

CONFIDENTIALITY AGREEMENT

Effective on _____ I, _____ (“**Buyer**”) understand that Sokol & Associates (“**Broker**”) has a valid agreement with the owners of the business listed below (“**Seller**”), whereby Broker has been retained, for agreed upon commission, to represent Seller in the sale of the Business. Buyer understands and acknowledges Broker is acting as the agent of Seller and Broker’s primary duty it to represent the interests of Seller. Buyer understands that if Buyer interferes in any way with Broker’s contractual right to commissions from Seller, Buyer will be personally responsible for those commissions. It is understood and agreed that if Buyer purchases the business using Broker, Buyer is not liable for commissions.

Business inquiring about: _____ (“**Business**”)

In order to induce Broker to furnish information regarding the Business, Buyer understands, agrees, represents and warrants to Broker and Seller as follows:

1. In connection with Buyer’s consideration of a possible acquisition of the Business, Buyer has requested certain information concerning the Business which is non-public, confidential, or proprietary in nature. With the exclusive purpose of evaluating a potential purchase of the Business and, if applicable, the property associated with the Business, Broker may disclose to Buyer, or Buyer may otherwise receive access to confidential information. Buyer shall use the confidential information solely for the purpose of determining if it will purchase the Business and, subject to Section 5, shall not disclose or permit access to confidential information other than to its agents and representatives such as attorneys, accountants, and financial advisors who: (a) need to know such confidential information; (b) know of the existence and terms of this Agreement; and (c) are bound by confidentiality obligations no less protective of the confidential information than the terms contained herein. Buyer shall safeguard the confidential information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its most sensitive information and no less than a reasonable degree of care. Buyer shall promptly notify Broker of any unauthorized use or disclosure of confidential information and use its best efforts to prevent further use or disclosure. Buyer will be responsible for any breach of this Agreement caused by its agents or representatives.
2. The referenced confidential information above means all non-public, proprietary or confidential information of the Seller of the Business or relating to Seller’s Business, in oral, visual, written, electronic, or other tangible or intangible form, whether or not marked or designated as “confidential,” and all notes, analyses, summaries, and other materials prepared by Buyer, Broker or Seller that contain, are based on, or otherwise reflect, to any degree, any of the foregoing; provided, however, that confidential information does not include any information that: (a) is or becomes generally available to the public other than as a result of Buyer’s or its representatives’ act or omission; (b) is obtained by Buyer or its representatives on a non-confidential basis from a third party that was not legally or contractually restricted from disclosing such information; (c) was in Buyer’s or its representatives’ possession, as established by documentary evidence, before Broker’s disclosure hereunder; or (d) was or is independently developed by Buyer or its representatives, as established by documentary evidence, without using any confidential information. Confidential information also includes: (x) the facts that the parties are in discussions regarding this potential transaction, and that confidential information has been disclosed; and (y) any terms, conditions or arrangements discussed.

3. No Representations or Warranties; No Other Obligation. Buyer understands and agrees that none of the Seller or Broker, or any of their respective representatives: (a) have made or make any representation or warranty hereunder, expressed or implied, as to the accuracy or completeness of any materials provided to Buyer; or (b) shall have any liability hereunder to the Buyer or its representatives relating to or resulting from the use of these materials or any errors therein or omissions therefrom. Seller reserves the right, in its sole discretion, at any time and for any reason or no reason, to reject any and all proposals made by the Buyer or on its behalf with regard to this transaction, to terminate discussions and negotiations with the Buyer at any time, and to enter into any agreement with any other person without notice to the Buyer or any of its representatives.
4. Required Disclosure. If Buyer or any of its representatives is required by applicable law or a valid legal order to disclose any confidential information, Buyer shall, before such disclosure, notify Broker and Seller of such requirements so that Seller may seek a protective order or other remedy, and Buyer shall reasonably assist Seller therewith. If Buyer remains legally compelled to make such disclosure, it shall: (a) only disclose that portion of the confidential information that, in the written opinion of its legal counsel, Buyer is required to disclose; and (b) use reasonable efforts to ensure that such confidential information is afforded confidential treatment.
5. Remedies. The parties agree that money damages would not be a sufficient remedy for any breach of this Agreement by Buyer and that in addition to all other remedies it may be entitled to, the Broker and/or Seller shall be entitled to seek specific performance and injunctive or other equitable relief without the necessity of posting any bond or other security as a remedy for any such breach. In the event that the Broker and/or Seller institutes any legal suit, action, or proceeding against the Buyer arising out of or relating to this Agreement, the Broker and/or Seller shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by it in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs.
6. Governing Law; Jurisdiction and Venue. This Agreement and all matters relating hereto are governed by, and construed in accordance with, the laws of the State of Ohio, without regard to the conflict of laws provisions of such State. Any legal suit, action, or proceeding relating to this Agreement must be instituted in the federal or state courts located in Columbus, Franklin County, Ohio. Each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

[Signature Page Follows]

ACKNOWLEDGED, AGREED AND ACCEPTED BY BUYER:

Buyer Signature

Date

Print Name: _____

Address: _____

Cell: _____

E-Mail: _____

Email signed Agreement to: randy@sokolandassociates.com