



MUTUAL NON-DISCLOSURE AGREEMENT

Page 1 of 2

Onyx Asset Advisors, LLC

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Silicon Valley Disposition

381 Beach Road, Burlingame, CA 9410
Phone: (650) 344-3282
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This NON-DISCLOSURE AGREEMENT ("**Agreement**") is made effective as of this ____day of ____, 2017 ("Effective Date"), by and between **Onyx Asset Advisors, LLC** a company organized and existing under the laws of the State of California U.S.A. with a place of business at 535 Mission Street, Suite 1400, San Francisco, CA 94105, **Silicon Valley Disposition, Inc.** a California corporation with a place of business at 381 Beach Road, Burlingame, CA 94104 (together "ONYX-SVD") and _____, with a place of business at _____ ("**Customer**"). The Agreement protects all Confidential Information (as defined in Article 2 below) to be disclosed or made available between the parties.

1. The party disclosing confidential information shall be referred to hereunder as the "**Discloser**". The party receiving such Confidential Information hereunder shall be referred to as the "**Recipient**". Either party may be a Discloser or Recipient of Confidential Information depending on the context.

Confidential Information: Recipient understands and acknowledges that Discloser's Confidential Information consists of information and materials that are valuable and not generally known by Discloser's competitors. Recipient further understands that Confidential Information includes publicly available information and public records to the extent that such information is not generally known. Recipient also understands that Confidential Information also includes information that might be generally known but would not be known within for the specific context of the transaction. Confidential information includes the identities of individuals or businesses necessary to assist in the transaction. Customer may learn the names, telephone numbers and emails of ONYX-SVD's suppliers, buyers, sellers, consultants, and agents hereinafter called Contacts. Customer acknowledges, accepts, and agrees that the identities of the Contacts will be recognized as exclusive and valuable Contacts of ONYX-SVD and will remain so for the duration of this Agreement and will be considered Confidential Information.

2. **Purpose of Disclosure:** Whereas and Customer, for their mutual benefit may engage in discussions related to a proposed transaction which may consist of either party's confidential and proprietary information regarding their respective businesses or business activities. Each Party wishes to preserve the confidential nature of such information while engaging in these discussions.

3. **Nondisclosure:** In consideration of Discloser's disclosure of its Confidential Information to Recipient, Recipient agrees that it will treat Discloser's Confidential Information with the same degree of care and safeguards that it takes with its own Confidential Information, but in no event less than a reasonable degree of care. The Recipient shall make all such Information available only to its own employees, contractors or potential partners having a "need to know" in order to carry out their proper functions in connection with such evaluation, provided that prior to disclosure thereof to any such person or persons, the Recipient shall have informed them of the confidential nature of the information and secured their agreement to be bound by the same terms and conditions contained herein.

Unless otherwise required by law (and only then, as otherwise permitted hereunder for the disclosure of Confidential Information), neither Party shall, without the prior written consent of the other Party, disclose to any person the existence or contents of this Agreement.

Unless otherwise required by law (and only then, as otherwise permitted hereunder for the disclosure of Confidential Information), neither Party shall, without the prior written consent of the other Party, disclose to any person the existence or progress of any discussion relating to the proposed transaction, except to the extent necessary to carry out the proposed transaction.

4. **Return of Materials:** Upon Discloser's written request, Recipient shall within fifteen (15) days return or destroy all original materials provided by Discloser and any copies, notes, memoranda, excerpts or any other documents in Recipient's possession pertaining to Discloser's Confidential Information. Any destruction of materials shall be confirmed by Recipient in writing. Notwithstanding the foregoing, Recipient may retain (i) any Confidential Information necessary to comply with obligations under all applicable laws, rules, regulations or internal compliance policies and procedures, (ii) any Confidential Information they believe cannot reasonably be destroyed (and (iii) Any copies of the Confidential Information for use in connection with any dispute concerning information covered herein. Any Confidential Information that is not returned or destroyed, including, without limitation, any oral Confidential Information, shall remain subject to the confidentiality obligations set forth in this Agreement.

5. **Non-Circumvention** Customer agrees not to circumvent ONYX-SVD by selling or purchasing equipment or assets directly to or from ONYX-SVD's Contacts. In case of circumvention, Customer agrees that Customer has caused irreparable harm to ONYX-SVD by harming ONYX-SVD's business reputation and through disclosing ONYX-SVD's Confidential Information, which damages may be difficult to quantify. In case of circumvention, Customer further agrees that Customer has caused calculable damages to ONYX-SVD in the amount of the monetary value that ONYX-SVD would have received for such transaction. Customer agrees and guarantees that in the event of circumvention, Customer will pay a legal monetary penalty that is equal to the monetary economic benefits and fees ONYX-SVD should have realized in such transaction.

6. **Exclusions:** This Agreement does not apply to certain information which:

- (a) was in Recipient's possession or was known to Recipient, without any reasonably known obligation to keep it confidential before such information was disclosed to Recipient by Discloser;
- (b) is or becomes public knowledge through a source other than Recipient and through no fault of Recipient;
- (c) is independently developed by or for Recipient;
- (d) is or becomes available to Recipient from a source other than Discloser that is not known by Recipient after reasonable inquiry, to be subject to any duty owed to the Discloser to be kept confidential; or
- (e) is disclosed by Recipient with Discloser's prior written approval.

7. **Disclosure Required by Law:** In the event that Recipient is required by law, regulation, supervisory authority or other applicable judicial or governmental order to disclose any Confidential Information, to the extent permitted by law, Recipient agrees to provide Discloser with prompt notice of such request (including notice as to the extent and type of information to be disclosed) so that Discloser may seek an appropriate protective order and/or waive Recipient's compliance with the provisions of this Agreement., Recipient is advised by legal counsel to disclose the Confidential Information, Recipient may disclose only such portion of the Confidential Information to the party requiring disclosure as its counsel advises is appropriate



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8. Injunctive Relief: Notwithstanding any other provision in this Agreement, it is understood and agreed that monetary damages would not be a sufficient remedy for any breach of this Agreement and that the Discloser may be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and the Recipient further agrees to waive any requirement for the security or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Agreement, but shall be in addition to all other remedies available at law or equity to the Discloser. Should either Party prevail in any judicial action in a final non-appealable decision in connection with this Agreement, the non-prevailing Party shall be liable to the prevailing Party for the prevailing Party's reasonable attorneys' fees and other expenses. *Notwithstanding anything contained herein to the contrary, neither Discloser nor Recipient shall be responsible for any special, punitive, exemplary, consequential or indirect damages except as provided in paragraph 6, above.*

9. Term: The term of this Agreement shall be for two (2) years from the Effective Date, first above written, unless terminated earlier by the mutual written agreement of the parties.

10. No Rights Granted: Recipient understands and agrees that this Agreement does not constitute a grant or an intention or commitment to grant any right, title, license or interest in Discloser's Confidential Information to Recipient

11. Warranty: Discloser warrants that it has the right to make the disclosures under this Agreement. NEITHER PARTY MAKES ANY WARRANTY, GUARANTEE, OR REPRESENTATION, EITHER EXPRESS OR IMPLIED WITH RESPECT TO ANY OF THE CONFIDENTIAL INFORMATION DISCLOSED HEREUNDER. FURTHER, EXCEPT AS PROVIDED IN PARAGRAPH 6, ABOVE, NEITHER PARTY SHALL BE LIABLE FOR DAMAGES, OF WHATEVER KIND, AS A RESULT OF THE OTHER PARTY'S RELIANCE ON OR USE OF THE INFORMATION PROVIDED HEREUNDER.

12. Modifications: All additions or modification to this Agreement must be made in writing and must be signed by both parties to be effective.

13. No Agency: This Agreement does not create any agency or partnership relationship between the parties.

14. Applicable Law: This Agreement shall be governed by and construed per the laws of the State of Each Party and each Party agrees that it will not commence any action, litigation or proceeding of any kind, against the other Party in any way relating to this Agreement or the transactions contemplated hereby, in any forum other than the courts of the State of California sitting in San Francisco County and of the United States District Court of the District of San Francisco, Each of the Parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and judgment may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Both parties waive the right to trial by jury in any action, proceeding or claim arising out of or relating to this agreement.

15. Non-Assignment: Neither this Agreement nor any interest herein may be assigned in whole or in part by either party hereto without the prior written consent of the other party.

16. Interpretation and Construction: In the event that any provision of this Agreement is held unenforceable, the Court should interpret the Agreement to give effect to the remaining provisions in this Agreement. The parties acknowledge that they have both had the opportunity for independent legal review of this Agreement and this Agreement shall be construed as though written by both parties, and no benefit of a drafting interpretation should be given as to either party to this Agreement

17. Counterparts and Electronic Delivery: This Agreement may be executed in identical counterparts, each of which shall be deemed to constitute the Agreement when a duly authorized representative of each party has signed a counterpart. Each party agrees that the electronic delivery of this Agreement shall have the same force and effect as delivery of original signatures and that each party may use electronic signatures and photocopies of signatures as evidence of the execution and delivery of this Agreement by each party to the same extent that an original signature could be used.

The parties hereto, intending to be legally bound, have executed this Agreement as of the date first above written

Onyx Asset Advisors, LLC

By: _____
 Name: K. Kevin Otus
 Title: Managing Director
 Date: _____

Silicon Valley Disposition, Inc

By: _____
 Name: John Carroll
 Title: President
 Date: _____

(Customer) _____

By: _____
 Name: _____
 Title: _____
 Date : _____

By: _____
 Name: _____
 Title: _____
 Date: _____