

**PROSPECT  
CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**

This Confidential Agreement ("Agreement") is made and entered into by and between BLUE SKY BUSINESS RESOURCE, LLC ("Blue Sky"), for and on behalf of Blue Sky and Blue Sky's Client ("Client") and the undersigned prospective purchaser and his/her/its agents, attorneys, heirs, successors and assigns hereinafter collectively referred to as "Prospect" on this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**WITNESSETH**

WHEREAS, Prospect desires to obtain information about Client from Blue Sky for the purpose of evaluating a possible acquisition, merger, or financing, involving all or part of the business interests owned by the Client ("Business").

WHEREAS, in order for Prospect to evaluate the Business, Blue Sky must reveal to Prospect certain of Clients Confidential Information (as that term is defined hereinafter).

WHEREAS, Blue Sky and Prospect desire to enter into an agreement whereby Prospect will be obligated to keep the Confidential Information confidential during any period of evaluation of the Business and for a period of two (2) years thereafter.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged, Blue Sky and Prospect hereby agree that during the term of the Agreement and for a period of two (2) years following the receipt of any Confidential Information by Prospect hereunder, that:

1. The term "Confidential Information" shall mean any and all information regarding the identity of the Client, and any aspect of the Client's business, customers, customer lists, employee lists, products, technology, production, plans, designs, drawings, specifications, marketing, processes, methods, costs, prices, finances, management and personnel, plus any other information Client has treated or is treating as confidential and is of value to Client whether or not such Confidential Information has been provided to Prospect by Blue Sky or Client hereunder, or which is obtained by or in the course of Prospect's investigation, observation, or evaluation of the Business. The term confidential information is used herein shall not include information which (a) is generally available to the public; (b) was available to a Prospect on a non-confidential basis prior to its disclosure by Blue Sky or Client; (c) was available to a Prospect on a non-confidential basis from a source other than Blue Sky or Client, provided such source is not required to keep such information confidential by law or confidential agreement.
2. Prospect has a duty to and will maintain the Confidential information in strict confidence and will not disclose by any means of the communication the Confidential Information or the fact that the Business is for sale to any person, business or entity of any type, not a party to this Confidentiality and Nondisclosure Agreement without the prior written consent of Blue Sky or Client, and unless otherwise required by law. All Confidential Information provided shall be used for the purpose of evaluating the Business and shall not at any time, or in any manner, be utilized for any other purpose. Prospect will not duplicate, reproduce, copy, distribute, disclose or disseminate any Confidential Information except as specifically provided hereinabove.
3. In consideration of information furnished by Blue Sky relating to the Business, if Prospect participates in a Change of Ownership (as defined below) in the Business within one year from the date hereof, whether or not the Business listing become inactive, the Prospect agrees Prospect will not interfere with or attempt to circumvent Blue Sky's commission rights against Client and any others. For purposes of this Agreement, any of the following events shall constitute a "Change of Ownership":
  - (a) A sale or trade of all or substantially all of the Business assets by Client to Prospect;
  - (b) The addition of Prospect or Prospect's entity or principals as a shareholder or member (as applicable) to the entity owner of the Business.
  - (c) Client gives management authority, possession or control of the Business directly or indirectly to Prospect.
4. Prospect will not contact the Client, Clients professional advisors, employees, agents, suppliers, competitors, or customers or any other who might have information concerning the Client or the Business without the prior written permission of Blue Sky or Client.
5. Prospect agrees that beginning on the date Prospect receives Client's confidential customer list and continuing for a period of two (2) years thereafter Prospect will not, directly or indirectly (except on behalf of Client), on Prospect's own behalf or on behalf of others, solicit, divert, or appropriate or attempt to solicit, divert or appropriate to any competing business any customers of Client, for the purpose of providing products or services that are competitive with the business of the Client. Prospect further agrees that Prospect will not directly or indirectly hire away any person employed by Client regardless of whether the employment of such person is pursuant to a written agreement for a determined period or at will. However, Prospect shall not be restricted in any general solicitation for employees or public advertising of employment opportunities not specifically directed at any employees of the Client or from offering employment to employees of the Client who respond.

Prospect's Initials \_\_\_\_\_

6. Prospect agrees and understands that a violation of this Confidentiality and Nondisclosure Agreement will cause damages to Blue Sky and Client. Prospect further agrees that Blue Sky and Client, or both, may take such action as is necessary to enforce the terms of this Confidentiality and Nondisclosure Agreement and such action may include, but is not limited to, injunction, temporary restraining order, actions inequity or law and action seeking damages, either liquidated or unliquidated, for any violation of the terms and conditions of this Confidentiality and Nondisclosure Agreement. Prospect agrees and understands that Client, if not signatory to this Confidentiality and Nondisclosure Agreement, shall be deemed to be a Third-Party beneficiary of all terms hereof. It is agreed by and between the parties hereto that in the event that litigation is brought to enforce the terms and conditions of the Confidentiality and Nondisclosure Agreement, then in that event the prevailing party shall be entitled to recover of the other party its attorney fees and costs of bringing any such action to enforce this Confidentiality and Nondisclosure Agreement.

7. This agreement may not be assigned by either party except that in the event that Prospect is alleged to have violated the terms and conditions of this Confidentiality and Nondisclosure Agreement, then in that event, Blue Sky may, at its sole discretion, assign Client all its rights under this Confidentiality and Nondisclosure Agreement for purposes of enforcement and/or litigation.

8. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

9. This Agreement constitutes the entire agreement between the parties respecting the subject matter hereof. No change, modification, alteration, or addition to any provision hereof shall be binding on either party unless such change is in writing and signed by an authorized representative of both parties. All sentences, parts, paragraphs and provisions of this Confidentiality and Nondisclosure Agreement are severable and any part found invalid or unenforceable by any court of competent jurisdiction shall not affect the enforceability of the remainder which shall remain fully enforceable according to its terms.

10. Prospect understands that information from Client is the basis for all information given to or transmitted to Prospect by Blue Sky. Blue Sky makes no representation or warranty, expressed or implied, as to the truth, accuracy or completeness of any information provided hereunder, or not provided, to Prospect under this Agreement. Prospect assumes full responsibility for reliance upon such information and waives all rights of recourse, if any, against Blue Sky for Prospect's reliance thereon.

IN WITNESS WHEREOF, the undersigned have executed this Agreement the date subscribed herein below.

**PROSPECT:**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Print Name)

Company: \_\_\_\_\_

Business Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

**LISTING TITLE:**

Boat Dealer Real Estate – Salt Lake City

\_\_\_\_\_

**PROSPECT:**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Print Name)

Company: \_\_\_\_\_

Business Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

Home Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

**BLUE SKY BUSINESS RESOURCES, LLC**

Broker: \_\_\_\_\_

Date: \_\_\_\_\_