

## Mutual Non-Disclosure Agreement

1. In connection with discussions between [INSERT LEGAL ENTITY NAME OF SUPPLIER] ("Company") and the Wayne Fueling Systems LLC with respect to a transaction involving the purchase and/or sale of goods and/or services (the "Transaction"), each party (as to information disclosed by it, the "Disclosing Party") is prepared to furnish the other party (as to information received by it, the "Receiving Party") with certain confidential and proprietary information. "Confidential Information" as used in this agreement (the "Agreement") shall mean all such information that is or has been disclosed by the Disclosing Party or its Affiliates (defined below): (i) in writing or by email or other tangible electronic storage medium and is clearly marked "Confidential" or "Proprietary"; or (ii) orally or visually, and then followed within ten (10) working days thereafter with a disclosure complying with the requirements of clause (i) above. Confidential Information also includes, but is not limited to, personal data as defined in this Agreement or by applicable law, whichever is broader, and personal data shall not be required to be marked "Confidential" or "Proprietary" to be treated as Confidential Information under this Agreement. As used in this Agreement, "personal data" means any information relating: (i) to an identified; or (ii) to a directly or indirectly identifiable, natural person. All other information shall be deemed to be non-confidential. As used in this Agreement, an "Affiliate" with respect to a party means any entity (including without limitation any individual, corporation, company, partnership, limited liability company or group) that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such party.
2. The Receiving Party agrees, except as required by law, to: (i) protect the confidentiality of the other party's Confidential Information in whatever form maintained, including any notes, summaries, reports, analyses or other material derived by the Receiving Party, its Affiliates, or its or their Authorized Parties (defined below), in whole or in part, from the Confidential Information (collectively, "Notes"); (ii) use the Confidential Information and Notes only for the purposes of evaluating a possible Transaction and the terms thereof; (iii) use the same degree of care as with its own confidential information, which shall be at least a reasonable standard of care, to prevent disclosure of the Confidential Information and Notes, except to its Affiliates, and its or their officers, directors, employees, agents, advisors, representatives, service providers, consultants and/or subcontractors (collectively, "Authorized Parties"), solely to the extent necessary to permit them to assist the Receiving Party in evaluating the Transaction; and (iv) not disclose to persons (other than those described in clause (iii) above) that the Confidential Information has been made available, that the Receiving Party is considering a possible Transaction or that the parties have had or are having discussions or negotiations with respect thereto. The Receiving Party further agrees that prior to disclosing any Confidential Information to its Affiliates, or its or their Authorized Parties, as allowed hereunder, such Affiliates and/or Authorized Parties will be advised of the confidential nature of the Confidential Information, provided a copy of this Agreement and directed to abide by its terms. The Receiving Party agrees to be responsible for any breach of this Agreement by it, its Affiliates, or its or their Authorized Parties. Each party acknowledges that money damages would not be a sufficient remedy for any breach of this Agreement. Accordingly, in the event of any such breach, in addition to any other remedies at law or in equity that a party may have, it shall be entitled to seek equitable relief, including injunctive relief or specific performance or both (although neither party shall be entitled to any special, consequential, indirect, punitive or exemplary damages as a result of a breach of this Agreement, whether a claim is asserted in contract, tort, or otherwise). Obligations in this Section 2 regarding Confidential Information shall, with respect to each disclosure of Confidential Information hereunder, continue for three (3) years from the date of each disclosure of Confidential Information. Nothing herein is intended to limit or abridge the protection of trade secrets under applicable trade secrets law, and trade secrets shall be maintained as such until they fall into the public domain.
3. This Agreement shall be inoperative as to particular portions of the Confidential Information disclosed by the Disclosing Party if such information: (i) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party, its Affiliates, or its or their Authorized Parties; (ii) was available on a non-confidential basis prior to its disclosure to the Receiving Party; (iii) is or becomes available to the Receiving Party, its Affiliates, or its or their Authorized Parties on a non-confidential basis from a source other than the Disclosing Party when such source is not, to the best of the Receiving Party's knowledge, subject to a confidentiality obligation with the Disclosing Party; or (iv) was independently developed by the Receiving Party, its Affiliates, or its or their Authorized Parties, without reference to the Confidential Information, and the Receiving Party can verify the development of such information by written documentation.
4. If either party decides not to proceed with a Transaction, it will promptly inform the other party of that decision. In addition, the Disclosing Party may elect at any time by notice to the Receiving Party to terminate further access to and such party's review of the Confidential Information. In any such case or upon any other termination of this Agreement, the Receiving Party will immediately: (i) return all Confidential Information disclosed to it and (ii) destroy, with such destruction to be certified by the Receiving Party, all Notes, without retaining any copy thereof. No such termination of the Agreement or return or destruction of the Confidential Information or Notes will affect the confidentiality obligations of the Receiving Party, its Affiliates, or its or their Authorized Parties, all of which will continue in effect as provided in this Agreement.
5. Each party shall retain ownership of all Confidential Information and intellectual property it had prior to commencement of the



discussions and evaluation referred to in this Agreement, but WAYNE FUELING SYSTEMS LLC shall own exclusively all rights in ideas, inventions, works of authorship, strategies, plans and data created in or resulting from discussions between WAYNE FUELING SYSTEMS LLC and the Company, including but not limited to all patent rights, copyrights, moral rights, rights in proprietary information, database rights, trademark rights and other intellectual property rights, and the Company will execute assignments as necessary to achieve that result. Nothing in this Agreement shall be deemed to grant a license directly or by implication, estoppel or otherwise, although the parties may provide for such a license in an express written agreement.

6. If either party or any of their respective Affiliates or Authorized Parties is requested or required, by interrogatories, subpoena or similar legal process, to disclose any Confidential Information or Notes, such party agrees to provide the Disclosing Party with prompt notice of each such request, to the extent practicable, so that the Disclosing Party may seek an appropriate protective order, waive compliance by the Receiving Party with the provisions of this Agreement, or both. If, absent the entry of a protective order or receipt of a waiver, the Receiving Party is, in the opinion of its counsel, legally compelled to disclose such Confidential Information or Notes, the Receiving Party may disclose such Confidential Information or Notes to the persons and to the extent required without liability under this Agreement and will use its best efforts to obtain confidential treatment for any Confidential Information or Notes so disclosed.

7. This Agreement contains the entire understanding between the parties relating to the subject matter contained herein, and supersedes all prior and collateral communication, reports and understandings between the parties relating thereto. This Agreement is not intended as a teaming, joint venture or other such arrangement. No change, modification or addition to or waiver of any provision of this Agreement shall be binding unless in writing and signed by authorized representatives of both parties. Except as provided herein, the parties agree that any disclosures contemplated hereunder, and any discussions or communications between the parties relating thereto, shall not restrict either party's right to take whatever future actions such party unilaterally determines to be in its best interests, including the right to discontinue discussions with the other party at any time or to undertake similar discussions or to enter into agreements or relationships with third parties covering subjects related to the matters covered herein. All provisions of this Agreement are severable, and if any provision or part thereof is deemed invalid or otherwise unenforceable, then such term shall be construed to reflect the closest lawful interpretation of the parties' original intent, and the remaining provisions of this Agreement shall remain valid, enforceable and binding. This Agreement may be executed in multiple counterparts, each of which, when executed and delivered, shall be deemed an original, but all of which shall constitute one and the same instrument. Any signature page of any such counterpart, or any facsimile transmission thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any facsimile transmission of any signature of a party shall be deemed an original and shall bind such party. The Receiving Party shall notify the Disclosing Party immediately upon discovery of any loss, unauthorized disclosure or use of the Confidential Information and/or Notes or any other breach of this Agreement by the Receiving Party, its Affiliates, or its or their Authorized Parties. In any such event, the Receiving Party shall help the Disclosing Party in every reasonable way to regain possession of the Confidential Information and/or Notes and shall prevent any further unauthorized disclosure or use. This Agreement will be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Except for the foregoing, neither party may assign this Agreement or any of their rights and obligations hereunder or delegate the performance thereof to a third party without the prior written consent of the other party. Except as stated herein, nothing in this Agreement is intended to confer any benefit to any third party or any right to enforce any term of this Agreement. Any failure by a party hereto to enforce the other party's strict performance of any provision of this Agreement will not constitute a waiver of that party's right to subsequently enforce such provision or any other provision of this Agreement.

8. WAYNE FUELING SYSTEMS LLC and Company each agrees to take such measures as may be necessary to ensure that the disclosure of Confidential Information complies with any export control laws which may govern such disclosure. The Receiving Party represents and warrants that no technical data it receives in conjunction with the Confidential Information that is subject to the export control laws of the United States of America ("U.S.") shall be exported from the U.S. or re-exported from any other country without first complying with all export control laws and regulations of the U.S. Government, including without limitation the requirement for obtaining any export license, if applicable. The Receiving Party shall indemnify and hold the Disclosing Party harmless from all claims, demands, damages, costs, fines, penalties, attorney's fees and all other expenses arising from its, its Affiliates, or its or their Authorized Parties failure to comply with this clause and/or applicable export control laws and regulations.

9. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas, U.S.A., excluding its conflict of laws rules.



This Agreement shall commence on the date last signed below.

[COMPANY] \_\_\_\_\_

WAYNE FUELING SYSTEMS LLC

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print or type Name: \_\_\_\_\_

Print or type Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_