**LIQUID ION SOLUTION LLC**

**RoCo**

**MUTUAL NON-DISCLOSURE AGREEMENT**

 This Mutual Non-Disclosure Agreement (this “Agreement”) is made as of the \_\_\_ day of \_\_\_\_, \_\_\_\_ (the “Effective Date”) by and between **Liquid Ion Solutions LLC (DBA RoCo)**, a Delaware corporation having offices at 1816 Parkway View Drive, Building 18, Pittsburgh, PA 15205 (“Liq-ion”) and **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, having offices at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_("\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_").

**Preamble**

 WHEREAS, liquid Ion solutions LLC and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (collectively referred to as the “Parties,” and each individually referred to as a “Party”) have determined to establish terms governing the use and protection of certain confidential and proprietary information included among those items set forth on Exhibit A hereto (the “Confidential Information”) that one Party (the “Disclosing Party”) may disclose to the other Party (the “Recipient”) for the purpose described on Exhibit B hereto (the “Purpose”);

**Agreement**

 NOW THEREFORE, intending to be legally bound, the Parties agree as follows:

1. Incorporation. The foregoing preamble clause is hereby incorporated as if fully set forth herein.
2. Non-Disclosure. The Recipient of Confidential Information under this Agreement shall use the Confidential Information only for the Purpose and shall protect such Confidential Information from disclosure to third parties, using the same degree of care used to protect its own Confidential Information. If necessary to effectuate the Purpose, the Recipient may disclose Confidential Information received under this Agreement to employees and/or consultants with a need to know, provided that any such persons or entities are bound to protect such Confidential Information from unauthorized use and disclosure under a duty of confidentiality or the terms of a written agreement substantially similar to this Agreement. Confidential Information shall not otherwise be disclosed to any third party. **Neither Party shall use the Confidential Information of the other, in whole or in part, except as permitted under this Agreement.**
3. Exclusions.
	1. The restrictions on use or disclosure of Confidential Information shall not apply to any part of the Confidential Information which:
		1. was generally available to the public at the time of the Disclosing Party’s communication thereof;
		2. becomes generally available to the public through no fault of the Recipient subsequent to the time of the Disclosing Party’s communication thereof to the Recipient;
		3. the Recipient can demonstrate was in the Recipient’s possession free of any obligation of confidence at the time of the Disclosing Party’s communication thereof to the Recipient;
		4. the Recipient can demonstrate was developed by the Recipient independently of this Agreement without use or reference to the Disclosing Party's Confidential Information;
		5. the Recipient can demonstrate was rightfully obtained by the Recipient from a third party, provided the Recipient has no reason to believe that such third party was under an obligation of confidentiality to the Disclosing Party.
	2. In the event Confidential Information of the other Party is lawfully required to be disclosed by any governmental agency or otherwise required to be disclosed by law, it may be so disclosed without violation of this Agreement, but only to the extent required; provided, however, that before making such disclosure, the Recipient shall give the Disclosing Party reasonable prior written notice of such required disclosure so that the Disclosing Party has an opportunity to interpose an objection, take other action to ensure confidential handling of such Confidential Information, and/or waive compliance with the provisions of this Agreement. The Parties further agree that if any of the foregoing requests are not granted and the Recipient is nonetheless, in the opinion of counsel, compelled to disclose the Confidential Information to any tribunal or else stand liable for contempt or suffer other censure or penalty, the Recipient may disclose such Confidential Information to such tribunal without liability under this Agreement.
4. Return of Information. All Confidential Information disclosed under this Agreement shall be and remain the property of the Disclosing Party, who shall have and retain all right, title and interest therein. All such Confidential Information in tangible form shall be returned to the Disclosing Party promptly upon written request by the Disclosing Party or the termination or expiration of this Agreement, whichever occurs first, and shall not thereafter be retained in any form by the Recipient. In lieu of return, such Confidential Information may be destroyed by the Recipient provided any such destruction shall be certified in writing to the Disclosing Party by one of the Recipient’s duly authorized officers or, if an individual, by the Recipient. No intellectual property rights, including but not limited to, licenses or rights under any patent, copyright, trademark or trade secret, are granted or are to be implied by this Agreement. Neither Party is obligated under this Agreement to purchase from or provide to the other Party any service or product or enter into any agreement.
5. Duration of Confidentiality. The Recipient shall maintain in confidence and shall not disclose to any person not a party hereto, unless permitted to do so under Section 3, without the Disclosing Party’s written agreement, any Confidential Information for a period of three (3) years from the date of disclosure of such Confidential Information, unless such Confidential Information ceases to be Confidential Information prior to the end of such three-year period through no fault of the Recipient, or the Recipient and the Disclosing Party enter into a written agreement authorizing the same.
6. No Warranty. The Disclosing Party makes no representation or warranty to the Recipient as to the accuracy or completeness of any Confidential Information provided by it and shall not have any liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement. The Disclosing Party shall not have any liability to the Recipient relating to or resulting from the use of Confidential Information by the Recipient or any decisions made by Recipient relating to or resulting from the use of any Confidential Information.
7. No Relationship. This Agreement is intended to provide only for the handling and protection of Confidential Information. It shall not be construed as a teaming, joint venture, partnership or other similar arrangement.
8. Injunctive Relief. The Parties acknowledge that the Confidential Information is a unique and valuable asset of the Disclosing Party, and that disclosure in breach of this Agreement may result in irreparable injury to the Disclosing Party for which monetary damages alone would not be an adequate remedy. Therefore, the Parties agree that in the event of a breach or threatened breach of confidentiality and/or of this Agreement, the Disclosing Party shall be entitled to seek an injunction prohibiting any such breach or to specific performance or other equitable relief as a remedy available to the Disclosing Party. Any such relief shall be in addition to and not in lieu of any appropriate relief in the way of monetary damages.
9. No Assignment. Neither Party shall assign any of its rights or obligations hereunder, without the prior written consent of the other Party. Any attempted assignment in violation of this section will be void and of no effect.
10. Entire Agreement. This Agreement (a) is the complete agreement of the Parties concerning the subject matter hereof and supersedes any prior agreements, understanding or discussions with respect to the subject matter hereof; and (b) may not be amended or in any manner modified except by a non-electronic written instrument signed by authorized representatives of both Parties or the Parties themselves.
11. Choice of Law and Venue. This Agreement shall, in all respects, be interpreted enforced and governed by the laws of Pennsylvania, excluding its choice of law provisions. Any disputes arising under or relating to this Agreement shall be heard in the Court of Common Pleas of Allegheny County, Pennsylvania or the United States District Court for the Western District of Pennsylvania. Each Party hereby consents to the jurisdiction of said courts and waives any objection which they may have at any time to the jurisdiction of such courts, the laying of venue in such courts or the convenience of the forum.
12. Severability. If any provision of this Agreement is found unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most closely representing the intention of the Parties as expressed herein.
13. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any person or entity other than the Parties any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**[Remainder of page intentionally left blank]**

**IN WITNESS WHEREOF**, each of the parties hereto has executed this Agreement as of the day and year first indicated above.

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| --- | --- |
|  | **Liquid Ion Solutions LLC**By: Name: Title:  |
|  | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**By: Name: Title:  |

EXHIBIT A

**Definition of Confidential Information**

The term “Confidential Information” shall mean:

 1. Any information concerning the existing or contemplated business of the Disclosing Party, in whatever form it may hereafter exist or be produced, including without limitation agreements, proposals, written material, printed matter, ideas, concepts, business plans, technologies, inventions, discoveries, research, improvements, manufacture or sale of products, formulas, processes, designs, specifications, drawings, logos, prototypes, developments, applications, software, marketing data, sales data, pricing structure, historical or current financial information, profits, costs, customer or employee lists, competitive products, competitors, patent applications, patents, copyrights, trademarks, trade names, trade secrets, whether or not the same are or may be patented, registered or otherwise publicly protected and regardless of recordation or transmission, and all whole or partial copies thereof, including specifically all proprietary technology and information including punch cards, film, microfilm or microfiche, magnetic tapes or discs or any other electronic media form including optically readable tapes or discs, laser discs, and any other form of computer storage. For the avoidance of doubt, the fact that the Parties are engaged in discussions regarding the Purpose shall be treated by the Parties as Confidential Information.

 2. Any other information provided by the Disclosing Party which is specifically marked or identified as intended to be treated as “Confidential”.

**EXHIBIT B**

**Definition of Purpose**

 The term “Purpose” shall mean **[the exploration of a potential business relationship between the Parties.]**