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Non-Disclosure and Confidentiality Agreement

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (herein the “Agreement”) is dated and effective as of _____, _____ (“Effective Date”), by and between Duck Business Group, LLC, d/b/a DBG Advisors (“DBG”) and _____ (“Company”).
DBG and Company together referred to as the “Parties” or individually as “Party”.

WHEREAS, in connection with a proposed business transaction, (Transition) between DBG and Company, each has requested that the other provide it with certain confidential and proprietary information and data related to the past, present, and projected future business affairs of the other collectively referred to as “Confidential Information”, and

WHEREAS, in connection with the Transaction, the Parties have agreed to disclose certain Confidential Information to each other,

NOW, THEREFORE, in consideration of the promise and mutual covenants and agreement contained in this Agreement, and other good and valuable consideration, the request and sufficiency of which is hereby acknowledged by the undersigned, the Parties hereto agree as follows:

1. For purposes of this Agreement, the term “Confidential Information” shall mean any information regarding the Parties which is disclosed or exchanged by and between the Parties which (i) has actual or potential economic value to the Parties and which is not generally known or readily ascertainable by proper means to the public or the Parties competitors at the time it is disclosed or exchanged, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain secrecy. Notwithstanding anything to the contrary contained herein, the term “Confidential Information” shall in no event apply to information which (i) is already in the public domain at the time of disclosure; (ii) enters the public domain after disclosure through no fault of the Parties; (iii) is already known to the Parties at the time of disclosure; or (iv) is subsequently disclosed to the Parties by third parties having no obligation of confidentiality to the Parties.
2. Neither Party shall, directly or indirectly, publish, disseminate, divulge or disclose to any person or entity any Confidential Information, which either Party has heretofore or may hereafter give or exchange to the other Party. The Parties agree to take reasonable step to insure that Confidential Information is not disclosed or otherwise made available to any third party without prior written consent of the other Party; provided, however, that the Parties may disclose such portions of the Confidential Information (i) as may be required under state or federal law or (ii) in connection with any litigation arising out of, resulting from or related to this agreement. In the event applicable law requires the Parties to disclose such Confidential Information, the Parties shall promptly notify each other of any request for disclosure, and to the extent permissible by law, each Party shall responds to said request.

3. The Parties shall restrict access to the Confidential Information to those of its officers, directors, employees, agents and contractors who clearly need such access in order to transact business as contemplated by the Parties herein. The Parties further warrant and represent that they will advise each of the persons to whom they provide access to the Confidential Information pursuant to the foregoing sentence that such persons are strictly prohibited from making any use, publishing or otherwise disclosing to others or permitting others to use for their benefit or to the detriment of the Parties, any of the Confidential Information.
4. The Parties acknowledge that in addition to any other remedy which may be afforded by law, any breach or threatened breach of this Agreement shall be subject to specific performance by injunction or any other equitable remedies of any court of competent jurisdiction. In no event will either Party be liable for lost profits, exemplary, punitive, special, incidental, indirect or consequential damages, each of which is excluded by agreement of the Parties, regardless of whether such damages were foreseeable or whether the Parties have been advised of the possibility of such damages.
5. Upon receipt of a written request, the Parties shall promptly destroy or return and surrender to the requesting Party, any and all documents, records, memoranda, notes, drawings, financial information and other written, printed or tangible materials pertaining to the Confidential Information of every character and description.
6. This Agreement represents the entire agreement between the Parties with respect to the subject matter contained herein and may not be amended or modified except in writing signed by each of the Parties to this Agreement. This Agreement shall be binding on the Parties hereto and their respective employees, agents, legal representatives, successors and assigns. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and together shall constitute one and the same agreement. No waiver of any provision of this Agreement will be deemed to be or will constitute a waiver of any other provision or other application of the same provision, whether or not similar, nor will any waiver constitute a continuing waiver.

Date:

COMPANY

By:

Title:

DUCK BUSINESS GROUP, LLC

Date:

By:

L. Nolan Duck
Sole Member, Duck Business Group, LLC