

Confidentiality and Non-Disclosure Agreement

AN AGREEMENT, effective by and between:

Name _____

and



&

Power Holdings and Management Corp.

The parties intend to enter into discussions concerning possible business opportunities, ventures, products and services of mutual interest and benefit. In the process of such discussions, each party may disclose confidential information to enable each other to evaluate the business opportunities, ventures, products or services being discussed. Each is willing to disclose confidential information to the other only if the restriction of this Agreement applies.

NOW THEREFORE is it agreed by and between the parties hereto as follows:

1. DEFINITIONS:

“Confidential Information” means the terms and conditions of this Agreement, the existence of the discussions between the parties, the information regarding each party’s product, product plans, product designs, product costs, product prices, finances, marketing plans, clients, business opportunities, personnel, research and development activities, know-how customer contact(s) and pre-release products; provided that all information disclosed by the disclosing party (“Disclosing Party”) whether written or oral, will be considered Confidential Information by the receiving party (“Receiving Party”). Confidential Information disclosed to the Receiving Party by any affiliate or agent of the Disclosing Party is subject to this Agreement.

2. EXCEPTIONS TO CONFIDENTIAL INFORMATION.

The Receiving Party shall have no obligation with respect to information, including but not limited to ideas, concepts, know-how, techniques and methodologies, which
(i) was rightfully in possession of or known to the Receiving Party without any obligation of

confidentiality prior to receiving it from the Disclosing Party;
(ii) is, or subsequently becomes, legally and publicly available without breach of this Agreement;
(iii) is rightfully obtained by the Receiving Party from a source other than the Disclosing Party without any obligation of confidentiality;
(iv) is developed by or for the Receiving Party without use of the Confidential Information and such independent development can be shown by documentary evidence;
(v) becomes available to the Receiving Party by wholly lawful inspection (other than by means of this Agreement) of products offered for sale; or
(vi) is transmitted by a party after receiving written notification from the other party that it does not desire to receive any further Confidential Information.

Further, the Receiving Party may disclose Confidential Information pursuant to a valid order issued by a court or government agency, provided that the Receiving Party provides the Disclosing Party:

(vii) prior written notice of such obligation; and
(viii) the opportunity to oppose such disclosure or obtain a protective order.

"Information" means all information, including without limitation, all financial information, product information, marketing information, long range planning, corporate strategy, demographic data, reports, proprietary computer software or data bases, products or proposed products, services or proposed services, trade secrets, Samples, correspondence, contracts, procedures, technology, know-how, ideas, concepts customer contacts and any other information, written or oral, made known in any manner by or on behalf of the one party to the other;

"Person" means each of the named signatories, separately and individually, and their associates, and he/she or his/her corporation, divisions, subsidiaries, employees, agents or consultants

3. DISCLOSURE.

The Receiving Party shall not disclose the Confidential Information to any third party other than employees of the Receiving Party who have a need to have access to and knowledge of the Confidential Information, provided that the Receiving Party shall have entered into non-disclosure, confidentiality or similar type agreements with such employees having obligations of confidentiality as strict as those herein prior to disclosure to such employees to assure against unauthorized use or disclosure. The Receiving Party shall identify the Confidential Information as such to such employees as confidential or proprietary, and subject to such confidentiality agreements.

4. NO CONTACT

The parties here to agree that they will not make any contact with, deal with, or otherwise involve any transaction with any banking or lending institutions, trusts, corporate or individuals, lenders or borrowers, buyers or sellers introduced by another of the signatories, separately or individually, and their associates without the permission of the introducing signatory (signatories). This agreement is also effective for the signatories' heirs, assignees and designees.

5. TERM

This Agreement is a perpetuating agreement for five years from the date affixed below, and is to be applied to any and all transactions entertained by the signatories, including subsequent follow-up, repeat, extended, or renegotiated transactions, as well as to the initial transaction regardless of the success of the project. The signatories hereby confirm that the identities, banks, lending institutions, corporations, individuals, and/or trusts, lenders or borrowers, buyers or sellers, are currently the property of the introducing signatories and shall remain so for the duration of the agreement.

This Agreement may be terminated by either party by giving thirty (30) days written notice to the other party of its intent to terminate this Agreement. Notwithstanding such termination, the obligations of the Receiving Party concerning confidentiality shall terminate five (5) years following receipt of the Confidential Information.

6. NON CIRCUMVENTION

The undersigned parties, intending to be legally bound, hereby irrevocably agree not to circumvent, avoid, bypass, or obviate each other, directly or indirectly, to avoid payment of fees, in any transaction with any corporation, partnership or individual, revealed by either party to the other, in connection with any project, or currency exchanges, or any loans, or funding, or any other transaction involving any products, services, or addition, renegotiations, renewal, extension, amendment, new contracts/agreements, parallel contracts/agreements or third party assignments thereof.

7. INDEPENDENT DEVELOPMENT

The terms of confidentiality under this Agreement shall not be construed to limit either party's right to develop independently or acquire products without use of the other party's Confidential Information. The Disclosing Party acknowledges that the Receiving Party may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information. Accordingly, nothing in this Agreement will prohibit the Receiving Party from developing or having developed for it products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Confidential Information provided that the Receiving Party does not violate any of its obligations under this Agreement in connection with such development.

8. NO ALTERATIONS

The Receiving Party shall not reverse-engineer, decompile, or disassemble any Samples or Patents disclosed to it under this Agreement and shall not remove, overprint or deface any notice of confidentiality, copyright, trademark, logo, legend or other notices of ownership or confidentiality from any originals or copies of Confidential Information it obtains from the Disclosing Party.

9. NO LICENSES.

Each party shall retain all right, title and interest to such party's Confidential Information. No license under any trademark, patent or copyright, or application for same, or other intellectual property, which are now or thereafter may be obtained by such party is either granted or implied by the disclosure of Confidential Information.

10. DISCLAIMER.

CONFIDENTIAL INFORMATION IS PROVIDED AS IS WITH ALL FAULTS. IN NO EVENT SHALL THE DISCLOSING PARTY BE LIABLE FOR THE ACCURACY OR COMPLETENESS OF THE CONFIDENTIAL INFORMATION.

None of the Confidential Information disclosed by the parties constitutes any representation, warranty, assurance, guarantee or inducement by either party to the other with respect to the infringement of trademarks, patents, copyrights, any right of privacy, or any rights of third persons

11. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION.

Upon written demand by the Disclosing Party, the Receiving Party shall:

- (i) cease using the Confidential Information,
- (ii) return the Confidential Information and all copies, notes or extracts thereof to the Disclosing Party within seven (7) days of receipt of demand; and
- (iii) upon request of the Disclosing Party, certify in writing that the Receiving Party has complied with the obligations set forth in this paragraph

12. REMEDY FOR BREACH OF RESTRICTIVE COVENANTS

Each party acknowledges that monetary remedies may be inadequate to protect Confidential Information and that injunctive relief may be appropriate to protect such Confidential Information. Any controversy or claim arising out of or relating to this contract, or breach thereof, and which is not settled between the signatories themselves, shall be settled by arbitration in accordance with the applicable statutes with hearings to take place in Ontario, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof, including the award to the aggrieved signatory (signatories), their heirs, assignees, and designees, for the total remuneration received as a result of business conducted with the parties covered by this agreement, plus all court costs, lawyer's fees, and other charges and damages deemed fair by the arbitrator(s).

13. GENERAL

a. Waiver, Modification or Cancellation.

Any waiver, alteration or modification of any of the provisions of this Agreement or cancellation or replacement of this Agreement shall not be valid unless in writing signed by the parties hereto. The waiver by either party of a breach of the Agreement by the other party shall not constitute a waiver of any subsequent breach;

b. Governing Law.

This Agreement shall be governed by the Laws of the State of New York

c. Severability.

If any part of this Agreement or any part of any provisions hereof, is adjudicated to be invalid or void, then the remaining provisions shall remain in full force and effect

d. Assignability

The parties hereto are independent contractors. Neither this Agreement nor any right granted hereunder shall be assignable or otherwise transferable.

e. ENTIRE AGREEMENT

This Agreement represents the entire agreement of the parties hereto pertaining to the subject matter of this Agreement, and supersedes any and all prior oral discussions and/or written correspondence or agreements between the parties with respect thereto..

f. COUNTERPARTS; FACSIMILE

This Agreement may be executed in counterparts with the same effect as if all the parties hereto had signed the same document. Counterparts shall be construed together and shall constitute one and the same agreement. This Agreement may be executed by the parties and transmitted by facsimile transmission and if so executed and transmitted this Agreement shall be for all purposes as effective as if the parties had delivered an executed original Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date last written below:

Dated at this _____, day of _____, 20____

Per:

Name_____

Address_____

Phone:_____

e-mail: _____

ASPIR-TEK, INC./
POWER HOLDINGS AND MANAGEMENT
Per:

Aspir-Tek Inc./
Power Holdings and Management
14 Wall Street, 20th Floor
New York, NY 10005

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