

Please Fax to 414-755-1440
Mutual Non-Disclosure Agreement

This Non-disclosure and Non-circumvent Agreement ("Agreement") is effective as of _____, 2009 between _____, ("Prospect") and, New Commerce Communications, Inc. ("NCC"), a Florida corporation, (collectively, "the Parties").

BACKGROUND

NCC is a business brokerage firm and represents owners of businesses ("Seller"). The intent of this agreement is to allow NCC to provide confidential Seller information to potential buyers "Prospects".

MUTUAL NONDISCLOSURE AGREEMENT

The Parties have agreed to explore a possible transaction and/or relationship (the "Transaction") involving a company or firm represented by NCC. In connection with the Transaction, the Parties have agreed to exchange information (which may be provided orally, in writing or in any other form or media) concerning the Seller and Prospects business and the Transaction from owners, employees, professionals, related individuals and/or agents of each party including Seller (hereinafter "Confidential Information"). The party providing any Confidential Information to the other party is referred to herein as the "Provider", and the party receiving any Confidential Information from the other party is referred to herein as the "Recipient", which may include information regarding the firm represented by NCC.

TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained in this Agreement, including Provider furnishing Recipient with Confidential Information, and the Parties intending to be legally bound hereby, agree as follows:

1. As used herein, "Confidential Information" means any and all technical or business information relating to the Transaction, furnished orally, in writing or in any tangible or intangible form or medium, or disclosed by Provider to Recipient including, but not limited to, customer or vendor lists, pricing or cost information, product/service specifications, prototypes, computer programs, models, photographs, drawings, marketing plans, business plans, financial data, and personnel statistics, which are related to Provider or the Transaction. Failure to mark or designate any information as confidential or proprietary will not affect its status as Confidential Information under this Agreement.
2. The term "Confidential Information" does not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by Recipient or its representatives, (ii) was rightfully within Recipient's possession prior to its being furnished by or on behalf of Discloser pursuant hereto or is disclosed to Recipient by another party without obligation of confidentiality, (iii) becomes available to Recipient on a non-confidential basis from a source other than the Discloser, or (iv) is developed independently by Recipient. Recipient's obligations shall only extend to Confidential Information that is clearly marked as confidential at the time disclosed or, if orally disclosed, is orally identified as confidential at the time disclosed.
3. Recipient will hold the Confidential Information in confidence and protect it in accordance with the security measures by which it protects its own proprietary and/or Confidential Information for which it does not wish to disclose, except that Recipient will use at least a reasonable degree of care. Recipient will use the Confidential Information received from Provider solely for the purpose of the Transaction and such information will be kept confidential by Recipient, except that Recipient may disclose Provider's Confidential Information, or portions thereof, to its Representatives or to the Representatives of affiliated companies controlled by, in control of or under common control with Recipient or, in the case of NCC, the firms it represents who need to know such information for the purpose of the Transaction and who are bound by obligations of confidentiality substantially similar to those imposed by this Agreement. Prior to disclosing the Confidential Information or any portion thereof to such Representatives, or firm represented by NCC, Recipient will inform its Representatives of the confidential nature of the Confidential Information and their duty to treat such Confidential Information in accordance with this Agreement. Each party will be responsible for the breach of this Agreement by any person to whom it has delivered Confidential Information.

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4. If Recipient or any of its Representatives become legally compelled by law, regulation, rule, or by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process, or is advised by legal counsel to disclose any of the Confidential Information, Recipient will use reasonable efforts to provide Provider with prompt notice of such requirement or advice prior to disclosure so that Provider may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Agreement. Recipient will furnish only that portion of the Confidential Information which it is legally required to so furnish and use reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information.
5. Upon written request by Provider, Recipient will return to Provider within ten (10) business days all copies of Confidential Information in tangible form received from Provider in its or its Representatives' possession or certify within such period that it and its Representatives have destroyed such information.
6. Neither this Agreement nor the disclosure by Provider of the Confidential Information or other information to Recipient will result in any obligation on the part of either party to enter into any further agreement with the other with respect to the subject matter hereof or otherwise, to purchase any products or services from the other or to require either party to disclose any particular information to the other. Nothing in this Agreement will imply any partnership or joint Transaction between the Parties or be construed as making either party the agent of the other.
7. Prospect agrees to conduct all initial inquiries through NCC. At such time Seller demonstrates interest in the Transaction and additional due-diligence information is required, NCC will permit direct communication between Prospect and Seller, such approval will be in writing and will not be unreasonably withheld.. Prospect agrees to address and submit all Offers, Letters of Intent or counter offers ("Offers") directly to NCC.
8. Prospect represents and warrants to NCC and Seller that its' sole intent is to purchase a business and not for purposes of obtaining for its own use confidential information regarding the Seller for purposes other than the potential purchase. Prospect does not represent any third party.
9. NCC routinely has agreements with Internet businesses to represent such firms in the sale of the company or business assets. As such NCC has fee agreements with such Sellers. Prospect agrees that if it enters into an agreement to invest in or purchase such company, that Prospect will not circumvent NCC from receiving such fees due under a representation agreement between Seller and NCC.
10. Prospect agrees that no attempt will be made to recruit or hire Seller's employees. Prospect agrees not to utilize for its own gain any confidential information gained about the Business that would damage Seller.
11. Prospect acknowledges that all information and materials on each business opportunity provided by NCC has been provided to NCC by Seller and no representation is made by NCC as to its accuracy, and NCC makes no warranty, or guarantee, expressed or implied, as to the accuracy of such information. NCC encourages Prospect to review and independently verify the data provided by Seller. Information received by NCC and presented to Prospect have not been independently verified. NCC is not a CPA firm or a law firm and is not providing any accounting or legal services.
12. NCC is not an agent for Prospect, but is an agent for the Seller and has a contract providing a fee to be paid to NCC by Seller upon sale, trade, lease, or transfer of the Seller's business or property. Unless specifically agreed upon in writing, Prospect is not responsible for the fee to the Broker if Prospect purchases the business through NCC.
13. In the event of any breach or threatened breach of the provisions of this Agreement, the non-breaching party may seek equitable relief, including injunctions available by law.
14. Upon ten (10) business days written notice, either party may notify the other that it no longer wishes to receive or provide Confidential Information. Any information received or provided by either party thereafter will not be subject to the protection of this Agreement.
15. This Agreement will expire the latter of two (2) years from the date hereof, or, one (1) year from the date of the last Confidential Information disclosed by either Party. Notwithstanding anything herein to the contrary, the obligation of the parties not to disclose Confidential Information provided to them hereunder will survive the expiration or termination of this Agreement.

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16. Neither this Agreement nor any rights hereunder in whole or in part are assignable or otherwise transferable by either party without the prior written consent of the other party.
17. This Agreement constitutes the entire understanding between Prospect and NCC as to the Confidential Information provided in connection with the Transaction and merges all prior and contemporaneous discussions and agreements between them relating thereto.
18. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which when taken together will constitute one and the same instrument.
19. This Agreement will be binding upon each party and its successors and assigns, and will inure to the benefit of, and be enforceable by, each party and its successors and assigns.
20. The Parties shall endeavor to settle all disputes by amicable negotiations. Any claim, dispute, disagreement or controversy that arises among the parties relating to this Agreement ("Disputed Matter") that is not amicably settled shall be resolved through binding arbitration conducted in Lee County Florida. An independent arbitrator mutually agreed upon or a third arbitrator chosen by an arbitrator appointed by each party shall conduct such arbitration. The decision will be binding. Whenever possible such arbitration administered by the in accordance with the Expedited Procedures of the Commercial Arbitration Rules of the American Arbitration Association (the "AAA Rules"). Each party to such arbitration proceeding shall bear its respective costs, fees and expenses in connection with such arbitration.

SIGNATURES

Each party has caused this Agreement to be executed on its behalf by an authorized individual as of the date set forth above.

Company

Signature: _____

Name: _____

Title: _____

Full Address and contact information required.

Telephone: _____

Fax: _____

e-mail: _____

Mobile: _____

Company URL: www._____

New Commerce Communications, Inc.

Signature: _____

Name: Thomas E. Millitzer

Title: President

190 Shadroe Cove Circle #704

Cape Coral, FL 33991

Telephone: 239-282-5550

Cell: 239-938-6566

Fax: 414-755-1440

tom@com-broker.com

Please provide all requested information and print clearly.