

Non Disclosure Agreement

THIS NONDISCLOSURE AGREEMENT ("Agreement") by and between BeraTek Industries LLC and its subsidiaries or affiliates ("BeraTek Industries") and

NAME:

ADDRESS:

hereinafter referred to as "Participant" (Collectively known as the "Parties" and individually as "Party"), is considered agreed upon and in full force as of _____ ("Effective Date") at which time the Parties initially began discussions.

WHEREAS, BeraTek Industries wishes to disclose to Participant certain information deemed confidential and proprietary by BeraTek Industries which relates to BeraTek Industries's business, financial condition, proprietary products and services, strategies, and/or business issues or opportunities (the "BeraTek Industries Information");

WHEREAS, Participant wishes to disclose to BeraTek Industries certain information deemed confidential and proprietary by Participant which relates to Participant's business, financial condition, proprietary products and services, strategies, and/or business issues or opportunities ("Participant Information"); and

WHEREAS, the purpose of such disclosures of proprietary information is to facilitate discussions regarding a potential business relationship between the Parties;

NOW, THEREFORE, the parties hereto agree as follows:

1. For the purpose of this Agreement, "Confidential Information" shall be deemed to include all information and materials furnished by either Party which: (a) if in written format is marked as confidential, or (b) if disclosed verbally is noted as confidential at time of disclosure, or (c) in the absence of either (a) or (b) is information which a reasonable party would deem to be non-public information and confidential. Confidential Information shall include, but not be limited to all BeraTek Industries Information, all Participant Information, whether such is transmitted in writing, orally, visually, (e.g. video terminal display) or on magnetic media, and shall include all proprietary information, customer and prospect lists, trade secrets, or proposed trade names, know-how, ideas, concepts, designs, drawings, flow charts, diagrams and other intellectual property relating to the BeraTek Industries Information or Participant Information.
2. Each Party acknowledges that it is receiving such Confidential Information in confidence and will not publish, copy, or disclose any Confidential Information other than to those employees and subcontractors with a need to know such Confidential Information in order to perform their duties who are bound by a written agreement with, or at the least have been informed by the receiving Party not to disclose any Confidential Information which comes into their possession. The Parties acknowledge that they will only use the Confidential Information within their own organization to the extent necessary to determine whether the Parties may have an interest in entering into a further business relationship, and that they will use all reasonable best efforts to prevent disclosure of the Confidential Information to any third party.
3. The obligations of paragraph 2 shall not apply to any particular portion of Confidential Information which:

- a. was in the public domain when the disclosing Party granted access to receiving Party;
 - b. entered the public domain through no fault of the receiving Party subsequent to receipt;
 - c. was in a receiving Party's possession free of any obligation of confidence at the time of the disclosure by the disclosing party;
 - d. was in the public domain when the disclosing Party granted access to receiving Party;
 - e. entered the public domain through no fault of the receiving Party subsequent to receipt;
 - f. was in a receiving Party's possession free of any obligation of confidence at the time of the disclosure by the disclosing party;
 - g. was rightfully communicated by a third party to a receiving Party free of any obligation of confidence subsequent to the time of the originating Party's communication thereof to the receiving Party;
 - h. was developed by employees or agents of a Party independently of and without knowledge or reference to any Confidential Information;
 - i. is approved for release by written authorization from the originating Party; or
 - j. is required to be disclosed pursuant to any statute, law, rule or regulation of any governmental authority or pursuant to any order of any court of competent jurisdiction, but in any case, the originating Party will be notified by the receiving Party before disclosure and given a reasonable opportunity to obtain a protective order or other form of protection.
4. In no event shall a Party be deemed by virtue hereof to have acquired any right or interest by license or otherwise, in or to the Confidential Information.
 5. The Parties agree that all originals and any copies of the Confidential Information remain the property of the disclosing Party. The Parties shall reproduce all copyright and other proprietary notices, if any, in the same form that they appear on all the materials provided by the originating Party to the other, on all copies of the Confidential Information made by the receiving Party. Each Party agrees to return or destroy, at receiving Party's option, any and all records, notes and other written, printed or tangible materials containing or extrapolated from Confidential Information and all originals and copies of all Confidential Information to the receiving Party at the originating Party's request.
 6. This Agreement shall be governed by and construed and interpreted in accordance with the laws of State of Iowa, USA. The Parties agree that any dispute hereunder will be finally settled by Arbitration through a mutually agreed Arbitrator. The arbitration shall take place in Iowa. The arbitration tribunal, including all staff, all witnesses, and attending non-Parties, shall be legally bound by agreements and/or orders to prevent disclosure of any information which may be disclosed to them in connection with arbitration proceedings conducted hereunder. The arbitrators shall apply the laws of Iowa to the merits of the dispute and in all cases shall decide in accordance with the terms of this Agreement. The arbitral decision and award shall be final and binding and shall deal with the questions of costs of arbitration and all matters related thereto. This Agreement may be amended only by an amendment to this Agreement duly executed by the Parties.
 7. The rights and obligations of the Parties hereunder shall not be sold, transferred, or otherwise assigned by either Party and any such assignment shall be null and void. This Agreement supersedes all other existing confidentiality agreements between the Parties and constitutes the entire covenant between the Parties. The Parties agree there are no other understandings, agreements or representations expressed or implied except for those set forth herein.

8. This Agreement shall govern all communications between the Parties unless and until either Party notifies the other in writing that subsequent communications between the Parties are no longer confidential or the Agreement expires. Any notices, requests, demands, and other communications hereunder shall be deemed to have been duly given when personally delivered or five days after mailing to the addresses listed above or such other address as either party may notify the other.

9. This Agreement shall be effective for a period of two (2) years from the Effective Date. Notwithstanding termination or expiration of this Agreement, all Confidential Information disclosed hereunder shall be protected in accordance with this Agreement for a period of two (2) years after termination or expiration of this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

BeraTek Industries

Signed: 

Signed _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____