



NON-DISCLOSURE AGREEMENT

In consideration of my employment by [Company Name] and/or any of its affiliated entities (the “Employer”), and the compensation I receive from the Employer, I agree to certain restrictions placed by the Employer on my use and development of information and technology, as more fully set out below. By executing this written Agreement below, I affirm my agreement to these provisions at the time that I entered into my employment relationship with Employer.

1. PROPRIETARY INFORMATION

(a) Confidential Restrictions. I understand that, during the course of my work as an employee of the Employer, I have had and will have access to Proprietary Information (as defined below) concerning the Employer and its clients, customers, vendors, suppliers, licensees, licensors, distributors and other business relations. I acknowledge that the Employer has developed, compiled, and otherwise obtained, often at great expense, this information, which has great value to the Employer’s business. I agree to hold in strict confidence all Proprietary Information and will not disclose any Proprietary Information to anyone outside of the Employer. At any time, either during or after employment by the Employer, I will not use, disclose, copy, publish, summarize, or remove from Employer’s premises its Proprietary Information, except during my employment to the extent necessary to carry out my responsibilities as an employee of the Employer. I further agree that the publication of any Proprietary Information through literature or speeches must be approved in advance in writing by the Employer’s President and/or Managing Member. I will take all reasonable and appropriate steps to safeguard Proprietary Information and to protect it against disclosure, misuse, espionage, loss and theft.

(b) Proprietary Information Defined. I understand that the term “Proprietary Information” in this Agreement means all information and any idea in whatever form, tangible or intangible, whether disclosed to or learned or developed by me, pertaining in any manner to the business of the Employer (or any affiliates of it that might be formed) or to the Employer’s customers, consultants, business associates or employees unless (i) the information is or becomes publicly known through lawful means; (ii) the information was rightfully in my possession or part of my general knowledge prior to my employment by the Employer as specifically identified and disclosed by me in Exhibit “A”; or (iii) the information is disclosed to me without confidential or proprietary restriction by a third party who rightfully possesses the information (without confidential or proprietary restriction) and who did not learn of it directly from the Employer. I understand that the following information is included in the definition of Proprietary Information: (i) all client/customer lists and all lists or other compilations



containing client, customer or vendor information and their respective confidential information; (ii) information about products, proposed products, research, product development, techniques, processes, costs, profits, markets, marketing plans, strategies, forecasts, sales and commissions and accounting and business methods; (iii) plans for the future development and new product concepts; (iv) all manufacturing techniques or processes, documents, books, papers, drawings, models, sketches, computer programs, databases, and other data of any kind and description, including electronic data recorded or retrieved by any means; (v) the compensation and terms of employment of other employees; (vi) all other information that has been or will be given to me in confidence by the Employer (or any affiliate of it that might be formed); (vii) software in various stages of development, designs, drawings, specifications, techniques, models, data, source code, algorithms, object code, documentation, diagrams, flow charts, research development, processes and procedures; (viii) trade secrets, technology, know-how, compilations of data and analyses, techniques, systems, formulae, research, records, reports, manuals, data and data bases relating thereto; (ix) inventions, innovations, ideas, devices, improvements, developments, methods, processes, designs, analyses, drawings, photographs, reports and all similar or related information (whether or not patentable and whether or not reduced to practice); and (x) all similar and related information in whatever form. Proprietary Information also includes any information described above which the Employer obtains from another party and which the Employer treats as proprietary or designates as Proprietary Information. Disclosure of Proprietary Information by the Employee shall not be precluded if the disclosure is in response to a valid order of a court or other governmental body of the United States or other governmental subdivision thereof or is otherwise required to be disclosed by law; provided, however, that the Employee shall first give immediate written notice to the Employer so that the Employer may seek an appropriate protective order.

(c) Information Return. I agree that I will not retain and will return all Proprietary Information and all copies of it in whatever form to the Employer upon termination of my employment.

(d) Prior Actions and Knowledge. I represent and warrant that from the time of my first contact or communication with the Employer, I have held in strict confidence all Proprietary Information and have not disclosed any Proprietary Information to anyone outside of the Employer except for the benefit of the Employer, and that I have not used, copied, published, or summarized any Proprietary Information except to the extent necessary to carry out my responsibilities as an employee of the Employer.

(e) Former Employer Information. I agree that I will not, during my employment with the Employer, improperly use or disclose any confidential information, proprietary information or trade secrets of my former or concurrent employers. I agree that I will not bring onto the premises of the Employer any document or any property belonging to my former employers unless consented to in writing by them. I represent and warrant that I have returned all property and confidential information belonging to all prior employers.



(f) Non-Solicitation of Customers and Vendors. I agree that for the term of my employment and for a period of twenty-four (24) months after termination of my employment with the Employer, I shall not, directly or indirectly, for myself or any other person or entity, solicit, divert or attempt to divert from the Employer (or any affiliate of it that might be formed) any business. I will not solicit or interfere with any of the Employer's customers, vendors, suppliers, licensees, licensors, distributors or other business relations. I acknowledge that pursuit of the activities forbidden by this paragraph would necessarily involve the use or disclosure of Proprietary Information in breach of this Agreement, but that proof of such breach would be extremely difficult. I understand that none of my activities will be prohibited under this Paragraph if I can prove that the action was taken without the use in any way of Proprietary Information.

(g) Non-Solicitation of Employees. I agree that for a period of twenty-four (24) months following the termination of my employment with the Employer, I will not, on behalf of myself or any other person or entity, solicit the services of any person who was employed by the Employer on the date of my termination of employment or at any time during the six (6) month period prior to termination of my employment.

2. INVENTIONS.

(a) Defined; Statutory Notice. I understand that during the term of my employment, there have been and are certain restrictions on my development of technology, ideas, and inventions, referred to in this Agreement as "Invention Ideas." The term Invention Ideas means all ideas, processes, trademarks, service marks, inventions, technology, computer programs, original works of authorship, designs, formulas, discoveries, patents, copyrights, and all improvements, rights, and claims related to the foregoing that are conceived, developed, or reduced to practice by me alone or with others during the term of my employment by the Employer, including without limitation, during the period of employment before my execution of this agreement, except to the extent that California Labor Code Section 2870 lawfully prohibits the assignment of rights in such ideas, processes, inventions, etc. I understand that Section 2870(a) provides:

Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably



anticipated research or development of the employer.

(2) Result from any work performed by the employee for the employer.

I acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of my employment during the term of my employment by the Employer, including without limitation, during the period of employment before my execution of this Agreement, and which are protectable by copyright are “works made for hire,” as defined in the United States Copyright Act (17 USCA, Section 101).

(b) Disclosure. I agree to maintain adequate and current written records on the development of all Invention Ideas and to disclose promptly to the Employer all Invention Ideas and relevant records, which records will remain the sole property of the Employer. I further agree that all information and records pertaining to any idea, process, trademark, service mark, invention, technology, computer program, original work or authorship, design formula, discovery, patent, or copyright that I do not believe to be an Invention Idea, but is conceived, developed, or reduced to practice by me (alone or with others) during my employment or during the one-year period following termination of my employment, shall be promptly disclosed to the Employer (such disclosure to be received in confidence). The Employer shall examine such information to determine if in fact the ideas, process, or invention, etc., constitute Invention Ideas subject to this Agreement.

(c) Assignment. I agree to assign to the Employer, without further consideration, all right, title, and interest that I may presently have or acquire (throughout the United States and in all foreign countries), free and clear of all liens and encumbrances, in and to each Invention Idea, which shall be the sole property of the Employer, whether or not patentable. In the event any Invention Idea shall be deemed by the Employer to be patentable or otherwise registerable, I will assist the Employer (at its expense) in obtaining letters patent or other applicable registrations, and I will execute all documents and do all other things (including testifying at the Employer’s expense) necessary or proper to obtain letters patent or other applicable registrations and to vest the Employer with full title to them. My obligation to assist the Employer in obtaining and enforcing patents, registrations or other rights for such inventions in any and all countries, shall continue beyond the termination of my employment, but the Employer shall compensate me at a reasonable rate after such termination for the time actually spent by me at the Employer’s request for such assistance. Should the Employer be unable to secure my signature on any document necessary to apply for, prosecute, obtain, or enforce any patent, copyright, or other right or protection relating to any Invention Idea, whether due to my mental or physical incapacity or any other cause, I irrevocably designate and appoint the Employer and each of its duly authorized officers and agents as my agent and attorney-in-fact, to act for and on my behalf, to execute and file any such document and



to do all other lawfully permitted acts to further the prosecution, issuance, and enforcement of patents, copyrights, or other rights of protections with the same force and effect as if executed and delivered by me.

(d) Exclusions. Except as disclosed in Exhibit A, there are no ideas, processes, trademarks, service marks, inventions, technology, computer programs, original works of authorship, designs, formulas, discoveries, patents, copyrights, or improvements to the foregoing that I wish to exclude from the operation of this Agreement. If nothing is listed on Exhibit A, I represent that I have no such inventions or improvements at the time of signing this Agreement. I know of no existing contract in conflict with this Agreement.

(e) Post-Termination Period. Because of the difficulty of establishing when any idea, process, invention, etc., is first conceived or developed by me, or whether it results from access to Proprietary Information or the Employer's equipment, facilities, and data, I agree that any ideas, process, trademark, service mark, invention, technology, computer program, original work of authorship, design, formula, discovery, patent, copyright, or any improvement, rights, or claims related to the foregoing shall be presumed to be an Invention Idea, if it is conceived, developed, used, sold, exploited, or reduced to practice by me or with my aid within (1) year after my termination of employment with the Employer. I can rebut this presumption, if I prove that it is not an Invention Idea as defined in paragraph 2(a).

(f) California Labor Code / Labor Law. I understand that nothing in this Agreement is intended to expand the scope of protection provided me by Sections 2870 through 2872 of the California Labor Code or as provided by any federal, state, or local labor law.

3. **REMEDIES**

I recognize that nothing in this Agreement is intended to limit any remedy of the Employer under the California Uniform Trade Secrets Act, or under any federal, state, or local law pertaining to trade secrets and proprietary information. I recognize that my violation of this Agreement could cause the Employer irreparable harm, the amount of which may be extremely difficult to estimate, making any remedy at law or in damages inadequate. Thus, I agree that the Employer shall have the right to apply to any court of competent jurisdiction for an order restraining any breach or threatened breach of this Agreement and for any other relief the Employer deems appropriate. This right shall be in addition to any other remedy available to the Employer.

4. **MISCELLANEOUS PROVISIONS**

(a) Assignment. I agree that the Employer may assign to another person or entity any of its rights under this Agreement.



(b) Governing Law; Severability. The validity, interpretation, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California, County of [NAME]. If any provision of this Agreement, or application of it to any person, place, or circumstances, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.

(c) Entire Agreement. The terms of this Agreement are the final expression of my agreement with respect to its subject matter and may not be contradicted by evidence of any prior or contemporaneous agreement. This Agreement shall constitute the complete and exclusive statement of its terms. This Agreement can only be modified in writing signed by the Employer's President and/or its Managing Member.

(d) Successors and Assigns. This Agreement shall be binding upon me and my heirs, executors, administrators, and successors, and shall inure to the benefit of the Employer's successors and assigns.

(e) Application of this Agreement. I agree that my obligation set forth in this Agreement along with the Agreement's definitions of Proprietary Information and Invention Ideas shall be equally applicable to Proprietary Information and Invention Ideas related to any work performed by me for the Employer prior to the execution of this Agreement.

(f) Attorney's Fees. In the event that any suit or action is instituted under or in relation to this Agreement, including without limitation to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs, and expenses of appeals.

(g) At Will Employment. Nothing in Employer's policies, actions, or this document shall be construed to alter the "At Will" nature of Employee's status with Employer, and Employee understands that Employer may terminate his or her employment at any time for any reason or for no reason at all, provided it is not terminated in violation of state or federal law.



I HAVE READ THIS AGREEMENT CAREFULLY AND UNDERSTAND ITS TERMS. I HAVE COMPLETELY NOTED ON EXHIBIT A TO THIS AGREEMENT ANY PROPRIETARY INFORMATION, IDEAS, PROCESSES, TRADEMARKS, SERVICE MARKS, INVENTIONS, TECHNOLOGY, COMPUTER PROGRAMS, ORIGINAL WORKS OF AUTHORSHIP, DESIGNS, FORMULAS, DISCOVERIES, PATENTS, COPYRIGHTS, OR IMPROVEMENTS, OR RIGHTS THAT I DESIRE TO EXCLUDE FROM THIS AGREEMENT. I FURTHER AGREE THAT BY EXECUTING THIS DOCUMENT DOES NOTHING TO ALTER THE AT-WILL EMPLOYMENT RELATIONSHIP THAT I HAVE ENTERED INTO WITH EMPLOYER.

Date: _____

Employee



**EXHIBIT A
EMPLOYEE'S DISCLOSURE**

1. Proprietary Information. Except as set forth below, I acknowledge that at this time I know nothing about the business of or Proprietary Information of the Employer, other than information I have learned from the Employer in the course of being hired:

2. Prior Inventions. Except as set forth below, there are no ideas, processes, trademarks, service marks, inventions, technology, computer programs, original works of authorship, designs, formulas, discoveries, patents, copyrights, or any claims, rights, or improvements to the foregoing that I wish to exclude from the operation of this Agreement:

Date: _____

Employee Signature