

MUTUAL NON-DISCLOSURE AGREEMENT

THIS MUTUAL NON-DISCLOSURE AGREEMENT (the “*Agreement*”) is entered into between Arctic Sand Technologies, Inc. (“*Company*”) and the other undersigned party (“*Other Party*”) as of the later of the two dates written in signatures below (the “*Effective Date*”), to protect the confidentiality of certain confidential information of Company or of Other Party to be disclosed under this Agreement solely for the purpose described below the signatures to this Agreement (the “*Permitted Use*”). Company and Other Party may be referred to herein individually as a “*Party*” and collectively as the “*Parties*”.

1. As used herein, the “*Confidential Information*” of a Party shall mean, subject to Section 2, any and all technical and non-technical information disclosed by such Party (the “*Disclosing Party*”) to the other Party (the “*Receiving Party*”), which may include without limitation: (a) patent and patent applications, (b) trade secrets, and (c) proprietary and confidential information, including any information a Party has received from others that may be made known to the other Party and which a Party is obligated to treat as confidential or proprietary, any mask works, ideas, techniques, sketches, drawings, works of authorship, models, inventions, know-how, processes, apparatuses, equipment, algorithms, software programs, software source documents, and formulae related to the current, future, and proposed products and services of each of the parties, such as information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, customer lists, investors, employees, business and contractual relationships, business forecasts, sales and merchandising, marketing plans and information.

2. If the Confidential Information is embodied in tangible material (such as documents, drawings, pictures, graphics, software, hardware, graphs, charts, or disks), it shall be labeled as “Confidential” or bear a similar legend. If the Confidential Information is disclosed orally or visually, it shall be identified as such at the time of disclosure and be confirmed in a writing to the receiving party within thirty (30) days of such disclosure, referencing the place and date of oral or visual disclosure and the names of the employees of the receiving party to whom such oral or visual disclosure was made, and including therein a brief description of the Confidential Information disclosed.

3. Subject to Section 4, each Party agrees that at all times and notwithstanding any termination or expiration of this Agreement it will hold in strict confidence and not disclose to any third party any Confidential Information of the other Party, except as approved in writing by the other party to this Agreement, and will use the Confidential Information of the other Party for no purpose other than the Permitted Use. Furthermore, neither Party may disclose the existence of any negotiations, discussions or consultations in progress between the Parties to any person, firm or business or to any form of public media without the prior written approval of the other Party. The Receiving Party shall treat all of the Disclosing Party’s Confidential Information with the same degree of care as the Receiving Party accords to the Receiving Party’s own Confidential Information, but not less than reasonable care. Each party shall only permit access to Confidential Information of the other party to those of its employees or authorized representatives having a need to know to assist the Receiving Party with respect to the Permitted Use, and who have signed confidentiality agreements or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein.

4. A Receiving Party shall not have any obligations under this Agreement with respect to a specific portion of the Confidential Information of the Disclosing Party if such Receiving Party can demonstrate with competent evidence that such Confidential Information:

- (a) was in the public domain at the time it was disclosed to the Receiving Party;
- (b) entered the public domain subsequent to the time it was disclosed to the Receiving Party, through no fault of the Receiving Party;
- (c) was in the Receiving Party's possession free of any obligation of confidence at the time it was disclosed to Receiving Party;
- (d) was rightfully communicated to the Receiving Party free of any obligation of confidence subsequent to the time it was disclosed to the Receiving Party; or
- (e) it was developed by employees or agents of the Receiving Party independently of and without reference to any information communicated to the Recipient by the other party; or
- (f) it was communicated by the Disclosing Party to an unaffiliated third party free of any obligation of confidence.

5. Notwithstanding the above, a Receiving Party may disclose certain Confidential Information of the Disclosing Party, without violating the obligations of this Agreement, (a) in response to a valid order by a court or other governmental body; (b) as otherwise required by law; or (c) necessary to establish the rights of either Party under this Agreement, *provided that* the Receiving Party provides the Disclosing Party with reasonable prior written notice of such disclosure and makes a reasonable effort to obtain, or to assist the Disclosing Party in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the Confidential Information so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

6. The Receiving Party shall immediately notify the Disclosing Party upon discovery of any loss or unauthorized disclosure of the Confidential Information of the Disclosing Party. The Receiving Party shall assist the Disclosing Party in remedying the unauthorized use or disclosure of the Disclosing Party's Confidential Information.

7. Upon termination or expiration of the Agreement, or upon written request of the other Party, each Party shall promptly return to the other or destroy all documents and other tangible materials representing the other Party's Confidential Information and all copies thereof.

8. All of the Disclosing Party's Confidential Information, and any Derivatives (defined below) thereof, whether created by the Disclosing Party or Receiving Party, are the property of the Disclosing Party and no license or other rights to the Disclosing Party's Confidential Information or Derivatives is granted or implied hereby. For purposes of this Agreement, "Derivatives" shall mean: (a) for copyrightable or copyrighted material, any translation, abridgment, revision or other form in which an existing work may be recast, transformed or adapted; (b) for patentable or patented material, any improvement thereon; and (c) for material that is protected by trade secret, any new material derived from the existing trade secret material, including new material which may be protected under copyright, patent and/or trade secret laws.

The Receiving Party hereby does and agrees to irrevocably assign to the Disclosing Party all of the Receiving Party's rights, title and interest in and to the Derivatives. All materials (including, without limitation, documents, drawings, papers, diskettes, tapes, models, apparatus, sketches, designs and lists) furnished by the Disclosing Party to the Receiving Party (whether or not they contain or disclose the Disclosing Party's Confidential Information) are the property of the Disclosing Party.

9. Each Party shall not reproduce the Confidential Information of the other Party in any form except as required to accomplish the intent of this Agreement. Any reproduction by a Party of any Confidential Information of the other Party shall remain the property of the Disclosing Party and shall contain any and all confidential or proprietary notices or legends which appear on the original, unless otherwise authorized in writing by the other Party.

10. The Receiving Party may currently or in the future be developing information internally, or receiving information from other parties that may be similar to the Disclosing Party's Confidential Information. Accordingly, nothing in this Agreement will be construed as a representation or inference that the Receiving Party will not develop or have developed products or services, that, without violation of this Agreement, might compete with the products or systems contemplated by the Disclosing Party's Confidential Information

11. All Confidential Information is provided by the Disclosing Party "AS IS" and without any warranty, express, implied or otherwise, regarding the Confidential Information's completeness, accuracy or performance.

12. This Agreement shall terminate one (1) year after the Effective Date, or may be terminated by either Party at any time upon thirty (30) days written notice to the other Party; provided, however, that a Receiving Party's obligations under Section 3 regarding non-use and non-disclosure will continue in perpetuity with respect to the Disclosing Party's Confidential Information that the Recipient has previously received until the obligations no longer apply pursuant to Section 4.

13. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without reference to conflict of laws principles. This Agreement may not be amended except by a writing signed by both parties hereto.

14. Each Party acknowledges that its breach of the Agreement may cause irreparable damage to the other Party and hereby agrees that the other Party shall be entitled to seek injunctive relief and/or a decree for specific performance under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction.

15. If any provision of this Agreement is found by a proper authority to be unenforceable or invalid such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole and in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

16. Neither Party shall communicate any information to the other in violation of the proprietary rights of any third party.

17. Neither Party will assign or transfer any rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. All assignments and delegations in violation of the foregoing are void.

18. Neither party shall export, directly or indirectly, any technical data acquired from the other pursuant to this Agreement or any product utilizing any such data to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval.

19. All notices or reports permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery, electronic mail, facsimile transmission or by certified or registered mail, return receipt requested, and shall be deemed given upon personal delivery, five (5) days after deposit in the mail, or upon acknowledgment of receipt of electronic transmission. Notices shall be sent to the addresses set forth at the end of this Agreement or such other address as either party may specify in writing.

20. If a Party waives any term, provision or a party's breach of this Agreement, such waiver shall not be effective unless it is in writing and signed by the Party against whom such waiver is asserted. No waiver by a Party of a breach of this Agreement by the other Party shall constitute a waiver of any other or subsequent breach by such other Party.

21. This Agreement constitutes the final and exclusive agreement between the Parties with respect to the treatment of Confidential Information disclosed hereunder. It supersedes all agreements, whether prior or contemporaneous, written or oral, concerning the treatment of the Confidential Information.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Mutual Non-Disclosure Agreement to be executed as of the Effective Date.

ARCTIC SAND TECHNOLOGIES, INC.

COMPANY NAME

By: _____
Name: Gary Davison
Title: CEO

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

Address: 25 Burlington Mall Road
Suite 416
Burlington, MA 01803

Address: _____

Permitted Use: _____
