

MUTUAL CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT

THIS MUTUAL CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT (this “*Agreement*”) is entered into as of this ____ day of _____, 201__ (the “*Effective Date*”), by and between **HICO America Sales & Technology, Inc.**, a Pennsylvania corporation with its principal offices located at Three Penn Center West, Suite 300, Pittsburgh, Pennsylvania 15276 (“*HICO*”), and _____, a _____ with its principal offices located at _____ (“_____”).

WHEREAS, HICO and _____ desire to exchange certain Confidential Information (as defined below) for the purpose of internal review in relation to the consideration of a potential business relationship or transaction (the “*Purpose*”);

WHEREAS, to facilitate such discussions, HICO and _____ (each, in such instance, the “*Disclosing Party*”) may disclose to one another (each, in such instance, the “*Receiving Party*”) confidential and proprietary information regarding the Disclosing Party’s business; and

WHEREAS, HICO and _____ are entering into this Agreement to define their respective rights and obligations with respect to any confidential and proprietary information exchanged between them.

NOW THEREFORE, in consideration of the premises hereof and following covenants and agreements, and intending to be legally bound hereby, HICO and _____ hereby agree as follows:

1. Confidential Information. “*Confidential Information*” as used in this Agreement means all information regarding a Disclosing Party’s business disclosed or made available to a Receiving Party by a Disclosing Party, or otherwise acquired by Receiving Party, in connection with the Purpose of this Agreement, including, without limitation, any information relating to a Disclosing Party’s business, products, technology, data, engineering data or drawings, software (including all algorithms, methods, techniques and processes revealed by such software), customers, customer lists, customer needs and requirements, documentation, training materials, vendors, intellectual property, marketing, financial, projections, trade secrets, proprietary information or other information, whether in electronic, oral or written form, and all notes, analyses, compilations, studies or other documents prepared by the Receiving Party which contain or reflect such information. The existence of the Purpose of this Agreement, this Agreement and the terms contained herein shall be deemed to be Confidential Information under this Agreement. Confidential Information does not include information that (a) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party, (b) was in the Receiving Party’s possession free from any obligation of confidence at the time it was communicated to the Receiving Party by the Disclosing Party, (c) becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party, provided that such source is not prohibited from transmitting such information by a contractual, legal, or other obligation, or (d) it was developed by employees or agents of the Receiving Party independently of and without reference to any information communicated to the Receiving Party by the Disclosing Party.

2. Non-Use; Protection and Dissemination of Confidential Information. Each party hereto agrees not to use the Confidential Information received by such party as a Receiving Party other than for the Purpose of this Agreement. Each party hereto shall: (a) not disclose the Confidential Information of the other party hereto to any other party and will use best efforts to protect the confidentiality of such information, (b) not use the Confidential Information except for the Purpose of this Agreement, and (c) not

reproduce, copy or photograph any document or other medium which contains Confidential Information, without the prior written approval of the Disclosing Party; provided, however, that each party hereto may furnish the other's Confidential Information to those employees or representatives of such party who need to have access to such Confidential Information to assist such party in achieving the Purpose of this Agreement. As a condition to such disclosure, the Receiving Party must inform its employees and representatives of the confidential nature of the Confidential Information and the terms of this Agreement and each representative of a Receiving Party that receives Confidential Information must agree in writing to be bound by the terms of this Agreement as is the Receiving Party. Each party hereto is responsible for any breach of this Agreement by its employees and representatives. The Receiving Party agrees to promptly advise the Disclosing Party in writing upon learning of any unauthorized use or disclosure of the Confidential Information.

3. Ownership and Return. All Confidential Information is and will remain the exclusive property of Disclosing Party, and no right or license is granted to Receiving Party with respect to any Confidential Information. Upon the termination by either party of discussions concerning the Purpose of this Agreement, or sooner if so requested by the Disclosing Party, the Receiving Party will return to the Disclosing Party or destroy all Confidential Information, including all copies of the same. Upon request, the fact of any such destruction must be certified in writing to the Disclosing Party by an officer of the Receiving Party. Nothing in this Agreement obligates either party hereto to disclose any information to the other or creates any agency or partnership relation between them.

5. Compelled Disclosure. If either party hereto, as Receiving Party, is requested or required by legal or administrative process to disclose any Confidential Information of the Disclosing Party, such Receiving Party will promptly notify the Disclosing Party of such request or requirement so that such Disclosing Party may seek an appropriate protective order or other relief. In any case, such Receiving Party will (a) disclose only that portion of the Confidential Information which the Receiving Party's legal counsel advises is required to be disclosed, (b) use best efforts to ensure that such Confidential Information is treated confidentially, and (c) notify such Disclosing Party as soon as reasonably practicable of the items of Confidential Information so disclosed.

6. No Warranty. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS." NEITHER PARTY HERETO MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE.

7. Remedies. Each party hereto acknowledges that remedies at law may be inadequate to protect the other party against any actual or threatened breach of this Agreement, and, without prejudice to any other rights and remedies otherwise available to the parties hereto, agrees to the granting of injunctive relief in favor of the other without proof of irreparable harm or the posting of any bond. In the event of litigation commenced by a party to enforce this Agreement, the primarily prevailing party will be entitled to recover its costs and expenses in such litigation, including attorneys' fees and expenses.

8. Transaction. Both parties agree that unless and until final, written definitive agreements regarding a specific transaction between the parties have been executed and delivered, neither party will be under any legal obligation of any kind whatsoever to extend or expand the relationship beyond the Purpose of this Agreement, except for the matters specifically agreed to herein.

9. Term and Termination. This Agreement shall be effective as of the Effective Date and shall govern all communications of Confidential Information between the parties until terminated by either party; provided, however, the obligations of confidentiality and non-disclosure with respect to Confidential Information shall continue beyond termination until: (a) such time as the Confidential Information is no

longer deemed to be Confidential Information as more fully set forth in Section 1 of this Agreement or (b) upon the written consent of the Disclosing Party that the obligations of confidentiality and non-disclosure have ended.

10. Miscellaneous. This Agreement will inure to the benefit of and be binding upon the parties' respective successors and permitted assigns. Neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Both parties agree not to issue or release any articles, advertising, publicity or other matter relating to the existence of this Agreement or any Confidential Information (including the fact that a meeting or discussion has taken place between the parties) or mentioning or implying the name of the other party, except as may be required by law and then only after providing the other party with an opportunity to review and comment thereon. In the event that any one of the provisions contained in this Agreement is found to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the validity, legality or enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired by such a finding. No waiver of any provisions of this Agreement will be valid unless the same is in writing and signed by the party against whom such waiver is sought. A waiver or consent given by either party on any one occasion is effective only in that instance and will not be construed as a bar to or waiver of any right on any other occasion. This Agreement contains the entire agreement of the parties, supersedes any and all prior agreements, written or oral, between them relating to the subject matter hereof, and may not be amended unless agreed to in writing by each party. The rights and obligations of the parties under this Agreement are in addition to, not in lieu of, all rights and obligations under applicable statutory and common law with respect to the other's Confidential Information. This Agreement is governed by and interpreted in accordance with the laws of the Commonwealth of Pennsylvania (without regard to its conflict of laws provisions).

[INTENTIONALLY LEFT BLANK – NEXT PAGE IS SIGNATURE PAGE]

IN WITNESS WHEREOF, the parties have executed this Mutual Confidentiality & Non-Disclosure Agreement as of the date first written above.

HICO America Sales & Technology, Inc.

By: _____

Name: _____

Title: _____

[NAME]

By: _____

Name: _____

Title: _____