

NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (hereinafter referred to as the "**Agreement**") is entered into by and between **Excelerate, Inc.** a corporation organized and existing under the laws of the State of Alabama, ("**Excelerate**") having its principal place of business at 1230 Slaughter Road, Suite F, Madison, AL 35758 U.S.A., and **Burton Technical Group** ("**Second Party**"), with its corporate office located at **Company Address** and each or both of which shall also hereinafter be referred to as the "**Party**" or "**Parties**," respectively.

WHEREAS, the Parties represent that they control or may in the future control and have in their possession or may in the future possess valuable proprietary, confidential information as described in Paragraph 1 of this Agreement;

WHEREAS, in order for the Parties each to evaluate its interest in participating in a future business relationship it appears necessary that the Parties disclose to each other certain information; and

WHEREAS, the Parties are willing to disclose and receive such information pursuant to the terms and conditions of this Agreement and neither Party has an obligation to supply PROPRIETARY Information;

NOW, THEREFORE, the Parties agree as follows:

1. "PROPRIETARY Information" shall mean, in the case of Excelerate and the Second Party, **proprietary or confidential information that is owned or controlled by each party relating to any solicitation or request for proposal**. Each Party's Proprietary Information may include, but is not limited to, patents, copyrights, design methods, ideas, concepts, data, formulas, manufacturing techniques, know-how, business plans, customer lists, solicitation response strategies, technical solutions to client requirements, system architectures, proposal preparation techniques and pricing policies, software, methodologies, technologies, processes, financial information, and sales and marketing information. **Edit the highlighted portion of the first sentence in this paragraph to reflect the activities that are part of the NDA then delete this sentence.**
2. Each Party represents that to the best of its knowledge it has the right to disclose its Proprietary Information to the other without conflict with, or violation of the rights of, any third party.
3. Each Party receiving Proprietary Information will require that all third parties to this Agreement, if any, to which it may give such proprietary information protect the same in

accordance with the provisions contained herein. The third party shall be required to execute an agreement with the same provisions as contained herein.

4. Except as provided in Paragraphs 6 and 7 hereof, Proprietary Information disclosed to a receiving Party shall for a period of three (3) years from the effective date of this Agreement be held in confidence by the receiving Party and not be disclosed to others or used except for the purposes set forth above, without the prior written approval of the disclosing Party.
5. Disclosure of Proprietary Information to a receiving Party may be either oral or in writing. If an oral disclosure occurs, it will be confirmed within fifteen (15) days following initial disclosure by a written communication stating at least the date and circumstances under which the disclosure occurred and the general nature of the information disclosed. When a writing contains Proprietary Information the writing will, prior to disclosure to the receiving Party, be marked by the disclosing Party with a suitable legend (such as "Proprietary Information") to indicate its Proprietary status. The Parties shall utilize no less than reasonable care in protecting Proprietary Information received from the disclosing party; such care shall be the same degree of care as though it were to protect its own confidential or proprietary information.
6. The conditions of Paragraph 4 hereof shall not apply to information which:
 - a. Was in the public domain or generally available to the public prior to receipt thereof by the receiving Party from the disclosing Party, or which subsequently becomes part of the public domain or generally available to the public except by wrongful act of the receiving Party or an employee or agent of the receiving Party; or
 - b. Was (i) in the possession of the receiving Party prior to receipt from the disclosing Party, or (ii) is later received by the receiving Party from a third party, unless the receiving Party knows or has reason to know of an obligation of secrecy of the third party to the disclosing Party with respect to such information; or (iii) is developed by the receiving Party independent of such information received from the disclosing Party; or
 - c. Is generally disclosed by the disclosing Party to third parties without obligation of secrecy.
7. Notwithstanding anything to the contrary in Paragraph 4 hereof, Proprietary Information may be disclosed by a receiving Party to those of its employees and consultants who require knowledge thereof in connection with their duties in conducting the aforesaid purpose of this Agreement and who are obligated by written agreement to hold such Proprietary Information in confidence and restrict its use consistent with the receiving Party's

obligations under this Agreement; and Proprietary Information may be disclosed to a legislative, judicial, or regulatory body requiring its disclosure, provided that, prior to such disclosure, the receiving Party has notified the disclosing Party of the requirement with an opportunity for the disclosing Party to object or seek an appropriate protective order.

8. Upon written request of a Party who has disclosed Proprietary Information to a receiving Party, the receiving Party shall promptly return all Proprietary Information except that one copy may be retained by legal counsel of the receiving Party as evidence of what was disclosed.
9. No title, license, or any other right of ownership or use shall be granted (expressly, by implication, or by estoppels) to the receiving party under any patent, trademark, copyright, or trade secret owned or controlled by the disclosing party by the disclosure of Proprietary Information. This Agreement shall not be construed to grant to either Party any patent license, use license, know-how license, or any other rights except as specifically provided herein.
10. This Agreement shall be effective on the date of its full execution by the Parties.
 - a. This Agreement shall terminate at the end of the period of years as provided for in paragraph 4 above, or upon the delivery of written notice of termination by a Party to the other Party; however, the obligations of a receiving Party pursuant to Paragraph 4 shall remain in effect for the term specified therein.
 - b. Notwithstanding the termination of this agreement, the supplied data must be maintained and protected in accordance with its provisions for three (3) years following the termination of this agreement. At the conclusion of this agreement/contract for which data is exchanged, proprietary data shall be returned to the provider or destroyed with a certification to that effect provided to the other party, except the one (1) copy retained by legal counsel as provided in paragraph 8 above.
11. Except as specifically provided herein, neither Party makes any warranty, express or implied, oral or written, with respect to products, services, or information supplied hereunder, including any warranties related to patent, trademark, or copyright infringements. In no event shall either Party be liable to the other for indirect, special, consequential, punitive, exemplary, or incidental damages including, but not limited to damages for loss of use of facilities or equipment, loss of revenue, loss of profits or loss of goodwill regardless of (a) the negligence (either sole or concurrent) of either party; and (b) whether either party has been informed of the possibility of such damages.

12. Each Party acknowledges that the Proprietary Information disclosed hereunder may be subject to export control, and that compliance with all appropriate Government regulations such as the International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR), etc., may be necessary to obtain required approvals before disclosing Proprietary Information to foreign nationals, businesses or governments. The receiving Party shall obtain the written consent of the disclosing Party prior to submitting any request for authority to export any such Proprietary Information. The receiving Party shall indemnify and hold the disclosing Party harmless from all claims, demands, damages, costs, fines, penalties, attorneys' fees, and all other expenses arising from failure of the receiving Party to comply with this clause or the ITAR or the EAR.
13. The exclusive points of contact (POC) for the Parties with respect to the exchange of Proprietary Information are as follows:

	Excelerate, Inc.	Second Party
Attention:	Michael Doubleday	Name
Address:	1230 Slaughter Road, Suite F Madison, AL 35759	Address City, State Zip
Phone:	(256) 325-4050	Phone
Fax:	(256) 325-4052	Fax
Email:	Inquiry@Excelerate-Inc.com	Email

The parties may change their Point of Contact (POC) by written notice to the others.

14. The parties acknowledge and agree that due to the unique nature of the Proprietary Information, and breach of this agreement by the receiving party would cause irreparable harm to the disclosing party and that the disclosing party shall therefore be entitled to equitable relief in addition to all other remedies at law. The parties agree that, in the event of breach, or threatened breach of the terms of this agreement, the originating party may seek an injunction prohibiting such breach. Both parties hereby waive any requirement to post bond for attempts to obtain such injunctive relief. Any such relief shall be in addition to and not in lieu of any appropriate relief in the way of monetary damages. Each party shall pay its own attorney's fees, costs, and expenses for any dispute under the agreement.

- 15. This Agreement contains the full and complete understanding of the Parties with respect to the subject matter hereof and supersedes all prior representations and understandings, whether oral or written. This Agreement may not be modified in any manner except by written amendment executed by both Parties.
- 16. If any provision of this Agreement is found to be unenforceable, the remainder of this Agreement shall be enforced to the extent permitted by law.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate counterparts on the date(s) set forth below.

EXCELERATE, INC.

SECOND PARTY

Michael K. Doubleday

Name

President & CEO

Title

Date

Date