

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement, dated as of _____, ____ (this “Agreement”), is between International Construction Consulting, LLC, a Delaware Limited Liability Company (“ICC”) and [*company name*], an [*state*] limited partnership (the “Company”). This Agreement sets forth the terms and conditions under which the parties may disclose certain information considered confidential or proprietary in nature with respect to a proposed transaction.

ICC and the Company agree as follows:

1. DEFINITION OF CONFIDENTIAL INFORMATION

- 1.1 Information to be treated as “Confidential Information” under this Agreement shall be all information (tangible, intangible, printed, electronic, oral or otherwise), whether developed by the Company or its affiliates or furnished to the Company or its affiliates by a third party, that is supplied by the Company or any of its affiliates to ICC. Confidential Information shall include all copies of the Confidential Information and all notes, analyses, compilations, forecasts, studies and other documents or reports prepared by ICC or its Representatives (as hereinafter defined) with the aid of Confidential Information.
- 1.2 Notwithstanding the foregoing, Confidential Information shall not include:
 - (i) information rightfully known to or already in the possession of ICC prior to disclosure to the Receiving Party;
 - (ii) information that is or becomes publicly available without breach of this Agreement by ICC or its Representatives;
 - (iii) information disclosed to ICC by a third party without violating any obligations of confidence; or
 - (iv) information derived by ICC or its Representative without the aid of Confidential Information.

2. PURPOSE, USE AND DISCLOSURE OBLIGATIONS

- 2.1 The use of all Confidential Information disclosed to ICC hereunder shall be limited solely to, and for the purposes of, evaluating such Confidential Information to determine if it is mutually beneficial for the parties to enter into certain transactions with each other or such party’s affiliates.
- 2.2 ICC agrees disclosure of the Confidential Information shall be limited to the employees, directors, partners, officers, affiliates, investors, co-investors, financing services and professional advisors (each, a “Representative”) required to receive disclosure of the Confidential Information to accomplish the purpose set forth in Section 2.1. ICC agrees to inform its Representatives as to the confidential and proprietary nature of the Confidential Information and to obligate each of its Representatives to comply with the terms of this Agreement prior to the disclosure of the Confidential Information to such Representatives.

ICC further agrees to be fully responsible and liable for breach of this Agreement by any of its Representatives.

- 2.3 ICC agrees not to disclose, and to direct its Representatives not to disclose, the fact that any investigations, discussions or negotiations are taking place concerning the purposes set forth in Section 2.1.
- 2.4 Except to the extent reasonably necessary in connection with the disclosure of the Confidential Information permitted pursuant to Section 2.2, ICC will not copy, reprint, duplicate or recreate by any means (printed, electronic or otherwise), in whole or in part, the Confidential Information disclosed to it under this Agreement without the prior written consent of the Company.
- 2.5 ICC agrees that any Confidential Information received shall be maintained by the use of appropriate internal procedures to ensure that said Confidential Information maintains its confidential and proprietary nature.
- 2.6 ICC shall return to the Company, or shall destroy, all documents, computer diskettes and any other tangible items in its possession which contain any part of the Confidential Information received under this Agreement within five (5) days of the written demand of the Company. Upon the request of the Company, any such destruction shall be certified (to the best knowledge of the signatory) in writing to the Company. In the event that ICC discovers Confidential Information that was neither returned nor destroyed, ICC agrees to promptly either return or destroy such subsequently discovered Confidential Information and to promptly notify the Company as to the discovery of the Confidential Information.
- 2.7 In the event that ICC or its Representatives become legally compelled (whether by court or regulatory order or otherwise) to disclose any of the Confidential Information, ICC will provide the Company with prompt written notice so that the Company may seek a protective order or other appropriate remedy prior to any such disclosure. ICC shall cooperate with the Company, and/or shall cause its Representatives to cooperate with the Company, in seeking the protective order or other appropriate remedy so that Confidential Information maintains its confidential and proprietary treatment. In the event that such a protective order or other protective remedy is not obtained, ICC and/or its Representatives, as the case may be, will furnish only that portion of the Confidential Information which is legally required, in the opinion of its own counsel, and such party will exercise its reasonable best efforts to obtain reliable assurances that confidential treatment will be accorded the Confidential Information.
- 2.8 The parties to this Agreement, on behalf of themselves and their Representatives and any other persons or entities covered by this Agreement, do hereby agree not to contact directly or indirectly or otherwise do business with any person, corporation, limited liability company or other entity introduced or presented by one party to this Agreement to the other party without first obtaining the prior consent of the introducing party.

3. SITE VISIT INDEMNITY

3.1 In the event ICC or any of its Representatives is permitted access at any time to any office, plant or facility sites of the Company (“Sites”), in connection with ICC’s evaluation for the purposes set forth in Section 2.1, ICC agrees to the following:

- (i) ICC acknowledges that the Sites consist of facilities which are not designed for visits by the public and same may include natural gas and crude oil gathering and processing facilities and natural gas liquids and crude oil production, storage, delivery and transportation facilities; and some of such facilities may be handling large volumes of volatile substances. ICC further acknowledges that it is very familiar with the risks attendant to such facilities.
- (ii) **SITE VISIT INDEMNITY:** In consideration for being given access to the Sites for the purpose stated in Section 2.1, ICC agrees to indemnify and hold the Company harmless from and against liability for the personal injury to and/or death of its employees, as well as for damage to or destruction of its property, regardless of the cause, except to the extent attributable to the gross negligence or willful misconduct of the Company. The Company shall indemnify and hold ICC harmless from and against liability for the personal injury to and/or death of its employees, as well as for damage to or destruction of its property, regardless of the cause, except to the extent attributable to the gross negligence or willful misconduct of ICC. The Parties shall each indemnify and hold the other harmless from losses, damages and liabilities suffered by third parties, including for reasonable attorneys' fees and costs, to the extent directly attributable to the negligence of such indemnifying Party.

THE INDEMNITIES CONTAINED IN THIS SECTION 3 SHALL APPLY WHETHER OR NOT AN INDEMNIFIED PARTY WAS OR IS CLAIMED TO BE PASSIVELY, SOLELY, JOINTLY, CONCURRENTLY, OR ACTIVELY NEGLIGENT, AND REGARDLESS OF WHETHER LIABILITY WITHOUT FAULT IS IMPOSED OR SOUGHT TO BE IMPOSED UPON AN INDEMNIFIED PARTY. THE INDEMNITIES SHALL NOT APPLY IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT ON BEHALF OF THE INDEMNIFIED PARTY.

- (iii) The above indemnity shall extend to and include indemnity against all expenses, including reasonable attorneys’ fees and court costs, judgments and amounts paid in settlement of any Claim.
- (iv) As a further condition to ICC’s access to the Sites, ICC agrees that such access will be coordinated through the facility manager on site at the applicable Site and the ICC will take steps to ensure that its Representatives conduct themselves in compliance with the safety and site access instructions provided to them, or of which they are verbally advised, by the plant personnel as well as any posted notices and warnings located at such facility.

4. GENERAL

- 4.1 This Agreement shall be governed by, and construed in accordance with, the laws of the State of Oklahoma, regardless of conflicts of laws principles. This Agreement constitutes the entire understanding between the parties hereto with respect to the Confidential Information subject to this Agreement. This Agreement supersedes all previous communications, representations and understandings between the parties with respect to the Confidential Information subject to this Agreement, contains the complete and final agreement between the parties and may be modified only by a written instrument signed by each party.
- 4.2 No license under any invention, patent, copyright, trade secret or other proprietary right is granted, either directly or indirectly, by this Agreement or by any disclosure of Confidential Information hereunder. Neither the Company nor any of its Representatives represent or warrant that Confidential Information disclosed hereunder will not infringe any third party's patents, copyrights or trade secrets or other proprietary rights.
- 4.3 This Agreement shall in no way preclude either party from competing with the other or from independently developing, having developed, acquiring or marketing any other material, products and services regardless of any possible business arrangements between the parties.
- 4.4 No agency, partnership, joint venture or other joint relationship is created by this Agreement.
- 4.5 ICC understands that neither the Company nor any of its Representatives have made or make any representation or warranty as to the accuracy or completeness of the Confidential Information. Neither the Company nor its Representatives shall have any liability to ICC or to ICC's Representatives resulting from the use of Confidential Information.
- 4.6 Each party agrees that unless and until a definitive agreement between the parties with respect to any transaction referred to in Section 2.1 has been executed and delivered, neither party will be under any legal obligation of any kind whatsoever with respect to such a transaction by virtue of this or any written or oral expression with respect to such a transaction by any of its directors, members, officers, employees, agents or any other representatives or its advisors or representatives thereof except, in the case of this Agreement, for the matters specifically agreed to herein.
- 4.7 This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns.
- 4.8 This Agreement and the obligations contained herein shall terminate on the second anniversary of the date first written above.
- 4.9 ICC acknowledges the competitive value of the Confidential Information received hereunder and that monetary damages would not be a sufficient remedy for any breach of this Agreement by it or its Representatives and that, in addition to all other remedies, the Company shall be entitled to specific performance and injunctive or other equitable relief,

alone or in combination, as a remedy for any such breach without the necessity of posting or securing a bond in connection with such remedy.

- 4.10 If any provision of this Agreement is declared void or otherwise unenforceable, such provision shall be deemed to have been severed from this Agreement, which shall otherwise remain in full force and effect.
- 4.11 No failure or delay by a 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 other right, power or privilege hereunder.
- 4.12 All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed given (i) upon receipt, if delivered personally or by a nationally recognized overnight courier service or (ii) three days after deposit with the U.S. Postal Service (first-class mail postage prepaid, return receipt requested), to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to the Company, to
[

Fax:

(b)Email:
Attention:]

(c) if to ICC, to
International Construction Consulting, LLC
8086 South Yale Avenue
Suite 290
Tulsa, OK 74136
Email: Greg.Lamberson@intlconstconsulting.com
Fax: (267) 295-8253
Attention: Greg Lamberson

- 4.13 Each party hereto shall be entitled to recover reasonable attorneys' fees and costs (including but not limited expert witness and accountants' fees) incurred in connection with any action brought by it against such other party to enforce the terms of this Agreement or to recover damages due to the breach by such other party hereof. In no event shall a party be entitled to recover punitive, consequential, special or exemplary damages under this Agreement.

4.14 ICC acknowledges and agrees that many of the provisions of this Agreement are for the benefit of affiliates of the Company and may be enforced by any or all of these companies as third-party beneficiaries of this Agreement. Except as provided in this Section, nothing in this Agreement shall be deemed to confer any legal rights upon anyone not an executing party to this Agreement.

4.15 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute the same agreement. The confidentiality obligations set forth in this Agreement shall be binding for three (3) years from the execution of this Agreement.

IN WITNESS WHEREOF, the parties have caused their signatures to be hereto affixed.

ICC

By: _____
Name: Greg Lamberson
Title: Owner

[company name]

By: _____
Name: []
Title: []