

CONFIDENTIALITY AGREEMENT

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This Confidentiality Agreement (the "Agreement") is entered into and is effective as of _____ by and between
(today's date)

_____ ("Discloser"), of _____ and
(Discloser address here)

_____ ("Recipient"), of _____
(Recipient address here)

This Confidentiality Agreement is intended to prevent the dissemination of information which is considered confidential or proprietary by Discloser and which is not in the public domain (whether or not such information is covered by patents or patent pending documentation or other protective registration).

WITNESSETH

Whereas Recipient desires to obtain certain confidential and proprietary information from Discloser for the sole purpose of:

- | | |
|---|---|
| <input type="checkbox"/> Working as Consultant to Discloser | <input type="checkbox"/> Evaluation of Discloser's Business Opportunities |
| <input type="checkbox"/> Working as Employee of Discloser | <input type="checkbox"/> Supplier |
| <input type="checkbox"/> Working as Agent for Discloser | <input type="checkbox"/> Other _____ |

This Agreement shall be binding upon all of the employees, consultants or agents of the Recipient, and the undersigned agrees to take such steps, and implement such procedures, as are necessary to insure that:

- (a) Recipient's employees, or other agents who obtain access to confidential or proprietary information of Discloser are aware that such information is subject to this Confidentiality Agreement; and,
- (b) Information, which is subject to this Confidentiality Agreement, is not disclosed, either intentionally or accidentally, by such employees, consultants or other agents of the Recipient.

Whereas Discloser is willing to provide such confidential and proprietary information to recipient for the limited purpose and under the terms and conditions set forth herein. Recipient acknowledges that any past confidential information received from Discloser is covered under this Agreement.

Now, therefore, in consideration of the mutual covenants and promises set forth herein and Recipient's receipt of Discloser's confidential information, the parties hereto agree as follows:

1. **DEFINITION OF CONFIDENTIAL INFORMATION.** Recipient agrees that information disclosed by Discloser to Recipient regarding Discloser Product Strategy and Direction, and other information, including but not limited to information learned by Recipient from Discloser employees, agents or through inspection of Discloser's property, that relates to Discloser's products, patent(s), patent applications(s), patent application process, documents, customer lists, product development plans, marketing information, strategy, designs, product construction, product materials, manufacturing methods, business plans, business opportunities, finances, research, development, know-how, personnel, trade secrets, intangible information, technology or third-party confidential information disclosed to Recipient by Discloser, the terms and conditions of this Confidentiality Agreement, and the existence of the discussions between Recipient and Discloser will be considered and referred to collectively in this Agreement as "Confidential Information." Confidential Information, however, does not include information that: 1) Is now or subsequently becomes generally available to the public through no fault or breach on the part of Recipient only to the extent it becomes public; 2) Recipient can demonstrate to have had rightfully in its possession prior to disclosure to Recipient by Discloser as shown exclusively by Recipient's written records; 3) Is independently developed by Recipient without the use of any Confidential Information as shown exclusively by Recipient's written records; or 4) Recipient rightfully obtains from a third party who has the right to transfer or disclose it. The parties further agree that the following information is confidential:

(print title of idea without giving details)

2. **NONDISCLOSURE AND NONUSE OF CONFIDENTIAL INFORMATION.** Recipient will not disclose, publish, copy in whole or in part, or disseminate Confidential Information to anyone without the express written consent of Discloser, and Recipient agrees to take reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of Confidential Information. Recipient agrees not to use Confidential Information otherwise for its own or any third party's benefit under any circumstances whatsoever without the prior written approval of an authorized representative of Discloser in each instance.
3. **NEW DEVELOPMENTS.** New developments and advances in the state of the art, which occur as the primary result of the creative efforts of Discloser or Recipient created during Recipient's relationship with Discloser, remain the exclusive property of Discloser.
4. **COVENANT NOT TO COMPETE.** Discloser has spent considerable time and monies in product marketing development. The Recipient acknowledges that Discloser trade secrets will be learned by the Recipient during the term of this Agreement.

Discloser wishes to protect its valuable trade secrets. Therefore, as a condition of this Agreement, Recipient agrees that during the term of this Agreement and for a period of two years after termination of this agreement, regardless of the circumstances of termination: not to manufacture the products, not to own an interest in any organization manufacturing the products and, not to advise any organization manufacturing the products. Recipient agrees to pay triple damages plus attorney's fees for a breach of this clause.

5. RETURN OF DOCUMENTS. Within three business days of receipt of Discloser's written request, Recipient will return to Discloser all documents, records and copies thereof containing Confidential Information. For purposes of this paragraph, the term "documents" includes all information fixed in any tangible medium of expression, in whatever form or format.
6. TREATMENT OF RECIPIENT'S INFORMATION. Recipient agrees that any and all information, documentation, software and devices delivered or disclosed to Discloser as a result of or related to this Agreement shall be received and treated by Discloser on a nonconfidential and unrestricted basis, any restrictive or proprietary legends of Recipient or others to the contrary notwithstanding.
7. EQUITABLE RELIEF. Recipient hereby acknowledges that unauthorized disclosure or use of Confidential Information shall cause irreparable harm and significant injury to Discloser that may be difficult to ascertain. Accordingly, Recipient agrees that Discloser will have the right to seek and obtain immediate injunctive relief to enforce obligations under this Agreement in addition to any other rights and remedies it may have. Furthermore, should this agreement be breached, the prevailing party shall be entitled to attorney's fees and costs.
8. NO EXPORT. Recipient certifies that no Confidential Information, or any portion thereof, will be exported to any country in violation of the United States Export Administration Act and regulations thereunder. Recipient hereby further certifies that Recipient (or if Recipient is not a natural person, Recipient hereby certifies that any Recipient personnel or other persons to whom disclosure is authorized by Discloser hereunder, if any) is not a citizen of any of the following countries: Romania, Libya, Hungary, Poland, Albania, Bulgaria, Czech Republic, Estonia, Laos, Latvia, Lithuania, Mongolian People's Republic, USSR, Cuba, Cambodia, North Korea, Vietnam, Afghanistan, or the People's Republic of China.
9. NO WARRANTY. All information is provided "AS IS," and without any warranty, whether express or implied, as to its accuracy or completeness.
10. CONTINUATION OF AGREEMENT. It is specifically understood and agreed that this Agreement, and the obligations of the undersigned hereunder, shall survive the termination of the agreement between the undersigned and Discloser under which the undersigned may provide specific services for Discloser.
11. ENTIRE AGREEMENT, GOVERNING LAW AND VENUE. This Agreement constitutes the entire agreement with respect to the Confidential Information disclosed herein and supersedes all prior or contemporaneous oral or written agreements concerning such Confidential Information. This Agreement may not be amended except by the written agreement signed by authorized representatives of both parties. This Agreement will be governed by and construed in accordance with the laws of the State of Colorado, venue being _____.
12. SUCCESSORS. This agreement shall benefit and bind the parties hereto and their respective heirs, devisees, personal representatives, successors, and assigns.
13. SEVERABILITY. Should a court of competent jurisdiction find any clause(s) herein unenforceable, then that clause(s) shall be severed from this agreement, thereby not affecting the validity of all other clauses in this Agreement.

Understood and Agreed to by the duly authorized representatives of the parties:

Discloser:

Recipient:

By (Signature)

Date

By (Signature), for company entity

Date

Printed Name and Title

By (Signature), personally

Date

Printed Name and Title