**CONFIDENTIALITY, NON‑DISCLOSURE**

**AND NON-USE AGREEMENT**

This CONFIDENTIALITY, NON-DISCLOSURE AND NON-USE AGREEMENT (the “Agreement”) is entered into this **\_\_\_\_\_\_\_\_\_\_\_\_\_**, by and between **Brahma Tank**  an Investment Group (hereinafter referred to as “BRAHMA TANK”), and **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** a **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,** **(**hereinafter referred to as “STARTUP”) located at ­­­­­­­­­­­­­­­­­­­­**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

## WITNESSETH

WHEREAS, STARTUP and BRAHMA TANK intend to hold discussions with each other to explore arrangements under which the parties may enter into a business relationship. Accordingly, representatives of each party plan to meet from time to time for such discussions, during which each may disclose to the other, either orally or by inspection, certain confidential information regarding their respective businesses that would be helpful in evaluating such business relationship; and

WHEREAS, it is anticipated that each party will deliver to the other party certain written information of a confidential and proprietary nature. Such information to be disclosed or delivered may include financial statements, cost and expense data, trade secrets, know-how, products, marketing and customer data, and other information that is not generally ascertainable from public or published information or trade sources; and

WHEREAS, whether STARTUP and BRAHMA TANK do or do not enter into a business relationship, it is their mutual intent and desire that the confidentiality obligations set forth in this Agreement shall extend for the Term (as defined hereinbelow) and shall survive termination of this Agreement as set forth herein; and

WHEREAS, BRAHMA TANK and STARTUP desire to mutually assure one another that the Confidential Information (as defined hereinbelow) will be subject to the limitations set forth herein; and

WHEREAS, BRAHMA TANK and the STARTUP have agreed to receive Confidential Information one from the other for the purposes provided herein and to execute and deliver this Agreement relating thereto; and

WHEREAS, the parties further agree that the execution of this Agreement is necessary in order to adequately protect the Confidential Information.

NOW, THEREFORE, in consideration of the premises, as well as the obligations herein made and undertaken, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

### SECTION 1

**SCOPE OF AGREEMENT**

1.1 This Agreement shall apply to all Confidential Information disclosed by and on behalf of either BRAHMA TANK or the STARTUP and their respective personnel. This shall include Confidential Information in BRAHMA TANK or the STARTUP’s possession belonging to third parties, including clients, prospective clients and vendors.

### SECTION 2

**DEFINITION OF CONFIDENTIAL INFORMATION**

2.1 For purposes of this Agreement, the term “Confidential Information” shall mean all information of a confidential or proprietary nature that is designated as confidential or proprietary in writing by the disclosing party (hereinafter the “Disclosing Party”), whether by letter or by use of a stamp or legend, prior to or at the time any such information is disclosed or delivered to the receiving party (hereinafter the “Receiving Party”) provided, however, that all electronic databases, forms, spreadsheets, software executables, files, object code, source code, engineering designs, engineering specifications and drawings shall be presumed to be Confidential Information whether or not such materials are so designated in writing by the Disclosing Party. Confidential Information shall also include, without limitation, the Disclosing Party’s (or another party whose information Disclosing Party has in its possession under obligations of confidentiality) business or technical information, financial information, market forecasts, customer lists and other customer information, research, development or business plans, strategies, ideas, inventions (whether patentable or not) operations or systems (including, without limitation, studies or reports, software, memoranda, drafts, and other information in either tangible or intangible form) which, when disclosed, is either designated in writing by the Disclosing Party to be confidential or proprietary or if disclosed orally or visually only, is identified as confidential or proprietary at the time of disclosure. In addition, information of a confidential or proprietary nature that is disclosed or delivered to the Receiving Party without such designation shall constitute “Confidential Information” if the Disclosing Party, promptly after such disclosure or delivery, delivers to the Receiving Party a written document or documents describing such information and referencing the date and place of such disclosure or delivery and the names of the officers, employees or agents of the Receiving Party to whom such disclosure or delivery was made.

# SECTION 3

## PROTECTION OF CONFIDENTIAL INFORMATION

3.1 Obligations of Confidentiality: The Receiving Party shall not disclose or disseminate the Confidential Information furnished by the Disclosing Party to (a) any other person, firm, or organization, specifically including, but not limited to any person, firm, or organization which directly or indirectly engages in a business, venture or enterprise that is competitive with the Disclosing Party or (b) any employee or agent of the Receiving Party who does not need access thereto in order for the Receiving Party to perform any obligations it may have to the Disclosing Party, including any obligations hereunder.

3.2 Limitation on Use: The Receiving Party shall not use Confidential Information for its own sole benefit or for any reason detrimental to Disclosing Party and may disclose Confidential Information only to its employees, agents, consultants, advisors or other representatives, including legal counsel, accountants and financial advisors (collectively, “Representatives”), and Representatives of any Affiliate of Disclosing Party, who in each case (i) require such Confidential Information to fulfill the purposes contemplated by this Agreement; and (ii) are informed by Receiving Party of the confidential nature of the Confidential Information and of Receiving Party’s obligations under this Agreement. Unless specifically authorized in writing by the Disclosing Party, the Receiving Party shall not copy or otherwise reproduce Confidential Information except to fulfill the purposes contemplated by this Agreement. Under no circumstances may the Receiving Party disclose or disseminate any Confidential Information to any competitor of the Disclosing Party. The use of the Confidential Information for any purpose other than described herein is strictly prohibited. The Receiving Party shall devote its best efforts to ensure that its Representatives and Affiliates and all other persons or entities afforded access to the Confidential Information protect the same against unauthorized use, dissemination, or disclosure and shall take such action, legal or otherwise, as may be necessary to cause its Representatives and Affiliates to comply with the terms hereof. Confidential Information shall remain at all times the property of the Disclosing Party. No license or permit or right of use is granted, agreed to be granted, or implied, by either this Agreement or the disclosure of the Confidential Information by the Disclosing Party to the Receiving Party. Without limiting the generality of the foregoing, any computer software, source code or object code (the “Software”) disclosed by the Disclosing Party to the Receiving Party shall be and remain the sole and separate property of the Disclosing Party. The Receiving Party shall not acquire any rights in the Software and shall protect such Software from disclosure and shall only use the Software in accordance with the terms of this Agreement. Notwithstanding the terms and conditions of this paragraph, the Parties may enter into separate written agreements which provide the terms and conditions of the transfer of ownership, the licensing and/or the development of Software between the Parties in which case the terms and conditions of any such Agreements shall have priority over the terms and conditions set forth in this Paragraph 3.2. For purposes of this Agreement, with respect to a party, “Affiliate” shall mean the party’s wholly-owned subsidiaries, parents, and other entities wholly-owned by the party’s parents.

3.3 Legends: Each Receiving Party shall reproduce, if authorized as provided above, and include in all copies of the Disclosing Party’s Confidential Information, the confidential and proprietary legends as appear therein as furnished by the Disclosing Party.

3.4 Exceptions: This Agreement shall not apply to Confidential Information which:

(a) is public knowledge at the time of disclosure or is otherwise readily ascertainable from public sources or generally known in the industry in which either the Disclosing Party or the Receiving Party operates; or

(b) is disclosed by the Disclosing Party to third parties without restriction on such third parties; or

(c) is disclosed to the Receiving Party or any of its Affiliates by a third party who, to the knowledge of the Receiving Party, is not under an obligation of confidentiality with respect to such information to or for the benefit of the Disclosing Party; or

(d) is known by the Receiving Party or any of its Affiliates (as evidenced by written materials in the Receiving Party’s files) prior to such disclosure.

(e) is developed by or for the Receiving Party or any of its Affiliates independently and without reference to the Confidential Information (as evidenced by written materials in the Receiving Party’s files); or

(f) is approved for release by written authorization of the Disclosing Party; or

(g) is required to be disclosed by law or by valid order of any governmental authority, provided that, in each case, the Receiving Party first notifies the Disclosing Party of such requirement, permits the Disclosing Party to contest such requirement if reasonably appropriate, and cooperates with the Disclosing Party (at the Disclosing Party’s expense) in limiting the scope of the proposed use or disclosure or bbtaining appropriate further means for protecting the confidentiality of the Confidential Information.

The above exceptions shall be narrowly construed and shall not be interpreted as justification for disregarding any obligation of confidence set forth in this Agreement merely because individual portions of the Confidential Information may be found to be within one or more exception, or otherwise.

**SECTION 4**

## TERM; TERMINATION

4.1 The term of this Agreement shall be the later to occur of (a) three (3) years following the date hereof, or (b) in the event that the parties enter into a business relationship as a result of the discussions undertaken pursuant to this Agreement, one (1) year following the date on which such business relationship between the parties is terminated or expires (the “Term”); provided, however, that either Parties may terminate this Agreement on thirty (30) days prior written notice to the other party. The Receiving Party’s duty to hold Confidential Information in confidence shall expire two (2) years following the date of expiration or termination of this Agreement. On or before the expiration or termination of this Agreement, the Receiving Party shall return to the Disclosing Party or destroy all materials in its possession that contain or reflect any Confidential Information provided by the Disclosing Party, and shall not retain copies of such Confidential Information, except that one archival copy may be retained by Receiving Party’s counsel in a secure location for verification purposes only. In the event that either party shall provide Confidential Information to the other party subsequent to the expiration or termination of this Agreement, none of the terms and conditions provided herein shall apply to such Confidential Information. In the event that the parties enter into a business relationship evidenced by a separate written agreement which contains terms and conditions relating to the protection of confidential information and there is a conflict in the terms and conditions of such agreement with this Agreement, then the provisions of such later agreement will control.

**SECTION 5**

**INJUNCTIVE RELIEF**

5.1 Each party acknowledges that the unauthorized disclosure or use of any Confidential Information furnished to the Receiving Party could cause irreparable harm and significant injury to the Disclosing Party, which may be difficult to measure with certainty or to compensate through monetary damages. Accordingly, the Disclosing Party shall be entitled to seek injunctive or other equitable relief in the case of any breach of this Agreement.

**SECTION 6**

**MISCELLANEOUS**

6.1 This Agreement shall not be construed to grant to either party any licenses or similar rights to any Confidential Information disclosed to it by the other party. Neither party (nor any of their respective officers, employees, agents, consultants or professional advisors) has made or makes any representation or warranty as to the accuracy or completeness of the Confidential Information disclosed by it under this Agreement.

6.2 Nothing in this Agreement shall impose any obligation upon either party to enter into a business relationship or to enter into any discussions or negotiations with respect thereto. Except for the parties’ obligations under this Agreement, neither party shall be committed in any way with respect to the matters discussed by them, unless and until a formal agreement with respect thereto is executed by them.

6.3 Each party acknowledges that the other party may be engaged now or in the future in a business like or competitive with it, and that the terms of this Agreement do not restrict either party from engaging in such business, subject to their respective obligations under this Agreement with respect to Confidential Information.

6.4 No failure or delay by either party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof. This Agreement embodies the entire understanding between the parties with respect to Confidential Information disclosed by them in connection with the proposed business relationship and the matters referred to herein and shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. All modifications to and amendments of this Agreement must be in writing.

6.5 This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Virginia as they apply to a contract entered and performed in that State, exclusive of choice of law rules. In the event that any dispute, controversy, or claim arises hereunder, and a suit is instituted, it shall be brought in and before the District Court of Loudoun County, Virginia, wherein exclusive jurisdiction shall lie, and each of the parties hereto consents to personal jurisdiction of such courts and waives any defenses based on personal jurisdiction, venue, and inconvenient forum.

 6.6 No other Than the expressly stated warranties are made by either party under this Agreement. Confidential Information is provided "AS IS" with all faults. Neither Party shall be liable for the accuracy, Fitness for the Purpose or completeness of the Confidential Information.

 6.7 Each party warrants having the right to disclose Confidential Information under this Agreement.

 6.8 This Agreement does not grant a license for any intellectual property rights in the Confidential Information, create any agency or partnership relationship and impose any obligation on either party to purchase, sell, license, transfer or otherwise dispose of any technology, service or product.

 6.9 This Agreement may be executed in counterparts, each of which shall be identical and which, taken together, shall constitute one and the same instrument. Any modification to this Agreement must be made in writing and signed by both parties. If any provision of this Agreement is found invalid, such invalidity shall not affect the enforceability of other provisions.

 6.10 Receiving Party warrants to comply with all applicable export laws whenever using or exporting Confidential Information or any technology, service or product using Confidential Information.

IN WITNESS WHEREOF, this Agreement is hereby effected by the parties hereto, and affirmed as such by an appropriate authorized signature, on the day and year first written above.

**BRAHMA TANK.**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: DIRECTOR

#### STARTUP.

 Name of Venture: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: FOUNDER