

INDEPENDENT CONTRACTOR NON-DISCLOSURE AGREEMENT

1. THE PARTIES. This Independent Contractor Non-Disclosure Agreement, hereinafter the "Agreement", entered into the ____ day of _____, 20____, hereinafter the "Effective Date", is by and between _____, of _____, City of _____, State of _____, hereinafter known as "Client",

AND

_____, of _____, City of _____, State of _____, hereinafter known as the "Independent Contractor". Both Client and Independent Contractor shall be mentioned collectively as the "Parties".

WHEREAS, the Parties agree as follows:

2. STATUS. The Parties agree that the Independent Contractor is not an employee or an owner of any of the information that is to be disclosed by the Client and is strictly being paid as a "work made for hire" in accordance with 17 U.S. Code § 201 (b). In addition, the Parties agree that:

a. **Relationship.** Nothing contained in this Agreement shall be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship. If any ownership interests do exist by the Independent Contractor it shall be mentioned and detailed in a separate agreement.

b. **Services.** The Parties agree that the Independent Contractor is to be performing "Services" in an effort to create a final Work Product, as defined in Section 4(a) of this Agreement, in exchange for payment that is outlined in a separate agreement.

c. **No Authority.** Independent Contractor shall have no authority to act as agent for, or on behalf of, Client, or to represent Client, or bind Client in any manner.

3. CONFIDENTIAL INFORMATION. For the purposes of this Agreement, the term "Confidential Information" shall include, but not be limited to, documents, records, information and data (whether verbal, electronic or written), drawings, models, apparatus, sketches, designs, schedules, product plans and developments, marketing plans, technical procedures, manufacturing processes, analyses, compilations, studies, software, prototypes, samples, formulas, methodologies, formulations, patent applications, know-how, experimental results, specifications and other business information, relating to Client's business, assets, operations or contracts, furnished to Independent Contractor and/or Independent Contractor's affiliates, employees, officers, owners, agents, consultants, subcontractors or representatives, in the course of their work contemplated in this Agreement, regardless of whether such Confidential Information has been expressly designated as confidential or proprietary. Confidential Information also includes any and all compilations, work products, and other data or material prepared by or in the possession or control of the Independent Contractor, which contain,

include, refer to or otherwise reflect or are generated from any Confidential Information. Confidential Information may be provided in written, oral, electronic or other form.

a. **Proper Use.** Independent Contractor shall not, other than in the proper use in the performance of their duties, use, publish or otherwise disclose to any person any information relating to the Client's affairs and the specificities of this brief.

b. **Non-Disclosure.** Independent Contractor and its employees shall not, during the time of rendering services to the Client or thereafter, disclose to anyone other than authorized employees of the Client (or persons designated by such duly authorized employees of the Client) or use for the benefit of Independent Contractor and its employees or for any entity other than the Client, any information of confidential nature relating to:

4. INTELLECTUAL PROPERTY. The Intellectual Property that is to be created during the "work made for hire" between the Parties shall be applied to the following:

a. **Work Product.** The term "Work Product" shall mean the final product or service created as a result of the Services provided by the Independent Contractor and its directors, officers, employees, or other representatives may, independently or in conjunction with Client, develop information, produce the Work Product, or achieve other results for Client in connection with the Services it performs for Client.

b. **Ownership.** Independent Contractor agrees that such all Confidential Information, the Work Product, and other results, systems and information developed by Independent Contractor and/or Client in connection with such Services, shall, to the extent permitted by law, be a "work made for hire" and shall remain the sole and exclusive property of Client.

c. **Moral Rights.** Independent Contractor also agrees to waive any and all moral rights relating to the Work Product, including but not limited to, any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use, and subsequent modifications.

d. **Assistance.** Independent Contractor further agrees to provide all assistance reasonably requested by Client, both during and subsequent to the Term of this Agreement, in the establishment, preservation and enforcement of Client's rights in the Work Product.

5. TRADEMARKS, COPYRIGHTS, & PATENTS. All property rights, including but not limited to, copyrights, trademarks, patents, including any of the aforementioned pending application, and other intellectual property rights in any work produced shall be the exclusive property of the Client with the only exception being a separate agreement stating otherwise.

6. TERM. This Agreement shall commence on the Effective Date and shall continue in perpetuity unless termination is made, in writing, by the Client or the Confidential Information no longer is considered proprietary and is publicly known.

7. NON-SOLICITATION AND NON-COMPETE. During the term of this Agreement after any termination, the Independent Contractor shall not, without the prior written consent of the Client,

either directly or indirectly, on Independent Contractor's own behalf or in the service or on behalf of others, solicit or attempt to solicit, divert or hire away any person employed by the Client, or any customer of the Client.

8. INJUNCTIVE RELIEF. Independent Contractor understands and agrees that any use or dissemination of Confidential Information in violation of this Agreement will cause the Client irreparable harm, and that monetary damages may not be a sufficient remedy for unauthorized use or disclosure of Confidential Information and that Client may be left with no adequate remedy at law; therefore, Client shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. Such remedies shall not be deemed to be the exclusive remedy for any breach of this Agreement but shall be in addition to all other remedies available at law or in equity.

9. GOVERNING LAW. This Agreement shall be governed by the laws in the State of _____ and be applicable to any and all Local and Federal laws.

10. SEVERABILITY. If a court of competent jurisdiction makes a final determination that any provision of this Agreement (or any portion thereof) is invalid, illegal or unenforceable for any reason whatsoever, and all rights to appeal the determination have been exhausted or the period of time during which any appeal of the determination may be perfected has been exhausted, (i) the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby; and (ii) to the fullest extent possible, the provisions of this Agreement shall be construed so as to give effect to the intent manifested by the provisions held invalid, illegal or unenforceable.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement as of the dates written below.

Independent Contractor's Signature _____ **Date:** _____

Print Name: _____

Company: _____

Title: _____

Client's Signature _____ **Date:** _____

Print Name: _____

Company: _____

Title: _____