

## FINDER'S FEE AGREEMENT

This Finder's Fee Agreement (this "Agreement") is entered into on \_\_\_\_\_, 201\_ between **Incline Equity Partners** ("Manager"), located at 625 Liberty Avenue, Suite 340, Pittsburgh, PA 15222, and \_\_\_\_\_, whose mailing address, telephone and fax numbers are \_\_\_\_\_ ("Finder").

### PREAMBLE

Manager is the manager of a private equity fund (the "Fund"). Finder has contact with \_\_\_\_\_, which is a company that may be of interest to Manager and the Fund, whose business is described as follows \_\_\_\_\_ and whose mailing address, telephone and fax numbers are \_\_\_\_\_ (the "Target"). Manager desires to authorize Finder to introduce to Manager the Target, in return for a finder's fee to be paid to Finder if earned hereunder. Therefore, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### AGREEMENT

**1. Role of Finder.** Finder is authorized to introduce to Manager the Target. Finder is not authorized to act as agent for Manager or the Fund, nor to bind Manager or the Fund in any manner. Finder is and shall be an independent contractor and not an employee, agent, representative, affiliate, partner or joint venturer of Manager or the Fund and Finder shall not hold itself out as such and shall not make any assertion that could lead the Target to believe that Finder is an employee, agent, representative, affiliate, partner or joint venturer of Manager or the Fund. This Agreement is not exclusive as to either party, and Finder shall be free to perform similar services for other parties, and Manager and the Fund shall be free to engage others to introduce Manager and the Fund to targets. In no event shall Finder perform any act in connection with this Agreement, which (i) would require Finder to be registered as an investment advisor or broker-dealer or (ii) is in violation of any state or federal securities laws. Finder makes and will make no representation that the information provided by the Target will be materially complete and correct and will not contain any untrue statements of a fact or omit to state a material fact necessary in order to make the statements therein not misleading in light of the circumstances under which such statements are made. Manager recognizes and confirms that the Finder (i) will be using and relying primarily on the information from the Target and information available from generally recognized public sources in performing the services contemplated hereunder without having independently verified the same; (ii) does not assume responsibility for the accuracy or completeness of the information; and (iii) does not make an appraisal of any of the assets of the Target.

**2. Compensation to Finder.**

(a) As its sole compensation for its services hereunder, Finder shall receive a finder's fee in accordance with the fee schedule set forth on Exhibit A hereto (the "Fee Schedule") (i) if the Target qualifies as an Introduced Target (as defined below) and (ii) if the Fund consummates a qualifying transaction with the Introduced Target within eighteen (18) months after the date of this Agreement. Finder shall be responsible for its own overhead and out of pocket expenses incurred in connection with the services provided hereunder.

(b) For purposes of this Agreement, the term "Introduced Target" shall mean a Target that meets each of the following requirements: (i) within twenty-eight (28) days after the date of this Agreement, (A) the Target is introduced by Finder to Manager, (B) Manager has held an in person or telephone meeting with the majority owners of the Target, and (C) the majority owners of the Target confirm (during such meeting or teleconference) their desire to consider a change-of-control transaction or buyout thereof; (ii) the Target has not previously contacted, been contacted by, or introduced to, Manager, the Fund or an affiliate of Manager or the Fund with respect to a possible transaction with Manager, the Fund or an affiliate of Manager or the Fund, and (iii) the Target (and/or the shareholders and affiliates of the Target) is neither at the time of the introduction nor within 60 days thereafter party to an agreement with a broker, finder, financial advisor, investment banker or other advisor who would be entitled to a fee or other compensation paid by the Target (and/or the shareholders and affiliates of the Target) if the Target entered into a transaction involving Manager or the Fund. If Finder desires to introduce Manager to the Target, Finder will give notice to Manager (which may be oral if it is promptly confirmed in writing) within twenty-eight (28) days after the date of this Agreement confirming the identity of the Target and its owners. Finder will not be deemed to have made an introduction that is subject to this Agreement without giving written notice as provided in this Section.

**3. Time and Manner of Payment.**

(a) Payments of finder's fees pursuant to Section 2(a) hereunder shall be made by Manager or the Fund in accordance with the Fee Schedule.

(b) Manager and the Fund shall have the right, in its sole discretion, not to enter into a transaction with an Introduced Target for any reason or no reason, in which case no finder's fee shall be payable with respect to such Introduced Target.

**4. Term of Agreement.** This Agreement applies only to the Target named above and shall remain in effect for a period of twenty-eight (28) days from the date of this Agreement and will terminate automatically at the end of such term. Notwithstanding such termination, the provisions of Section 2 and 3 hereof regarding finder's fees shall survive and remain in full force and effect for a period of eighteen (18) months following the date of this Agreement (except in the case of a termination by Manager as a result of a breach of this Agreement by Finder) if prior to the termination of this Agreement the Target qualifies as an Introduced Target as described above.

**5. Confidentiality.**

(a) As used in this Agreement, "**Confidential Information**" means all information concerning or related to Manager, the Fund and their respective investors, portfolio companies and affiliates, regardless of the form in which such information appears and whether or not such information has been reduced to a tangible form, and shall specifically include all financial statements, budgets, business plans or forecasts of such parties; provided, that Confidential Information shall not include (A) information which is or becomes generally known to the public through no act or omission of Finder and (B) information which has been or hereafter is lawfully obtained by Finder from a source other than Manager so long as, in the case of information obtained from a third party, such third party is not subject to an obligation of confidentiality owed to Manager at the time such Confidential Information is disclosed.

(b) Except as otherwise permitted by subsection (c) below, Finder will not, without the prior written consent of Manager, disclose or use for its own benefit any Confidential Information.

(c) Notwithstanding subsection (b) above, Finder is permitted to (i) disclose Confidential Information to the extent specifically authorized by Manager in writing, and Finder shall take all such action as is necessary or desirable in order to ensure that each of the persons or entities to whom disclosure is authorized maintains the confidentiality of any Confidential Information that is so disclosed, and (ii) disclose Confidential Information to the extent, but only to the extent, required by law.

(d) Upon the termination of this Agreement for any reason, Finder will return to Manager all Confidential Information which has previously been delivered to it (whether in paper form, electronic form or other format).

(e) Finder acknowledges and agrees that Manager and the Fund would be irreparably damaged in the event that any of the provisions of this Section are not performed by Finder in accordance with their specific terms or are otherwise breached. Accordingly, Finder agrees that each of Manager and the Fund is entitled to an injunction or injunctions to prevent breaches of this Section and has the right to specifically enforce this Section and the terms and provisions hereof in addition to any other remedy available at law or in equity.

(f) Manager and the Fund agree to keep confidential any confidential information provided by Finder concerning the Target, including the fact that it is available for acquisition. Notwithstanding the foregoing, Manager and the Fund shall be permitted to disclose confidential information of a Target (i) to the extent required by law and (ii) to their respective officers, directors, employees, affiliates, investors and advisors who need to know such information in connection with an evaluation of a potential investment in the Target (provided that Manager shall take all such action as is necessary or desirable in order to ensure that each of the persons or entities to whom disclosure is authorized maintains the confidentiality of any Confidential Information that is so disclosed). Upon written request, Manager will return to Finder all confidential information of the Target which has previously been delivered to it (whether in paper form, electronic form or other format).

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**6. Representations of Finder.** Finder covenants, represents and warrants to Manager that Finder has and will maintain all licenses, permits and other authorizations required by applicable laws, rules or regulations in order to perform the services hereunder, and Finder will conduct its activities in connection with its engagement hereunder in compliance with all applicable securities and other laws, rules and regulations. Finder will indemnify, defend and hold Manager, the Fund and their respective officers, directors, investors and affiliates harmless from and against any losses, claims, damages, costs and expenses or other liabilities any such indemnified party incurs as a direct or indirect result of any breach by Finder of the foregoing covenant, representation and warranty or any other breach by Finder of its obligations hereunder.

**7. Miscellaneous.** This Agreement: (a) may be amended only by a writing signed by each of the parties; (b) may not be assigned, pledged or otherwise transferred, whether by operation of law or otherwise, without the prior consent of the other party; (c) may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument; (d) contains the entire agreement of the parties with respect to the transactions contemplated hereby and supersedes all prior written and oral agreements, and all contemporaneous oral agreements, relating to such transactions; (e) shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Pennsylvania; and (f) shall be binding upon, and inure to the benefit of, the parties and their respective heirs, successors and permitted assigns. The waiver by a party of any breach or violation of any provision of this Agreement shall not operate or be construed a waiver of any subsequent breach or violation hereof.

MANAGER

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

FINDER:

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

EXHIBIT A

FEE SCHEDULE

If the Target qualifies as an Introduced Target and the Fund consummates a change-of-control or other buyout transaction with the Introduced Target during the term of this Agreement or within eighteen (18) months after the date of this Agreement (except in the event of a breach of this Agreement by Finder, in which case no fee shall be due), at the time of the closing (the "Closing") of the transaction, the Fund will pay or cause to be paid to Finder in immediately available funds, a transaction fee (the "Transaction Fee") equal to **5% of the first million dollars of the Aggregate Consideration, 4% of the second million, 3% of the third million, 2% of the fourth million, then 1% thereafter**. The transaction fee paid at closing shall only apply to that portion of the transaction value which is actually paid to the Introduced Target at closing.

If the Introduced Target is represented by another broker/finder/investment banker or other financial advisor to whom a fee is due, the fees payable hereunder to Finder shall be reduced by 50% unless waived by the Fund in writing.

"Aggregate Consideration" shall mean the total amount paid or payable, directly or indirectly, to, or for the benefit of, the Introduced Target and/or its security holders at the Closing of (i) cash; and (ii) equity or debt securities or other equity interests plus (iii) the face amount of any third party funded debt of the Introduced Target that is (A) in a sale of assets, assumed or repaid by the purchaser at Closing, or (B) in a stock purchase or merger, assumed or repaid at Closing or remains on the Introduced Target's balance sheet after Closing. Any transaction fee related to deferred or contingent consideration due to the Introduced Target, in the form of a seller note or an earn-out, will be paid to Finder when such consideration is finally earned and paid to Introduced Target.