**THIS AGREEMENT** is made as of this 13th day of March, 2025 (the “**Effective Date**”)

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| **BETWEEN:** | **The David Smith Group - TDSG** |
|  | 115 Fox Trail Drive |
|  | Old Fort, TN 37362 |
|  | USA |
|  | And Affiliates thereof, hereinafter collectively referred to as **“TDSG”** |

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| **AND:** | **Your company name**  |
|  | Street Name and NumberCity, State, ZIPUSA |
|  | And Affiliates thereof, hereinafter collectively referred to as **“****ABC COMPANY”** |

**RECITALS:**

1. TDSG expects to disclose to **ABC COMPANY** whether orally or in a visual format certain confidential business and technical information or know-how as herein defined known or used by TDSG for the Purpose;
2. **ABC COMPANY** expects to disclose to TDSG whether orally or in a visual format certain confidential business and technical information or know-how as herein defined known or used by **ABC COMPANY** for the Purpose;
3. Either party may, at its option, provide to the other party physical samples (Product) for the purpose of evaluation and testing;
4. The parties wish to protect such Confidential Information and address other issues concerning the Evaluation as defined herein on the terms and conditions set forth in this Agreement;

**NOW THEREFORE,** in consideration of the mutual covenants contained herein and for good and valuable consideration the receipt and adequacy of which are hereby acknowledged the parties hereto agree as follows:

1. **PURPOSE:** The purpose of the Agreement is for ABC Company to examine, evaluate, test and potentially purchase products supplied by TDSG for the improvement of ABC COMPANY products.

**2. DEFINITIONS:**

For the purposes of this Agreement,

(a) “**Affiliate**” of a party means any Person or other form of enterprise, domestic or foreign that Controls or is Controlled by such party. Two parties shall be deemed to be Affiliates hereunder if they are under the Control of the same Person;

(b) “Confidential Information” means information known or used by the Disclosing Party relating to the product and/or the business of the Disclosing Party and indicated to be confidential by the Disclosing Party either orally or in visual or electronic form or is evidently confidential because of its nature, including, but not limited to, Intellectual Property (whether in existence as at the date of this Agreement, or subsequently invented, discovered, improved or otherwise developed either by the Disclosing Party or its Affiliates), and information relating to customers, finance, marketing, business opportunities, strategies, research and development, products, processes and manufacturing (including formulations and specifications). All designs, analyses, compilations, forecasts, studies or other materials prepared by the Disclosing Party or by a third party on behalf of the Disclosing Party will, to the extent they comprise or are derived from any information described in this paragraph be deemed to be Confidential Information. All samples of the product provided by either TDSG or ABC COMPANY in connection with the evaluation and results and reports of any evaluations will be deemed to be Confidential Information;

Confidential Information that is disclosed orally shall be identified by the Disclosing Party as confidential at the time of disclosure and summarized and designated as confidential in writing and delivered to the Receiving Party within 30 days of the initial disclosure;

(c) “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an entity, whether through the ownership of voting securities, by contract or otherwise;

(d) “**Disclosing Party**” means the party who discloses Confidential Information to the other party;

(e) **“Evaluation”** means the evaluation and testing of Product;

(f) “**Intellectual Property**” means a patent, patent application, industrial design, invention, design, trademark, trademark application, trade name, Trade Secret, idea, work, methodology, technology, innovation, creation, concept, moral right, development drawing, research, analysis, know-how, experiment, copyright, data, formula and/or product specifications, method, procedure, process, product, system or technique;

(g) “**Person**” shall be broadly interpreted and includes any individual, company, corporation, partnership, joint venture, trust, association, unincorporated organization, the Crown, government or governmental agency, authority or entity howsoever designated or constituted or recognized under applicable law;

(h) “**Product**” means any product produced, distributed or sold by either party. The parties hereto agree that the term Product shall in each case include any formulations or specifications used to make or produce, in full or in part a Product;

(i) **“Purpose”** means the discussion of a proposed business relationship, product development, material testing including site visits;

(j) “**Receiving Party**” means the party who receives Confidential Information from the other party;

(k) **“Trade Secret”** means any information, including, without limitation, a formula, pattern, compilation, program, device, method, technique or process that (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy;

**3. AFFILIATES**

Each of **TDSG** and **ABC COMPANY**

* 1. acknowledges and agrees that each restriction imposed upon it under this Agreement will also apply to each of its Affiliates who actually receive Confidential Information;
	2. will ensure that to the extent that any of its Affiliates receives Confidential Information, such Affiliate will observe the applicable terms and conditions of this Agreement;
	3. agrees that any act to be performed by a party under this Agreement may be performed by an Affiliate of such party, without affecting the liability of such party under this Agreement;

(d) any disclosure of Confidential Information to the Receiving Party by an Affiliate of the Disclosing Party shall be deemed to be a disclosure by the Disclosing Party for the purpose of this Agreement;

**4. EVALUATION OF PRODUCT**

Unless agreed to in writing by the Disclosing Party, the Receiving Party will:

1. conduct the Evaluation only during the term of this Agreement;
2. not sell or give Product of the Disclosing Party to any Person and not use such Product for any purpose other than the Evaluation. If one party provides physical samples, including without limitation, formulations and/or specifications, to the other party, the Receiving Party agrees not to analyse said samples to determine the chemical identity thereof or measure the properties of the samples except as reasonably necessary to accomplish the Purpose. The Receiving Party shall, upon request of the Disclosing Party, provide to the Disclosing Party a written assessment of the testing in such detail as the Receiving Party feels to be appropriate;
3. not make the Disclosing Party’s Confidential Information or samples available to others (including patent offices);
4. not file any patent, utility model, or design application based upon or disclosing any of the Disclosing Party’s Confidential Information or samples, or disclosing any proprietary designation of the Disclosing Party for its samples;
5. agree that it shall not engage in any unauthorized commercial use or activities that may be construed as “reverse engineering” involving any Confidential Information and/or Product disclosed pursuant to this Agreement. The parties further agree that the Receiving Party shall be required to pay to the Disclosing Party any monies earned from a violation of this Section;
6. **CONFIDENTIALITY OBLIGATIONS**

The Receiving Party shall use Confidential Information disclosed by the Disclosing Party only for the Purpose and not for any other purpose without the prior written consent of the Disclosing Party.It is understood that both TDSG and ABC COMPANY shall take all reasonable precautions to keep in confidence and prevent the unauthorized disclosure of any such Confidential Information by any person engaged in either TDSG or ABC COMPANY as either employee, agent or consultant, by using at least the same standard of care, but no less than a reasonable degree of care, it would use to protect information of its own of like importance. Both TDSG and ABC COMPANY further warrant that all parties engaged in work for either TDSG or ABC COMPANY having access to Confidential Information of the other will have signed proper confidentiality agreements containing obligations of confidentiality no less onerous than those set out herein. However, this obligation will not apply to Confidential Information which:

(a) at the time of such confidential disclosure was available to the public;

(b) subsequent to such confidential disclosure, became available to the public as a result of publication by another person legally entitled to do so and through no fault of the Receiving Party;

(c) was in the possession of the Receiving Party prior to such confidential disclosure by the Disclosing Party without reference to the Confidential Information or was developed independently by the Receiving Party without access to the Disclosing Party’s Confidential Information as proven by the Receiving Party’s written records;

(d) is received by the Receiving Party subsequent to such confidential disclosure by the Disclosing Party, from any other person who is under no obligation to treat the information in a confidential manner;

(e) may be transmitted to another Person pursuant to written permission given by the Disclosing Party;

(f) must be disclosed pursuant to an Order of a Court of competent jurisdiction or as required by law, provided, to the extent legally permissible, the Disclosing Party is notified of such requirement forthwith and reasonable efforts are made to maintain the confidentiality of the Confidential Information in any required disclosure;

provided that any combination of the information which comprises part of the Confidential Information shall not be deemed to be exempt from this obligation merely because individual parts of that information were publicly available, within the Receiving Party's prior possession, or were so received by the Receiving Party, unless the combination itself was publicly available, in the Receiving Party's possession prior to such confidential disclosure by the other party, or was so received by the Receiving Party.

1. **RETURN OF CONFIDENTIAL INFORMATION**

Upon the request and direction of the Disclosing Party, the Receiving Party will, promptly and in any event within ten (10) days of such request, destroy all Confidential Information, including all reproductions thereof and all samples of materials provided by the Disclosing Party to the Receiving Party, in its possession or control and confirm such destruction to the Disclosing Party in writing. In addition, the Receiving Party will promptly deliver to the Disclosing Party within the time period specified in this Section 5, any samples of Product of the Disclosing Party which at the relevant time are in the possession or under the control of the Receiving Party. Notwithstanding the foregoing, the Receiving Party (and its Affiliates, as applicable) may retain, but not use copies of Confidential Information which were created pursuant to automatic IT back-up or internal disaster recovery procedures for the period the Receiving Party normally archives back-up records, after which period, such copies shall be destroyed; provided, that at all times the non-use and non-disclosure obligations contained in this Agreement will continue to apply to such retained Confidential Information.

1. **TERM**

The term of this Agreement shall be three (3) years from the Effective Date. This Agreement may be terminated earlier by either party without cause upon thirty (30) days prior written notice to the other. Notwithstanding the foregoing, Sections 2, 3, 4, 5 shall survive termination or expiry of this Agreement for two (2) years from the date of disclosure of the applicable Confidential Information. All other Sections of this Agreement shall survive termination or expiry to the extent necessary to interpret and enforce the rights and obligations of the parties prior to such expiry or termination. Notwithstanding anything to the contrary herein, any Confidential Information that by its very nature is intended to remain confidential indefinitely and/or is a Trade Secret of the Disclosing Party, shall remain confidential indefinitely until such time as the Confidential Information is no longer a Trade Secret.

1. **GENERAL**

(a) Nothing in this Agreement is to be construed as requiring either party to disclose any Confidential Information to the other party;

(b) The parties acknowledge that neither party makes any representation or warranty and shall have no liability whatsoever with respect to: (i) any Product; (ii) the accuracy or completeness of the Confidential Information; or (iii) the non-infringement of any Intellectual Property of any Person;

 (c) Nothing in this Agreement is to be construed as conferring upon the Receiving Party any interest, title, license or right in or to any Confidential Information or any Intellectual Property received from the Disclosing Party except as specifically and expressly provided herein. Nothing in this Agreement is to be construed as creating an agency or fiduciary relationship or a joint venture, partnership or any form of strategic alliance whatsoever between the parties hereto;

 (d) As between the parties, the Receiving Party acknowledges and agrees that the Disclosing Party’s Confidential Information is proprietary to, and a valuable asset of, the Disclosing Party, and all rights, title and interest in and to the Confidential Information are, and remain vested in, the Disclosing Party. The Receiving Party agrees that it shall not claim to have any right, title or ownership in the Confidential Information disclosed to it or any discoveries or inventions based on, or derived from, the Confidential Information;

(e) This Agreement will be deemed to have been made in the state of Mississippi, and for all purposes will be governed exclusively by, and construed and enforced in accordance with, the laws of that jurisdiction without giving effect to the principles of conflicts of laws. Each party hereby waives any right it may have to a trial by jury in any dispute arising under this Agreement. Each party hereby irrevocably submits and attorns to the exclusive jurisdiction of the courts of said jurisdiction and the courts having appellate jurisdiction thereover;

(f) This Agreement contains the entire agreement between the parties concerning the treatment of the Confidential Information, and no modification or waiver of any provision of this Agreement will be binding unless approved in writing by the parties;

(g) Waiver by either party of a breach of any provision of this Agreement will not operate or be construed to be a waiver of any subsequent breach. No delay on the part of either party in exercising any rights hereunder or failure to exercise the same shall operate as a waiver of such rights. No notice to or demand on either party shall be deemed to be a waiver of the obligations of that party or the rights of the demanding party to take further action without notice of demand, nor in any event shall any notification or waiver of any provisions of this Agreement be effective unless in writing nor shall any such waiver be applicable except in the specific instance and for the specific purpose for which given;

(h) This Agreement, and any rights and duties under it, will be binding upon the successors and assigns of each of the parties hereto, and will inure to the benefit of each party’s permitted successors and permitted assigns. This Agreement cannot be assigned or delegated by either party without the prior written consent of the other party;

(i) Unless agreed otherwise in writing, any personally identifiable information provided by one party to the other hereunder may only be used for conducting the business transaction(s) that is the subject of this Agreement. Neither party consents to the other party’s use of any personally identifiable information provided by the Disclosing Party, its contractors, affiliates, customers, vendors, or employees, for any direct marketing, nor to the transfer of such information to any third party;

This Agreement may be executed in separate counterparts, and by facsimile, each of which when so executed and delivered shall be an original, and all such counterparts shall together constitute one and the same instrument.

**IN WITNESS WHEREOF**, authorized representatives of the parties have executed this Agreement on the date first above written.

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| On Behalf of: | **ABC COMPANY** |  | On Behalf of: | **TDSG** |
| Signature: |  |  | Signature: | A black letter on a white background  AI-generated content may be incorrect. |
| Print Name: |  |  | Print Name: | David Smith |
| Title: |  |  | Title: | Chief Commercial Officer |
| Date: |  |  | Date: | 03/13/25 |