

# MUTUAL NON-DISCLOSURE AGREEMENT

This Non-Disclosure and Confidentiality Agreement (the "**Agreement**") is entered into as of the ..... day of ..... (the "**Effective Date**"), between **MIP Inc.**, a company duly organized and existing under the laws of Canada and having its registered office at 9300 rue du Parcours, Anjou, Québec, Canada H1J 2Z1 (hereinafter referred to as "**MIP**"), and ....., a company having its registered office located at ..... (each of which may be referred to herein as the "**Disclosing Party**" and/or the "**Recipient**", as the case may be) (hereinafter individually called "**Party**" and collectively "**Parties**").

WHEREAS the Parties are exploring the possibility of doing business together and for .....(the "**Authorized Purpose**"), the Parties wish to share certain Confidential Information (as such term is defined below).

WHEREAS the Parties agree that the following terms and conditions shall apply when the Parties will exchange Confidential Information.

**NOW THEREFORE THIS AGREEMENT WITNESS THAT** in consideration of the premises and mutual covenants contained herein and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Parties), the Parties hereto hereby covenant and agree as follows:

## 1. CONFIDENTIAL INFORMATION

(a) "**Confidential Information**" means and includes:

- (i) any information, in written, or in any other form of a proprietary or confidential nature, that the Receiving Party receives from the Disclosing Party or the Disclosing Party's Representatives with respect to its business and the Purpose;
- (ii) any other information concerning the business or affairs of the Disclosing Party, in written, or in any other form that the Receiving Party receives from the Disclosing Party, or the Disclosing Party's Representatives hereunder;
- (iii) without limiting the generality of the foregoing, includes information relating to markets, contracts, prices, products, data, inventions, developments, formulations, applications and methods of manufacture

(b) "Representative" means and includes without limitation and with respect to

either party, such party's directors, officers, members, partners, potential financing sources employees, agents, representatives, advisors (including, without limitation, attorneys, accountants, insurers, rating agencies, bankers, consultants, and financial advisors) or other professional advisor who is provided the Confidential Information by such party.

- (c) Confidential Information includes, without limiting the generality of the foregoing, information concerning the:
  - (i) business plans, including purchasing information, price lists, pricing policies, quoting procedures financial information, or other information relating to the manner in which the Disclosing Party does business;
  - (ii) discoveries, inventions, whether patentable or not, the nature and results of research and development activities, techniques, and related documents and manuals either in print or in electronic form, test data, schematics, drawings, specifications, compilations, lists and data maps; and
- (d) Confidential Information does not include:
  - (i) any information that, at the time of disclosure, is in or, after disclosure, becomes part of the public domain, other than by the breach of this Agreement by Receiving Party;
  - (ii) any information that, prior to disclosure by the Disclosing Party to the Receiving Party, was already in the possession of the Receiving Party or its Representatives or was already known by it or them;
  - (iii) any information independently developed by the Receiving Party or its Representatives without reference to the Confidential Information; and
  - (iv) any information which, subsequent to disclosure, is obtained from a third party who is not known to the Receiving Party to be in violation of any obligation of confidentiality to the Disclosing Party, as applicable with respect to that Information; and
  - (v) any information which is required by law, court order, subpoena, stock exchange or self-regulatory organization, governmental agency or regulatory body to be disclosed.

## **2. PURPOSE, TITLE AND USE**

- (a) Purpose: The Receiving Party may not use any Confidential Information

other than in connection with the Purpose or as otherwise permitted herein.

- (b) Title: Receiving Party agrees that all right, title, and interest in the Confidential Information disclosed by the Disclosing Party or the Disclosing Party's representatives, and all discoveries, inventions, techniques, developments, improvements, practices, derived or developed by the Receiving Party from the Confidential Information, are and shall always remain, the exclusive property of the Disclosing Party.
- (c) Use: The disclosure of Confidential Information by Disclosing Party to the Receiving Party is in strictest confidence and thus the Receiving Party agrees to:
  - (i) use the Confidential Information for the Purpose and shall not disclose the Confidential Information to any third party other than the Representatives of the Receiving Party who have a need to know the Confidential Information in order to accomplish the Purpose and who agree to be bound by similar confidentiality terms with the Receiving Party;
  - (ii) advise each Representative, before he or she receives access to the Confidential Information, of the obligations of the Receiving Party under this Agreement;
  - (iii) be responsible for the breach of any provision of this Agreement by any of its Representatives;
  - (iv) use at least the same degree of care to maintain the Confidential Information confidential as Receiving Party uses in maintaining its own confidential information, but always at least a commercially reasonable degree of care; and
  - (v) promptly following the written request of the Disclosing Party, destroy all materials containing any portion of the Confidential Information and confirm to the Disclosing Party the destruction of such materials, provided that, notwithstanding anything herein to the contrary, Receiving Party and its Representatives may retain one or more copies of the Confidential Information for the purpose of defending any claim related to this Agreement or any transaction related hereto or as may be required in accordance with its or their respective legal, compliance and/or automated backup archiving practices.
- (d) Judicial Disclosure: In the event the Receiving Party becomes legally required by law, court order, self-regulatory organization, or regulatory body (including, without limitation, by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process by court order of a court of competent jurisdiction, or in order to comply with

applicable requirements of any stock exchange, government department or agency or other regulatory authority, or by requirements of any securities law or regulations or other legal requirements), the Receiving Party will (i) promptly notify the Disclosing Party to the extent legally permissible and practicable of the obligation to make such disclosure and (ii) reasonably assert the confidentiality of such Confidential Information, in order to permit The Disclosing Party to seek, at its sole cost and expense, an appropriate protective order or other protective remedy. The Receiving Party shall not oppose any reasonable action by the Disclosing Party to obtain an appropriate protective order or other remedy. In the event that either such protective order or other remedy is not obtained by the Disclosing Party or the Disclosing Party waives compliance with the provisions of this Agreement, the Receiving Party will disclose only that portion of the Confidential Information which the Receiving Party is legally required or requested to disclose to the appropriate authorities.

- (e) No Copying: The Confidential Information provided by the Disclosing Party shall not be copied, reproduced or summarized in any form, or stored in a retrieval system or database, by the Receiving Party or its Representatives without the consent of the Disclosing Party, except for such copies, reproductions, summaries and storage as are strictly required for the Purpose, it being agreed, however, that such copies, reproductions, summaries and storage shall be accorded the same confidential treatment as the originals thereof.
- (f) No Disclosure to Other Persons: Without the consent of the Disclosing Party, the Receiving Party will not disclose to any person not subject to an obligation of confidentiality or fiduciary duty to the Disclosing Party that discussion or research is taking place concerning the Purpose or any of the terms, conditions or other facts with respect thereto, including the status thereof. The term "person" as used in this Agreement shall be broadly interpreted to include the media and any corporation group, individual or other entity.

### **3. BUSINESS RELATIONS AND DISCLAIMER**

- (a) Business Relations: This Agreement shall not constitute, create, give effect to, or otherwise imply a joint venture, pooling arrangement, or formal business organization of any kind, nor shall it constitute, create, give effect to, or otherwise imply an obligation or commitment on the part of either Party to submit a proposal or to perform a contract with the other Party. Neither Party will be liable to the other for any of the costs associated with the other Party's efforts in connection with this Agreement.
- (b) Disclaimer: NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE

WHATSOEVER RESULTING FROM RECEIPT OR USE OF THE CONFIDENTIAL INFORMATION BY THE RECEIVING PARTY. The Receiving Party acknowledges that the Disclosing Party is not making any express or implied representations or warranties as to the accuracy or completeness of the Confidential Information, and that the Disclosing Party expressly disclaims any and all liability that may be based on the Confidential Information. Notwithstanding anything herein to the contrary, nothing in this Agreement shall limit any rights that the Receiving Party may have pursuant to a definitive written agreement relating to the Purpose, subject to such restrictions and limitations as may be contained therein.

#### **4. TERM**

This Agreement shall take effect as of the date first noted above (the "Effective Date") and shall terminate upon the earlier of: (i) one (1) year from the Effective Date or (ii) the date of execution of a definitive agreement regarding the Purpose.

#### **5. MISCELLANEOUS**

Neither Party has an obligation under this Agreement to purchase any service or item from the other Party or negotiate or enter into any agreement or relationship.

The Parties do not intend that any agency or partnership relationship be created between them by this Agreement.

This Agreement is the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements and communications with respect to the subject matter of this Agreement.

#### **6. APPLICABLE LAW, LANGUAGE AND ENTIRE AGREEMENT**

The Agreement shall be governed by and construed in accordance with the laws of the Province of Quebec and the federal laws of Canada applicable therein and the Parties hereby irrevocably attorn to the jurisdiction of the competent courts of the district of Montreal, Province of Quebec. The Parties have agreed that the Agreement is drafted in the English language. The Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written, of the Parties. This Agreement may only be modified by way of a written instrument signed by an authorized representative of each Party.

## 7. DISCLOSURES

The Disclosing Party represents and warrants that it has the right to make the disclosures contemplated by this Agreement, and that such disclosures will not violate or infringe upon the rights of a third party.

## 8. EXECUTION

This Agreement may be signed by original or by scanned document in one or more counterparts and upon execution in counterpart by each Party to this Agreement, such counterparts together will constitute an original to this Agreement and will be legally binding upon the Parties.

**IN WITNESS WHEREOF**, each Party hereto has caused this Agreement to be duly executed as of the date first written above.

**MIP INC.**

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Isabelle Paradis  
Senior VP Supply Chain

*and*

**SUPPLIER**

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Supplier name