

MUTUAL NONDISCLOSURE AND NON-CIRCUMVENTION AGREEMENT

This Nondisclosure Agreement (“**Agreement**”) is entered into by and between Rhea Medical Supplies, Co. PO BOX 5168, 1895 Avenida Del Oro, Oceanside CA 92052 and _____ with an office located at _____ (“**Company**”). Rhea Medical Supplies, Co. and Company generally are each referred to herein individually or collectively as a “**Party**” or the “**Parties**.”

RECITALS

Each Party desires to receive certain information from the other Party that is highly confidential and proprietary to be used by Receiving Party internally for purposes of: (i) evaluating a possible business relationship between the Parties in conjunction with the identification and supply of personal protection equipment (PPE) or medical or testing equipment in connection the COVID-19 crisis; or (ii) performing responsibilities and obligations to the other Party in connection therewith (the “**Business Opportunity**”). Disclosing Party is willing to provide such information provided that Receiving Party agrees to the terms of this Agreement.

DEFINITIONS

“**Confidential Information**” means any and all information provided by Disclosing Party or its Representatives to Receiving Party or its Representatives whether prior to, on, or after the date of this Agreement (whether in written, electronic, or oral form) which Disclosing Party considers confidential and proprietary, including but not limited to the existence of this Agreement, the relationship of the Parties, product features, functionality, operation and results, product development techniques and plans, customer lists and other customer information, business and financial information, pricing policies, employment records and policies, technical processes, trademarks, designs and design projects, inventions and research programs, trade “know-how”, trade secrets, specific software, algorithms, computer processing systems, object and source code, user manuals, technical and systems documentation, operational methods, books and records, business plans, and marketing plans and strategies, the fact that Confidential Information has been made available, that discussions or negotiations are taking place concerning a possible business relationship or any proposals, terms, conditions or other facts with respect thereto and other business affairs of its affiliated entities, as well as any extracts, analyses, summaries, reviews, notes, and other materials that contain or are in any way derived from the same. Confidential Information also includes confidential information of a third party that Disclosing Party is obligated to treat as confidential. Receiving Party’s obligations apply only to the extent Confidential

Information is: (a) conspicuously marked “confidential” or similar designation; (b) identified by Disclosing Party as confidential before or promptly after disclosure; or (c) disclosed in a manner, or of a type, such that Receiving Party should reasonably have understood under the circumstances that the information is considered confidential or proprietary. Failure by Disclosing Party to mark information as “confidential” or with a similar designation will not be determinative of the protected, confidential or proprietary character of the disclosed information.

Notwithstanding the foregoing, the term “Confidential Information” shall not include any information that: (i) is or becomes generally available to the public other than through disclosure or other intentional misconduct by Receiving Party or its Representative(s); (ii) was received by Receiving Party from another Person without any limitations on use or disclosure, but only if to the knowledge of Receiving Party after due inquiry such other Person is not prohibited from using or disclosing the information by any legal, contractual, or fiduciary obligation to Disclosing Party or its Representative(s); (iii) was independently developed by Receiving Party without using Confidential Information; or (iv) is already known to Receiving Party or its Representatives on a non-confidential basis prior to the disclosure of such information by Disclosing Party or its Representatives.

“**Disclosing Party**” means the Party disclosing Confidential Information under this Agreement, it being understood that either Party may be the Disclosing Party and/or the Receiving Party depending on the circumstances.

“**Receiving Party**” means the Party receiving Confidential Information under this Agreement, it being understood that either Party may be the Disclosing Party and/or the Receiving Party depending on the circumstances.

“**Representatives**” means directors, officers, managers, employees, partners, affiliated entities (i.e., an entity controlling, controlled by, or under common control with a Party), subcontractors, agents, consultants, advisors, and other authorized representatives.

“**Person**” means any natural person, corporation, limited liability company, partnership, trust, organization, association or other entity, including any government entity.

NONDISCLOSURE

Covenant of Non-Use and Nondisclosure. Receiving Party will hold the Confidential Information in confidence and will use the Confidential Information only for its own

internal review in connection with the Business Opportunity. Receiving Party will not use the Confidential Information for any other purpose, including any commercial purpose, and will not use the same for its own benefit, without the prior written consent of Disclosing Party. Receiving Party will not disclose, reveal or communicate Confidential Information to any Person, directly or indirectly, by any means, without the prior written consent of Disclosing Party, except Receiving Party may disclose Confidential Information on a need-to-know basis to those of its Representatives who are informed by Receiving Party of the confidential nature of the Confidential Information and the obligations of Receiving Party under this Agreement, and who are bound by confidentiality obligations that are at least as restrictive as those described in this Agreement. Receiving Party will be liable to Disclosing Party for any breach of this Agreement by its Representatives.

If, in accordance with a judicial or other governmental order, the Receiving Party becomes compelled, to disclose any Confidential Information, the Receiving Party will, unless otherwise prohibited by law, (a) promptly notify Disclosing Party in writing of the order to enable Disclosing Party to seek a protective order or other appropriate remedy, (b) provide reasonable assistance to Disclosing Party in obtaining such protective order, provided that any costs or expenses in connection with such protective order are paid by Disclosing Party, and (c) comply with any applicable protective or similar order. If a remedy acceptable to Disclosing Party is not obtained by the date that the Receiving Party must comply with the order, the Receiving Party will furnish only that portion of Confidential Information that it is legally required to furnish.

Receiving Party agrees to exercise the same degree of care, but no less than reasonable care, as it uses to safeguard the confidentiality of its own confidential and proprietary information.

Notification and Assistance Obligations. Receiving Party will: (i) promptly notify Disclosing Party in writing of any unauthorized use or disclosure of Confidential Information, or any other breach of this Agreement; and (ii) exercise reasonable efforts to assist Disclosing Party to retrieve any Confidential Information that was used or disclosed by Receiving Party or its Representative(s) without the specific prior written authorization of Disclosing Party and to mitigate the harm caused by the unauthorized use or disclosure.

Return of Confidential Information. Upon written request by Disclosing Party, Receiving Party will (i) promptly return to Disclosing Party all materials furnished by

Disclosing Party containing Confidential Information, as well as all copies, extracts, analyses, summaries, reviews, notes, and other materials that contain or are in any way derived from Confidential Information and that are in the possession or under the control of Receiving Party; or (ii) certify in writing to Disclosing Party that all materials have been destroyed.

EQUITABLE RELIEF

Receiving Party acknowledges that the remedies available at law for any breach of this Agreement may, by their nature, be inadequate. Accordingly, without prejudicing any other remedies that may be available to it, Disclosing Party may seek injunctive relief or other equitable relief to restrain a breach or threatened breach of this Agreement or to specifically enforce this Agreement, without proving that any monetary damages have been sustained.

NON-CIRCUMVENTION

The Parties shall respect any given information chain with respect to any transaction and shall not in any manner whatsoever, either at the present time or at any future time between now and the last calendar day of 2022, attempt to circumvent the validity and/or integrity of the contact process as initially acted upon in any of the transactions either being entered into or which the Parties are desirous of entering into, whether or not related to the Business Opportunity.

In the course of any attempted transaction process, any contacts introduced by one Party or any other Party shall be considered property of the introducing Party unless the introducing Party specifically states otherwise in writing. The initial contact process shall be respected and honoured by all the Parties at all times, unless mutually agreed otherwise, and no attempt or hint of circumvention will be permitted by any Party, their principals or their employees, their representatives, agents, heirs, executors, family, administrators, Affiliates, guarantors, successors, or assigns, or by any other third party.

Each of the Parties agrees and understands that any overt or covert act of circumvention, including, but not limited to, (a) contacting or attempting to contact the entities which are part of the Confidential Information provided by another Party, or (b) otherwise making use of the Confidential Information provided by another Party, except (i) through such other Party with the express written consent of such other Party as to such contact and/or use, and (ii) after having entered into a compensation agreement with such other Party, shall constitute a breach of this Agreement and

shall entitle the non-breaching Party to any remedies awarded by any legal process.

It is further understood that where a Party violates the terms of this Agreement, the breaching Party shall (x) indemnify fully all commissions, fees, or monies that would otherwise be due to any of the other Parties, as paid, either directly or indirectly, from any other Party or any third party, (y) the breaching Party shall indemnify and be liable for all legal fees for all other Parties which may be incurred in the course of any legal resolution of said breach, and (z) be subject to any other damages or remedies awarded by any legal process.

GENERAL

Term and Termination. This Agreement will terminate on the date that is two (2) years from the date of this Agreement. The rights and obligations of the Parties: (i) with respect to Confidential Information that constitutes a “trade secret” (as defined by applicable law), shall survive the termination of this Agreement for so long as such Confidential Information remains a trade secret under applicable law; and (ii) with respect to all other Confidential Information, shall survive the termination of this Agreement for a period of two (2) years from termination. The obligations regarding the return of Confidential Information will remain in effect until satisfied.

No Representations or Warranties. No representation or warranty, express or implied, is made by either Party as to the accuracy or completeness of any information that is provided hereunder.

Ownership of Confidential Information. Neither this Agreement nor any exchange of information hereunder by the Disclosing Party will be construed as creating, conveying, transferring, granting or conferring upon the Receiving Party any rights, license, or authority in or to the information exchanged or otherwise.

No Obligation to Disclose. This Agreement imposes no obligation on a Party to provide any Confidential Information. Further, the Parties understand and agree that each may be evaluating potential transactions or relationships with other parties and may be considering or may in the future consider internal developments similar to those being discussed by the Parties. Nothing in this Agreement restricts the right of a Party to create, develop, acquire, protect, procure or market any products or services, whether or not similar to or competitive with those being discussed by the Parties; provided that such Party has not used the Confidential Information in breach of this Agreement. Each Party reserves the right, in its sole and

absolute discretion, to reject any or all proposals and to terminate discussion and negotiations with or involving the other Party at any time and for any reason without any liability and without any obligations of any kind (including without limitation any implied obligation of good faith to continue negotiations). This Agreement does not prevent either Party from entering into agreements or business relationships with other persons.

No Agency Relationship. This Agreement does not create an agency relationship between the Parties and does not establish a joint venture or partnership between the Parties. Neither Party has the authority to bind the other Party or represent to any Person that the Party is an agent of the other Party.

Waivers and Consents. No waiver will be binding on a Party unless it is in writing and signed by the Party making the waiver. A Party’s waiver of a breach of a provision of this Agreement will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision. No failure or delay 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 right, power or privilege hereunder. Any written consent of Disclosing Party required pursuant to this Agreement may be withheld in the sole discretion of Disclosing Party.

Notices. All notices or other communications required or permitted by this Agreement: (i) must be in writing; (ii) must be delivered to the Parties at the addresses set forth below, or any other address that a Party may designate by notice to the other Party; and (iii) are considered delivered upon actual receipt if delivered personally, by fax, or by a nationally recognized overnight delivery service, or at the end of the third business day after the date of deposit in the United States mail, postage pre-paid, certified, return receipt requested. Notwithstanding the above, notices given for the purpose of terminating evaluation of a possible vendor/vendee relationship may be delivered electronically.

Remedies. The Parties will have all remedies available to them at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.

Governing Law and Venue. This Agreement is governed by the laws of the State of New York, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement. Unless waived by the Parties, the exclusive jurisdiction and venue for any action arising out of or relating to the subject matter of this Agreement shall be the state and federal courts

located in New York, New York, and both parties hereby submit to the personal jurisdiction of such courts.

Attorney’s Fees. If any litigation is instituted to interpret, enforce, or rescind this Agreement, the prevailing Party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing Party’s reasonable attorney's fees and other fees, costs, and expenses of every kind.

Construction. This Agreement contains the entire understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the Parties with respect to the subject matter of this Agreement. If a provision of this Agreement is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Agreement will not be impaired and any unenforceable provision shall to the extent legally permitted be replaced by an enforceable provision

that comes closest to the Parties’ intent underlying the unenforceable provision. This Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. The Parties do not intend to confer any right or remedy on any third party. This Agreement may be amended only by a written document signed by all the Parties. This Agreement is not assignable or transferable without the prior written consent of the other Party. Any attempted assignment is voidable by the non-assigning Party. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute the Agreement when a duly authorized representative of each Party has signed the counterpart. Facsimile or electronic signatures will be deemed original signatures for all purposes under this Agreement. Each person signing below represents and warrants that he or she has the necessary authority to bind the principal as set out below.

The Effective Date of this Agreement is _____, 2020.

Rhea Medical Supplies, Co.

By:
CEO of Rhea Medical Supplies, Co.

By:
Title: