

CONFIDENTIALITY AGREEMENT

This CONFIDENTIALITY AGREEMENT (this “Agreement”) is made as of _____ (the “Effective Date”) by and between _____ (the “Recipient” or “Receiving Party”), and Space Elements Corporation, a Delaware corporation (“Disclosing Party”), to assure the protection and preservation of the confidential and/or proprietary nature of information to be disclosed or made available to Recipient in connection with a possible business relationship or transaction (the “Business Purpose”).

Throughout the duration of this Agreement, the Disclosing Party may deem it necessary to disclose or share certain proprietary information with the Recipient. Therefore, in consideration of the mutual promises and covenants contained within this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, both parties hereto agree as follows:

1. Confidential Information.

(a) For all intents and purposes of this Agreement, “Confidential Information” shall mean and include any and all information or data that is deemed proprietary to the Disclosing Party and that which is not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to, (i) any form of marketing plan, strategies, financial information or projections, operations, sales quotes or estimates, business plans, performance results which may be related to the past, present and/or future business activities of said party, its subsidiaries and affiliated companies; (ii) plans for products or services, and customer or supplier lists; (iii) any scientific, technical or data information, invention, design, process, procedure, formula, improvement, technology or method; (iv) any concepts, reports, data, knowledge, works-in-progress, designs, development tools, specifications, computer software, source code, object code, flow charts, databases, inventions, information and trade secrets, trademarks and copyrights; and (v) any other information that should reasonably be recognized as confidential information of the Disclosing Party. Confidential Information need not be novel, unique, patentable, copyrightable or constitute a trade secret in order to be designated Confidential Information. The Receiving Party acknowledges that the Confidential Information is proprietary to the Disclosing Party, has been developed and obtained through great efforts by the Disclosing Party and, as such, the Disclosing Party regards all of its Confidential Information as trade secrets.

(b) The term “Confidential Information” includes any of the foregoing information disclosed to the Recipient by any parent, subsidiary, or affiliate of the Disclosing Party for the Business Purpose (including information relating to such parent, subsidiary or affiliate), whether or not such parent, subsidiary, or affiliate has been made a party to this Agreement.

(c) The term “Confidential Information” does not include any such information which: (i) was known by the Receiving Party prior to receiving the Confidential Information from the Disclosing Party; (ii) becomes rightfully known to the Receiving Party from a third-party source not known, after diligent inquiry, by the Receiving Party to be under an obligation to the Disclosing Party to maintain confidentiality; (iii) is or shall become publicly available through no fault or failure to act by the Receiving Party in breach of this Agreement; (iv) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation, although the requirements of Compelled Disclosure shall apply prior to any disclosure being made; and (v) is or has been independently developed by employees, consultants or agents of the Receiving Party without violation of the herein contained terms and conditions of this Agreement or reference or access to any Confidential Information; (vi) information the Disclosing Party shares with others in a non-confidential setting no longer has to be kept confidential by the receiving party under this Agreement.

2. **Confidential Information Usage.**

(a) The Receiving Party herein agrees to make use of the Confidential Information solely for the purpose and connection with the current or contemplated business relationship between both parties and not for any purpose other than that which has been stipulated and contained herein this Agreement, unless otherwise authorized by prior written consent by an authorized representative of the Disclosing Party. There shall be no other right or license, whether expressed or implied, in the Confidential Information granted to the Receiving Party hereunder. Ownership and title to the Confidential Information shall remain solely with the Disclosing Party, any and all use of the Confidential Information by the Receiving Party shall be solely for the benefit of the Disclosing Party, and any type or manner of improvements or modifications thereof by the Receiving Party shall remain the sole property of the Disclosing Party. There shall be nothing herein contained that would be intended to modify the parties' existing agreement that the parties' discussions in furtherance of a potential business relationship shall herein be governed by Federal Rule of Evidence 408 – Compromise Offers and Negotiations.

3. **Induced Disclosure of Confidential Information.** Notwithstanding anything in the foregoing clauses to the contrary, the Receiving Party may be compelled to disclose Confidential Information pursuant to any governmental, judicial, or administrative order, subpoena, discovery request, regulatory request or similar method, provided that the Receiving Party promptly notifies, to the extent feasible, the Disclosing Party in writing of any such demand for disclosure so that the Disclosing Party, at its sole expense, may seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the Confidential Information; provided in the case of a broad regulatory request with respect to the Receiving Party's business (not targeted at the Disclosing Party), the Receiving Party may promptly comply with such request provided the Receiving Party provides (if permitted by such regulator) the Disclosing Party prompt notice of such disclosure. The Receiving Party agrees that it shall not oppose and shall cooperate with efforts by, to the extent feasible, the Disclosing Party with any such request for a protective order or other relief. Notwithstanding the foregoing, if the Disclosing Party is unable to obtain or does not seek a protective order and the Receiving Party is legally requested or required to disclose such Confidential Information, disclosure of such Confidential Information may be made without liability.

4. **Term.** The term of this Agreement commences on the Effective Date and shall expire upon the earlier of (a) the fifth (5th) anniversary of the date of this Agreement or (b) the date on which the parties enter into a definitive agreement governing one or more of the proposed business relationships that are the subject of the Business Purpose. The obligations of Section 2 shall survive any termination or expiration of this Agreement.

5. **No Warranty.** All Confidential Information is provided by Disclosing Party "AS IS" without any warranty, express, implied or otherwise, regarding the Confidential Information's completeness, accuracy or performance.

6. **Remedies.** Both parties to this Agreement acknowledge and agree that the Confidential Information hereunder this Agreement is of a unique and valuable nature, and that the unauthorized distribution or broadcasting of the Confidential Information, including the actual or threatened disclosure of any Confidential Information, could have the potential to destroy and, at the very least, diminish the value of such information. The damages that the Disclosing Party could sustain as a direct result of the unauthorized dissemination of the Confidential Information would be impossible to calculate. Therefore, both parties hereby agree that the Disclosing Party shall be entitled to claim injunctive relief that would prevent the dissemination of any Confidential Information that would be in violation of the terms set forth herein this Agreement. Any such injunctive relief provided shall be in addition to any other available remedies hereunder, whether at law or in equity. The Disclosing Party shall be entitled to recover any

sustained costs and/or fees, including, but not limited to, any reasonable attorney's fees which may be incurred while attempting to obtain any such relief. Furthermore, in the even of ay litigation which may be related to this Agreement, the prevailing party shall be entitled to recover any such reasonable attorney's fees and expenses incurred.

7. **Return of Confidential Information.** Upon completion/expiration or termination of this Agreement, the Receiving Party shall immediately return and deliver to the Disclosing Party all tangible material and/or information representing or exemplifying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving therefrom and all other documents, materials, notes or copies ("Notes") which may have been converted to any computerized media in the form of any image, data or word processing files either manually or by image capture or any other form of work product that may be based on or include any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of this Agreement or (ii) at such time as the Disclosing Party may so request; provided however that the Receiving Party may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, with the prior written consent of the Disclosing Party, the Receiving Party may immediately destroy (in the case of Notes, at the Receiving Party's sole discretion) any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Receiving Party supervising the destruction of the material and or information.

8. **Non-Circumvention.** The Receiving Party shall not at any time prior to, without the prior written consent of the Disclosing Party, which consent the Disclosing Party may withhold at its sole discretion, (i) attempt in any manner to deal directly or indirectly with any contact persons or other individuals or companies related to the Disclosing Party including by having any part of or deriving any benefit from the Disclosing Party's Company or any aspect thereof, or (ii) by-pass, compete, avoid, circumvent, or attempt to circumvent the Disclosing Party relative to the potential business transaction including by utilizing any of the Confidential Information or by otherwise exploiting or deriving any benefit from the Confidential Information.

9. **Notice of Breach.** The Receiving Party shall immediately notify the Disclosing Party upon discovering any unauthorized use or disclosure of Confidential Information by the Receiving Party or its Representatives, or any other breach of this Agreement by the Receiving Party or its Representatives, and will cooperate with any efforts by the Disclosing Party to assist the Disclosing Party to regain the possession of its Confidential Information and thus prevent its further unauthorized use.

10. **No Legally Binding Agreement for Transaction.** Both parties hereby agree that neither party shall be under any legal obligation of any kind whatsoever with respect to a Transaction by virtue of this Agreement, except for the matters specifically agreed to herein. The parties further acknowledge and agree that each party herein reserves the right, in their sole and absolute discretion, to reject any and/or all proposals and to terminate discussions and negotiations with respect to any Transaction at any time. This Agreement does not create or constitute a joint venture or partnership between the parties. In the event that a Transaction should go forward, the non-disclosure provisions of any applicable Transaction documents entered into between the parties (or their respective affiliates) for the Transaction shall supersede this Agreement. Should and such provision not be provided or stipulated in said Transaction documents, then this Agreement shall be the controlling instrument.

11. **Warranty.** Each party herein warrants that it has the right and authorization to make such disclosures under this Agreement. NO WARRANTIES ARE MADE BY EITHER PARTY UNDER THIS AGREEMENT WHATSOEVER. The parties acknowledge that although they shall each endeavor

to include in the Confidential Information any and all information that they each believe relevant for the purpose of the evaluation of a Transaction, the parties understand that no representation or warranty as to the accuracy or completeness of the Confidential Information is being made by either party as the Disclosing Party. Furthermore, neither party is under any obligation contained within this Agreement to disclose any Confidential Information it chooses not to disclose. Neither party hereto shall have any liability to the other party, or to the other party's Representatives, resulting from any use of the Confidential Information except with respect to the disclosure of such Confidential Information in violation of this Agreement.

12. **Entire Agreement.** This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by written amendment signed by the party against whom such enforcement is sought.

(a) **Governing Laws.** The validity, construction, interpretation, application and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Delaware or any applicable federal laws or statutes applicable to contracts made and to be wholly performed within such state, without giving effect to any form of conflict of law provisions thereof. The Federal and State courts located in Delaware shall have sole and exclusive jurisdiction over any disputes arising under the terms of this Agreement.

13. **Waiver of Contractual Right.** Any such failure by either party to enforce the other party's strict performance of any provision of this Agreement shall not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

14. **Severability.** Although the restrictions herein contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. In the event it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement shall be enforced as if such provision was not included.

15. **Transfer or Assign.** This Agreement is personal in nature, and neither party may directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the other party, which consent shall not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors, assigns and designees.

16. **Security of Confidentiality Information.** The Receiving Party shall treat all Confidential Information with at least the same degree of care as it accords to its own confidential information of a similar nature, but no less than reasonable care.

17. **Ownership and Return of Confidential Information.** All Confidential Information and materials furnished by the Disclosing Party to the Receiving Party shall remain the property of the Disclosing Party. Upon the Disclosing Party's written request, the Receiving Party shall promptly return, or at Disclosing Party's option, certify destruction of the same in writing, to the Disclosing Party all documents and any tangible material or medium containing or representing any Confidential Information.

18. **No Implied Rights.** No rights, obligations, representations, or terms, other than those expressly set forth in this Agreement, are to be implied from this Agreement. The disclosure of

Confidential Information contemplated by this Agreement in no way creates any commitment or obligation on behalf of either party with respect to the Business Purpose except as expressly set forth in this Agreement. In particular, nothing in this Agreement shall be construed as granting any right or license under any intellectual property owned or controlled by either party.

19. **Miscellaneous.**

(a) If any provision of this Agreement is found by a court of competent jurisdiction and authority to be unenforceable or invalid, such unenforceability or invalidity shall not affect the other provisions of this Agreement and this Agreement shall be construed as if such unenforceable or invalid provision had never been in this Agreement.

(b) This Agreement will be construed without regard to the drafter of the provisions. The word “including” and words of similar import mean “including but not limited to.”

(c) Any notice, demand, or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed effectively given or delivered upon receipt. Any such notice, demand, or other communication may be given: (i) by personal delivery to the party to be notified; (ii) by confirmed email; or (iii) by mail or courier. All communications will be delivered to the addresses or email addresses that appear below, or to such address or email addresses as such party may designate in accordance with this Section.

If to Partner:

Address: _____

Attention: _____
Email: _____

If to the Company:

Address: Space Elements Corporation
221 N Broad St.
Suite 3A
Middletown, DE 19709
Attention: General Counsel
Email: contact@spaceelements.com

(d) This Agreement may be executed and delivered in counterparts, each of which shall be deemed an original, but both of which together constitute the same instrument. Any signature page delivered by fax or other electronic image transmission shall be binding to the same extent as an original signature page.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective authorized representatives as of the Effective Date.

PARTNER

Space Elements Corporation

By: _____

By: _____

Name:

Name:

Title:

Title: