

# NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made this (date) \_\_\_\_\_

BETWEEN:

(1) **THERMOCOAX, INC. ("Company")** whose registered office is at **6825 SHILOH RD E STE B3, ALPHARETTA, GA 30005 2227, USA;** and

(2) \_\_\_\_\_ ("**Partner**") whose registered office is at \_\_\_\_\_.

**WHEREAS** Company and Partner (the "**Parties**") have agreed to disclose to each other certain Confidential Information (as defined below) of a proprietary nature in relation to the Permitted Purpose (as defined below) and have agreed to certain terms regarding the intellectual property rights related to the Project (as defined below).

## NOW IT IS HEREBY AGREED AS FOLLOWS:

In this Agreement unless the context otherwise requires, the following expressions have the following meanings:-

**"Associates"** means in relation to Company or Partner, its holding company or subsidiary company of it or that holding company, respectively;

**"Confidential Information"** means any information which is confidential in nature (whether or not specifically identified as such) including without limitation any and all current and future product information, roadmaps, technical or financial information, forecasts, customer names, addresses, and related data, contracts, practices, services and support, procedures, and other business information including, but not limited to software, reports, methods, strategies, plans, documents, drawings, designs, tools, models, inventions and patent disclosures and technical know-how and intellectual property (whether or not such intellectual property or know-how is registered or capable of registration);

**"Permitted Purpose"** means work and activity necessarily relating to the Project; and

**"Project"** \_\_\_\_\_

**"Term"** means five (5) years from the date of this Agreement.

1. a) In consideration of the opportunity to receive Confidential Information, the Parties agree not to use such Confidential Information except in support of the Permitted Purpose, and shall not disclose the Confidential Information to any third party without the prior written consent of the other Party.  
b) The Parties will have a duty to protect Confidential Information whether or not it is identified as being confidential.  
c) The Parties agree to protect all Confidential Information disclosed to them by the other Party with at least the same degree of care (but no less than a reasonable degree of care) as they normally exercise to protect their own Confidential Information and will prevent: (i) any use of Confidential Information not authorised in this Agreement; (ii) communication of Confidential Information to any third party; or (iii) publication of Confidential Information.  
d) Each Party shall ensure that the Confidential Information is only disclosed to their officers, employees, agents and subcontractors on a "need to know" basis in order to carry out the Permitted Purpose and that the said officers, employees, agents and subcontractors are informed of the nature of such Confidential Information.
2. a) The obligations set forth in this Agreement shall bind the Parties from the date of its disclosure and such obligations shall survive the termination or earlier expiration of this Agreement without limit in time until such time as the Confidential Information is (without any breach of any obligation under this Agreement) no longer confidential in nature.  
b) The term of this Agreement (i.e. the period during which disclosures of Confidential Information is expected to occur) shall be the Term.  
c) The opportunity to receive Confidential Information under this Agreement may be terminated by either Party with thirty (30) days prior written notice by one Party to the other. Such termination shall not affect any obligation imposed by this Agreement with respect to Confidential Information received prior to such termination.
3. The Parties shall not issue or release any promotional or advertising material mentioning the name of the other Party, its business or affairs (including the fact that meetings and discussions have taken place between the Parties), or quoting the opinions of any of the Party's officers and employees without the prior approval of the other Party.

4. This Agreement imposes no obligations with respect to Confidential Information that:
  - a. is lawfully known by the receiving party at the time of disclosure;
  - b. is or becomes, through no fault of the receiving party, generally available to the public;
  - c. is independently developed by the receiving party without use of such Confidential Information of the disclosing party;
  - d. is lawfully received by the receiving party from a third party who does not have an obligation of confidentiality to the disclosing party or any third party;
  - e. is disclosed by the receiving party free of restriction with the written approval of the disclosing party;
  - f. is disclosed by the disclosing party to a third party free of restriction; or
  - g. is required to be disclosed by law or rule of relevant regulatory authority.In the case of events (b), (c), (d), (e), (f) and (g) above, the removal of the restriction shall be effective only from and after the occurrence of the applicable event and in the case of event (g) shall only relate to the particular requirement for which disclosure is required and such disclosure shall not otherwise affect the confidential nature of the information so disclosed.
5. The terms of this Agreement shall be deemed to apply to all officers, employees, agents, Associates and subcontractors of the each Party and each Party enters into this Agreement on such persons' behalf and shall ensure that the said officers, employees, agents, Associates and subcontractors are advised of the obligations set out in this Agreement.
6. All Confidential Information provided by the Parties under this Agreement shall remain the property of the disclosing party. The Parties, upon the disclosing party's request, will promptly return all Confidential Information received, together with all copies, or certify in writing that all such Confidential Information and copies thereof have been destroyed.
7. Neither Party acquires any intellectual property rights under this Agreement except the limited rights necessary to carry out the Permitted Purpose as set forth in this Agreement and except as set forth in paragraph 8 of this Agreement.
8. Each Party warrants that it has the right to disclose its Confidential Information. No other warranties are made and no responsibility or liability is or will be accepted by either Party in relation to or as to the accuracy or completeness of the Confidential Information. All Confidential Information is provided 'as is'.
9. The Parties acknowledge that damages for improper disclosure of Confidential Information may be insufficient. Accordingly, the injured Party shall be entitled to seek equitable relief, including injunction and specific performance, in addition to all other remedies.
10. This Agreement does not create any agency or partnership relationship. This Agreement will not be assignable or transferable by either Party without the prior written consent of the other Party. All additions or modifications to this Agreement must be made in writing and must be signed by both Parties.
11. This Agreement contains the entire understanding between the parties relating to its subject matter, is executed by authorised representatives of both Parties and supersedes all prior and collateral communications, reports and understandings, if any, between the Parties regarding the same.
12. Information received pursuant to this Agreement may only be exported or used in accordance with the export control laws and regulations of the United Kingdom, European Union and the United States.
13. This Agreement may be executed in two counterparts each of which when executed and delivered is an original, but the counterparts together constitute the same document.
14. No failure or delay on the part of either party to this Agreement relating to the exercise of any right power privilege or remedy provided under this Agreement shall operate as a waiver of such right power privilege or remedy or as a waiver of any proceedings or succeeding breach by the other Party to this Agreement.
15. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the U.S. state of Georgia.

**THERMOCOAX, INC.**

*A Société par Actions Simplifiée*

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

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

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

**Partner Name:** \_\_\_\_\_

**Company form:** \_\_\_\_\_

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

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

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