

## **CONFIDENTIALITY AGREEMENT**

This Confidentiality Agreement (“Confidentiality Agreement”), is made as of \_\_\_\_\_, 2009, between Kenneth P. Silverman, Esq., the Chapter 7 Trustee (the “Trustee”) of the substantively consolidated estate of Agape World, Inc., *et al.* (the “Debtors”), having offices at c/o SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York and \_\_\_\_\_ (“Potential Purchaser”), having offices at \_\_\_\_\_.

### **FACTUAL BACKGROUND**

1. On February 12, 2009, the Trustee was appointed the interim chapter 7 trustee of the estate of Agape World, Inc. (“AWI”), an involuntary chapter 7 bankruptcy debtor, in the United States Bankruptcy Court for the Eastern District of New York (the “Court”), Case No. 09-70660 (DTE). On March 4, 2009, the Court entered an Order for Relief in the AWI case. On April 14, 2009, the Court entered an Order substantively consolidating AWI’s affiliated entities into the bankruptcy estate<sup>1</sup>. On March 31, 2009, the Trustee duly qualified and became the permanent trustee of the Debtors’ estate.

2. The Potential Purchaser is interested in purchasing certain assets of the estate (the “Transactions”), subject to due diligence investigation.

3. In connection with the potential asset purchase, Potential Purchaser requests information with respect to the certain of the estate’s assets. The information provided may contain, and is likely to contain, confidential and proprietary information, which the Trustee wishes to protect and maintain in confidence. Such information, if made public, could prejudice the Trustee’s rights with respect to certain claims that the Trustee may have against third parties or the value of those assets.

4. Subject to the terms and conditions of this Agreement, the Trustee is willing to disclose to Potential Purchaser certain confidential and proprietary information and data needed by Potential Purchaser for the purpose of assessing whether Potential Purchaser is willing to purchase the Debtors’ assets.

### **AGREEMENT**

5. Confidential Information. “Confidential Information” shall mean any data or information of a party hereto making the disclosure (the “Disclosing Party”) to the other party (the “Recipient”) that is confidential, proprietary and/or not generally known to the public, including agreements with third-parties, pro-forma financial statements, financial statements of the Debtors, books and records of the Debtors, financial information, pro-forma financial statements, financial statements, books and records or personal information of third-parties, improvements, plans, sales estimates and procedures, proprietary information, business methods and strategies, marketing materials, and business plans of the Debtors or any of its subsidiaries and affiliated companies; provided, however, that Confidential Information shall not

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<sup>1</sup> The Debtor entities include Agape World, Inc., Agape Merchant Advance, LLC, Agape World Bridges, LLC, Agape Community, LLC, 114 Parkway Drive South, LLC, and Agape Construction Management, LLC.

include information that: (a) was in the public domain prior to the date of this Agreement or subsequently enters the public domain through no fault of the Recipient; (b) was or is lawfully received by the Recipient from a third party which, to the knowledge of the Recipient, does not owe any obligation of confidence to the Trustee or the Debtors; or (c) is subsequently and independently developed by employees, consultants or agents of the Recipient without reference to Confidential Information of the Trustee or the Debtors disclosed under this Agreement.

6. Confidentiality Obligations. Except as expressly authorized by prior written consent of the Disclosing Party, the Recipient shall: (a) limit access to any Confidential Information received by it to its employees, agents, professional advisors and consultants who have a need-to-know such information in connection with the Transactions, and only for use in connection therewith; (b) advise its employees, agents and consultants having access to the Confidential Information of the proprietary nature thereof and of the obligations set forth in this Confidentiality Agreement; (c) take appropriate action by instruction or agreement with its employees, agents and consultants having access to the Confidential Information to fulfill its obligations under this Confidentiality Agreement; (d) safeguard all Confidential Information received by it using a reasonable degree of care, but not less than that degree of care used by Recipient in safeguarding its own similar information or material; (e) use all Confidential Information received by it solely for purposes of the particular Transactions and for no other purpose whatsoever; (f) not disclose any Confidential Information received by it to third parties; (g) except for the purposes of the particular Transactions, not copy or otherwise duplicate such Confidential Information or knowingly allow anyone else to copy or to otherwise duplicate such Confidential Information, and any and all copies shall bear the same notices or legends, if any, as the originals; (h) except as otherwise may be agreed by the parties hereto in writing, on request, promptly return to the Disclosing Party all Confidential Information in a tangible form or certify to the Disclosing Party that it has destroyed all copies of such Confidential Information; and (i) not disclose to any person (1) the fact that any investigations, discussions or negotiations are taking place concerning the Transactions, (2) that the Recipient has requested or received Confidential Information or (3) any of the potential terms, conditions or other facts with respect to the Transactions, including the status thereof.

7. Disclosure in Legal Proceedings. In the event that a Recipient is requested or required to disclose any of the Confidential Information of the Disclosing Party in any investigatory, legal, regulatory or administrative proceeding, the Recipient will provide the Disclosing Party with prompt notice thereof so that the Disclosing Party may seek a protective order or other appropriate remedy. However, if no such order or remedy is obtained, the Recipient may, without liability hereunder, disclose in such proceeding that portion of the Confidential Information of the Disclosing Party that its legal counsel has advised it is legally required to disclose.

8. No Representations or Warranties; Ownership. Although the Trustee will endeavor to include in the Confidential Information being provided to the Recipient, materials that the Trustee believes are relevant to the understanding of the Recipient, Recipient acknowledges and confirms that neither the Trustee nor his employees, retained professionals, agents or consultants have made or makes any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information, and that the Trustee nor his employees, retained professionals, agents or consultants will have any liability to the Recipient resulting from its use of the Confidential Information, except as may be otherwise provided in any definitive agreement between the parties with respect to the Transactions. All Confidential Information shall remain the property of the Disclosing Party.

9. No Obligation Pertaining to Transactions. The parties acknowledge that (i) either the Trustee or Potential Purchaser may terminate discussions regarding the potential Transactions at any time and for any reason without any liability to the other party, other than with respect to the obligations hereunder, (ii) the parties have entered into this Confidentiality Agreement only for the purposes of facilitating discussions regarding the potential Transactions, and neither party shall be under any further obligation to consummate any Transaction merely by executing this Confidentiality Agreement or by way of such discussions, and (iii) unless and until a definitive agreement with respect to a Transaction has been executed and delivered by the parties hereto, neither party will be under any legal obligation whatsoever with respect to any Transaction of any kind, other than the parties' respective obligations hereunder.

10. Equitable Relief. The parties agree that money damages alone would not be a sufficient remedy for breach of the confidentiality and other obligations of this Confidentiality Agreement. Accordingly, in addition to all other remedies that the Trustee may have (including money damages), the Trustee shall be entitled to specific performance and injunctive or other equitable relief as a remedy for the breach of the confidentiality and other obligations of this Confidentiality Agreement. The Recipient agrees to waive any requirement for a bond or other security in connection with any such injunctive or other equitable relief. Potential Purchaser shall be responsible (financially or otherwise) for compliance with this Confidentiality Agreement by its business units (divisions and subsidiaries), affiliates, employees, agents, professional advisors and consultants.

11. Governing Law; Venue. This Confidentiality Agreement and performance hereunder shall be governed by the laws of the State of New York. Any legal proceeding arising in connection herewith shall be submitted for trial exclusively before the United States Bankruptcy Court for the Eastern District of New York and the parties hereby submit to the exclusive jurisdiction of the Court and consent to service of process outside of the State of New York pursuant to the requirement of such Court in any matter subject to it.

12. Term. This Confidentiality Agreement shall commence on the date hereof and shall terminate either upon written notice by either party to the other or upon termination of the parties' negotiations pertaining to the Transactions, provided that the confidentiality obligations hereunder will continue with respect to any Confidential Information exchanged hereunder during the term of this Confidentiality Agreement for six (6) years following the date hereof.

13. General. This Confidentiality Agreement may not be assigned or otherwise transferred by the Potential Purchaser, in whole or in part, without the prior written consent of the Trustee. The prevailing party in any dispute relating to this Confidentiality Agreement shall be entitled to recover from the other party its reasonable attorneys' fees and costs. This Confidentiality Agreement contains the entire and exclusive agreement of the parties with respect to the subject matter hereof and supersedes any previous understanding or agreement related to confidentiality between the parties, whether written or oral. All changes or modifications to this Confidentiality Agreement must be agreed in writing by the parties. Failure or delay by any party to enforce any contract term shall not be deemed a waiver of such contract term or of future enforcement of that or any other term. It is the intention of the parties that, if any provision of this Confidentiality Agreement shall be held invalid or unenforceable in any respect, such provision shall be enforced to the maximum extent permitted by law, and that the remaining provisions of this Confidentiality Agreement shall continue in full force and effect. Nothing in this Confidentiality Agreement shall be construed as granting to the Recipient a license to any of the Confidential Information. It is understood that the confidential disclosures contemplated by this Confidentiality Agreement are given on a non-exclusive basis and that,

IN WITNESS WHEREOF, the parties have executed this Confidentiality Agreement as of the date first written above.

**SILVERMANACAMPORA LLP**

By: \_\_\_\_\_  
Ronald J. Friedman  
Counsel to Kenneth P. Silverman,  
Esq. Chapter 7 Trustee of the  
Estate of Agape World, Inc., et al.

By: \_\_\_\_\_  
Name:  
Title: