

NONDISCLOSURE AGREEMENT

Date: _____, 20__

This **Nondisclosure Agreement** (this "Agreement") is entered into and executed by _____ ("Recipient"), as of the date set forth above, in favor of Bridgestone Corporation, Bridgestone Americas, Inc., Bridgestone Americas Tire Operations, LLC, Bridgestone Retail Operations, LLC, Firestone Industrial Products Company, LLC, Firestone Building Products Company, LLC, Bridgestone Bandag, LLC, Bridgestone Canada Inc., Credit First National Association, and all subsidiaries, divisions, and business ventures of each of them (each as applicable, a "Discloser"). Discloser and Recipient are herein collectively referred to as the "Parties".

BACKGROUND

In connection with current or potential business relationships, transactions and/or collaborations between the Parties (the "Purpose"), Recipient may have access to, receive or discern certain of Discloser's confidential information. Discloser's willingness to provide such information and engage in the Purpose is subject to Recipient's agreement to preserve the confidentiality of all such information as provided herein.

AGREEMENT

Intending to be legally bound, Recipient hereby agrees as follows:

1. **Defined Terms.** The following terms have the following meanings:

- a. "Confidential Information" means all (i) confidential, non-public, trade secret, proprietary, commercially or personally sensitive, technical, business or financial information or know-how; (ii) Personally Identifiable Information; (iii) information related to the relationship of the Parties or the Purpose; and (iv) other information that a reasonable person would consider confidential or sensitive given the manner of disclosure or the nature of the information, which, either before the date hereof or during the term of this Agreement, is received, learned, observed or discerned by Recipient in connection with the Purpose or directly or indirectly disclosed or furnished by or on behalf of Discloser, and all documents or materials containing, derived from, or based in whole or in part on, any of the foregoing, all regardless of source or form and whether or not such information is marked as confidential or proprietary. Any ambiguity as to whether particular information qualifies as "Confidential Information" shall be resolved by Discloser. Notwithstanding the foregoing, the term "Confidential Material" does not include Excluded Information.
- b. "Excluded Information" means any information that, as evidenced by existing documentation:
 - i. is generally available to and known by the public through no act, omission or fault of Recipient;
 - ii. is independently developed by Recipient without use of or access or reference to Confidential Information; or
 - iii. is received by Recipient, prior to disclosure by Discloser, from a third party without any obligations of confidentiality to Discloser or another party.

Specific information disclosed by Discloser shall not be deemed to be in Recipient's possession or available to Recipient, or part of the public knowledge or literature, merely because Recipient can assemble such specific information by combining public knowledge or literature with more general information already disclosed to Recipient by Discloser, or with information previously disclosed to Recipient by sources other than Discloser.

- c. "Personally Identifiable Information" means all personally identifying information of any individual, including financial information and records, credit card and banking information, social security numbers, information about physical and mental health, status, condition or treatment, employment records, performance evaluations, relationship histories, information about an individual protected by applicable law and other information of a type considered to be sensitive or private.

2. **Protection of Confidential Information.**

- a. Use of Confidential Information. Recipient will use the Confidential Information only to the extent necessary to further the Purpose but in any event not in any manner detrimental to Discloser.
- b. Nondisclosure. Recipient will keep confidential and not, directly or indirectly, in any way, reveal, report, publish, divulge, disclose or transfer any of the Confidential Information except as expressly permitted by Sections 2(c) and 3 of this Agreement or as otherwise specifically authorized by Discloser in writing. Recipient shall maintain the Confidential Information in a secure manner and shall protect the Confidential Information at least to the extent and in the same manner as it protects its own confidential information of a like nature, but in all cases shall use at least reasonable care and commercially reasonable methods to do so.

- c. **Representatives and Third Parties.** Recipient may disclose Confidential Information only to its directors, officers, employees, agents and outside professional advisors, including its attorneys and auditors (collectively, “**Representatives**”), having a bona fide need to know such Confidential Information, but only to the extent necessary to further the Purpose. Recipient will not permit any independent contractor, non-employee or other third party (each, a “**Third Party**”) to have access to any Confidential Information without the prior written consent of Discloser. If Recipient discloses, or provides access to, Confidential Information to its Representatives or any Third Party (“**Third Party Recipient**”), Recipient will be responsible for the compliance of such Representatives or Third Party Recipients with the terms and conditions of this Agreement. Any disclosure of Confidential Information or breach of this Agreement by any Representative or Third Party Recipient will be deemed to be a disclosure or breach, respectively, by Recipient. Recipient represents, warrants and covenants that all Representatives and Third Party Recipients given access to the Confidential Information are, or will be prior to gaining such access, and at all times that such Representatives or Third Party Recipients possess, have access to or knowledge of any Confidential Information, under obligation: (i) to hold the Confidential Information in strict confidence by terms no less stringent than the terms of this Agreement; and (ii) to use Confidential Information only as permitted by this Agreement and Recipient will not waive, amend or release any such obligations.
 - d. **No Reverse Engineering.** Except to the extent expressly authorized to do so in writing by Discloser, Recipient will not analyze, attempt to analyze, or have analyzed any samples or materials provided by Discloser for the purpose of obtaining information relating to the chemical composition or content of any sample or for any other purpose, “reverse engineer” any sample, or attempt to determine the mixing or blending instructions, processes, formulas or structure of or for any such sample, or attempt to use any of the Confidential Information in Recipient’s processes or incorporate it into Recipient’s current or future products.
 - e. **No Reproduction.** Recipient shall not create, copy or reproduce in any form (electronic or otherwise) any materials or documents containing Confidential Information except as reasonably necessary to further the Purpose.
 - f. **Other Obligations.** Nothing in this Agreement shall be construed to eliminate, limit or supersede any other privacy, confidentiality or nondisclosure obligations that Recipient may have to Discloser under applicable law or another agreement.
3. **Compelled Disclosure.** If Recipient or its Representatives are requested by a court or governmental agency with competent jurisdiction to disclose any Confidential Information, Recipient will, to the extent legally permissible, promptly notify Discloser so that Discloser may, in its sole discretion and at its own expense, seek a protective order, other appropriate remedy or to narrow the scope of the required disclosure. Recipient will reasonably cooperate with Discloser in seeking any such protections. If, notwithstanding any actions taken by Discloser, Recipient remains compelled by law to disclose Confidential Information, Recipient may disclose only that portion of the Confidential Information Recipient determines is legally required to be disclosed after consultation with competent counsel so long as Recipient uses reasonable efforts to ensure that confidential treatment will be accorded such Confidential Information. No disclosure of Confidential Information under this Section 3 shall be deemed to permit any further disclosure of such Confidential Information.
 4. **Return/Destruction of Materials.** Unless Discloser agrees otherwise in writing, upon termination of the Purpose or upon Discloser’s request, Recipient will promptly return to Discloser, or at the election of Discloser, destroy, all Confidential Information, including all reproductions or copies thereof that contain, incorporate or summarize any Confidential Information, in Recipient’s, its Representative’s or a Third Party Recipient’s possession or control, in whatever form or medium, and certify such return or destruction in writing. Notwithstanding the forgoing, Receipt is not required to destroy copies of any Confidential Information that (i) are created pursuant to standard electronic archival or backup procedures or (ii) Recipient reasonably determines, after consultation with competent counsel, it is legally required to retain.
 5. **Unauthorized Disclosure.** If any unauthorized disclosure of any Confidential Information by or through Recipient should occur, Recipient shall promptly take all reasonable actions, including legal proceedings, to protect the further dissemination and use of such Confidential Information, including actions seeking injunctive relief, all at Recipient’s expense. Discloser may also take such action itself and shall be entitled to reimbursement from Recipient for all costs and expenses (including reasonable attorneys’ fees) associated with such actions.
 6. **Remedies.** Recipient acknowledges that monetary damages or other remedies at law may not be a sufficient remedy for any actual or threatened breach of this Agreement and agrees that Discloser is entitled to specific performance of this Agreement and injunctive or other equitable relief as a remedy for any such actual or threatened breach, without proof of actual damages or the securing or posting of a bond. In addition, Discloser may seek other appropriate relief, including monetary damages. Discloser shall be entitled to recover from Recipient all costs and expenses (including reasonable attorneys’ fees) incurred in connection with such enforcement or the protection of Discloser’s rights under this Agreement.

All remedies of Discloser are cumulative, not exclusive, and are in addition to, and not in lieu of, any rights and remedies available by contract, at law, in equity or otherwise.

- 7. **Disclaimer of Accuracy; Completeness.** Recipient acknowledges and agrees that, except as may be otherwise agreed in writing, Discloser (i) makes no representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information, (ii) has no duty to amend or update the Confidential Information, and (iii) shall not have any liability to Recipient or its Representatives as a result of their reliance on the Confidential Information.
- 8. **No Additional Obligations.** Nothing in this Agreement shall impose any obligation upon any Party to provide or accept any Confidential Information, commence or continue the Purpose or any transaction or enter into any discussions, negotiations, agreements or arrangements.
- 9. **Ownership; Limited License.** Nothing in this Agreement shall be construed to transfer any right, title or interest in or to any Confidential Information except that Disclosure grants Recipient a limited, nonexclusive and revocable license to use the Confidential Information as expressly permitted by Section 2(a).
- 10. **General.** (a) **Choice of Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Tennessee (without regard to its rules on conflicts of laws) and the United States of America. (b) **Assignment; Successors and Assigns.** Neither Party may assign this Agreement or any of its rights or obligations hereunder, in whole or in part, without the prior written consent of the other Party and any assignment without prior written consent of the other Party will be deemed invalid and not binding. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Each of Discloser’s affiliates are intended third party beneficiaries of this Agreement and, as such, enjoy the same rights and privileges under this Agreement as Discloser without restriction or additional consideration. (c) **Originals.** Facsimile copies, or copies in pdf or other electronic image format, of this Agreement signed by Recipient will be considered for all purposes as originals. (d) **Notices.** All notices required to be given hereunder shall be sent by email, overnight courier, by certified mail, or by facsimile, addressed to the Parties at its address shown below, and shall be effective upon receipt. (e) **Amendment.** This Agreement may not be altered, amended or changed in any way except by a written instrument executed by the Parties. (f) **No Waivers.** No waiver of any rights or obligations shall be (i) implied, whether by course of dealing, any failure or delay in exercising any right, power or privilege hereunder, or otherwise, or (ii) effective unless in writing and signed by the Party holding such rights or to whom such obligations are owed. Any waiver shall be effective only in the specific instance and for the specific purpose stated in such writing and not obligate the waiving Party to grant any further, similar, or other waivers. The waiver or release of Recipient’s obligations or duties by a Discloser in accordance with the terms of this Agreement shall not be deemed to imply or constitute a waiver or release of Recipient’s obligations or duties to any other Discloser. (g) **Severability.** All provisions of this Agreement are severable. If any term, provision or agreement contained in this Agreement is held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain valid, legal, and enforceable and be enforced and construed as if such invalid provision were never a part of this Agreement. (h) **Export Laws.** Recipient shall adhere to the U.S. Export Administration Laws and Regulations and shall not export or re-export any technical data or products received from Discloser or the direct product of such technical data to any proscribed country listed in the U.S. Export Administration Regulations unless properly authorized by the U.S. Government and otherwise in compliance with the terms of this Agreement. (i) **Additional Provisions.** This Agreement supplements and does not replace any other confidentiality agreement or nondisclosure agreement signed by Recipient in favor of Discloser or entered into between the Parties. (j) **Survivability.** This Agreement shall survive the execution, termination or expiration of the Purpose or any agreements or relationship between the Parties.

IN WITNESS WHEREOF, Recipient has executed this Agreement as of the date first written above.

RECIPIENT: _____

By: _____
Name: _____
Title: _____

Notice Address for Recipient:

Address: _____
City, State, Zip: _____
Email: _____
Attn: _____

Notice Address for Discloser:

535 Marriott Dr.
Nashville, TN 37214
Email: CorporateServices@bfusa.com
Attn: General Counsel, Corporate Services