



Mutual Non-Disclosure Agreement

This Mutual Confidentiality Agreement (“Agreement”) is entered into, as of _____, ____ (“Effective Date”), by and between _____, a _____ corporation having a principal place of business at _____, and _____, a(n) _____ individual, _____ partnership, _____ limited liability partnership, _____ corporation, _____ limited liability company (mark appropriate blank) of the state of _____, having a principal place of business at _____.

The parties may disclose to each other certain proprietary or confidential information. Such information, which may be, among others, written, coded, verbal and/or visual in nature, is referred to in this Agreement as “Confidential Information.” Confidential Information may include, but is not limited to, information regarding the disclosing party’s products or potential products and/or services offerings and other information including, but not limited to, disclosing party’s future plans and pricing, concepts, techniques, process, methods, research materials, formulas, development and experimental work, cost data, financial information, forecasts, personnel information. Confidential Information also includes all technical and non-technical information including patent, copyright, trade secret, customers and other proprietary information. Confidential Information shall include the above detailed information of parent companies, subsidiaries and affiliates of the parties.

Both Parties agree as follows:

1. All Confidential Information shall be disclosed by the disclosing party, and received by the receiving party, in strict confidence and used solely for the sole purpose of evaluating its interest in future cooperation with the disclosing party, and, if the parties shall engage in any relationship - solely for the limited purposes of such engagement. The receiving party shall treat and maintain the Confidential Information as confidential and hold all such Confidential Information in trust and in strict confidence, and shall not disclose any Confidential Information to anyone, inside or outside of the receiving party, except to those employees, directors, contractors or consultants (and their respective employees; collectively "Representatives") of the receiving party who have a need to know the Confidential Information to effect the use permitted hereby, and provided that such Representatives are bound by written confidentiality undertakings towards the receiving party which also apply to the Confidential Information disclosed to the receiving party under this Agreement. The receiving party will be responsible for ensuring that the obligations of confidentiality and non-use contained herein are observed by all Representatives. Without limiting the forgoing, each party shall treat all Confidential Information with the same degree of care as it accords to its own Confidential Information, but in no case less than reasonable care. The receiving party shall not exploit the Confidential Information for its own benefit or for the benefit of anyone else, without the prior written consent of the disclosing party and shall not make copies of the Confidential Information without the prior written consent of the disclosing party.
2. The Confidential Information and all right, title and interest therein will remain at all times the exclusive property of the disclosing party. No license to any patent, trademark, copyright or other proprietary rights or other form of protection of industrial or intellectual property are granted hereby. The receiving party’s use of Confidential Information shall be limited to the purpose set forth above.
3. All information disclosed or made available to the receiving party by the disclosing party shall be deemed to be Confidential Information, unless otherwise agreed in writing by the disclosing party, except that the obligations of this Agreement shall not apply to information which: (a) is or becomes publicly known through no fault of the receiving party; or (b) was or becomes rightfully known to the receiving party without confidential or proprietary information restriction from a source other than the disclosing party and the receiving party can show documentary evidence to that effect; or (c) is approved by the disclosing party for disclosure without restriction in advance, in a written document which is signed by a duly authorized officer of the disclosing party; or (d) is independently developed by the receiving party without use of the

Confidential Information and the receiving party can show documentary evidence of that effect; or (e) is required to be disclosed under operation of law, by court order, or governmental regulation and the receiving party provides prompt written notice to the disclosing party of such disclosure requirement so that the disclosing party may seek a protective order or other appropriate remedy, and in the event that such protective order or remedy is not obtained, the receiving party shall furnish only that part of the Confidential Information which is legally required, and shall exercise all efforts required to obtain the confidential treatment for such information .

4. Upon the disclosing party's first demand, the receiving party shall return to the disclosing party all Confidential Information, including all records, products, and samples received, and any copies thereof, as well as any writings and documentation which contain or pertain to the Confidential Information or any portion thereof, whether in its possession or under its control, and shall erase all electronic records thereof, and shall so confirm to the disclosing party in writing.
5. It is understood by both parties that the Confidential Information may relate to products or services that are under development or planned for development. NEITHER PARTY MAKES ANY WARRANTIES REGARDING THE ACCURACY OF THE CONFIDENTIAL INFORMATION. Neither party accepts any responsibility for expenses, losses or action incurred or undertaken by the receiving party as a result of the receipt of the Confidential Information. It is further understood that neither party warrants or represents that it will introduce any product or service to which the Confidential Information is related, and that each party reserves the right at any time to alter its plans and strategies, and the prices, features, specifications, capabilities, functions, release dates, general availability, and other characteristics of any such product or service.
6. In the event that it shall be determined under any applicable law that a certain provision set forth in this Agreement is invalid or unenforceable, such determination shall not affect the remaining provisions of this Agreement unless the purpose of this Agreement is substantially frustrated thereby. This Agreement shall be governed by and construed in accordance with the laws of the State of California and any dispute arising out of or in connection with this Agreement is hereby submitted to the sole and exclusive jurisdiction of the competent courts in the Santa Clara County. A breach of this Agreement by either party will result in irreparable and continuing damage to the other party for which there will be no adequate remedy at law, and the non-breaching party shall be entitled to injunctive relief and/or decree for specific performance, and such other relief as may be proper.
7. No failure, delay of forbearance of either party in exercising any power or right hereunder shall in any way restrict or diminish such party's rights and powers under this Agreement, or operate as a waiver of any breach or nonperformance by either party or any terms or conditions hereof.
8. This Agreement sets forth the entire understanding and agreement between the parties as to the subject matter of this Agreement and supersedes all prior agreements, either written or oral, with respect to the obligations of confidentiality of the subject matter hereof. Any modification to this Agreement must be made in writing and signed by an authorized representative of both parties. The obligations under this Agreement and the rights granted herein, shall survive any termination of this Agreement for any reason whatsoever, so long as any information disclosed by the disclosing party to the receiving party under this Agreement remains Confidential Information of the disclosing party.

Company Name

Name

By: _____

By: _____

Print Name: _____

Print Name _____

Title: _____

Title: _____