

## MUTUAL CONFIDENTIALITY AND NON DISCLOSURE AGREEMENT

Agreement (“Agreement”), effective as of the date the last party executes this Agreement below (“Effective Date”) by and between Monashee Marketing LLC, with its principal place of business at 722 Silvermine Road, New Canaan, CT 06940 and the undersigned.

WHEREAS, the parties wish to disclose certain proprietary information, trade secrets, artwork, drawings, specifications, designs, presentations, plans, or other confidential information, which is either non-public, confidential or proprietary in nature, solely for the limited purpose of the parties **[contemplating a potential licensing relationship]** (the “Proposed Transaction”); and

WHEREAS, the parties shall furnish such non-public, confidential or proprietary information upon execution and return of this Agreement.

NOW THEREFORE, in consideration of the promises and covenants herein contained, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The Confidential Information disclosed by the disclosing party (the “Disclosing Party”) will be kept confidential by the receiving party (the “Receiving Party”) and will not (except as required by applicable law, regulation or legal process), without the Disclosing Party’s prior written consent, be disclosed by the Receiving Party in any manner whatsoever, in whole or in part. For the purposes of this Agreement, “Confidential Information” shall mean any and all information disclosed by the Disclosing Party to the Receiving Party regarding the Disclosing Party’s business practices or otherwise to the Proposed Transaction, whether orally, in writing, by electronic or magnetic means, or as the result of visual inspection or otherwise, including, but not limited to, (a) ideas and conceptions of potentially patentable subject matter, including, without limitation, (b) any patent disclosures, whether or not reduced to practice and whether or not yet made the subject of a pending Patent application or applications, (c) patents, (d) trademarks, (e) copyrights, (f) software, (g) trade secrets and confidential, technical or business information (including ideas, formulas, compositions, artwork, designs, inventions, and conceptions of inventions whether patentable or unpatentable and whether or not reduced to practice), (h) whether or not confidential, technology, (including know-how and show-how), manufacturing and production processes and techniques research and development information, drawings, specifications, designs, plans, proposals, technical data, copyrightable works, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information, and (i) copies and tangible embodiments of all the foregoing, in whatever form or medium, together with any documents prepared by either party which contain or otherwise reflect such information. “Documents” and “copies” shall include any electronic data in any format whatsoever. The term Confidential Information will not, however, include information which:

(i) is or becomes publicly available other than as a result of a disclosure by the Receiving Party or its representatives;

(ii) is or becomes available to the Receiving Party on a non-confidential basis from a source (other than the Disclosing Party) which the Receiving Party is not prohibited from disclosing such information to the Receiving Party by a legal, contractual or fiduciary obligation to the Disclosing Party;

(iii) the Receiving Party can reasonably demonstrate is in its possession and not subject to an existing agreement of confidentiality;

(iv) was independently developed by the Receiving Party, as evidenced by the Receiving Party's records; or

(v) the Receiving Party is required to disclose pursuant to a valid order of a court or other governmental body; provided that the Receiving Party will notify the Disclosing Party promptly so that the Disclosing Party may seek a protective order or other appropriate remedy. In the event that no such protective order or other remedy is obtained, the Receiving Party will furnish only that portion of Confidential Information which the Receiving Party is legally required to disclose and will exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

2. The Receiving Party will not use any Confidential Information other than in connection with the Proposed Transaction or unless as required by law, disclose to any person the fact that the Confidential Information has been made available to it or any of the terms, conditions, or other facts with respect to the Proposed Transaction; provided, however, that each party may reveal the Confidential Information to its employees, officers, directors, representatives, including, without limitation, financial advisors, consultants, contractors, attorneys, accountants and agents who need to know the Confidential Information for the sole purpose of evaluating the Proposed Transaction. The Receiving Party will inform each such representative of the confidential nature of the Confidential Information and each will agree to act in accordance with the terms of this Agreement. The Receiving Party will be responsible for any breach of this Agreement by any of its representatives.

3. Either party may at any time terminate further access to the other party to the Confidential Information. Further, either party may at any time decide not to pursue the Proposed Transaction. All proprietary rights in and to the Confidential Information shall remain the property of Disclosing Party. If either party determines not to proceed with the Proposed Transaction, each party will promptly inform the other of that decision and each party, upon the request of the other party, will either (i) promptly destroy all copies of the written information in its possession and confirm such destruction to the Disclosing Party in writing, or (ii) promptly deliver to the Disclosing Party at the Receiving Party's own expense all copies of written Confidential Information in its possession. Any oral Confidential Information will continue to be subject to the terms of this Agreement.

4. Each party acknowledges that neither party nor their respective representatives, makes any express or implied representation or warranty as to the accuracy or completeness of the Confidential Information, and each party agrees that no such person will have any liability relating to the Confidential Information or for any errors therein or omissions therefrom. Each party further agrees that it is not entitled to rely on the accuracy or completeness of the Confidential Information and that it will be entitled to rely solely on such representations and

warranties as may be included in any definitive agreement with respect to such limitations and restrictions as may be contained therein.

5. Each party agrees that money damages would not be sufficient remedy for any breach of this Agreement. Therefore, in addition to all other remedies, a non-breaching party shall be entitled to specific performance, injunction or other equitable relief as a remedy for any such breach by the breaching party and will be entitled to all reasonable attorney's fees and costs that are incurred in enforcing this Agreement in the event of a breach.

6. The obligations of each party with respect to confidentiality of Confidential Information contained in this Agreement shall become effective as of the Effective Date above and shall terminate on the earlier to occur of: (a) the date on which the parties hereto enter into a definitive written agreement with respect to the Proposed Transaction and (b) the date which is two (2) years from the Effective Date.

7. This Agreement contains the entire agreement between the parties concerning the confidentiality of the Confidential Information, and no modifications of this Agreement or waiver of the terms and conditions hereof will be binding upon either party unless set forth in writing and signed by each party.

8. This Agreement shall be considered as having been entered into in the State of New York and shall be construed and interpreted in accordance with the substantive laws of the State of New York without reference to choice of law doctrine.

9. If any term or provision of this Agreement is incapable of being enforced, all other conditions and provisions of this Agreement will nevertheless remain in full force and effect.

10. No waiver at any time of any provision of this Agreement will be deemed to be a waiver of any other provision of this Agreement. No failure or delay by either party at any time to enforce any provision of this Agreement or exercise any right or remedy hereunder shall be construed as a waiver or relinquishment of any such provision, right or remedy and this Agreement and all provisions thereof shall remain in full force and effect notwithstanding any such failure or delay. The rights and remedies provided in this Agreement shall be cumulative and not exclusive of any rights or remedies provided by law.

11. This Agreement may be executed simultaneously in one or more counterparts, and by different parties hereto in separate counterparts, each of which when executed will be deemed an original, but all of which taken together will constitute one instrument.

[signature page to follow]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

By: \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:  
Company Name:  
Company Address:  
  
Telephone Number:

Date: \_\_\_\_\_