

CONFIDENTIALITY & NON-SOLICITATION AGREEMENT

This Confidentiality Agreement ("Agreement") is made and entered into this ____ day of _____ 2018, by _____ ("Company"), an _____.

In consideration of the premises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company agrees as follows:

1. "Confidential Information" shall mean any oral or written information regarding the Client (identified by Client number below); whether received from CAPSTONE Business Advisors, LLC ("CAPSTONE") or the Client; including but not limited to the name, address, and type of business of the Client; financial, operational, sales and marketing, customer, employee, trade secrets, other technical and non-technical information, trademarks, service marks and any application therefor; data or designs that derive economic value from not being generally known to or ascertainable by proper means by Client competitors, and other information belonging to the Client that is not generally available to or known by the public; as well as the knowledge that the Client may be considering a sale, merger or acquisition or other business transaction; or even the fact that this Agreement exists or Confidential Information has been provided.
2. The Company agrees that such Confidential Information is being furnished by CAPSTONE solely for the purpose of the Company's consideration and evaluation of a purchase, merger, acquisition or other business transaction with the Client. Company agrees to hold the Confidential Information in strict confidence and to use the Confidential Information only for this purpose and not for the Company's own or any third party's benefit at any time or in any manner. The Confidential Information may not be disclosed or made available to any third party, except by prior written approval of Client. Prior to any disclosure by Company to its directors, officers, employees, representatives or agents (collectively, the "Representatives") Company will inform such Representatives of the confidential nature of the Confidential Information and will require such Representatives to agree to be bound by the provisions of this Agreement as though a party hereto. Company shall be responsible for any use or disclosure of Confidential Information by any of their Representatives not in accordance with this Agreement.
3. All communications between the Company and the Client shall be through CAPSTONE unless otherwise specified in writing. Any attempt to circumvent CAPSTONE's contract with the Client shall be actionable at law for tortious interference with contract.
4. The undersigned acknowledges its duty and responsibility to perform a thorough due diligence review of available information from all sources, including the Confidential Information, at its own cost and expense prior to the consummation of any transaction contemplated between the Company and the Client. Company understands and agrees that no representation or warranties, express or implied, are being made by CAPSTONE or Client as to the completeness or accuracy of any Confidential Information, and neither CAPSTONE or Client, nor any of their respective officers, directors, managers, employees, stockholders, owners, affiliates, agents or representatives will have any liability to the Company or any other person resulting from the Company's use of the Confidential Information.
5. From the date hereof and continuing for a period ending on the second anniversary of the last disclosure of Confidential Information pursuant to this Agreement, the Company agrees not to, directly or indirectly, knowingly solicit for hire or engage any individual who is engaged as a contractor or employed by the Client ("Restricted Person"), or knowingly induce or attempt to induce any Restricted Person to terminate engagement or employment with the Client, or knowingly interfere with the relationship between the Client and Restricted Persons. This does not include advertisements in newspapers, the internet or journals of general circulation. In the event that the Company knowingly hires or engages any Restricted Person, Company shall within thirty (30) days of such engagement pay an amount equal to two (2) years of such Restricted Person's salary at the most recent level paid to that Restricted Person.
6. All Confidential Information provided by CAPSTONE and Client, together with copies thereof and information related to the Confidential Information, shall remain sole and exclusive property of the Client, shall be kept and preserved by Company while in possession of Confidential Information, and shall be promptly returned to CAPSTONE upon written or verbal request made by CAPSTONE. Upon request of CAPSTONE or Client, Company will provide Client with a statement signed by an authorized representative of the Company, verifying the Company has complied with the terms of this Agreement.

7. Company shall indemnify and hold harmless CAPSTONE and Client and their respective directors, officers, employees and agents (collectively, "Indemnified Parties") from and against all losses, liability, claims, judgments, actions, damages, fines, costs, fees or expenses (including attorney's fees and expenses) (collectively, "Losses") to which an Indemnified Party becomes subject, related to or arising out of a breach of this Agreement by the Company. Company agrees to reimburse Indemnified Parties for all Losses as they are incurred by the Indemnified Party in connection with investigating, preparing or defending any claim or action, whether or not in connection with pending or threatened litigation in which the Indemnified Parties are a party. This provision will survive the termination, expiration, cancellation or completion of this Agreement and any transaction to which it relates.

8. Company acknowledges and agrees that money damages will not be an adequate remedy for any breach of this Agreement and the Client shall be entitled to equitable relief, including an injunction and specific performance, in the event of any breach or threatened breach of this Agreement, in addition to any other remedies available to the Client at law or in equity. Company waives the defense that an adequate remedy at law exists for any breach or threatened breach of this Agreement.

9. The Company and CAPSTONE agree and acknowledge that the Client is a third-party beneficiary to this Agreement and shall have the right to enforce the obligations of the Company as if a party hereto. The Company and CAPSTONE agree not to amend this Agreement without prior written consent of the Client.

10. This Agreement shall be governed by the laws of the State of Tennessee, without regard to its conflict of law provisions. All parties to this Agreement agree to submit any claim or dispute under this Agreement exclusively to a state or federal court located in Nashville, TN, and Company irrevocably agrees to submit to the sole jurisdiction of such courts and to waive any claims that such courts constitute an improper venue.

11. The execution of this Agreement shall not create any agency, partnership, joint venture, association or any other relationship between the parties other than as independent contracting parties.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed as of the date first set forth above.

Client #764

On Behalf of Corporation:

(Print Name)

By: _____

Name: _____

Its: _____

PROSPECTIVE BUYER INFORMATION

Name: _____ Company: _____

Address/City/State/ZIP: _____

Email: _____

Phone: _____

Acquisition History: Year Industry Revenue/EBITDA Terms

Business References: Name Phone Relationship

Financing

Source of cash at closing (Personal, Financial Institution, Private Equity, etc.):

Approved lending relationship(s):

Approved borrowing capacity:

Net worth:

Bankruptcy history:

I certify that the information provided on this form is complete and correct.

Company Name: _____

By: _____

Printed Name and Title

_____ Date: _____

Signature