



## Mutual Non-circumvention & Non-disclosure Agreement

**THIS MUTUAL NON-CIRCUMVENTION & NON-DISCLOSURE AGREEMENT** (the "Agreement") is entered into by and between Advanced Chemical Transport, Inc. dba ACTenviro ("First Party") having its primary office at 967 Mabury, San Jose, CA 95133 and \_\_\_\_\_ Both First Party and Second Party are known collectively hereinafter as the "Parties" and individually as a "Party".

**WHEREAS**, the Parties wish to enter into this Agreement to define certain parameters of their future legal obligations are bound by a duty of confidentiality with respect to their sources and contacts.

**WHEREAS**, the Parties desire to enter a working business relationship to the mutual and common benefit of the Parties, including their affiliates, subsidiaries, stockholders, partners, co-ventures, trading partners, and other associated organizations.

**WHEREAS**, each Party's relationship with the other Party is one of trust and confidence.

**NOW THEREFORE**, in consideration of their future mutual promise herein, and other good and valuable consideration, the receipt of which is acknowledged hereby, the Parties shall act at all times in the best interest of each other and further agree as follows:

**1) Mutual Non-circumvention** "Protected Contact" shall be defined herein as any government agency, government official, corporation, partnership, limited liability company, entity or individual revealed or introduced by one Party to the other Party in connection with any project or transaction, involving any product or services, or any agreements or any additions, renewals, extensions or rollovers, or agreements or third party assignments thereof.

*Non-circumvention Obligations:* The Parties, intending to be legally bound, hereby irrevocably agree not to circumvent, avoid, bypass or obviate each other's interests (which, for the purposes of this Agreement, include the interests of any entity that is a parent or affiliate of either Party), directly or indirectly, to (a) either: (i) avoid payment of established or to be established fees or commissions related to any agreements, transactions or projects introduced or made available by one Party to the other Party, including, but not limited to, those from any Protected Contact; or (ii) disrupt, circumvent, avoid, bypass or obviate continuance of pre-established interests or relationships (whether contractual or non-contractual) with any Protected Contact; or (b) initiate consulting relationships, investment relationships, transactional relationships or other

collaborative relationships with any Protected Contact that bypasses the other Party or its affiliates. The Parties shall not in any manner solicit, nor accept, any business in any manner from any Protected Contact nor its affiliates without the express prior written consent of the Party who made the contact or relationship with the Protected Contact available to the other Party hereto.

**2) Mutual Non-disclosure** "Confidential Information" shall be defined herein as any and all information related transactions contemplated or entered hereunder, including but not limited to intellectual property, letters of intent, corporate offerings, contracts, banking information, facsimile transmissions, telephone numbers, addresses, structures and wording of documents, customer names, plans, forecasts, financial information, other business information of either Party hereto who discloses, or facilitates disclosure of, such information ("Disclosing Party"), and/or such information advised to the other Party as being confidential or privileged to the other Party who receives such information ("Receiving Party"); provided, however, that Confidential Information shall not include anything which is publicly known or any nonproprietary generic knowledge, skills or experience of the other Party.

*Confidentiality:* Each Party warrants and covenants that it shall not directly or indirectly, in any present, pending or future transactions, or in any transactions that may become temporarily inactive for any reason that at some point may become resurrected, (a) copy any Confidential information, or disclose or transfer any Confidential Information to any other person, business, government official or agency, or entity; (b) aid, encourage, or allow any other person, business, government official or agency, or entity to gain possession of, or access to, any Confidential Information; or (c) use, sell, or exploit any Confidential Information or aid, encourage, or allow any other person, business, government official or agency, or entity to use, sell, or exploit any Confidential Information. The Parties irrevocably agree to accept full responsibility and liability for their respective agents, brokers, principals, clerical assistants and any other related third parties to maintain strict confidentiality of any and all Confidential Information. No Confidential Information is to be copied, distributed, or otherwise disseminated



without the express prior written consent of the party who provided such information, whether an Information Provider (as defined below) or a Party hereto. Each Party shall treat any Confidential Information with the same (or greater) degree of care that is afforded to the Confidential Information that is proprietary to such Party itself.

*Third Party Confidential Information:* Each Party understands that, from time to time, confidential information may be submitted to the Parties by or about other person businesses, government officials or agencies, or entities ("Information Providers"), particularly concerning, but not limited to, lenders, sellers, codes, borrowers, buyers, and/or sellers names and related information, addresses, telex, telephone numbers, fax numbers, email addresses or any other means of access thereto, bank recommendations, and references, and that said confidential information is and at all times shall constitute a portion of the Confidential Information of the Party who arranged for, or provided, disclosure of such confidential information and as such shall be protected by, and be subject to, the obligations of the Parties specified in Subsection 2(b) above. Each Party further understands that as condition for receiving any such Confidential Information, the other Party may enter into agreements with one or more Information Providers that restrict or prohibit use, transfer, or disclosure of such Confidential Information. If Recipient desires to disclose the Confidential Information to its subsidiaries, affiliated companies, third party contractors or any other third parties ("Third Party"), the Recipient must first obtain Discloser's prior written consent and must execute with such Third Party a valid nondisclosure agreement with terms and conditions consistent with those contained in this Agreement. Recipient agrees to be jointly and severally liable for any unauthorized use of the Confidential Information or any type of violation of this Agreement committed by its employees or Third Party. Each Party shall at all times respect and abide by the reasonable terms of any such agreements and shall avoid any action or inaction that is inconsistent with the obligations lawfully imposed on the Party who is party to such agreements.

*Reverse Engineering Prohibition:* The Receiving Party shall not reverse engineer, disassemble or decompile any samples, prototypes, software or other tangible objects provided by the Disclosing Party without written authorization.

*Return of Confidential Information:* All Confidential Information in the physical control of the any Receiving Party shall be returned to the Disclosing Party within ten (10) days after receipt of written request therefore from the Disclosing Party.

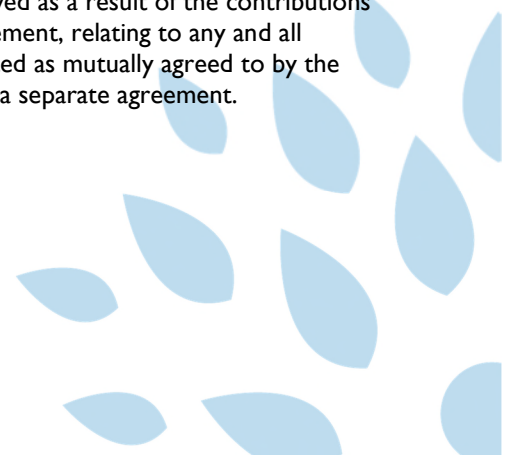
**3) Mutual Non-disclosure** The Receiving Party acknowledges and agrees that in the event of any breach or threatened breach by the Receiving Party of the provisions hereof, and without prejudice to any other right and/or remedy available to the Disclosing Party at law or in equity, the Disclosing Party shall be entitled to (i) injunctive relief and specific performance of the terms hereunder, without the posting of a bond if permitted by law, and (ii) recover all reasonable costs and expenses, including attorneys' fees and other legal costs, from the Receiving Party with respect to the enforcement of injunctive relief and specific performance. The Parties agree and acknowledge that monetary damages and other forms of legal damages alone would be inadequate in the event of a breach of this Agreement and the Receiving Party shall not plead in defense thereto that there would be an adequate remedy at law.

**4) Term** This Agreement is valid until the later of: (i) the expiration of a period of five (5) years, or (ii) the expiration of one year after the termination of any agreement pertaining to any transaction contemplated hereunder, including any extensions or rollovers thereof.

**5) Binding Effect** This Agreement shall be binding on the Parties hereunder signed, their successors and assigns, buyer and/or seller, or their agents, employees and representatives. The undersigned agree to notify the other Party by facsimile or other express mail prior to a request for any contract and upon reaching of an agreement and/or contract terms of any kind with any Protected Contact.

**6) Governing Law & Venue** ANY CONTROVERSY OR CLAIM ARISING OUT OF/OR THE BREACH THEREOF AND WHICH IS NOT SETTLED BETWEEN THE PARTIES THEMSELVES, SHALL BE GOVERNED BY AND INTERPRETED UNDER THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REFERENCE TO CONFLICT OF LAWS PRINCIPLES. EACH PARTY SUBMITS EXCLUSIVELY TO THE JURISDICTION OF COURTS SITTING IN THE STATE OF CALIFORNIA, FOR THE ADJUDICATION OF ANY CONTROVERSY OR CLAIM, AT LAW OR IN EQUITY, PERTAINING TO THIS AGREEMENT OR RELATED TO TRANSACTIONS CONTEMPLATED HEREUNDER.

**7) Fees** All considerations, benefits, bonus, participation, fees and/or commissions received as a result of the contributions of the parties to this agreement, relating to any and all transactions will be allocated as mutually agreed to by the Parties, as documented in a separate agreement.





**8) Counterparts and Facsimile** This Agreement may be executed in more than one counterpart with the same effect as if the Parties executing the several counterparts had all executed one document. It is hereby understood and agreed by and between all Parties and signatories to this Agreement that any and all electronic or facsimile transmissions of this document, including signatures, are considered to be original and are legal and binding instruments.

**9) Severability** The determination that any covenant, agreement, condition or provision of this Agreement, which is not necessary to the enjoyment by either Party of a material benefit contemplated herein, is invalid shall not affect the enforceability of the remaining covenants, agreements, conditions or provisions hereof and, in the event of any such determination, this Agreement shall be construed as if such invalid covenant agreement, condition or provision were not included herein.

**10) No Waiver** Subject to applicable statutes of limitation, no failure or delay, in whole or in part, by the Disclosing Party in exercising any right or power hereunder shall operate as a waiver, full or partial, of such right or power.

**11) Relationship between the Parties** Notwithstanding anything to the contrary herein, nothing in this Agreement shall be construed as creating a relationship or joint venture, partners, principal and agent, or other business association between the Parties.

**12) Publicity** Neither Party shall, without the prior written consent of the other Party, disclose to any person the fact that the Parties have exchanged Confidential Information; provided, however, that a Party may disclose the Confidential Information if such disclosure is required in Section 2 above, in which case the procedures specified therein with respect to such disclosure shall apply.

**13) Miscellaneous** The spirit behind this agreement is one of mutual trust and confidence and of the reliance on each party to police themselves and their associates and further to do what is fair and equitable. All signatories hereto warrant that they have full and complete authority to execute this document for and in the name of the party for which they have given their signature. Whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural thereof. Any conflict between the terms and conditions of this Agreement with any other prior agreement shall be resolved in favor of this Agreement. Nothing in this Agreement is intended to grant a license or any other express or implied right to any party in or to any intellectual property or other Confidential Information belonging to either Party except as expressly provided herein as evidenced by our agreement to these terms, we do hereby irrevocably understand and agree to comply and abide in good faith with the terms, conditions and requirements of this Agreement.

“First Party” ACTenviro

By \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

“Second Party” \_\_\_\_\_

By \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_

