

# CONFIDENTIAL MUTUAL NON-DISCLOSURE AGREEMENT

THIS MUTUAL NON-DISCLOSURE AGREEMENT (“**this Agreement**”) is made and entered into as of MONTH DAY YEAR (“**the Effective Date**”), between COMPANY NAME., [address], hereinafter referred to as XXX, and Pegmatis Inc., an Ontario corporation (“**Pegmatis**”).

1. **Purpose.** The parties wish to engage in discussions for the purpose of exploring a business opportunity of mutual interest (“**the Opportunity**”) and in connection with that purpose, each party may disclose to the other certain confidential technical and business information which the disclosing party desires the receiving party to treat as confidential. The opportunity under consideration is: (INSERT DETAILS)

2. “**Confidential Information**” means any and all information related either directly or indirectly to the Opportunity (including without limitation documents, computer data, or oral communications) disclosed by either party to the other party, either directly or indirectly, in writing or in any other manner or medium. Confidential Information may also include information disclosed to a disclosing party by third parties. Confidential Information shall not, however, include any information which: (i) was publicly known and generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; or (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality.

3. **Legally Compelled Disclosure.** In the event the receiving party is required to disclose the disclosing party's Confidential Information pursuant to a valid order of a court or other governmental body or as otherwise required by law, prior to any such compelled disclosure, the receiving party shall: (i) notify the disclosing party of the legal process, and allow the disclosing party to assert its rights concerning the Confidential Information against the third party seeking disclosure; and (ii) co-operate fully with the disclosing party in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of disclosure and/or use of the Confidential Information, provided further that the disclosing party shall bear all legal costs relating to those actions. In the event that protection against disclosure is not obtained, the receiving party will be entitled to disclose the Confidential Information, but only as and to the extent necessary to comply with the legal requirements of such compelled disclosure.

4. **Non-use and Non-disclosure.** Each party agrees to use any Confidential Information of the other party solely for the purpose of exploring the Opportunity and not for any third party's benefit. Each party agrees to limit disclosures of Confidential Information of the other party to those employees or professional advisors of the receiving party who are required to have the information in order to evaluate or engage in discussions regarding that purpose. Each party agrees that it will not disclose any of the Confidential Information to any third party without the express written consent of the disclosing party. Neither party shall reverse engineer, disassemble or decompile any of the Confidential Information of the other party or any of the prototypes, software or other tangible objects which embody the Confidential Information of the other party and which are provided to the party hereunder.

5. **Maintenance of Confidentiality.** Each party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the generality of the foregoing, each party shall take at least those measures that it takes to protect its own most highly confidential information and shall ensure that its employees and subcontractors who have access to Confidential Information of the other party have signed a non-use and nondisclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees and subcontractors. Neither party shall make any copies of the Confidential Information of the other party unless the same are previously approved in writing by the other party. Each party shall reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.

6. **No Obligation.** Nothing herein shall obligate either party to proceed with any transaction between them, and each party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the Opportunity.

7. **No Warranty.** ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS". EACH PARTY MAKES NO WARRANTY, EXPRESS, IMPLIED OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS,

Initials: \_\_\_\_\_

Initials: XXXX: \_\_\_\_\_

PERFORMANCE OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ITS CONFIDENTIAL INFORMATION, OR REGARDING NON-INFRINGEMENT OF THE RIGHTS OF THIRD PARTIES.

8. **Return of Materials.** All documents and other materials containing or representing Confidential Information which have been disclosed by either party to the other party, and all copies thereof which are in the possession of the other party, shall be and remain the property of the disclosing party and shall be promptly returned to the disclosing party upon the disclosing party's written request or upon termination of this Agreement.

9. **No Licence.** Nothing in this Agreement is intended to grant any rights to either party under any patent, mask work right or copyright of the other party, nor shall this Agreement grant either party any rights in or to the Confidential Information of the other party except as expressly set forth herein.

10. **Term.** The receiving party's obligations under this Agreement shall expire three years after the later of: (a) the Effective Date; and (b) the initial disclosure of Confidential Information to such party.

11. **Remedies.** Each party acknowledges and agrees that any breach of this Agreement may cause irreparable harm to the other party for which monetary damages may be inadequate. Accordingly, the harmed party may be entitled to seek injunctive or other equitable relief to remedy any threatened or actual breach of this Agreement by the other party.

12. **Miscellaneous.** This Agreement shall be governed by the laws of the Province of Ontario, without reference to conflict of laws principles. This document contains the entire agreement between the parties with respect to the subject matter hereof and neither party shall have any obligation, express or implied by law, with respect to trade secret or proprietary information of the other party except as set forth herein. Each party represents, warrants and covenants that it has the full right and authority to enter into this Agreement and perform its obligations hereunder, that all required corporate approvals and authorizations have been obtained, and that, upon signature by its authorized representative named below, this Agreement shall have been duly executed and be legally binding upon that party in all respects. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties hereto. This Agreement shall be binding upon the parties and their respective successors and assigns. This Agreement may be signed in counterparts, and a PDF or faxed version hereof shall be deemed to be as valid and effective as a duly-executed original.

IN WITNESS WHEREOF the parties have executed this Agreement as of the Effective Date.

For: FULL COMPANY NAME  
Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_  
Date: \_\_\_\_\_

For: PEGMATIS INC.  
Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_  
Date: \_\_\_\_\_

Initials: \_\_\_\_\_

Initials: XXXX: \_\_\_\_\_