

NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (the "Agreement") dated this 5th day of July, 2021

BETWEEN:

Alexander DiMenna of 20 RENIE LANE BLAUVELT, NY 10913
(the "Inventor")

OF THE FIRST PART

- AND -

D'Marco McElhinney of 25 Lochland Road Valhalla 10595
(the "Evaluator")

OF THE SECOND PART

BACKGROUND:

- A. The Inventor has proprietary information and know-how relating to a certain invention (the "Invention").
- B. In connection with the Evaluator evaluating the Invention for possible patent, development and marketing (the "Permitted Purpose"), the Evaluator has requested certain confidential information (the "Confidential Information") regarding the Invention of the Inventor.

IN CONSIDERATION OF and as a condition of the Inventor providing the Confidential Information to the Evaluator in addition to other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

Confidential Information

- I. All written and oral information and materials disclosed or provided by the Inventor to the Evaluator under this Agreement constitute Confidential Information regardless of whether such

information was provided before or after the date of this Agreement or how it was provided to the Evaluator.

2. 'Confidential Information' means all data and information relating to the invention as well as data and information relating to the Inventor, including but not limited to, the following:
 - a. 'Customer Information' which includes names of customers of the Inventor, their representatives, all customer contact information, contracts and their contents and parties, customer services, data provided by customers and the type, quantity and specifications of products and services purchased, leased, licensed or received by customers of the Inventor;
 - b. 'Intellectual Property' which includes information relating to the Inventor's proprietary rights prior to any public disclosure of such information, including but not limited to the nature of the proprietary rights, production data, technical and engineering data, technical concepts, test data and test results, simulation results, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights and trade secrets);
 - c. 'Marketing and Development Information' which includes marketing and development plans of the Inventor, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of obtaining business, forecasts and forecast assumptions and volumes, and future plans and potential strategies of the Inventor which have been or are being discussed;
 - d. 'Business Operations' which includes internal personnel and financial information of the Inventor, vendor names and other vendor information (including vendor characteristics, services and agreements), purchasing and internal cost information, internal services and operational manuals, external business contacts including those stored on social media accounts or other similar platforms or databases operated by the Inventor, and the manner and methods of conducting the Inventor's business;
 - e. 'Product Information' which includes all specifications for products of the Inventor as well as work product resulting from or related to work or projects of the Inventor, of any type

or form in any stage of actual or anticipated research and development;

- f. 'Production Processes' which includes processes used in the creation, production and manufacturing of the work product of the Inventor, including but not limited to, formulas, patterns, molds, models, methods, techniques, specifications, processes, procedures, equipment, devices, programs, and designs;
- g. 'Service Information' which includes all data and information relating to the services provided by the Inventor, including but not limited to, plans, schedules, manpower, inspection, and training information;
- h. 'Proprietary Computer Code' which includes all sets of statements, instructions or programs of the Inventor, whether in human readable or machine readable form, that are expressed, fixed, embodied or stored in any manner and that can be used directly or indirectly in a computer ('Computer Programs'); any report format, design or drawing created or produced by such Computer Programs; and all documentation, design specifications and charts, and operating procedures which support the Computer Programs;
- i. 'Computer Technology' which includes all scientific and technical information or material of the Inventor, pertaining to any machine, appliance or process, including but not limited to, specifications, proposals, models, designs, formulas, test results and reports, analyses, simulation results, tables of operating conditions, materials, components, industrial skills, operating and testing procedures, shop practices, know-how and show-how;
- j. 'Accounting Information' which includes, without limitation, all financial statements, annual reports, balance sheets, company asset information, company liability information, revenue and expense reporting, profit and loss reporting, cash flow reporting, accounts receivable, accounts payable, inventory reporting, purchasing information and payroll information of the Inventor; and
- k. Confidential Information will also include any information that has been disclosed by a third party to the Inventor and is protected by a non-disclosure agreement entered into between the third party and the Inventor.

3. Confidential Information will not include the following information:
 - a. Information that is generally known in the industry of the Inventor;
 - b. Information that is now or subsequently becomes generally available to the public through no wrongful act of the Evaluator;
 - c. Information rightly in the possession of the Evaluator prior to the disclosure to the Evaluator by the Inventor;
 - d. Information that is independently created by the Evaluator without direct or indirect use of the Confidential Information; or
 - e. Information that the Evaluator rightfully obtains from a third party who has the right to transfer or disclose it.

4. Except as otherwise provided in this Agreement, the Confidential Information will remain the exclusive property of the Inventor and will only be used by the Evaluator for the Permitted Purpose. The Evaluator will not use the Confidential Information for any purpose that might be directly or indirectly detrimental to the Inventor or any associated affiliates or subsidiaries.

5. The obligations to ensure and protect the confidentiality of the Confidential Information imposed on the Evaluator in this Agreement and any obligations to provide notice under this Agreement will survive the expiration or termination, as the case may be, of this Agreement and those obligations will last indefinitely.

6. The Evaluator may disclose any of the Confidential Information:
 - a. to such employees, agents, representatives and advisors of the Evaluator that have a need to know for the Permitted Purpose provided that:
 - i. the Evaluator has informed such personnel of the confidential nature of the Confidential Information;
 - ii. such personnel agree to be legally bound to the same burdens of non-disclosure and non-use as the Evaluator;
 - iii. the Evaluator agrees to take all necessary steps to ensure that the terms of this Agreement are not violated by such personnel; and

- iv. the Evaluator agrees to be responsible for and indemnify the Inventor for any breach of this Agreement by their personnel.
 - b. to a third party where the Inventor has consented in writing to such disclosure; and
 - c. to the extent required by law or by the request or requirement of any judicial, legislative, administrative or other governmental body.
7. The Evaluator agrees to retain all Confidential Information at their usual place of business and to store all Confidential Information separate from other information and documents held in the same location. Further, the Confidential Information may not be used, reproduced, transformed, or stored on a computer or device that is accessible to persons to whom disclosure may not be made, as set out in this Agreement.

Non-Solicitation

8. The Evaluator, their affiliates, subsidiaries and representatives will not, from the date of this Agreement until July 5, 2021, directly or indirectly solicit for employment or employ any person who is now employed or retained by the Inventor or any affiliate of the Inventor without the prior written consent of the Inventor.

Non-Competition

9. Other than with the express written consent of the Inventor, which consent may not be unreasonably withheld, the Evaluator will not, from the date of this Agreement until July 5, 2021, be directly or indirectly involved with a business which is in direct competition with the Inventor in the market for the Invention.

Ownership and Title

10. Nothing contained in this Agreement will grant to or create in the Evaluator, either expressly or impliedly, any right, title, interest or license in or to the intellectual property of the Inventor.

Remedies

11. The Evaluator agrees and acknowledges that the Confidential Information is of a proprietary and confidential nature and that any disclosure of the Confidential Information to a third party in breach of this Agreement cannot be reasonably or adequately compensated for in money damages and would cause irreparable injury to the Inventor. Accordingly, the Evaluator agrees

that the Inventor is entitled to, in addition to all other rights and remedies available to them at law or in equity, an injunction restraining the Evaluator and any agents of the Evaluator, from directly or indirectly committing or engaging in any act restricted by this Agreement in relation to the Confidential Information.

Return of Confidential Information

12. The Evaluator will keep track of all Confidential Information provided to them and the location of such information. The Inventor may at any time request the return of all Confidential Information from the Evaluator. Upon the request of the Inventor, or in the event that the Evaluator ceases to require use of the Confidential Information, or upon the expiration or termination of this Agreement, the Evaluator will:
 - a. return all Confidential Information to the Inventor and will not retain any copies of this information;
 - b. destroy or have destroyed all memoranda, notes, reports and other works based on or derived from the Evaluator's review of the confidential information; and
 - c. provide a certificate to the Inventor that such materials have been destroyed or returned, as the case may be.

Notices

13. In the event that the Evaluator is required in a civil, criminal or regulatory proceeding to disclose any part of the Confidential Information, the Evaluator will give to the Inventor prompt written notice of such request so the Inventor may seek an appropriate remedy or alternatively to waive the Evaluator's compliance with the provisions of this Agreement in regards to the request.
14. If the Evaluator loses or makes unauthorized disclosure of any of the Confidential Information, the Evaluator will immediately notify the Inventor and take all reasonable steps necessary to retrieve the lost or improperly disclosed Confidential Information.
15. Any notices or delivery required in this Agreement will be deemed completed when hand-delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the parties at the addresses contained in this Agreement or as the parties may later designate in writing.

16. The addresses for any notice to be delivered to any of the parties to this Agreement are as follows:

- a. Alexander DiMenna
20 RENIE LANE BLAUVELT, NY 10913
- b. D'Marco McElhinney
25 Lochland Road Valhalla 10595

Representations

17. In providing the Confidential Information, the Inventor makes no representations, either expressly or impliedly as to its adequacy, sufficiency, completeness, correctness or its lack of defect of any kind, including any patent or trademark infringement that may result from the use of such information.

Further Agreements

18. In the event that the Evaluator finds that the Invention is worthy of being patented, developed and marketed, the Inventor and the Evaluator may negotiate an additional agreement to define all their respective rights regarding such patenting, marketing and development.

Termination

19. Either party may terminate this Agreement by providing written notice to the other party. Except as otherwise provided in this Agreement, all rights and obligations under this Agreement will terminate at that time.

Assignment

20. Except where a party has changed its corporate name or merged with another corporation, this Agreement may not be assigned or otherwise transferred by either party in whole or part without the prior written consent of the other party to this Agreement.

Amendments

21. This Agreement may only be amended or modified by a written instrument executed by both the Inventor and the Evaluator.

Governing Law

22. This Agreement will be construed in accordance with and governed by the laws of the State of New York.

General Provisions

23. Time is of the essence in this Agreement.
24. This Agreement may be executed in counterpart.
25. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.
26. The clauses, paragraphs, and subparagraphs contained in this Agreement are intended to be read and construed independently of each other. If any part of this Agreement is held to be invalid, this invalidity will not affect the operation of any other part of this Agreement.
27. The Evaluator is liable for all costs, expenses and expenditures including, and without limitation, the complete legal costs incurred by the Inventor in enforcing this Agreement as a result of any default of this Agreement by the Evaluator.
28. The Inventor and the Evaluator acknowledge that this Agreement is reasonable, valid and enforceable. However, if a court of competent jurisdiction finds any of the provisions of this Agreement to be too broad to be enforceable, it is the intention of the Inventor and the Evaluator that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable, bearing in mind that it is the intention of the Evaluator to give the Inventor the broadest possible protection against disclosure of the Confidential Information.
29. No failure or delay by the Inventor in exercising any power, right or privilege provided in this Agreement will operate as a waiver, nor will any single or partial exercise of such rights, powers or privileges preclude any further exercise of them or the exercise of any other right, power or privilege provided in this Agreement.

30. This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns, as the case may be, of the Inventor and the Evaluator.
31. This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise.

IN WITNESS WHEREOF Alexander DiMenna and D'Marco McElhinney have duly affixed their signatures under hand and seal on this 5th day of July, 2021.

Alexander R. DiMenna 7/5/2021
Alexander DiMenna

D'Marco McElhinney 7/5/21
D'Marco McElhinney