

CONFIDENTIALITY, REGISTRATION, & AGENCY DISCLOSURE AGREEMENT

INDIVIDUAL FORM

(If you are a corporation or other business entity, please use our "Corporate" form.)

TIM CUNHA, JD ~ BROKER BRE #01919755

An EVERGREENGOLD™ Business Broker

2225 E. Bayshore Road, Suite 200, Palo Alto, CA 94303

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In connection with the possible acquisition by You (the "Prospect" and "You" and the "Buyer") of one or more businesses listed or represented by Timothy Cunha ("Broker"), Broker will be furnishing You information regarding each Business, and its respective financial condition, operations, assets, and prospects. In consideration of obtaining this Proprietary Information, **You understand, acknowledge, and agree as follows:**

1. All the Proprietary Information furnished to You by Broker or the Business will be confidential and will remain the property of Broker or the Business. The Proprietary Information includes any and all documents, files, data, and material in any and all forms—written, digital, electronic, or otherwise. The fact that the respective business is for sale is considered "Proprietary Information" and shall not be disclosed by You, the Prospect. You agree that any respective Business Seller has the right to protect its Proprietary Information.
2. Unless agreed otherwise in writing, You will not disclose or reveal any Proprietary Information, for five years from the date it was disclosed or revealed to You, to any person(s) or entities(s) other than your employees or representatives who are directly participating in the evaluation of this information for the purpose of a prospective acquisition.
3. If You decide not to pursue the acquisition, You will advise Broker and return to Broker all Proprietary Information furnished to You, without keeping copies of it.
4. Although You understand that Broker and the respective Business have included in this Proprietary Information certain information that is considered to be relevant for the purpose of your investigation, Broker and the respective Business (and any cooperating broker) make no representation or warranty as to its accuracy or completeness.
5. The terms "Seller" and "Business" refer to each and every respective seller, company, business, and/or listing introduced by, revealed by, and/or disclosed by Broker to you; and this Agreement covers each and every one of them, and their respective Proprietary Information.
6. **All communications concerning the Business shall be conducted solely through Broker,** and You agree not to approach or contact any Seller or its principals or visit the physical location of any Selling Business without an appointment arranged through Broker. You are not to contact or approach any Seller's employees, officials, agents, customers, suppliers, and/or competitors without the prior written consent of the respective Seller.
7. You will not buy, lease, or otherwise obtain any part of or interest in a Business disclosed to You by Broker, nor enter into any management, consulting, employment, or similar agreement with a Business disclosed to You by Broker, for two years following that disclosure, except through Broker, with Broker receiving Broker's rightful compensation from the Seller.
8. Any and all representations and warranties shall be made solely by and between the Seller and You in signed documents. Broker makes no representations or warranties, expressed or implied, to You with respect to any Business and/or Proprietary Information disclosed to You. You must independently verify all information received by you; You do not and will not rely upon any information, written or oral, furnished by Broker. All information furnished to You and/or received by You is provided by Seller and not verified in any way by Broker or Broker's agents; they and You are relying upon the Seller for accuracy and completeness.
9. **Broker is an agent of the Seller only.** As such, **Broker is not an agent or representative of You, the Buyer.** Broker acts solely as an agent of and for the Seller. As such, by law, Broker owes to the Seller "a fiduciary duty of utmost care, integrity, honesty, and loyalty...." However, by law, **Broker also owes to both the Seller and the Buyer:** (a) *Diligent exercise of reasonable skill and care in performance of the agent's duties;* (b) *A duty of honest and fair dealing and good faith;* (c) *A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.* [California Civil Code §2079.16] When Broker lists a business for sale, Broker becomes the agent representing the Seller. In the course of selling the business, Broker will work with prospective buyers, and afford them the duties of skill and care, honesty and fair dealing and good faith, and to disclose known material facts, as prescribed by law. Broker, however, does **not** become the "agent" of or for the Buyer, and does **not** represent the Buyer. Broker will provide and sometimes prepare forms for the Buyer to make an offer to the Seller; but, Broker advises the Buyer to **consult with and seek the advice of an attorney at law** with expertise in business transition negotiations and transactions.
10. Under law, the Buyer and the Seller of a business are each required to fully and fairly disclose to the other any and all information which is known to that party, or reasonably should be known, and which may or will be "material" to the other party's decision to enter into the transaction. A Seller's agent must fully disclose all such material information known to the agent to the Seller and to the Buyer (or to the Buyer's agent), and cannot withhold any material information which the Seller's agent may know, or in the exercise of reasonable diligence, should discover.
11. Unless disclosed to Broker *at the time this Confidentiality Agreement is signed*, You are not represented by a "buyer's broker" or "buyer's agent", and no such broker or agent was the procuring cause of any resulting transaction and shall not be entitled to any "co-brokerage" commission, fee, or compensation from Broker or Seller.
12. You are advised to consult an attorney and/or certified public accountant for assistance in reviewing and verifying the legal, financial, and/or any other pertinent information concerning any Business. You agree that Broker is acting only as a conduit of information from Seller, and that **Broker provides no legal, accounting, financial, or tax advice.**
13. You warrant that the sole purpose of requesting and receiving information on any Business is to possibly affect a purchase, merger, and/or acquisition, and none other, and You know that Seller and Broker are relying upon the honesty of your representations in disclosing Proprietary Information to You; that You are financially capable of purchasing any Business about which You request disclosure; that You have not filed for an undisclosed bankruptcy; and that You have not been convicted of any felony or crime.
14. This Agreement is governed by and construed under the laws of California; You agree that Santa Clara County shall be the sole and exclusive venue for all proceedings relating to this Agreement and/or its subject matter, including without limitation its enforcement. You waive all objections to establishing venue elsewhere. You agree that in the event of any breach or threatened breach by You, Seller or Broker may obtain, in addition to other legal remedies, equitable relief as may be necessary to protect Broker and/or Seller. In case of any dispute or litigation arising out of or relating to this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees, costs, and expenses incurred in both the trial court and appellate levels. Any Business Seller, Broker, and any cooperating/listing broker may rely on your promises made in this agreement.
15. You, the Prospect, have received a copy of this Agreement; and, a fax or electronically-transmitted or digital copy with signatures shall be considered as an original.
16. "You" and the "Prospect" refer to all the individual signatory(ies), individually, jointly and severally.
17. **BUYER PROFILE: Our agreements with Sellers require that we obtain evidence of financial ability before disclosing the name and location of the business.**
Please fill out below. If there is some information you cannot disclose, please advise. Your information will be held in strict confidence by Broker and Seller.

Are You currently employed? Yes No Present Occupation/Business: _____ Current Annual Income: US\$ _____

Education: High School College Graduate Degree Major: _____ Veteran? Yes No

Own a business in the past? Yes No Own a business currently? Yes No What type?: _____

Previous Occupation(s)/Business(es): _____

Funds You have for down payment: \$ _____ Source of funds: Savings 401K Other Retirement Funds Home Equity Loan Other

Your Approximate Net Worth: \$ _____ [ASSETS (home, real estate, savings, stocks, cars, etc.) MINUS DEBTS (mortgage, credit cards, car loans, etc.)]

ACQUISITION TARGET: Targeted price/range \$ _____ "Owner Benefit" or "Cash Flow" You prefer: \$ _____

Type(s) of Business Preferred: _____ Who else is involved in this decision? Spouse Business Partner Other

Prospect ("You"), jointly and severally, accepts and agrees to the terms above and represents that the information provided is true and may be verified by Broker & Seller..

Signature: _____

Signature: _____

Name: _____

Name: _____

Date signed: _____, 201____

Date signed: _____, 201____

Preferred phone: _____

Preferred phone: _____

Email: _____

Email: _____

Mailing Address: _____

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1. All the Proprietary Information furnished to You by Broker or the Business will be confidential and will remain the property of Broker or the Business. The Proprietary Information includes any and all documents, files, data, and material in any and all forms—written, digital, electronic, or otherwise. The fact that the respective business is for sale is considered "Proprietary Information" and shall not be disclosed by You, the Prospect. You agree that any respective Business Seller has the right to protect its Proprietary Information.

2. Unless agreed otherwise in writing, You will not disclose or reveal any Proprietary Information, for five years from the date it was disclosed or revealed to You, to any person(s) or entities(s) other than your employees or representatives who are directly participating in the evaluation of this information for the purpose of a prospective acquisition.

3. If You decide not to pursue the acquisition, You will advise Broker and return to Broker all Proprietary Information furnished to You, without keeping copies of it.

4. Although You understand that Broker and the respective Business have included in this Proprietary Information certain information that is considered to be relevant for the purpose of your investigation, Broker and the respective Business (and any cooperating broker) make no representation or warranty as to its accuracy or completeness.

5. The terms "Seller" and "Business" refer to each and every respective seller, company, business, and/or listing introduced by, revealed by, and/or disclosed by Broker to you; and this Agreement covers each and every one of them, and their respective Proprietary Information.

6. **All communications concerning the Business shall be conducted solely through Broker,** and You agree not to approach or contact any Seller or its principals or visit the physical location of any Selling Business without an appointment arranged through Broker. You are not to contact or approach any Seller's employees, officials, agents, customers, suppliers, and/or competitors without the prior written consent of the respective Seller.

7. You will not buy, lease, or otherwise obtain any part of or interest in a Business disclosed to You by Broker, nor enter into any management, consulting, employment, or similar agreement with a Business disclosed to You by Broker, for two years following that disclosure, except through Broker, with Broker receiving Broker's rightful compensation from the Seller.

8. Any and all representations and warranties shall be made solely by and between the Seller and You in signed documents. Broker makes no representations or warranties, expressed or implied, to You with respect to any Business and/or Proprietary Information disclosed to You. You must independently verify all information received by you; You do not and will not rely upon any information, written or oral, furnished by Broker. All information furnished to You and/or received by You is provided by Seller and not verified in any way by Broker or Broker's agents; they and You are relying upon the Seller for accuracy and completeness.

9. **Broker is an agent of the Seller only.** As such, **Broker is not an agent or representative of You, the Buyer.** Broker acts solely as an agent of and for the Seller. As such, by law, Broker owes to the Seller "a fiduciary duty of utmost care, integrity, honesty, and loyalty....". However, by law, **Broker also owes to both the Seller and the Buyer:** (a) *Diligent exercise of reasonable skill and care in performance of the agent's duties;* (b) *A duty of honest and fair dealing and good faith;* (c) *A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.* [California Civil Code §2079.16] When Broker lists a business for sale, Broker becomes the agent representing the Seller. In the course of selling the business, Broker will work with prospective buyers, and afford them the duties of skill and care, honesty and fair dealing and good faith, and to disclose known material facts, as prescribed by law. Broker, however, does **not** become the "agent" of or for the Buyer, and does **not** represent the Buyer. Broker will provide and sometimes prepare forms for the Buyer to make an offer to the Seller; but, Broker advises the Buyer to **consult with and seek the advice of an attorney at law** with expertise in business transition negotiations and transactions.

10. Under law, the Buyer and the Seller of a business are each required to fully and fairly disclose to the other any and all information which is known to that party, or reasonably should be known, and which may or will be "material" to the other party's decision to enter into the transaction. A Seller's agent must fully disclose all such material information known to the agent to the Seller and to the Buyer (or to the Buyer's agent), and cannot withhold any material information which the Seller's agent may know, or in the exercise of reasonable diligence, should discover.

11. Unless disclosed to Broker *at the time this Confidentiality Agreement is signed*, You are not represented by a "buyer's broker" or "buyer's agent", and no such broker or agent was the procuring cause of any resulting transaction and shall not be entitled to any "co-brokerage" commission, fee, or compensation from Broker or Seller.

12. You are advised to consult an attorney and/or certified public accountant for assistance in reviewing and verifying the legal, financial, and/or any other pertinent information concerning any Business. You agree that Broker is acting only as a conduit of information from Seller, and that **Broker provides no legal, accounting, financial, or tax advice.**

13. You warrant that the sole purpose of requesting and receiving information on any Business is to possibly affect a purchase, merger, and/or acquisition, and none other, and You know that Seller and Broker are relying upon the honesty of your representations in disclosing Proprietary Information to You; that You are financially capable of purchasing any Business about which You request disclosure; that You have not filed for an undisclosed bankruptcy; and that You have not been convicted of any felony or crime.

14. This Agreement is governed by and construed under the laws of California; You agree that Santa Clara County shall be the sole and exclusive venue for all proceedings relating to this Agreement and/or its subject matter, including without limitation its enforcement. You waive all objections to establishing venue elsewhere. You agree that in the event of any breach or threatened breach by You, Seller or Broker may obtain, in addition to other legal remedies, equitable relief as may be necessary to protect Broker and/or Seller. In case of any dispute or litigation arising out of or relating to this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees, costs, and expenses incurred in both the trial court and appellate levels. Any Business Seller, Broker, and any cooperating/listing broker may rely on your promises made in this agreement.

15. You, the Prospect, have received a copy of this Agreement; and, a fax or electronically-transmitted or digital copy with signatures shall be considered as an original.

16. "You" and the "Prospect" refer to the business entity that is the signatory of this Agreement and the individual signatory(ies), personally. The signatories hereby certify that each is properly authorized by such business entity to sign this agreement and to bind said business entity hereto.

17. **BUYER PROFILE: Our agreements with Sellers require that we obtain evidence of financial ability before disclosing the name and location of the business.**

Please fill out below. If there is some information you can't disclose, please advise. Your information will be held in strict confidence by Broker and Seller.

Business/Corporate Name: _____

Type of business entity: Corporation LLC Partnership Sole Proprietorship Other: _____ State/country of organization: _____

Web Site: _____ Publicly-traded? Exchange /Symbol: _____ / _____ TIN: _____

Current Net Worth: \$ _____ Cash Available to Invest: \$ _____ Add'l Funding Resources: \$ _____

ACQUISITION TARGET: Targeted
Targeted deal range: \$ _____ to \$ _____ EBITDA: \$ _____ / _____ % Gross: \$ _____

Prospect ("You"), jointly and severally, accepts and agrees to the terms above and represents that the information provided is true.

By: _____ SIGNATURE _____ Name: _____

Date signed: _____, 20_____ Title/Office: _____

Mailing Address: _____ Email: _____

CITY

STATE/PROVINCE ZIP/CODE COUNTRY

COUNTRY CODE

AREA CODE

NUMBER

EXTENSION

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