



MUTUAL CONFIDENTIALITY AGREEMENT

VIRACON®

4.1-7056-MGU 05/24/2012

This Confidentiality Agreement ("Agreement") is entered into as of the ___ day of _____, 20__ ("Effective Date") by and between Viracon, Inc. ("Viracon") with its principal offices at 800 Park Drive, Owatonna, MN 55060, and _____ ("_____"), with its principal offices at _____. Each is referred to herein as a "Party," or collectively, the "Parties."

WHEREAS, the Parties intend to have discussions related to a potential business transaction for _____ (the "Purpose") during which they may exchange confidential business or technical information.

NOW THEREFORE, the Parties agree as follows:

1. **Definitions.** "Affiliate(s)" means a corporation or entity owned by, owning, or controlled by a Party. "Confidential Information" means tangible, electronic or other information a Party considers confidential, including but not limited to, technical or business information, samples, know-how, product information or other information disclosed under this Agreement. "Discloser" means a Party disclosing Confidential Information. "Recipient" means a Party receiving Confidential Information.
2. **Disclosure.** The amount of Confidential Information disclosed hereunder will be within a Discloser's sole discretion. Confidential Information may be disclosed (a) in tangible form marked "Confidential" or the like; (b) verbally, visually, electronically, or in any intangible form for which the Discloser will have the right, or the obligation if requested, to confirm in writing the nature of the Confidential Information; or (c) in any other form the Recipient should reasonably have known under the circumstances to have contained Confidential Information.
3. **Obligations.** Recipient will: (a) hold Discloser's Confidential Information in strict confidence using a reasonable degree of care; (b) use Discloser's Confidential Information only for the Purpose and not disclose it to third parties; and (c) restrict disclosure of Discloser's Confidential Information to those persons within its organization who have a strict need to know it, and who have obligations of confidentiality to Recipient covering the obligations of this Agreement. Recipient will not do component analysis on Discloser's samples or reverse engineer Discloser's Confidential Information, and will not permit others to do the same.
4. **Exceptions.** The obligations in this Agreement will not apply to Confidential Information which: (a) is in Recipient's lawful possession at the time of disclosure and which is not the subject of separate confidentiality obligations; (b) later becomes public knowledge through no fault of Recipient; (c) is independently discovered by Recipient without access to Discloser's Confidential Information; (d) is provided to Recipient by a third party who has the lawful right to disclose it; or (e) is required to be disclosed by operation of law, provided that Recipient gives Discloser immediate notice and the opportunity to seek a protective order.
5. **Return.** Upon termination of this Agreement, or upon Discloser's request, Recipient must return all tangible Confidential Information and copies thereof, and delete all electronic forms of Confidential Information.
6. **Intellectual Property.** A Recipient will not infringe any intellectual property rights in Discloser's Confidential Information. This Agreement does not grant to Recipient a license to Discloser's Confidential Information, intellectual property or to improvements or modifications thereof. If applicable, any such license will be negotiated separately.
7. **Term.** This Agreement commences on the Effective Date and will continue for a period of one (1) year thereafter ("Term") unless terminate sooner by a Party. The obligations in this Agreement will survive for five (5) years after termination. A Party may terminate this Agreement for any reason upon ten (10) days' prior written notice to the other Party.
8. **Export.** The Parties will comply with U.S. export laws related to the export or re-export of Confidential Information.
9. **Remedies.** A breach of this Agreement may constitute irreparable injury for which damages may be an inadequate remedy. If such breach occurs, a Party may be entitled to injunctive relief or to other remedies that may be available at law or in equity.
10. **Governing Law.** This Agreement will be governed by and construed under the laws of the State of Minnesota.
12. **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement between the Parties, and merges all prior discussions related to the Purpose. This Agreement may not be amended except in a writing signed by both Parties.

IN WITNESS WHEREOF, the Parties' authorized representatives have executed this Agreement below.

VIRACON, INC.

By: _____
signature

Name: _____

Title: _____

Date: _____

By: _____
signature

Name: _____

Title: _____

Date: _____