

MUTUAL NON-DISCLOSURE AGREEMENT

This **Mutual Non-Disclosure Agreement** (this "Agreement"), entered into and made effective as of this 2nd day February 2017, is by and between **ROXUL USA, Inc.**, a corporation, located at **4594 Cayce Rd, Byhalia, MS** (the "Company") and the West Virginia Development Office, State Capitol, Building 6, Room 525, Charleston, West Virginia, 25305 ("WVDO"), each of which may be referred to hereinafter individually as a "Party" and collectively as the "Parties."

WHEREAS, «Company» and WVDO intend to enter into certain discussions concerning Project **Shuttle**, (the "Project"), and in the course of such discussions it may be necessary for WVDO and/or «Company» to disclose certain confidential information to the other Party (the "Confidential Information");

WHEREAS, «Company» and WVDO desire to enter into this Agreement to allow for the exchange of Confidential Information, as hereinafter defined, to facilitate the development of the Project, as more fully set forth in this Agreement.

NOW THEREFORE, in consideration of the promises and covenants made herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Confidential Information. "Confidential Information" shall mean all information, regardless of the form in which it is communicated or maintained (whether oral, written, digital or visual) and whether prepared by WVDO, and its Affiliates, and/or the «Company» which relates to the Project, and the business and planned activities of the Parties, and their affiliates, including all reports, analyses, notes, copies, data, models, or other information based on, contain or reflect any such Confidential Information or which have been marked by the Parties as "confidential." For purposes of clarity, Confidential Information shall include the identity of the Company until such identity no longer qualifies as Confidential Information due to the Company making its identity in connection with the Project publicly known or the Company's identity no longer constitutes Confidential Information pursuant to Paragraph 1 (a) below. Confidential Information shall not include the following:

- a. Information which is or becomes publicly available other than as a result of a violation of this Agreement;
- b. Information which is or becomes available on a non-confidential basis from a source which is not known to a Party to be prohibited from disclosing such information pursuant to a legal, contractual or fiduciary obligation;
- c. Information which a Party can demonstrate was legally in its possession prior to disclosure by the other Party;

d. Information which a Party independently developed without the use of Confidential Information of the other Party; or

e. Information which is required by state or federal law, or by a court of competent jurisdiction, to be disclosed.

2. Nondisclosure and Use of Confidential Information. «Company» acknowledges and agrees that WVDO is subject to the West Virginia Freedom of Information Act, W. Va. Code §29B-1-1 *et seq.* (the “FOIA Act”), and that WVDO’s obligations hereunder are subject in all respect to applicable West Virginia law that requires “public bodies” to disclose “public records,” as those terms are defined in the FOIA Act, subject to W. Va. Code §5B-2-1, which provides specific exceptions to the FOIA Act for materials made or received by WVDO to facilitate economic development activities in West Virginia. Subject to the foregoing, Confidential Information of «Company» shall be held in strict confidence by WVDO, and shall not be disclosed without prior written consent of «Company», except to those employees and agents of WVDO with a “need to know” the Confidential Information for purposes of discussing the Project with «Company». WVDO shall not use the Confidential Information for any purpose other than in connection with discussing the Project with «Company».

3. Required Disclosure. In the event that a Party is requested or required by legal or other authority to disclose any Confidential Information, such Party shall promptly notify the other Party of such request or requirement prior to disclosure so that the Party opposed to disclosure may seek an appropriate protective order and/or waive compliance with the terms of this Agreement. In the event that a protective order or other remedy is not obtained by the time that such is required to disclose the Confidential Information, or the other Party waives compliance with the provisions hereof, the disclosing Party agrees to furnish only that portion of the Confidential Information that it reasonably determines, in consultation with its counsel, is consistent with the scope of the subpoena or demand, and to exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information.

4. Remedies. Each Party agrees that money damages would not be a sufficient remedy for any breach of the Agreement and that either party may seek injunctive or other equitable relief to remedy or prevent any breach or threatened breach of this Agreement.

5. No License. It is understood and agreed that nothing contained in this Agreement shall be construed as granting or conferring rights by license or otherwise in any Confidential Information disclosed during the term of this Agreement. Each Party acknowledges and agrees that each Party has and reserves the right, in its sole discretion and at any time and without notice, to terminate discussions or negotiations.

6. Amendment. Any amendment to this Agreement must be in writing and signed by an authorized representative of each Party.

7. No Other Agreement. It is understood that this Agreement is not intended to and does not obligate the Parties, or either of them, to enter into any further agreements or to proceed with any other transaction or relationship.

8. Non-Waiver. No waiver of any provision of the Agreement shall be deemed to be nor shall constitute a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia without regard to rules concerning conflicts of laws.

10. Affiliate. "Affiliate" means any other person (natural person, corporation, limited liability company, partnership, firm, association, or any other entity) that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, the party specified. Control occurs wherever a legal or natural person directly or indirectly through one or more intermediate legal persons owns or controls in aggregate fifty percent of more of voting capital.

11. Notices. Any notices or requests that may be given or made pursuant to this Agreement must be in writing and delivered personally, by registered or certified mail, postage prepaid, by a recognized overnight delivery service or by facsimile, which shall be deemed received upon confirmation of receipt in legible form to the parties at the following:

If to WVDO, to:

1900 Kanawha Blvd., East
Capitol Complex, Bldg. 6, Room 553
Charleston, WV 25305
Attn: J. Keith Burdette
Fax: 304.558.1189

If to ROXUL, Inc., to:

12. Entire Agreement. This Agreement constitutes the full and entire agreement between the Parties regarding the confidentiality and use of the Confidential Information.

13. Counterparts. This Agreement may be signed in counterparts, each of which may be deemed an original, and all of which together constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first set forth above.

ROXUL USA, Inc.

By: 

WEST VIRGINIA DEVELOPMENT
OFFICE

By: 

Its: VP / GENERAL COUNSEL &
GENERAL MANAGER

Its: Deputy Director, Business and
Industrial
Development