

NON-DISCLOSURE AGREEMENT

This is an agreement ("Agreement"), effective _____, between _____, a _____ corporation ("Discloser"), and _____ ("Recipient"), in which Discloser agrees to disclose, and Recipient agrees to receive, certain trade secrets of the Discloser on the following terms and conditions:

1. **Trade Secrets:** Recipient understands and acknowledges that Discloser's trade secrets consist of information and materials that are valuable and not generally known by Discloser's competitors. Discloser's trade secrets include:
 - (a) Any and all information concerning Discloser's current, future and proposed products and services, including, but not limited to, unpublished computer code (both source code and object code), contents of web sites, drawings, specifications, notebook entries, technical notes and graphs, computer printouts, technical memoranda and correspondence, financial analysis, business plans and business strategies.
 - (b) Information and materials related to Discloser's purchasing, accounting and marketing, including, but not limited to, marketing plans, sales data, unpublished promotional material, cost and pricing information and customer lists.
 - (c) Information of the type described above which Discloser obtained from another party, and which Discloser treats as confidential, whether or not owned or developed by Discloser.
2. **Purpose of Disclosure:** Recipient shall make use of Discloser's trade secrets only for the purpose of evaluating Discloser's products and business plans for furthering the parties' business relationship.
3. **Nondisclosure:** In consideration of Discloser's disclosure of its trade secrets to Recipient, Recipient agrees that it will treat Discloser's trade secrets with the same degree of care and safeguards that it takes with its own trade secrets, but in no event less than a reasonable degree of care. Recipient agrees, that without Discloser's prior written consent, Recipient will not:
 - (a) disclose Discloser's trade secrets to any third party;
 - (b) make or permit to be made copies or other reproductions of Discloser's trade secrets; or
 - (c) make any commercial use of the trade secrets.Recipient will not disclose Discloser's trade secrets to Recipient's employees, business colleagues, agents and consultants, unless (1) they need to know the information in connection with their employment or consultant duties; and (2) they personally agree in writing to be bound by the terms of this Agreement.
4. **Return of Materials:** Upon Discloser's request, Recipient shall promptly (within 30 days) return all original materials provided by Discloser and any copies, notes or other documents in Recipient's possession pertaining to Discloser's trade secrets.
5. **Exclusions:** This agreement does not apply to any information which:
 - (a) was in Recipient's possession or was known to Recipient, without an obligation to keep it confidential, before such information was disclosed to Recipient by Discloser;
 - (b) is or becomes public knowledge through a source other than Recipient, and through no fault of Recipient;
 - (c) is independently developed by or for Recipient;
 - (d) is or becomes lawfully available to Recipient from a source other than Discloser; or
 - (e) is disclosed by Recipient with Discloser's prior written approval.
6. **Term:** This Agreement and Recipient's duty to hold Discloser's trade secrets in confidence shall remain in effect until the above-described trade secrets are no longer trade secrets or until Discloser sends Recipient written notice releasing Recipient from this Agreement, whichever occurs first.
7. **No Rights Granted:** Recipient understands and agrees that this Agreement does not constitute a grant or an intention or commitment to grant any right, title or interest in Discloser's trade secrets to Recipient.
8. **Warranty:** Discloser warrants that it has the right to make the disclosure under this Agreement. NO OTHER WARRANTIES ARE MADE BY DISCLOSER UNDER THIS AGREEMENT. ANY INFORMATION DISCLOSED UNDER THIS AGREEMENT IS PROVIDED "AS-IS."
9. **Injunctive Relief:** Recipient recognizes and acknowledges that any breach or threatened breach of this Agreement by Recipient may cause Discloser irreparable harm for which monetary damages may be inadequate. Recipient agrees, therefore, that Discloser shall be entitled to an injunction to restrain Recipient from such breach or threatened breach. Nothing in this agreement shall be construed as preventing Discloser from pursuing any remedy at law or in equity for any breach or threatened breach of this agreement.
10. **Attorney Fees:** In any legal action arises relating to this Agreement, the prevailing party shall be entitled to recover all court costs, expenses and reasonable attorney fees.
11. **Modifications:** All additions and modifications to the Agreement must be made in writing and must be signed by both parties.
12. **No Agency:** This Agreement does not create any agency or partnership relationship between the parties.
13. **Applicable Law:** This Agreement is made under, and shall be construed to, the laws of the State of _____.

Discloser:

Recipient:

(date) (typed or printed name)

(date)

(signature)

(signature)