



NON-DISCLOSURE AGREEMENT

This Non-Disclosure and Confidentiality Agreement (this “Agreement”) is entered into as of _____ (the “Effective Date”) by and between Xinsto, LLC dba NodeSpace, a Virginia Limited Liability Company (“NodeSpace”) and _____, a/an _____ (“seller”).

NodeSpace and seller have indicated an interest in exploring a potential business relationship relating to: the sale of seller’s business (the “Transaction”). In connection with its respective evaluation of the Transaction, each party, their respective affiliates and their respective directors, officers, employees, agents or advisors (collectively, “Representatives”) may provide or gain access to certain confidential and proprietary information. A party disclosing its Confidential Information to the other party is hereafter referred to as a “Disclosing Party.” A party receiving the Confidential Information of a Disclosing Party is hereafter referred to as a “Receiving Party.” In consideration for being furnished Confidential Information, NodeSpace and seller agree as follows:

1. Confidential Information. The term “Confidential Information” as used in this Agreement shall mean any data or information that is competitively sensitive material and not generally known to the public, including but not limited to, information relating to any of the following: finance systems, reports, data, customer lists, customer relationships, customer profiles, supplier lists, supplier relationships, pricing, technical information, which the Disclosing Party considers confidential.
2. Exclusions from Confidential Information. The obligation of confidentiality with respect to Confidential Information will not apply to any information:
 - a. If the information is or becomes publicly known and available other than as a result of prior unauthorized disclosure by Receiving Party or any of its Representatives;
 - b. If the information is or was received by Receiving Party from a third-party source which, to the best knowledge of Receiving Party or its Representatives, is or was not under a confidentiality obligation to Disclosing Party with regard to such information;
 - c. If the information is disclosed by Receiving Party with the Disclosing Party’s prior written permission and approval;
 - d. If the information is independently developed by Receiving Party prior to disclosure by Disclosing Party and without the use and benefit of any of the Disclosing Party’s Confidential Information; or
 - e. If Receiving Party or any of its Representatives is legally compelled by applicable law, by any court, governmental agency, or regulatory authority or by subpoena or discovery request in pending litigation but only if, to the extent of lawful, Receiving Party or its Representatives give prompt written notice of that fact to Disclosing Party prior to disclosure so that Disclosing Party may request a protective order or other remedy to prevent or limit such disclosure and in the



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1 absence of such protective order or other remedy, Receiving Party or its
2 Representatives may disclose only such portion of the Confidential Information
3 which is legally obtained to disclose.
4

- 5 3. **Obligation to Maintain Confidentiality.** With respect to Confidential Information:
- 6 a. Receiving Party and its Representatives agree to retain the Confidential
7 Information of the Disclosing Party in strict confidence, to protect the security,
8 integrity and confidentiality of such information and to not permit unauthorized
9 access to or unauthorized use, disclosure, publication or dissemination of
10 Confidential Information except in conformity of this Agreement;
 - 11 b. Receiving Party and its Representatives shall adopt and/or maintain security
12 processes and procedures to safeguard the confidentiality of all Confidential
13 Information received by Disclosing Party using a reasonable degree of care, but
14 not less than that degree of care used in safeguarding its own similar information
15 or material;
 - 16 c. Upon the termination of this Agreement, Receiving Party will ensure that all
17 documents, memoranda, notes and other writings or electronic records prepared
18 by it that include or reflect any Confidential Information are returned or destroyed
19 as directed by Disclosing Party;
 - 20 d. If there is any unauthorized disclosure or loss of any of the Confidential
21 Information by Receiving Party or any of its Representatives, Receiving Party
22 will promptly, at its own expense, notify Disclosing Party in writing and take all
23 actions that may be necessary or reasonably requested by Disclosing Party to
24 minimize any damages to the Disclosing Party or a third party as a result of the
25 disclosure or loss; and
 - 26 e. The obligation not to disclose Confidential Information shall survive the
27 termination of this Agreement, and at no time will Receiving Party or any of its
28 Representatives be permitted to disclose Confidential Information, except to the
29 extent that such Confidential Information is excluded from the obligations of
30 confidentiality under this Agreement pursuant to Paragraph 2 above.
31

- 32 4. **Non-Disclosure of Transaction.** Without Disclosing Party's prior written consent, neither
33 Receiving Party nor its Representatives shall disclose to any other person, except to the
34 extent, the provisions of Paragraph 2 apply: (a) the fact that Confidential Information has
35 been made available to it or that it has inspected any portion of the Confidential
36 Information; (b) the fact that Disclosing Party and Receiving Party are having discussions
37 or negotiations concerning the Transaction; or (c) any of the terms, conditions or other
38 facts with respect to the Transaction.

- 39 5. **Representatives.** Receiving Party will take reasonable steps to ensure that its
40 Representatives adhere to the terms of this Agreement. Receiving Party will be
41 responsible for any breach of this Agreement by any of its Representatives.
42

- 43 6. **Disclaimer.** There is no representation or warranty, express or implied, made by
44 Disclosing Party as to the accuracy or completeness of any of its Confidential
45 Information. Except for the matters set forth in this Agreement, neither party will be



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under any obligation with regard to the Transaction. Either party may, in its sole discretion: (a) reject any proposals made by the other party or its Representatives with respect to the Transaction; (b) terminate discussions and negotiations with the other party or its Representatives at any time and for any reason or for no reason; and (c) change the procedures relating to the consideration of the Transaction at any time without prior notice to the other party.

7. Remedies. Each party agrees that use or disclosure of any Confidential Information in a manner inconsistent with this Agreement will give rise to irreparable injury for which: (a) money damages may not be a sufficient remedy for any breach of this Agreement by such party; (b) the other party may be entitled to specific performance and injunction and other equitable relief with respect to any such breach; (c) such remedies will not be the exclusive remedies for any such breach, but will be in addition to all other remedies available at law or in equity; and (d) in the event of litigation relating to this Agreement, if a court of competent jurisdiction determines in a final non-appealable order that one party, or any of its Representatives, has breached this Agreement, such party will be liable for reasonable legal fees and expenses incurred by the other party in connection with such litigation, including, but not limited to, any appeals.

8. Notices. All notices given under this Agreement must be in writing. A notice is effective upon receipt and shall be sent via one of the following methods: delivery in person, overnight courier service, certified or registered mail, postage prepaid, return receipt requested, addressed to the party to be notified at the below address or by facsimile at the below facsimile number or in the case of either party, to such other party, address or facsimile number as such party may designate upon reasonable notice to the other party.

Xinsto, LLC
Travis Newton, Owner
8545 Crestwicke Ln
Quinton, VA 23141
Phone number: (800) 304-0345 x700
Fax number: NONE
Email address: Travis.Newton@xinsto.com

Phone number: _____
Fax number: _____
Email address: _____

9. Termination. This Agreement will terminate on the earlier of: (a) the written agreement of the parties to terminate this Agreement; (b) the consummation of the Transaction; or



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1 (c) 3650 days from the date hereof.
2

3 10. Amendment. This Agreement may be amended or modified only by a written agreement
4 by both of the parties.
5

6 11. Jurisdiction. This Agreement will be governed by and construed in accordance with the
7 laws of the State of Virginia, without regard to the principles of conflict of laws. Each
8 party consents to the exclusive jurisdiction of the courts located in the State of Virginia
9 for any legal action, suit or proceeding arising out of or in connection with this
10 Agreement. Each party further waives any objection to the laying of venue for any such
11 suit, action or proceeding in such courts.
12

13 12. Miscellaneous. This Agreement will inure to the benefit of and be binding on the
14 respective successors and permitted assigns of the parties. Neither party may assign its
15 rights or delegate in its duties under the Agreement without the other party's prior written
16 consent. In the event that any provision of this Agreement is held to be invalid, illegal or
17 unenforceable in whole or in part, the remaining provisions shall not be affected and shall
18 continue to be valid, legal and enforceable as though the invalid, illegal or unenforceable
19 parts had not been included in this Agreement. Neither party will be charged with any
20 waiver of any provision of this Agreement, unless such waiver is evidenced by a writing
21 signed by the party and any such waiver will be limited to the terms of such writing.
22

23 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first
24 written above.
25

26 Xinsto, LLC dba NodeSpace
27

28 By: _____

29 Name: Travis Newton

30 Title: Owner
31

32 _____
33

34 By: _____

35 Name: _____

36 Title: _____