CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT, dated as of ______________, is being entered into between ________________________, having its main office at ________________________, (collectively, with its Affiliates, the "Company") and KEYBANK NATIONAL ASSOCIATION, a national banking association with its principal office in Cleveland, Ohio (collectively, with the Affiliates of KeyBank, called "Key"), each of the Company and Key may be referred to herein as the "Party" or, together as the "Parties".

The term "Affiliates" shall mean any current or future corporation that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a Party hereto or that is a successor (whether by change of name, dissolution, merger, consolidation, reorganization or otherwise) to any such Party's or its business and assets. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity through the majority ownership of voting securities. It is the intention of the parties that such Affiliates: (i) shall be bound by the terms and conditions of this Agreement, (ii) be entitled to enforce this Agreement against the other Party, and (iii) be third party beneficiaries to this Agreement.

In connection with a possible business matter(s) and/or transaction(s) concerning the following: ________________________, (collectively, called the "Transaction"). The Company may request certain information regarding Key, and Key may request certain information regarding the Company, which may contain confidential and/or proprietary information about such Party and its activities. All confidential or proprietary information, whether written or oral, furnished to or made available to the Company concerning Key, and all confidential or proprietary information furnished to or made available to Key concerning the Company, and such Party's respective business activities, including without limitation, customer lists and non-public information concerning its customers, whether furnished before or after the date hereof, and regardless of the manner in which it was furnished, together with business and financial analyses, compilations, studies or other documents prepared by the Company or Key, as the case may be, or by the respective Representatives (as defined herein), which contain or otherwise reflect such confidential or proprietary information or the review of, or interest in, the Company or Key, as the case may be, is hereinafter referred to as the "Confidential Material.

The term "Representatives" of a specified entity means the directors, officers, employees, agents, attorneys, accountants, consultants or advisors of such entity or its Affiliates.

The term "Confidential Material" includes intellectual property rights. The term "Intellectual Property Rights" means any and all now known or hereafter known tangible and intangible (a) rights associated with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask-works, (b) trademark and trade name rights and similar rights, (c) trade secret rights, (d) patents, inventions, designs, algorithms and other industrial property rights, (e) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated), including, without limitation, logos, "rental" rights and to remuneration, whether arising by operation of law, contract, license, or otherwise, and (f) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing). This Agreement does not transfer any ownership interest in or license to use any Intellectual Property Rights.

The term "Confidential Material" does not include information which is received by one Party to this Agreement and (a) is already in the receiving Party’s possession, provided that such information is not known by the receiving Party (after such inquiry as would be reasonable in the circumstances) to be subject to another confidentiality agreement with the providing Party or any of its Representatives; (b) is or becomes generally available to the public other than as a result of a disclosure by the receiving Party to this Agreement or one of its Representatives; (c) is developed independently by the receiving Party to this Agreement without reference to the Confidential Material; or (d) becomes available to the receiving Party to this Agreement on a non-confidential basis from a source other than the providing Party or any of its Representatives; provided that such source is not bound by a confidentiality agreement with either the providing Party or any of its Representatives and is not otherwise prohibited from releasing the information by a contractual, fiduciary or other legal obligation.

As a condition of Key’s furnishing Confidential Material to the Company or its Representatives, and of Company’s furnishing Confidential Material to Key or its Representatives, Key and the Company mutually agree as follows:

1. Confidentiality Obligations. The Confidential Material received by each Party in connection with the Transaction will be used solely for the purposes it was disclosed and such received Confidential Material will be kept confidential by Key, the Company and their respective Representatives and, except with the specific prior written consent of the providing Party, or as otherwise expressly permitted by the terms hereof, will not be used or disclosed by Key, the Company or their respective Representatives. It is understood, however, that Key and the Company may disclose the Confidential Material or portions thereof to those of their respective Representatives who require such information for the purpose of evaluating the Transaction (it being understood that prior to such disclosure those Representatives will be informed of the confidential nature of the received Confidential Material and shall agree to be bound by the terms of this Agreement).

Each Party shall maintain commercially reasonable security procedures to safeguard the confidentiality of the Confidential Material and to prevent unauthorized disclosure of, access to, or use by any unauthorized third party, except as permitted by this Agreement or applicable law. Each Party shall comply with all federal and state laws, and rules and regulations of regulatory agencies, protecting the Confidential Material and privacy rights of Key, its customers and consumers, including, without limitation, Title V of the federal Gramm-Leach-Bliley Act and the federal Economic Espionage Act (18 U.S.C. Section 1831 et seq). Company will not directly or indirectly reuse or redisclose to any Affiliate, or any unaffiliated entity or person, any Confidential Material, including but not limited to, any personally identifiable consumer information, provided by Key.

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under this Agreement for any purpose other than to perform the activities contemplated by this Agreement.

In the event that Confidential Material provided by Key to Company relates to consumer customers of Key or any of its Affiliates, the following additional provision shall apply to such Confidential Information:

Key shall have the right, upon thirty (30) days advance written notice, to inspect and conduct an audit during normal business hours of Company’s security systems and security procedures as those systems and procedures directly relate to any use, processing and/or retention of Key's Confidential Material for the sole purpose of determining Company’s compliance. Key shall conduct any such inspection and audit using its own personnel, and such inspection or audit shall be at the Key’s sole cost and expense, in a manner that does not interfere with Company’s policies relating to such inspections and audits, and in a manner that does not interfere with Company’s normal business operations. Except for Key’s Confidential Material, all information reviewed and obtained during any inspection and audit hereunder shall be treated as Company’s Confidential Information. Notwithstanding the foregoing, Key shall be limited to conducting no more than one (1) such inspection and audit per calendar year.

2. **Non-Disclosure.** Without the prior written consent of the other Party, each Party and its respective Representatives will not disclose to any person, unless otherwise required by law in the opinion of such Party’s counsel and upon prior written notice to Key: (a) the fact that the Confidential Material has been made available to it or that it has inspected any portion of the Confidential Material; (b) the fact that any discussions or negotiations are taking place with the other Party concerning the Transaction; or (c) any of the terms, conditions or other facts with respect to the Transaction, including the status thereof and whether or not such Party has made a bid, proposal or offer in connection therewith. The term “person” as used in this Agreement shall be broadly interpreted to include, without limitation, any corporation, company, partnership and individual.

In the event that a Party to this Agreement is required by law or legal process to disclose any of the Confidential Material of the other Party to this Agreement, the Party required to disclose such information shall provide the other Party with prompt oral and written notice, unless notice is prohibited by law (in which case such notice shall be provided as early as may be legally permissible), of any such requirement so that the other Party may seek a protective order or other appropriate remedy. Each Party agrees to cooperate with the other Party in any reasonable efforts to obtain such remedies, but this provision shall not be construed to require such Party to undertake litigation or other legal proceedings on its own behalf. In the event that such protective order or other remedy is not obtained, or that the other Party grants a waiver hereunder, such portions of such Confidential Materials as, pursuant to the written opinion of counsel, are required to be disclosed, may be disclosed, and the Party making such disclosure will exercise commercially reasonable efforts to obtain reliable assurance that confidential treatment will be accorded to all such Confidential Materials. In addition, Confidential Material may be disclosed to the extent required in the course of inspections or inquiries by federal or state regulatory agencies to whose jurisdiction such Party is subject and that have the legal right to inspect the files that contain the Confidential Material.

3. **No Unauthorized Contact.** All (a) communications regarding the Transaction (b) requests for information, (c) requests for management meetings, and (d) discussions or questions regarding procedures shall be submitted or directed to Key and to the Company or each officer’s designees.

4. ** Destruction of Confidential Material.** Prior to or at the time of release of materials and documentation constituting Confidential Material, the releasing party shall notify the receiving party in writing that the materials and documentation are to be destroyed (and certify in writing as to such destruction) or returned at the releasing party’s expense. However, if the documentation and materials have been submitted to Key through a Request for Proposal, Request for Information or a Request for Quote, Key may retain one copy of such Confidential Material permanently in safekeeping for the sole purpose of substantiating any internal decisions rendered with respect to the Transaction or to defend any future claims regarding disclosure of the Confidential Material by such Party or its Representatives.

5. **No Representation or Warranty.** Each Party understands and acknowledges that although the other Party and its Representatives have endeavored to include in the Confidential Material it provides to the other information known to them which they believe to be relevant for the purpose of the other Party's investigation, neither the providing Party nor its Representatives make any express or implied representations or warranties herein as to the accuracy or completeness of the Confidential Material. Each Party agrees that neither the other Party nor any of such other Party's Representatives shall have any liability to it or any of its Representatives resulting from the use of the Confidential Material provided by it or its Representatives, except with respect to any knowing misstatements or misrepresentations, or breach of this Agreement.

The Parties acknowledge and agree that the Confidential Material is being provided to the receiving Party to permit the evaluation of the Transaction, but that neither Party intends that the furnishing of the Confidential Material should nor should be deemed to restrict the receiving Party’s or any of its Affiliates' ability to carry on their existing businesses or to seek or make any other business opportunities or investments or to enter into any new line of business or to develop or market any new or existing products or services in any jurisdiction or territory (whether or not the same as or similar to or competitive with any line of business or any product or service now conducted, developed or marketed or intended in the future to be conducted, developed or marketed by the disclosing Party or any of its Affiliates in any jurisdiction or territory) because of the receipt by the receiving Party or its Affiliates or their respective Representatives of the Confidential Material.

6. **Safeguarding Customer Information.** Company may receive or otherwise have access to "Customer Information" (as defined in Appendix B to 12 CFR §30), in connection with this Agreement. Company shall implement and maintain an appropriate security program for Customer Information designed to meet the following Objectives, as defined below, of the Interagency Guidelines Establishing Standards for Safeguarding Customer Information pursuant to the authority of Section 501(b) of the Gramm-Leach-Bliley Act of 1999. “Objectives” means a program designed to (i)
ensure the security and confidentiality of Customer Information; (ii) protect against any anticipated threats or hazards to the security or integrity to Customer Information, and (iii) protect against unauthorized access to or use of Customer Information that could result in substantial harm or inconvenience to any “Customer” (as defined in 12 CFR § 40.3(h)). Company shall provide Key, upon request, with a copy of its security program and any updates or amendments thereto. It is understood and agreed that Company shall not be required to have a security program in place that complies with each paragraph of Section III C of Appendix B to 12 CFR § 30; provided that Company’s security program is appropriate to address the level of risk and otherwise meets the Objectives.

7. Legal Remedy. Each Party agrees to indemnify and hold harmless the other Party from any damage, loss, cost or liability (including legal fees and the cost of enforcing this indemnity) arising out of or resulting from any (a) unauthorized use or disclosure by that Party or its Representatives of Confidential Material received from the other Party and (b) any breach by the Party of any material provision of this Agreement. Each Party acknowledges that money damages would be both incalculable and an insufficient remedy for any breach of this Agreement by the other Party or its respective Representatives and that any such breach would cause the non-breaching Party irreparable harm. Accordingly, each Party agrees that in the event of any breach or threatened breach of this Agreement, the non-breaching Party, in addition to any other remedies at law or in equity it may have, shall be entitled, without requirement of posting a bond or other security, to equitable relief, including injunctive relief and specific performance, without proof of actual damages.

8. Miscellaneous.

(a) Each Party understands and agrees that no failure or delay by the other Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

(b) This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without regard to that state’s conflict of laws.

(c) This Agreement shall remain in full force and effect until the earlier of (i) three years after the date of this Agreement or (ii) execution of a definitive agreement between the Parties with respect to a specific Transaction and containing provisions concerning confidential and proprietary information of the Parties. Notwithstanding anything to the contrary stated in this Agreement, Company’s obligation to maintain and safeguard the confidentiality of Key’s customer and consumer information shall survive the termination of this Agreement ad infinitum.

(d) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

(e) In the event Company knows or reasonably believes that there has been any unauthorized acquisition of or access to data that compromises the security, confidentiality, or integrity of “personal information” maintained by or for Company (a “Breach”), Company shall take the following actions:

1. Immediately notify Key of such Breach;
2. Identify to Key at no cost to Key what specific data, by customer and/or account number has or may have been Breached.
3. Monitor any affected accounts for any unusual activity (if appropriate).
4. Take measures to contain and control the incident to prevent further unauthorized access.
5. Remedy the circumstances that permitted such Breach to occur.
6. Cooperate with Key as necessary to facilitate Key’s compliance with any applicable federal or state law regarding unauthorized access of customer personal information.

For the purposes of this section, “personal information” shall include any one of the following: a person’s name, social security number, telephone number, driver’s license or state ID number, account number, credit/debit card account number, access code, password, identification number, or security code.

(f) Notwithstanding any other provision in this Agreement, in connection with Treasury Regulation Section 1.6011-4 of the Internal Revenue Code of 1986, as amended, the Parties hereby agree that each Party (and each employee, representative, or other agent of such Party) may disclose to any and all persons, without limitation of any kind, the U.S. tax treatment and U.S. tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to such Party relating to such U.S. tax treatment and U.S. tax structure, other than any information for which nondisclosure is reasonably necessary in order to comply with applicable securities laws.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

KEYBANK NATIONAL ASSOCIATION

By: ________________________________
Name: ______________________________
Title: ______________________________

COMPANY: [INSERT NAME]

By: ________________________________
Name: ______________________________
Title: ______________________________