

You are about to share some POS data with us so that we can help you grow your business. This **Mutual Non-Disclosure Agreement** gives you a guarantee that we understand the sensitivity of that data and will treat it with the degree of confidentiality it deserves.

This Mutual Non-Disclosure Agreement is made as of _____, (the "**Effective Date**"), subject to the terms and conditions below, by and between **Krunchbox Inc.**, a corporation whose principal office is located at 14555 Dallas Parkway, Suite #100-200, Dallas, TX 75254 (hereinafter "**First Party**"), and _____, a corporation whose principal office is located at _____ (hereinafter "**Second Party**"). The First Party and the Second Party are each referred to as a "**Party**" and collectively as the "**Parties**".

The Parties mutually desire to exchange Confidential Information (as defined herein) for the purpose of making a determination of whether to establish, or continue, a business relationship relating to the evaluation by the First Party of the Second Party's retail data to provide retail insights back to the Second Party (the "**Purpose**").

- 1. Introduction.** Each Party intends to engage, or have engaged, in discussions regarding certain proprietary technical and commercial information, during the course of which each Party may have access to or receive information from the other Party, such as information relating to intellectual property, products, customers or administrative, sales, purchasing, marketing, financial, manufacturing activities, or technical information of the other Party or the other Party's clients and customers. All such information, including any materials embodying such information, whether or not such information is marked as "Confidential", whether disclosed orally or in written (including electronic) form or otherwise, shall be considered by the other Party as proprietary and confidential ("**Confidential Information**") and used only for the Purpose (the "**Purpose**"). The Parties agree to use reasonable efforts to summarize the content of oral disclosures which are proprietary or confidential, but failure to provide such summary shall not affect the nature of the Confidential Information disclosed.
- 2. Non-disclosure.** As consideration for having access to or receiving any Confidential Information, each Party agrees that it shall use the same efforts to protect the confidentiality of the Confidential Information as it uses to protect its own proprietary information or industry standards, whichever are higher. Each Party shall provide access to the other Party's Confidential Information solely to its employees or contractors having a "need to know" such Confidential Information in order to carry out the Purpose, provided further that such employee or contractor owes to such Party an obligation of confidence at least as restrictive as such Party owes to the other Party under this Agreement. Neither Party shall disclose or disseminate, or permit any of its employees to disclose or disseminate, the Confidential Information to any third party without the other Party's prior written consent. In no event shall either Party use the other's Confidential Information to compete with the other Party, directly or indirectly, without the express written approval of the other Party. The undertakings and obligations of each Party under this paragraph 2 shall not apply, however, to any information which it can establish to have: (i) become publicly known through no action on the recipient's part, proof of which rests upon the recipient Party; (ii) been known by the recipient prior to receipt, proof of which rests upon the recipient Party; (iii) been independently developed by the recipient, proof of which rests upon the recipient Party; (iv) been approved for public release by the other's written authorization; or (v) been required to be disclosed by law, or to a competent court, government or regulatory body having the right to same, provided that the recipient Party notifies the disclosing Party of such requirement within a reasonably sufficient time to permit the disclosing Party to challenge such requirement prior to such disclosure. Each Party shall promptly notify the other Party in the event that it becomes aware of any unauthorized access to, or use or disclosure of, any of the other Party's Confidential Information.
- 3. Return or Destruction of Confidential Information.** Upon the termination of this Agreement, or at either Party's request, the Party in receipt of any Confidential Information shall deliver to the disclosing Party, or destroy (at the disclosing Party's option) all files, documents, computer programs and other media (and all copies and reproductions of any of the foregoing) in its possession or control to the extent same contain Confidential Information of the disclosing Party. Upon the request of either Party, the other Party shall certify in writing that all materials containing Confidential Information (including all copies thereof) have been returned to the disclosing Party or destroyed, as the case may be.
- 4. Non-solicitation.** Each Party agrees that it shall not solicit, hire or take away directly, or indirectly, any of the other Party's, employees or contractors during the period of any business discussions between the Parties and for a period of one (1) year thereafter, without the express written approval of the other.
- 5. No License or Representation.** Each Party agrees and acknowledges that it will use the other Party's Confidential Information solely for the Purpose. This Agreement does not require either Party to disclose any Confidential Information. All Confidential Information shall remain the sole property of the disclosing Party. No license to either Party of any trademark, patent, copyright, or any other intellectual property right is either granted or implied by this Agreement or any disclosure hereunder. All Confidential Information disclosed by either Party is on an AS IS basis, and no representation, warranty or assurance is made by them with respect to the completeness, accuracy, non-

infringement of trademarks, patents, copyrights, trade secrets or any other intellectual property rights or other rights of third parties. Neither Party will be liable for any damages arising out of use of any Confidential Information, and the use of such Confidential Information is at the recipient's own risk.

6. **Term and Termination.** This Agreement shall become effective on the date set forth below and shall continue indefinitely.
7. **Injunctive Relief.** The Parties agree that disclosure or use of Confidential Information contrary to this Agreement may cause the disclosing Party irreparable harm, for which damages may not be adequate compensation. Therefore, the Parties agree that they may be entitled to equitable relief, including an injunction, in order to stop any breach or threatened breach of this Agreement.
8. **Legal Fees.** In the event that either Party shall bring any action to enforce or protect any of its rights under this Agreement, the prevailing Party shall be entitled to recover, in addition to its damages, its reasonable legal fees and costs (including those of in-house counsel) incurred in connection therewith.
9. **Governing Jurisdiction.** This Agreement is governed by the laws of Texas and the laws of the United States applicable therein excepting its conflict or choice of law provisions. The parties hereby agree to irrevocably attorn to the exclusive jurisdiction of the courts situated in the City of Dallas in the State of Texas.
10. **Miscellaneous Provisions.** This Agreement constitutes the entire agreement and understanding between the Parties and integrates all prior and contemporaneous discussions between them related to the subject matter hereof. No amendment to this Agreement shall be valid unless it is in writing and signed by both Parties. This Agreement shall be binding upon the respective successors and assigns of the Parties. No delay or omission by either Party in exercising any right under this Agreement shall operate as a waiver of that or any other right. If any provision of this Agreement shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or invalidate any other provision of this Agreement. The termination of this Agreement for whatever reason shall not relieve either Party from its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the latter date written below:

KRUNCHBOX INC.

{replace with Second Party}

By

By

Name

Name

Title

Title

Date

Date