



NON DISCLOSURE / CONFIDENTIALITY AGREEMENT

THIS NON DISCLOSURE / CONFIDENTIALITY AGREEMENT (“NDA”) dated on _____, 20____, is made by and between EDAC Technologies Corporation, a Wisconsin corporation (“EDAC”), and _____, a _____ corporation (“_____”), (The “Parties”).

1. INTRODUCTION. The Parties intend to engage in discussions and negotiations concerning a possible business relationship (the “*Transaction*”). In the course of those discussions and negotiations, it is anticipated that the Parties will disclose or deliver to each other and to their Representatives, proprietary and confidential information relating to their businesses. The Parties are willing to provide such information, and agree to receive that information upon the terms and conditions of this NDA.

2. DEFINITIONS.

(a) “**Confidential Information**” shall mean any data or information that is the property of the disclosing Party and not generally known to the public. It can be tangible or intangible, in any medium, unmodified or modified by receiving Party or its Representatives, and disclosed at any time.

Confidential Information includes but is not limited to:

- (i) any marketing strategies, plans, financial information, projections, operations, sales estimates, or performance results relating to the past, present or future activities of a party;
- (ii) plans for products or services, and customer or supplier lists;
- (iii) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method;
- (iv) any concepts, reports, data, know-how, works-in-progress, designs, development tools, specifications, software, source code, object code, flow charts, databases, or trade secrets;
- (v) any other information that should reasonably be recognized as confidential information, and
- (vi) any information generated by the Receiving Party or by its Representatives that contains, reflects, or is derived from any of the foregoing.

Confidential Information need not be novel, unique, patentable, and copyrightable or constitute a trade secret. The receiving Party acknowledges that the Confidential Information is proprietary to the disclosing Party, has been developed and obtained through great efforts by the disclosing Party and that disclosing Party regards all of its Confidential Information as trade secrets.

Notwithstanding this definition, Confidential Information shall not include information which:

- (1) was already lawfully possessed by the receiving Party;
- (2) becomes known by the receiving Party from a third-party source not obligated to confidentiality;
- (3) is generally known by the public through no fault of or failure to act by the receiving Party;
- (4) is required to be disclosed in a judicial or administrative proceeding, by law or regulation, and
- (5) has been independently developed by employees, consultants or agents of the receiving Party without violation of the terms of this NDA, as evidenced by the receiving Party’s records.

(b) “**Representatives**” shall mean the receiving Party’s directors, officers, members, partners,

employees, agents, and advisors to whom Confidential Information is disclosed in accordance with the provisions of this Agreement.

(c) **“Party”** includes all affiliates, subsidiaries and affiliated companies;

3. OBLIGATIONS OF CONFIDENTIALITY AND NON-USE. The receiving Party agrees that any Confidential Information furnished to the receiving Party or its Representatives will be kept strictly confidential and will be used solely for the purpose of evaluating the Transaction. The receiving Party shall not use the Confidential Information for any reason or purpose other than to evaluate and to negotiate the Transaction.

In order to satisfy these obligations, the Receiving Party shall take at least the following precautions:

- (a) the receiving Party shall exercise all reasonable efforts to prevent third parties from gaining access to Confidential Information;
- (b) the receiving Party shall disclose Confidential Information only to such of its Representatives who need to know such Confidential Information;
- (c) prior to any disclosure, the receiving Party shall bind all Representatives to the terms in this NDA to the same extent as if they were parties; and
- (d) the receiving Party shall advise its Representatives to whom Confidential Information shall be disclosed of the confidential nature of the Confidential Information.

The receiving Party shall be responsible for all actions of its Representatives, including, without limitation, any breach of the terms of this NDA, and the disclosing Party shall be entitled to directly enforce such agreements. The receiving Party will not be permitted to disregard its obligations under this Agreement by using the Confidential Information as a guide to search general publications or other publicly available materials or by selecting a series of items of knowledge from unconnected sources in the public domain and fitting them together through the use of the Confidential Information.

Receiving Party shall notify the disclosing Party immediately upon discovery of, or suspicion of,

- (1) any unauthorized use or disclosure of Confidential Information by receiving Party or its Representatives;

or,

- (2) any actions by receiving Party or its Representatives inconsistent with their respective obligations under this NDA. Receiving Party shall cooperate with any and all efforts of the disclosing Party to help the disclosing Party regain possession of Confidential Information and prevent its further unauthorized use.

If the receiving Party is compelled by law to disclose Confidential Information, it shall promptly notify the disclosing Party in writing. The receiving Party agrees that it shall not oppose and shall cooperate with efforts by the disclosing Party with respect to any such request for a protective order or other relief.

4. USE OF CONFIDENTIAL INFORMATION. The receiving Party agrees to use the Confidential Information solely in connection with the Transaction, and not for any purpose other than as authorized by this NDA without written consent of a representative of the disclosing Party.

Nothing contained in this NDA shall be construed as a grant by implication, estoppel, or otherwise, of a license to receiving Party of the Confidential Information to make, have made, use or sell any product or service using Confidential Information or as a license under any patent, patent application, utility model, copyright, mask work right, or any other industrial or IP right.

All use of Confidential Information by the receiving Party shall be for the benefit of the disclosing Party and any modifications and improvements by the receiving Party shall be the sole property of the disclosing Party. Any and all IP developed shall be the property of the disclosing Party.

The receiving party shall not reverse-engineer any items or designs disclosed under this NDA.

The receipt of Confidential Information will not prevent or limit either Party from: (i) developing, making or marketing products or services that may be competitive with the products or services of the other; or (ii) providing products or services to others who compete with the other.

5. INDEMNIFICATION. The receiving Party shall indemnify and hold the disclosing Party harmless from and against any and all claims, causes of action, damages, losses, costs (including reasonable attorneys' fees) and liabilities of any nature which may at any time be asserted against or suffered by the disclosing Party, directly or indirectly, relating to or arising out of a breach of this Agreement by the receiving Party or any person that the receiving Party discloses the Confidential Information.

6. RETURN OF CONFIDENTIAL INFORMATION. At the request of a Party, or in the event the receiving Party decides not to proceed with a Transaction, the receiving Party and its Representatives shall promptly return all Confidential Information and any other material containing or reflecting any Confidential Information, and destroy all notes, and deliver to the disclosing Party a certificate indicating that the requirements of this Section have been satisfied in. Notwithstanding the return of the Confidential Information and destruction of notes, the receiving Party and its Representatives will continue to be bound by their obligations of confidentiality under of this NDA.

7. NON-SOLICITATION. Supplier shall not, for a period of three years from the date of this NDA, employ or attempt to employ or divert any employee of EDAC, or divert or attempt to divert any business or customers from EDAC .

8. NO FURTHER AGREEMENT. The Parties agree that neither is bound by the terms of any proposed Transaction until a formal Transaction is completed. Each of the Parties further agree that neither of the Parties shall have any obligation to authorize or pursue any Transaction with the other Party, or any other party, and each of the Parties understands that the other Party has not, as of the date of this NDA, authorized any Transaction.

9. TERM. This Agreement shall remain in effect for a one-year term (subject to a one year extension if the parties are still discussing and considering the Transaction at the end of the first year). Notwithstanding, the receiving Party's duty to hold in confidence Confidential Information that was disclosed during term shall remain in effect indefinitely.

10. NO WARRANTY. The Parties and their its officers, directors, employees, shareholders, partners, and agents make no warranties or representations to the accuracy, completeness or utility of the Confidential Information disclosed to the receiving Party.

11. REMEDIES. The Parties acknowledge that money damages are an inadequate remedy for breach of this NDA because they would be irreparably harmed, and because of the difficulty of ascertaining the amount of damage that will be suffered in the event of such a breach. The receiving Party agrees that the Company may obtain specific performance of this NDA, and injunctive relief against any breach or to prevent an anticipated breach, in addition to other remedies at law which may be available to the Company.

12. MISCELLANEOUS

(a) Integration; No Waiver; Amendment. This NDA supersedes and replaces any agreement or understanding, whether oral or written, between the Parties with respect to the subject matter hereof. It is further agreed that no failure or delay by a Party in exercising any right shall operate as a waiver, nor shall any single or partial exercise of any right preclude any other or further exercise of any right under this NDA. The terms set forth in this NDA may be modified or waived only by a separate writing by both Parties.

(b) Costs. Each of the Parties agrees that if it is held by any court of competent jurisdiction to be in violation, breach or nonperformance of this NDA, then it will promptly pay to the other Party all costs of such action or suit, including reasonable attorneys' fees.

(c) Severability. If any term, provision, covenant or restriction of this NDA is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

(d) Successors and Assigns. This NDA shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors and assigns.

(e) Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Connecticut.

(f) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

(g) The Parties will comply with all applicable laws and regulations concerning U.S. export controls. Company agrees that prior to the disclosure of export controlled information, Company shall notify the Receiving Party of any planned disclosure of such controlled information. Company agrees that they will not disclose any government classified data/information to the Receiving Party under the terms of this Agreement

IN WITNESS WHEREOF, the Parties have executed this NDA as of the date written above.

EDAC Technologies Corporation

(other Party)

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____