

## NONDISCLOSURE AND NON-CIRCUMVENTION AGREEMENT

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This Nondisclosure and Non-Circumvention Agreement entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2018 (the "Agreement"), is made by and between VR Eng, Inc., a New York corporation ("Disclosing Party"), and \_\_\_\_\_ ("Recipient").

WHEREAS, the Disclosing Party possesses certain confidential and proprietary information relating to oil refinery construction and supply (the "Business Opportunity"); and

WHEREAS, it is the desire of the parties to explore the possibility of working together in some capacity to advance the business of the Disclosing Party;

WHEREAS, it is necessary for the Disclosing Party to furnish certain information to Recipient which is non-public, confidential and/or proprietary in nature to enable the parties to explore the possibility of working together (the "Potential Transaction");

Now, therefore, Recipient hereby confirms its desire to examine Disclosing Party's confidential and proprietary information for the purpose of evaluating the Business Opportunity (the "Evaluation") and, in consideration of being furnished with such information, agrees as follows:

### 1. NON-DISCLOSURE AND RESTRICTIONS ON USE OF INFORMATION.

(a) Information. For purposes of this Agreement, "Information" shall mean, without limitation, the identity of the Business Opportunity, all intellectual property, strategic information, financial statements or projections, business plans, prototypes, drawings, data, trade secrets, business records, customer lists, supplier agreements, partnership or joint venture agreements, license agreements, marketing plans, employee lists, policies and procedures, information relating to processes, technologies or theory and any or all other information which may be disclosed by the Disclosing Party to the Recipient in accordance with this Agreement.

(b) Non-Disclosure of Information. The Recipient acknowledges the competitive value and confidential nature of the Information and the damages that would result to the Disclosing Party if any such information were disclosed, therefore the Information will be kept confidential and shall not be disclosed by the Recipient in any manner whatsoever, in whole or in part, except that:

i. the Recipient may disclose the Information to its directors, officers, employees, agents, and legal and financial advisers (collectively, its "Agents") solely for the purposes of the Evaluation; provided the Recipient shall transmit the Information only to Agents who need to know the Information in connection with the Evaluation; and provided, further, Recipient shall notify each of the Agents that the Information is to be held by them in confidence and not disclosed to others, or permit others to use for their benefit or to the detriment of the Disclosing Party, any of the Information; and

ii. the Recipient shall have no non-disclosure obligation hereunder with respect to any

Information which (A) has been legally made public, other than by acts of the Recipient or its Agents in violation of this Agreement or (B) was or becomes independently known or available to the Recipient, on a non-confidential basis, from a source other than the Disclosing Party and which is not subject to any restrictions or disclosure.

Recipient shall use the same degree of care to avoid disclosure of the Information as it employs with respect to its own information which it does not desire to disclose, but at all times shall use at least reasonable care.

(c) Restrictions on Use/Non-Circumvention. Recipient shall not use the Information, directly or indirectly, for any purpose other than Recipient's Evaluation of the Business Opportunity, and such permitted use shall absolutely cease if and when the Disclosing Party has notified the Recipient that it no longer considers the Recipient a candidate for the Potential Transaction. Without limiting the generality of the foregoing: (i) except as provided in paragraph 3, the Recipient shall not use the Information in any judicial or administrative proceeding, and (ii) the Recipient shall not use any of the Information to perform, manufacture, distribute, deliver, use or sell products or services embodying any such information, or otherwise compete with, circumvent, or act to the detriment of the Disclosing Party.

(d) Loss or Misuse of the Information. The Recipient shall keep a record of the location of the Information and shall notify the Disclosing Party promptly of any loss, misuse or misappropriation of the Information. The Recipient hereby agrees to indemnify Disclosing Party against all losses, damages, claims or expenses (including attorneys' fees) incurred or suffered by Disclosing Party as a result of Recipient's breach of this Agreement.

(e) Title to and Return of the Information. Recipient agrees that no license, either expressed or implied, is hereby created or granted to Recipient by Disclosing Party to use any of the Information other than solely for the purpose of the Evaluation of the Business Opportunity. Title to the Information shall remain in the Disclosing Party, and in the event a Potential Transaction is not consummated, the Information (and all copies, summaries, and notes of the contents thereof) shall be returned to the Disclosing Party by the Recipient in accordance with the Disclosing Party's instructions.

## **2. TERM OF AGREEMENT.**

The obligations of this Agreement shall survive one (1) year. Either party may terminate this Agreement at any time upon written notice to the other party. Termination shall not affect confidentiality obligations with respect to any Information which were obtained prior to the effective date of termination.

## **3. RESPONSE TO LEGAL PROCESS.**

In the event Recipient (or anyone to whom it transmits the Information, whether or not in compliance with this Agreement) is requested, pursuant to subpoena or other legal process, to disclose any of the Information, Recipient shall provide Disclosing Party with immediate notice so that Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that such protective order or

other remedy is not obtained, or Disclosing Party waives compliance with the provisions of this Agreement, Recipient (or such other person) shall furnish only that portion of the Information which is legally required and shall exercise its best efforts to obtain a protective order or other assurance satisfactory in form and substance to Disclosing Party that confidential treatment will be accorded the Information in accordance with this Agreement.

#### **4. DISCLAIMER OF ACCURACY OF INFORMATION.**

Although the Disclosing Party has endeavored to include in the Information such information known to it which it believes to be relevant for the purpose of the Evaluation, the Recipient understands that neither the Disclosing Party nor any of its representatives or advisors has made or herein makes any representation or warranty as to the accuracy or completeness of the Information.

#### **5. REMEDIES.**

The parties agree that the disclosure of the Information by Recipient in violation of this Agreement may cause irreparable harm, the amount of which would be impossible to ascertain, and that there is no adequate remedy at law for any breach by Recipient of this Agreement. Therefore, in addition to any other rights and remedies it may have, Disclosing Party shall have available, in addition to any other available right or remedy, the right to obtain an injunction from a court of competent jurisdiction restraining such breach or threatened breach and to specific performance of any provision of this Agreement. Recipient further agrees that no bond or other security shall be required in obtaining such equitable relief and consents to the issuance of such injunction and to the ordering of specific performance.

#### **6. ASSIGNMENT.**

Recipient shall not have the right to assign its rights under this Agreement, expressly or by operation of law. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto.

#### **7. GOVERNING LAW.**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York and shall be exclusively brought and litigated in the federal and state courts of New York.

#### **8. SEVERABILITY.**

The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of the remainder of this Agreement or any other provision hereof.

#### **9. MODIFICATION; WAIVER.**

No oral modifications shall be effective, and no delay or failure on the part of either party to insist on compliance with any provision hereof shall constitute a waiver of such party's

right to enforce such provision.

**10. INTEGRATION.**

This Agreement may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of such taken together shall constitute only one Agreement, superseding all prior understandings, oral or written; and it is expressly understood and that this Agreement does not obligate either party to enter into any other or further agreements. This document may be signed electronically.

**11. ATTORNEYS' FEES.**

In the event litigation shall be instituted to enforce any provision of this Agreement, the prevailing party in such litigation shall be entitled to recover reasonable attorneys' fees and expenses incurred in such litigation in addition to any other recovery to which such party may be legally entitled.

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

**DISCLOSING PARTY**

VR Eng, Inc

By: \_\_\_\_\_

Name:

Title:

Address:

**RECIPIENT**

\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

Address: