

Goodwin Procter LLP

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Jon Herzog, Partner, Boston – jherzog@goodwinlaw.com; 617-570-1109

Steve Lee, Partner, Los Angeles – stephenlee@goodwinlaw.com; 213-289-7710

Andy Lock, Partner, Boston – alock@goodwinlaw.com; 617-570-1162

Peter Hanoian, Partner, Boston – phanoian@goodwinlaw.com; 617-570-3965

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[_____, 2016]

Sent Via Email

[NAME AND ADDRESS OF RECIPIENT]

Dear [_____]:

As you know from our previous discussions, [_____] LLC (“[_____]”) is in negotiations with respect to a potential transaction (the “**Transaction**”) with [_____] (the “**Company**”). You have agreed to use your contacts to attempt to find a financing partner either for [_____] or the Company in connection with the Transaction. In connection such efforts and your evaluation of the Transaction, [_____] has agreed to furnish to you in connection with the Transaction certain information and materials regarding the Company and its business and activities, some of which may be of a confidential nature. This letter confirms your agreement with respect to your treatment of such Confidential Information (as defined below) of the Company.

For purposes of this letter, the term “[**Confidential Information**]” shall have the meaning set forth in the confidentiality agreement between [_____] and the Company dated as of [_____] __, 201[] (the “**Confidentiality Agreement**”) but shall be limited to such Confidential Information provided to you by (or on behalf of) [_____] in connection with the Transaction and shall include, without limitation, any information and materials with respect to the business operation, finances and plans of the Company, which are disclosed or otherwise made available to you in writing or disclosed to you orally provided to you by (or on behalf of) [_____] in connection with the Transaction.

You agree to use the Confidential Information solely for the purpose of evaluating the Transaction and not to use it or make it available to anyone for any other purpose, except as provided herein. You further agree to maintain the confidentiality of the Confidential Information and, unless permitted hereunder, not to disclose it to anyone without the Company’s written consent, except for (a) disclosures to your affiliates, agents, officers, employees and advisors (collectively, “**Representatives**”) having a need to know such Confidential Information in connection with your evaluation of such Transaction (it being understood that you will advise your Representatives of the confidential nature of such Confidential Information and shall instruct them to treat such Confidential Information confidentially and be responsible for their maintenance of the confidentiality thereof), (b) disclosures which may be required by law, regulation or legal, governmental or regulatory process. In the event that you or any of your Representatives are required to disclose any Confidential Information by law, regulation or legal, governmental or regulatory process, you will, to the extent practicable, provide [_____] with prompt written notice of such disclosure, except as prohibited by law, regulation or legal, governmental or regulatory process or (c) disclosures to potential investors in connection with their evaluation of the Transaction; provided that each such potential investor is approved in advance by [_____] and executes a joinder to the Confidentiality Agreement and a customary non-circumvention agreement. If there exists a conflict between the terms of the Confidentiality Agreement and the terms hereof, the terms hereof shall govern.

You shall upon written request of [_____] return to [_____] or destroy in accordance with the Confidentiality Agreement all Confidential Information of the Company in your possession and all copies thereof and any other written and electronic material in your possession which embodies any Confidential Information of the Company, and upon [_____]’s written request, certify in writing the return or destruction of all such Confidential Information and embodiments. You shall not retain any copies, extracts or other reproductions in whole or in part of such materials.

In consideration of the order to maintain the goodwill created between [_____] and the Company, you hereby agree that you shall not seek to circumvent or bypass or join with the Company or its representatives, directors, officers, employees, attorneys, advisors, affiliates, stockholders, partners or members in circumventing or bypassing [_____] in connection with any transaction involving the equity or assets of the Company. You further agree to not directly or indirectly transact, or otherwise be involved with any potential investor or its representatives, directors, officers, employees, attorneys, advisors, affiliates, stockholders, partners or members in circumventing or bypassing [_____] in completion of the Project.

The terms and provisions of this letter are solely for the benefit of [_____] and no other person, party or entity shall have rights as a third party beneficiary of any of such terms and provisions. Except with regards to maintaining the confidential nature of the Confidential Information provided to you, you shall not be bound by any of the other terms or conditions of the Confidentiality Agreement.

This letter shall be governed by and construed in accordance with the laws of the State of [Match NDA] (without regard to conflict of laws or principles). THE PARTIES HERETO WAIVE THEIR RIGHTS TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING UNDER OR PURSUANT TO THIS LETTER. BY ITS EXECUTION HEREOF THE PARTIES HEREBY SUBMIT TO THE JURISDICTION OF THE COURTS OF THE STATE OF [_____] AND FEDERAL COURTS SITTING IN [_____] IN ANY ACTION, MATTER OR PROCEEDING RELATING HERETO.

Your agreements hereunder shall terminate on the date occurring [MATCH OR EXCEED NDA] from the date hereof and, thereafter, this letter shall have no further force or effect.

[Remainder of page intentionally left blank]

Please confirm your receipt and acceptance of this letter by signing in the space indicated below and returning the signed copy to the undersigned.

Very truly yours,

[____], LLC

By: _____

Name:

Title:

Accepted and agreed to:

[_____]
