the Parties represent that they possesses or may in the future possess certain technical, business, financial and other information they consider proprietary to them and which relate to their respective business interests and services, hereinafter called "PROPRIETARY INFORMATION"; and

WHEREAS, it is recognized that, in order to consider various business opportunities that may be of interest to the Parties and in connection with any current or future contractual relationship between the Parties, it may be both necessary and desirable that the Parties exchange the above -described PROPRIETARY INFORMATION.

WHEREAS, each Party shall be a "Disclosing Party" with respect to Proprietary Information provided to the other and each Party shall be a "Receiving Party" with respect to the disclosure of PROPRIETARY INFORMATION from the other.

NOW, THEREFORE, in consideration of these premises, and of the mutual promises and covenants contained herein, the Parties hereto agree as follows:

1. In consideration for disclosure of PROPRIETARY INFORMATION a confidential relationship is hereby established between the Parties.
2. Neither party shall identify as PROPRIETARY INFORMATION any information which is not in good faith believed by the Disclosing Party to be proprietary, confidential, a trade secret, or otherwise entitled to such marking.



3. That this AGREEMENT shall not be construed as Teaming, Joint Venture or other such arrangement; rather, the Parties hereto expressly agree that this AGREEMENT is for the purpose of protecting PROPRIETARY INFORMATION only.
4. That each Party shall bear all costs and expenses incurred by it under or in connection with this AGREEMENT.
5. That neither Party has an obligation to supply PROPRIETARY INFORMATION hereunder; but that PROPRIETARY INFORMATION provided shall remain the property of the Disclosing Party.
6. That nothing in this AGREEMENT shall be deemed to grant a license directly or by implication, estoppel or otherwise under any patent or patent application, or to any PROPRIETARY INFORMATION disclosed pursuant to this AGREEMENT.
7. That such PROPRIETARY INFORMATION delivered by the Disclosing Party to the Receiving Party shall be for use internally for the purpose of evaluating the PROPRIETARY INFORMATION furnished by the Parties. No other use of the said PROPRIETARY INFORMATION is granted without the written consent of the Disclosing Party. Only those individuals agreed to by the Parties are authorized access to the Disclosing Party's Proprietary Information.
8. In the event the Disclosing party gives its approval for the receiving party to disclose such PROPRIETARY INFORMATION to the U.S. Government, it shall be disclosed pursuant to and bearing the appropriate legends set forth in the limited or restricted rights limitations of the Federal Acquisition Regulation.
9. That during the term of this Agreement, the parties hereto, to the extent of their right to do so, may exchange financial and/or technical information and other data which is considered by the Disclosing Party to be PROPRIETARY.
10. In order for such information and data to be considered PROPRIETARY INFORMATION and subject to this AGREEMENT, it shall be identified in writing at the time of the disclosure, by an appropriate legend, marking, stamp or positive written identification on the face thereof to be PROPRIETARY INFORMATION. Any PROPRIETARY INFORMATION which is exchanged between the parties orally or visually, in order to be subject to this AGREEMENT, shall be identified to the Receiving Party orally at the time of disclosure and in writing within thirty (30) days after such oral or visual disclosure. The exclusive points of contact for the Parties with respect to the exchange of PROPRIETARY INFORMATION are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Microcomm Consulting  
121 Florence Drive  
Cogan Station PA 17728 USA  
Attn: Dr. H. Paul Shuch



Each party may change its points of contact by written notice to the other.

11. That for a period of three (3) years from the first date of receipt of the Disclosing Party's PROPRIETARY INFORMATION which has been or will be exchanged relative to this AGREEMENT, the Receiving Party shall take reasonable steps to preserve in confidence such PROPRIETARY INFORMATION and prevent disclosure thereof to third Parties. The Receiving Party shall further restrict disclosure of such PROPRIETARY INFORMATION to only those employees who have a 'need to know' and who have been advised of the restrictions on disclosure and use. The Receiving Party shall be deemed to have discharged its entire obligation hereunder if the Receiving Party exercises the same degree of care to preserve and safeguard the Disclosing Party's PROPRIETARY INFORMATION as it uses to preserve and safeguard its own PROPRIETARY INFORMATION of similar character.
  
12. That the obligations with respect to disclosing and using such PROPRIETARY INFORMATION, as set forth in this AGREEMENT, are not applicable to any information:
  - (a) In the public domain at the time of receipt or comes into the public domain thereafter through no act of the Receiving Party in breach of this AGREEMENT, OR
  - (b) Known to the Receiving Party prior to disclosure by the Disclosing Party, as evidenced by written records, or
  - (c) Disclosed with the prior written approval of the Disclosing Party, or
  - (d) Independently developed by the Receiving Party by a third party under conditions permitting such disclosure, without breach of this Agreement, or
  - (f) Disclosed by the Disclosing Party to the U.S. Government with Unlimited Rights.
  - (g) Disclosed as required by law; provided, however, that in the event disclosure is required of the Receiving Party under the provision of any law or court order, the Receiving Party will (i) notify the Disclosing Party of the obligation to make such disclosure sufficiently in advance of the disclosure and; (iii) assert the confidentiality of such PROPRIETARY INFORMATION.
  
13. This agreement shall (unless extended by mutual agreement) automatically terminate three (3) years from the date of this AGREEMENT, but may be terminated earlier by either \_\_\_\_\_ or Microcomm giving thirty (30) days notice in writing to the other Party of its intention to terminate. Termination shall not, however, affect the rights and obligations contained herein with respect to PROPRIETARY INFORMATION SUPPLIED HEREUNDER PRIOR TO TERMINATION. Within ten (10) days after the expiration or termination of this Agreement, the Receiving Party is to return all copies of the Disclosing Party's PROPRIETARY INFORMATION to the Disclosing Party or to certify to the Disclosing Party that all PROPRIETARY INFORMATION has been destroyed.



- 14. This AGREEMENT shall be governed by and interpreted in accordance with the law of the State of Pennsylvania, excluding its principles of conflicts of law.
- 15. This AGREEMENT contains the entire understanding between the Parties relative to the protection of PROPRIETARY INFORMATION and supersedes all prior and collateral communication, reports, and understanding between the Parties with respect thereto, except that nothing in this agreement shall supersede or in any way modify any of the terms and conditions, or the rights and obligations of the Parties, included in any purchase agreement between the Parties unless said purchase agreement so stipulates. No change, modification, alteration, or addition to any provision hereof shall be binding unless in writing and signed by authorized representatives of both Parties.
- 16. This AGREEMENT shall apply in lieu of and notwithstanding any specific legend or statement associated with any particular information or data exchanged, and the duties of the Parties shall be determined exclusively by the aforementioned terms and conditions.

\_\_\_\_\_ Microcomm.

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|--------|--------|
| By:    | By:    |
| Name:  | Name:  |
| Title: | Title: |
| Date:  | Date:  |