



Date

[COMPANY NAME, ADDRESS AND ADDRESSEE]

Dear \_\_\_\_\_:

[Company Name] (hereinafter the "Company") has agreed to provide Graham Partners, Inc. ("we" or "us") with materials and information relating to the business and operations of the Company, to assist us in evaluating a possible acquisition of, investment in, and/or other strategic transaction with, the Company (the "Possible Transaction"). This will confirm our understanding with the Company that we shall treat any information concerning the Company (whether prepared by the Company, its advisors or otherwise) which is furnished to us by, or on behalf of, the Company and identified in writing as confidential to the Company in connection with the Possible Transaction (hereinafter the "Evaluation Material") in accordance with the provisions of this letter and take or abstain from taking certain other actions as set forth below.

We agree that the Evaluation Material shall be used solely for the purpose of evaluating the Possible Transaction, and that such Evaluation Material shall be kept confidential by us; provided, however, that (i) any of such Evaluation Material may be disclosed to our officers and employees and representatives of our advisors, bankers, accountants, legal counsel, affiliates, portfolio companies, financing sources, operating partners and investment partners (such persons that receive Evaluation Material hereunder, "Representatives") who need to know such Evaluation Material for the purpose of evaluating any such Possible Transaction (it being understood that our Representatives shall be informed by us of the confidential nature of such Evaluation Material and shall be directed by us to treat such Evaluation Material confidentially), (ii) any disclosure of such Evaluation Material to which the Company consents in writing may be made and (iii) any of such Evaluation Material may be disclosed when such disclosure is requested or required by a court having applicable jurisdiction or other regulatory, self-regulatory, legal or government agency or authority or as otherwise required by applicable law.

In the event that we do not proceed with the transaction which is the subject of this letter within a reasonable time, at the Company's written request, we shall redeliver to the Company, or destroy (at our option), all written Evaluation Material and any other written material containing or reflecting any of the Evaluation Material (whether prepared by the Company, its advisors or otherwise) and shall not retain any copies, extracts or other reproductions in whole or in part of such written material except that a single copy of the Evaluation Material may be retained by us for legal record keeping purposes. All documents, memoranda, notes and other writings whatsoever prepared by us or our Representatives based on the information in the Evaluation Material shall be destroyed, except that a single copy of such writings may be retained by us for legal record keeping purposes. Notwithstanding the foregoing, the restrictions set forth herein shall in no event require (i) the alteration, deletion, destruction or modification of computer archives, back-up tapes or back-up media made in the ordinary course of business or (ii) the return or destruction of any Evaluation Material required to be retained in order to comply with applicable laws, regulations or our bona-fide document retention policies, provided that any such information so retained shall continue to be held subject to the terms of this agreement.

Subject to our observance of the confidentiality obligations set forth above, nothing in this letter shall prevent us, our affiliates and portfolio companies ("Portfolio Companies"), from evaluating a possible acquisition of, investment in, and/or collaboration with, or entering into any transaction with (including an acquisition or investment in), any other person or entity, including a company whose business is similar to or competitive with the business of the Company. Please note that we deal with many companies, and currently have or may in the future have investments in companies, some of which may pursue similar or competitive paths regarding their products or services, technology and/or market development plans to those which are or may be pursued by the Company. The occurrence or existence of such similar or competitive activities shall not by itself be cause for



any action or allegation by the Company that we have failed to observe our confidentiality obligations set forth above. The Company hereby acknowledges that our personnel may serve as directors of, or in other similar capacities for, our Portfolio Companies and as directors, investment committee members or in other advisory capacities of investment vehicles or accounts directly or indirectly managed by us (“Affiliated Funds”). Such Portfolio Companies and Affiliated Funds will not be deemed to have received Evaluation Material from the Company or on the Company’s behalf solely due to the dual role of any such person so long as such person does not provide Evaluation Material to and does not discuss the Possible Transaction with the other personnel of such Portfolio Companies or Affiliated Funds (other than to other similar dual-role individuals).

The term "Evaluation Material" does not include information which (i) is already in our possession, provided that such information is not known by us to be subject to another confidentiality agreement with or other obligation of secrecy to the Company or another party, (ii) is or becomes generally available to the public other than as a result of a disclosure by us, our directors, or Representatives in violation of this agreement, (iii) is or becomes available to us on a non-confidential basis from a source other than the Company or its advisors, provided that such source is not known by us to be bound by a confidentiality agreement with or other obligation of secrecy to the Company or another party, or (iv) is independently developed by us or our Representatives.

The parties to this agreement share a common legal and commercial interest in the Evaluation Material that is and remains subject to all applicable privileges, including attorney-client privilege, anticipation of litigation privilege, work product privilege and privilege in respect of “without prejudice” communications. No waiver of any privilege is implied or intended by the disclosure of Evaluation Material to any person pursuant to the terms of this agreement.

Unless and until a definitive agreement between the Company and us with respect to the transaction which is the subject of this letter has been executed and delivered, except for the matters specifically agreed to in this letter, neither the Company nor we shall be under a legal obligation of any kind whatsoever with respect to such a transaction by virtue of this letter or any written or oral expression with respect to such a transaction by any of the Company's or our directors, officers, employees, agents or any other representatives or the Company's or our advisors or representatives thereof.

Obligations under this letter agreement shall expire two (2) years from the date hereof.

Very truly yours,

G R A H A M P A R T N E R S, INC.

\_\_\_\_\_  
By:

Date:\_\_\_\_\_

Accepted and agreed to:

By: [Company Name].

\_\_\_\_\_



By:

Date: \_\_\_\_\_