

NON-DISCLOSURE AGREEMENT

Cherokee Nation Businesses, L.L.C., with offices at 777 West Cherokee Street, Catoosa, OK 74015 (“CNB”) and _____ with its principal offices at _____ (“Company”), in consideration of the mutual covenants of this Non-disclosure Agreement (“Agreement”), hereby agree as follows:

1. In connection with discussions and/or negotiations between the parties regarding **potential business transactions and relationships** (“Subject Matter”), each party to this Agreement may wish to disclose its proprietary or trade secret information (“Information”) to the other party on a confidential basis. The disclosing party may consider such Information proprietary under this Agreement either because it has developed the Information internally, or because it has received the Information subject to a continuing obligation to maintain the confidentiality of the Information, or because of other reasons. The disclosing party may consider such Information as a trade secret because such Information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertained by proper means by, other persons who can obtain economic value from its disclosure or use.
2. When Information deemed to be proprietary or trade secret is furnished in a tangible form, including electronic mail, the disclosing party shall clearly mark the Information in a manner to indicate that it is considered proprietary, confidential, trade secret or otherwise subject to limited distribution as provided herein. When Information deemed to be proprietary is provided orally, including information conveyed to an answering machine, voice mail box or similar medium, the disclosing party shall, at the time of disclosure, clearly identify the Information as being proprietary or confidential or otherwise subject to limited distribution as provided herein. If the disclosing party fails to identify Information as confidential, such disclosing party may correct the omission by later notice consisting of a writing or statement, and the recipient shall only be liable for unauthorized disclosures of such Information made subsequent to said notice. In addition, the existence and terms of this Agreement, and the fact and substance of discussions and correspondence between the parties concerning goods or services, shall be deemed proprietary Information.
3. With respect to Information disclosed under this Agreement, the party receiving Information shall:
 - a. hold the Information in confidence, exercising a degree of care not less than the care used by receiving party to protect its own proprietary or confidential information that it does not wish to disclose;
 - b. restrict disclosure of the Information solely to those directors, officers, employees, affiliates, and/or agents/consultants, including either party’s ability to disclose to commercial lenders, and the Chief and Tribal Council of the Cherokee Nation, with a need to know and not disclose it to any other person;
 - c. advise those persons to whom the Information was disclosed of their obligations with respect to the Information; and,
 - d. use the Information only in connection with continuing discussions by the parties concerning the Subject Matter, except as may otherwise be mutually agreed upon in writing; and
 - e. except for the purposes of evaluating the Subject Matter, not copy or distribute such Information or knowingly allow anyone else to copy or distribute such Information, and any and all copies shall bear the same notices or legends, if any, as the originals.
4. The Information shall be deemed the property of the disclosing party and, upon request, the other party will return all Information received in tangible form (and marked proprietary or confidential) to the disclosing party or will destroy or erase if such Information is recorded on an erasable storage medium, all such

Information at the disclosing party's direction, and certify to the disclosing party the Information has been destroyed or erased. If either party loses or makes an unauthorized disclosure of the other party's Information, it shall notify such other party immediately and use reasonable efforts to retrieve the lost or wrongfully disclosed Information.

5. In the event a party or its affiliate(s) makes an unauthorized disclosure, such party shall indemnify the aggrieved party, including the aggrieved party's officers, directors, managers, agents and/or employees for any loss proximately arising from such disclosure.
6. The party to whom Information is disclosed shall have no obligation to preserve the proprietary nature of any Information which:
 - a. was previously known to such party free of any obligation to keep it confidential;
 - b. is or becomes publicly available by other than unauthorized disclosure;
 - c. is developed by or on behalf of such party independent of any Information furnished under this Agreement;
 - d. is received from a third party whose disclosure does not violate any confidentiality obligation; or
 - e. is disclosed pursuant to the requirement or request of a duly empowered governmental agency or court of competent jurisdiction to the extent such disclosure is required by a valid law, regulation or court order, and sufficient notice is given by the recipient to the disclosing party of any such requirement or request to permit the disclosing party to seek an appropriate protective order or exemption from such requirement or request, unless such notice is prohibited by said order.
7. Neither this Agreement, nor the disclosure of Information under this Agreement, nor the ongoing discussions and correspondence between the parties, shall constitute or imply a commitment or binding obligation between the parties or their respective affiliated companies, if any, regarding the Subject Matter. If, in the future, the parties elect to enter into a binding commitment regarding the Subject Matter, such commitment will be explicitly stated in a separate written agreement executed by both parties, and the parties hereby affirm that they do not intend their discussions, correspondence, and other activities to be construed as forming a contract regarding the Subject Matter or any other transaction between them without execution of such separate written agreement.
8. This Agreement may not be assigned by either party without the prior written consent of the other party, except that no consent is necessary for either party to assign this Agreement to a corporation succeeding to substantially all the assets or business of such party whether by merger, consolidation, acquisition or otherwise. This Agreement shall benefit and be binding upon the parties hereto and their respective successors and permitted assigns.
9. The parties acknowledge that they have had an adequate opportunity to review this Agreement and to consult legal counsel knowledgeable in Federal Indian Law and Cherokee Nation Law regarding the legal effect of this Agreement.
10. This Agreement shall become effective as of the date set forth below ("Effective Date"). Disclosure of Information between the parties under this Agreement may take place for a period (the "Information Disclosure Period") of one (1) year after the Effective Date. The obligations of the parties contained in Paragraphs 3 and 4 shall survive and continue beyond the expiration of the Information Disclosure Period indefinitely with regard to Information designated as a trade secret by disclosing party and for a period of two (2) years with regard to all other Information.
11. The parties acknowledge that in the event of an unauthorized disclosure, the damages incurred by a non-disclosing party may be difficult if not impossible to ascertain, and that such non-disclosing party may seek injunctive relief as well as monetary damages against a party that breaches this Agreement.

12. This Agreement constitutes the entire understanding between the parties with respect to the Subject Matter provided hereunder and supersedes all proposals and prior agreements (oral or written) between the parties relating to the confidential nature of the Information provided hereunder. No amendment or modification of this Agreement shall be valid or binding on the parties unless made in writing and executed on behalf of each party by its duly authorized representative.
13. Neither party:
- a. is responsible or liable for any business decisions made or inferences drawn by the other party in reliance on this Agreement or in reliance on actions taken or disclosures made pursuant to this Agreement;
 - b. shall be liable to or through the other hereunder for amounts representing loss of profits, loss of business, or special, indirect, consequential, or punitive damages.
14. **NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NEITHER DISCLOSING PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER WITH RESPECT TO ANY INFORMATION DISCLOSED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR AGAINST INFRINGEMENT.**
15. The parties acknowledge that this Agreement does not restrict the ability of the parties to engage in their respective businesses, nor does it limit either party's use or application of any information or knowledge acquired independently of the other without a breach of this Agreement in the course of such party's business.
16. This Agreement may be executed in one or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Facsimile signatures to this Agreement shall be deemed to be binding upon the parties.

Each party represents that it has caused this Agreement to be executed on its behalf as of the date written below by a representative empowered to bind that party with respect to the undertakings and obligations contained herein.

Executed and effective this ____ day of _____ 2012.

CHEROKEE NATION BUSINESSES, L.L.C.

(SIGNATURE)

(SIGNATURE)

(PRINT NAME)

(PRINT NAME)

(TITLE)

(TITLE)