

# MUTUAL CONFIDENTIAL DISCLOSURE AGREEMENT FOR BUSINESS RELATIONSHIP

**THIS MUTUAL CONFIDENTIAL DISCLOSURE AGREEMENT** is entered into effective as of \_\_\_\_\_ (the “**Effective Date**”) by and between **GRC** (“GREEN REVOLUTION COOLING Party”) and \_\_\_\_\_ (“Non-GREEN REVOLUTION COOLING Party”) (GREEN REVOLUTION COOLING Party and Non-GREEN REVOLUTION COOLING Party are sometimes referred to individually as a “Party” and collectively as the “Parties”).

**Whereas**, the Parties have entered into or are about to enter into a business relationship pursuant to which GRC will potentially collaborate with \_\_\_\_\_ on projects for mutual customers (the “**Relationship**”); and

**Whereas**, the Relationship may require or benefit from the disclosure and exchange of information between the Parties, including information that disclosing Party deems to be confidential.

**NOW, THEREFORE**, the Parties hereby agree as follows:

**1. DEFINITIONS.** For the purpose of this Agreement:

“**Authorized Disclose**” in reference to any Confidential Information includes (a) any person or entity who (i) has a reasonable need to know such Confidential Information in furtherance of an Authorized Use, (ii) is under an obligation to hold and treat such Confidential Information as confidential and not use such Confidential Information for any purpose or in any manner that is not in furtherance of an Authorized Use, and (iii) is not known to be a competitor of Disclosing Party or a director, officer, manager, employee, agent or representative of, consultant or adviser to, or otherwise affiliated or associated with a competitor of Disclosing Party, and (b) any other person or entity authorized by Disclosing Party in writing (which may include fax or email) to receive such Confidential Information.

“**Authorized Use**” includes the Relationship and any other use authorized by Disclosing Party in writing (which may include fax or email).

“**Confidential Information**” is information that either Party discloses or otherwise makes available to the other Party during the Disclosure Period in connection the Relationship, whether disclosed or otherwise made available in writing, orally (*e.g.*, during meeting or telephone calls), visually (*e.g.*, during facility visits), electronically, in the form of a drawing, prototype or model, or otherwise, and either (a) such information bears a label or is otherwise clearly marked or labeled as being “confidential” at the time of disclosure to Receiving Party, or (b) if not labeled or otherwise clearly marked as being “confidential” at the time of disclosure to Receiving Party: (i) such information is identified by Disclosing Party as being confidential at the time of disclosure to Receiving Party or is of a nature that Receiving Party must necessarily have understood to be confidential at the time of disclosure to it, and (ii) the information disclosed to Receiving Party and the confidential nature thereof are confirmed to or by Receiving Party in writing (which may include fax or email) within 30 days after disclosure to it; *provided, however*, that “Confidential Information” shall not be deemed to include (A) information that at the time of receipt by Receiving Party is available to the general public or generally known within the business or industry of Receiving Party without restriction on disclosure or use, (B) information that after receipt by Receiving Party becomes available to the general public or generally known within the business or industry of Receiving Party without restriction on disclosure or use through no fault of Receiving Party or any person or entity to whom Receiving Party provides such information, (C) information that at the time of receipt by Receiving Party was already known to or in the possession of Receiving Party without restriction on disclosure or use, (D) information that is provided to Receiving Party by a third party without restriction on disclosure or use unless at the time of receipt of such information by Receiving Party it was aware that such third party was not authorized to provide such information to it without restriction on disclosure or use, (E) information that is developed for or by Receiving Party without the use of or reference to any Confidential

Information of Disclosing Party, and (F) information that is not in fact treated as confidential by Disclosing Party.

“**Confidential Period**” is the period beginning the Effective Date and ending [24] months after the Disclosure Period ends.

“**Controlled Information**” is (a) information that bears a label or is otherwise clearly marked as being subject to restriction on disclosure or use under US Export Controls or other laws, rules or regulations at the time of disclosure to Receiving Party, or (b) if information is not labeled or otherwise clearly marked as being subject to restriction on disclosure or use under US Export Controls or other laws, rules or regulations at the time of disclosure to Receiving Party: (i) such information is identified by Disclosing Party as being subject to restriction on disclosure or use under US Export Controls or other laws, rules or regulations at the time of disclosure to Receiving Party, and (ii) the information disclosed to Receiving Party and the fact that such information is subject to restrictions on disclosure or use under US Export Controls or other laws, rules and regulations is confirmed to or by Receiving Party in writing (which may include fax or email) within 30 days after disclosure to it.

“**Disclosing Party**” is the Party who discloses information.

“**Disclosure Period**” is the period beginning on the Effective Date and ending when the Relationship terminates; *provided, however*, that the Disclosure Period shall continue after the Relationship terminates to the extent either Party has any continuing contractual obligation in connection with the Relationship that requires the disclosure or exchange of information between the Parties.

“**Receiving Party**” is the Party who receives information.

**2. OBLIGATIONS RE CONFIDENTIAL INFORMATION.** Unless and except to the extent Disclosing Party may from time to time expressly authorize otherwise in writing (which may include fax or email):

a. During the Confidential Period, Receiving Party shall hold and treat as confidential and use reasonable care to prevent the unauthorized use or disclosure of all Confidential Information of Disclosing Party. Reasonable care shall be no less than the degree of care used by Receiving Party to protect its own Confidential Information of like importance.

b. During the Confidential Period, Receiving Party shall use Confidential Information of Disclosing Party only for Authorized Uses, and Receiving Party shall not authorize or permit any person or entity to use Confidential Information of Disclosing Party for any purpose or in any manner that is not in furtherance of an Authorized Use.

c. During the Confidential Period, Receiving Party shall disclose and otherwise make available Confidential Information of Disclosing Party only to Authorized Disclosees.

**3. EXCEPTIONS TO OBLIGATIONS RE CONFIDENTIAL INFORMATION.** Notwithstanding anything to the contrary in Section 2:

a. Confidential Information of Disclosing Party shall be permitted to be disclosed to the extent disclosure thereof is reasonably necessary to enable Receiving Party to enforce any liabilities or obligations of Disclosing Party or is required by any law, rule or regulation or to comply with any subpoena, search warrant, order or directive of any court, arbitrator, or governmental or regulatory body or agency, provided that (i) to the extent practical and feasible under the circumstances, prior to making any such disclosure (other than a disclosure made in a court filing under seal or to comply with a search warrant), Receiving Party must notify Disclosing Party sufficiently in advance of such disclosure to give Disclosing Party a reasonable opportunity to seek and obtain a protective order or otherwise protect the confidentiality of and limit the further disclosure and use of such Confidential Information, and (ii) Receiving Party must reasonably cooperate with Disclosing Party in seeking and obtaining such protective order and protecting the confidentiality of and limiting the further disclosure and use of such Confidential Information.

b. Confidential Information of Disclosing Party may be disclosed and otherwise made available by Receiving Party on a confidential basis within its business organization, including its parents, subsidiaries and other affiliated entities and their respective directors, officers, managers, employees, accountants and attorneys, in connection with normal management reporting, financial and tax filing, reporting, auditing and disclosure, compliance audits, and other similar activities within its business organization.

**4. ADDITIONAL OBLIGATIONS RE CONTROLLED INFORMATION.** In addition to the obligations imposed with respect to Confidential Information, Receiving Party shall disclose Controlled Information of Disclosing Party only to those persons and entities and in such manner as is permitted under US Export Controls and other applicable laws, rules and regulations. Disclosing Party shall provide Receiving Party with such information, guidance and assistance concerning Controlled Information of Disclosing Party as Receiving Party may from time to time reasonably request to enable it to comply with US Export Controls and other applicable laws, rules and regulations. The obligations imposed under this Section 4 with respect to Controlled Information are not limited to the Confidential Period and shall continue to apply after the Confidential Period ends.

**5. NO LICENSE.** Neither this Agreement nor the disclosure and exchange of information under this Agreement is intended to or shall be construed as granting either Party, either expressly or by implication, inference, estoppel or otherwise, any license or other right, claim or interest of any kind in or with respect to any information, invention, idea, know how, trade secret, patent, copyright, trademark or other intellectual property now or hereafter owned or controlled by the other Party.

**6. NO WARRANTY, ETC.** Receiving Party acknowledges that information it receives from Disclosing Party in connection with the Relationship may be experimental and may contain errors or defects, and, subject to Section 7, Disclosing Party shall provide information to Receiving Party “as is” without any warranty, guarantee or assurance of any kind, express, implied or inferred, including, but not limited to, any warranty of completeness, correctness, fitness for use, or safety. Nothing in this Agreement is intended to or shall be construed as requiring either Party to provide information to the other Party or enter into or continue a Relationship with the other Party.

**7. AUTHORITY.** Disclosing Party warrants to Receiving Party that Disclosing Party has the right to disclose and make available under the provisions of this Agreement the information that it provides to Receiving Party during the Disclosure Period in connection with the Relationship.

**8. INDEPENDENT PARTIES.** Neither this Agreement nor the disclosure and exchange of information under this Agreement is intended to or shall be construed as creating or giving rise to any agency, joint venture, partnership, or other similar relationship between the Parties. Subject only to the provisions of Section 2, 4 and 5, neither this Agreement nor the disclosure and exchange of information under this Agreement is intended to or shall be construed as precluding or restricting either Party from pursuing or engaging in collaborations, projects and transactions similar to and/or in competition with the collaborations, projects and transactions that are the subject of the Discussions or any Relationship.

**9. ENTIRE UNDERSTANDING.** This Agreement contains the entire agreement and understanding between the Parties with respect to Confidential Information and supersedes all prior discussions, commitments, agreements and understandings between them with respect thereto.

**10. MODIFICATION.** This Agreement may be modified only in writing signed by both Parties.

**11. CHOICE OF LAW.** This Agreement and the rights, liabilities and obligations of the Parties hereunder shall be interpreted, construed and established according to the laws of the State of Delaware without regard to its conflicts of laws principles.

**12. PARTIES BOUND.** This Agreement shall be binding upon and enforceable against, and inure to the benefit of and be enforceable against, the Parties and their respective successors and assigns, including any person or entity that acquires or succeeds to the business of a Party or portion thereof involved in the Relationship.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives.

**Green Revolution Cooling, Inc.**  
**11525 Stonehollow Drive, Suite A-135**  
**Austin, TX 78758**

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_