



EMPLOYEE PROPRIETARY INFORMATION AGREEMENT

In consideration and as a condition of my employment ("EMPLOYMENT"), with XIQ Inc. having offices at 1300 Island Drive., Suite 105, Redwood City, CA 94065 and/or by companies which it owns, controls, or is affiliated with, or their successors in business (the "Company"), and the compensation paid therefor:

1. Confidentiality

I agree to keep confidential, except as the Company may otherwise consent in writing, and not to disclose, or make any use of except for the benefit of the Company, at any time either during or subsequent to my employment, any trade secrets, confidential information, knowledge, data or other information of the Company relating to products, processes, know-how, designs, formulas, test data, customer lists, business plans, marketing plans and strategies, and pricing strategies or other subject matter pertaining to any business of the Company or any of its clients, customers, consultants, licensees or affiliates, which I may produce, obtain or otherwise acquire during the course of my employment, except as herein provided. I further agree not to deliver, reproduce or in any way allow any such trade secrets, confidential information, knowledge, data or other information, or any documentation relating thereto, to be delivered or used by any third parties without specific direction or consent of a duly authorized representative of the Company. My duty hereunder to maintain trade secrets, confidential information, knowledge and data in confidence shall only be relieved by written consent from Company, or by and only to the extent that any such trade secret, confidential information, knowledge and data shall become known in the industry through no direct or indirect fault of mine.

2. Conflicting Employment

Return of Confidential Material. I agree that during my employment with the Company I will not engage in any other employment, occupation, consulting or other activity relating to the business in which the Company is now or may hereafter become engaged, or which would otherwise conflict with my obligation to the Company. In the event of my termination of employment with the Company for any reason whatsoever, I agree to promptly surrender and deliver to the Company all records, materials, equipment, drawings documents and data of any nature pertaining to any invention, creative work, trade secret or confidential information of the Company or to my employment, and I will not take with me any description containing or pertaining to any invention, creative work, trade secret, confidential information, knowledge or data of the Company which I may produce or obtain during the course of my employment. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certifications" attached hereto as Exhibit A.

3. Assignment of Inventions

I hereby assign and transfer to the Company, and I agree to assign and transfer to the Company, my entire worldwide right, title and interest in and to all inventions (as used in this Agreement, "inventions" shall include, but not be limited to, ideas, improvements, designs, copyrights, copyrightable material, and discoveries), whether or not patentable and whether or not reduced to practice, made or conceived by me (whether made solely by me or jointly with others) during the period of my employment with the Company which relate in any manner to the actual or demonstrably anticipated business, work, or research and development of the Company or its subsidiaries, or result from or are suggested by any task assigned to me or any work performed by me for or on behalf of the Company or its subsidiaries. I agree that all such inventions are the sole property of the Company, provided, however, that this Agreement does not require assignment of an invention which qualifies fully for protection under any applicable labor codes, which provides as follows:

"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 for which no equipment, supplies, facility, or trade secret information of the employer was used and which was developed entirely on the employee's time, and (a) which does not relate (1) to the business of the employer or (2) to the employer's actual or demonstrably anticipated research or development, or (b) which does not result from any work performed by

the employee for the employer. Any provision which purports to apply to such an invention is to that extent against the public policy of this state and is to that extent void and unenforceable."

4 Creative Works and Copyrights

(a) I hereby agree and understand that any and all creative works (as used in this Agreement, "creative works" shall include, but not be limited to, computer programs and software, literary, musical, pictorial, graphic and audiovisual works prepared by me (solely or jointly with others) within the scope of my employment by the Company and during the period of my employment with the Company shall be and are "works made for hire" under the United States Copyright Act. Under the Copyright Act the Company is legally deemed to be the "author" of a "work made for hire," and no assignment or transfer from me to the Company of such creative work is required to place title to the same in the Company. With respect to foreign rights in creative works prepared as an employee within the scope of my employment by Company, I hereby assign and transfer, and agree to assign and transfer, to the Company my entire worldwide right, title and interest in and to all such works.

(b) To the extent that any creative work is not prepared within the scope of my employment by the Company, but relates to the business of Company or to Company's actual or demonstrably anticipated research or development, I hereby assign and transfer to the Company, and I agree to assign and transfer to the Company, my worldwide right, title and interest in and to any and all such creative works.

(c) I agree and understand that the Company, as owner and proprietor of any creative work covered by this Agreement, has the exclusive right to reproduce the creative work, prepare derivative works, distribute copies or phono records of the creative work to the public by sale or rental, perform the creative work publicly and to display the creative work publicly.

5. Disclosure of Inventions

Patents I agree that in connection with any "invention" as defined in paragraph 3, or any "creative work," as defined in paragraph 4 above:

(a) I will disclose such invention or creative work promptly in writing to my immediate superior at the Company, with a copy to the Chief Executive Officer, regardless of whether I believe the invention or creative work is protected by Section 2670, in order to permit the Company to claim rights to which it may be entitled under this Agreement. Such disclosure shall be received in confidence by the Company and shall be reviewed by the Company within a reasonable period of time after disclosure in accordance with the Company's the current procedure for determination of the Company's rights in such inventions or creative works under this Agreement. In the event that the Company shall determine that it claims no rights in such invention or creative work, the Company shall maintain such disclosure in confidence and shall not use the same, until notified by me in writing that the Company may disclose or use the invention or creative work, or until such disclosure shall become known or used in the industry through no fault of the Company. In the event that the Company shall own rights to the invention or creative work under this

Agreement, Company shall be entitled to maintain or destroy the confidentiality of the disclosure by me, in the Company's sole discretion;

(b) I will at the Company's request, promptly execute a written assignment of title to the Company for any invention required to be assigned by paragraph 3 ("assignable invention") and any creative work which is a "work made for hire" or which is required to be assigned under paragraph 4 ("hired or assignable copyrights") and I will preserve any such assignable invention or hired or assignable copyrights as confidential information of the Company; and (c) Upon request, I agree to assist the Company or its nominee (at its expense) during and at any time subsequent to my employment in every reasonable way to obtain for its own benefit patents and copyrights for such assignable inventions and hired or assignable copyrights in any and all countries, which inventions and creative works shall be and remain the sole and exclusive property of the Company or its nominee whether or not patented or copyrighted. I agree to execute such papers and perform such lawful acts as the Company deems to be necessary to allow it to exercise all rights, title and interest in such patents and copyrights.

6. Execution of Documents

In connection with paragraph 4(c), I further agree to execute, acknowledge and deliver to the Company or its nominee upon request and at its expense all such assignments of inventions, patents and copyrights to be issued therefor, as the Company may determine necessary or desirable to apply for and obtain letters, patent and copyrights on such assignable inventions in any and all countries and/or to protect the interest of the Company or its nominee in such inventions patents and copyrights and to vest title thereto in the Company or its nominee.

7. Maintenance of Records

I agree to keep and maintain adequate and current written records of all inventions and creative works made by me (in the form of notes, sketches, drawings and as may be specified by the Company), which records shall be available to and remain the sole property of the Company at all times.

8. Prior Inventions

It is understood that all inventions, if any, patented or unpatented, and creative works, whether registered copyrights or not, which I made prior to my employment by the Company, are excluded from the scope of this Agreement. To preclude any possible uncertainty, I have set forth on Exhibit B attached hereto a complete list of all of my prior inventions and creative works, including numbers of all patents and patent applications, and a brief description of all unpatented inventions and unregistered copyrights which are not the property of a previous employer. I represent and covenant that the list is complete and that, if no items are on the list, I have no such prior inventions or creative works. I agree to notify the Company in writing before I make any disclosure or perform any work on behalf of the Company which appears to threaten or conflict with proprietary rights I claim in any invention, idea or creative work. In the event of my failure give such notice, I agree that I will make no claim against the Company with respect to any such inventions, ideas or creative works.

9. Other Obligations

I acknowledge that the Company from time to time may have agreements with other persons or with the U.S. Government, or agencies thereof, which impose obligations or restrictions on the Company regarding inventions or creative works made during the course of work there under or regarding the confidential nature of such work. I agree to be bound by all such obligations and restrictions and to take all action necessary to discharge the obligations of the Company thereunder.

10. Trade Secrets of Others

I represent that my performance of all the terms of this Agreement and as an employee of the Company does not and will not breach any agreement to keep in confidence or in trust prior to my employment with the Company, and I will not disclose to the Company, or induce the Company to use, any confidential or proprietary information or material belonging to any previous employer or others. I agree not to enter into any agreement either written or oral in conflict herewith.

11. Modification

This Agreement may not be changed, modified, released, discharged, abandoned, or otherwise amended, in whole or in part, except by an instrument in writing, signed by the Consultant / Contract Employee and the Company. I agree that any subsequent change or changes in my duties, salary or compensation shall not affect the validity or scope of this Agreement.

12. Entire Agreement

I acknowledge receipt of this Agreement, and agree that with respect to the subject matter thereof it is my entire agreement with the Company, superseding any previous oral or written communications, representations, understandings, or agreements with the Company or any officer or representative thereof.

13. Severability

In the event that any paragraph or provision of this Agreement shall be held to be illegal or unenforceable, such paragraph or provision shall be severed from this Agreement and the entire Agreement shall not fail on account thereof, but shall otherwise remain in full force and effect.

14. Successors and Assigns

This agreement shall be binding upon my heirs, executors, administrators or other legal representatives and is for the benefit of the Company, its successors and assigns.

15. Governing Law

This Agreement shall be governed by the laws of the State of California.

16. Counterparts

This Agreement may be signed in two counterparts, each of which shall be deemed an original and both of which shall together constitute one agreement.

TERMINATION CERTIFICATIONS

This is to certify that I do not have in my possession, nor have I failed to return, any records, documents, data, specifications, drawings, blueprints, reproductions, sketches, notes, reports proposals, or copies of them, or other documents or materials, equipment or other property belonging to the Company, its successors and assigns ("Company").

I further certify that I have complied with and will continue to comply with all the terms of the Employee Proprietary information Agreement signed by me with the Company, including the reporting of any inventions (as defined therein) conceived or made by me covered by the Agreement.

I further agree that in compliance with the Employee Proprietary Information Agreement, I will preserve as confidential all trade secrets, confidential information, knowledge, data or other information relating to products, processes, know-how, designs, formulas, test data, customer lists or other subject matter pertaining to any business of its clients, customer, consultants, licensees or affiliates.

Dated: _____

Signed: _____