

# NON-DISCLOSURE AGREEMENT

This agreement is made between the following parties:

1. Brad Muise and

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inventor and owner of all the ip related to current and previous disclosures and all related trademarks and all related patents, searches, and entities inclusive.

## RECITALS

- A. The Discloser is the owner of the Confidential Information.
- B. The Discloser has agreed to disclose the Confidential Information to the Recipient solely for the Express purpose.
- C. The Recipient agrees that the Confidential Information is provided to it on the terms of this agreement and that it will not use or disclose the Confidential Information except as provided in this agreement.

This agreement witnesses that in consideration of, among other things, the mutual promises contained in this agreement:

## 1. DEFINITIONS

In this agreement:

**"Confidential Information"** means the following, whether or not in material form:

- (a) all information relating to the express purpose;
- (b) all other confidential information (including but not limited to technical, commercial and financial information, trade secrets, copyrighted material (including software) and confidential know-how disclosed by the Discloser to the Recipient;
- (c) that part of all notes and other records prepared by the Recipient based on or incorporating the information referred to in paragraphs (a) and (b); and
- (d) all copies of the information and those parts of the notes and other records referred to in any of paragraphs (a), (b) and (c);

**"Discloser"** means the party to this Agreement disclosing its Confidential Information to the other;

**"Express Purpose"** means the Development of Discloser's application, all related systems, codes, technologies, patents, codes, and associated proprietary collateral, including but not limited to; colours, logos, concepts.

**"Recipient"** means the party to this Agreement receiving the Confidential Information from the other

## 2. INTERPRETATION

In this agreement, unless the context otherwise requires:

- (a) a reference to a document includes but it is not limited to any information relating to the product development, and any other means by which the Confidential Information may be stored or reproduced; and
- (b) a reference to any thing (including, but not limited to, any right) includes a part of that thing.

## 3. CONFIDENTIALITY

- (a) The Discloser agrees to disclose the Confidential Information to the Recipient for the Express Purpose subject to the terms of this agreement.
- (b) The Recipient acknowledges that the Confidential Information is secret and confidential to the Discloser.
- (c) The Recipient must not directly or indirectly, without the prior written consent of the Discloser, use, disclose, publish or permit the disclosure or publication of:
  - (1) the Confidential Information; or
  - (2) the Express Purpose for which the information is being used.to any person, other than in accordance with this agreement.

## 4. PERMITTED USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION

- (a) The Recipient may only use the Confidential Information for the Express Purpose.
- (b) The Recipient may prepare documents incorporating part of the Confidential Information only for the Express Purpose whether or not the Confidential Information is combined with any other information.
- (c) The Recipient may disclose the Confidential Information to only those officers, Employees, affiliates and designated subcontractors of the Recipient who have a specific need to have access to the Confidential Information for the Express Purpose and who have been made aware of the terms upon which the Confidential Information has been disclosed to the Recipient.
- (d) The Recipient is liable for and indemnifies the Discloser in respect of any claim, action damage, loss, liability, cost, expense or payment which the Discloser suffers or incurs or is liable for as a result of or in respect of a breach of this agreement or any infringement of the Discloser's rights in respect of the Confidential Information by the Recipient or by any

person referred to in clause 4(c)

## 5. OPERATION OF THIS AGREEMENT

- (a) This agreement will remain in force for a period of 5 years after signature of this agreement but does not apply to any part of the Confidential Information that:
- (1) subject to clause 5(b), the Recipient is required to disclose by any applicable law or legally binding order of any court, government, semi-government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity acting within its powers;
  - (2) was provided to the Recipient (without restriction as to its use or disclosure by the Recipient) by a third party whom the Recipient knows is legally entitled to possess the Confidential Information and provide it to the Recipient; or
  - (3) is in the public domain other than as a result of a breach of this agreement.
- (b) If the Recipient must make a disclosure as described in clause 5(a)(1), it must disclose only the minimum Confidential Information required to comply with the applicable law or order.
- (c) The Recipient acknowledges that the Discloser may wish to take action to prevent the disclosure of Information which the Recipient believes has ceased to be Confidential Information under this Deed. The Recipient therefore agrees that it will not disclose any such information unless and until it has given prior written notice of its intention to do so to the Discloser specifying the proposed date of disclosure (which shall not be within 10 days from the date of the notice), the information to be disclosed and the intended recipient.
- (d) By accepting this document, the Discloser also acknowledges the fact that the Recipient is not an attorney, paralegal, or patent agent and that any work performed by the Recipient becomes the property of the Discloser - and the Recipient cannot be held liable for any legal or monetary damages resulting from the use of the work performed by the Recipient. As such, any work performed by the Recipient is intended to act as an instructional aid to assist the Discloser in writing their own patent-related documents.

## 6. RETURN OF DOCUMENTS

If either party notifies the other in writing that it does not wish to proceed with the Express Purpose, the Recipient must immediately, upon written request of the Discloser, return to the Discloser, or destroy as the Discloser directs, all original documents containing any Confidential Information and any copies of those documents and any documents (including any copies) of a kind referred to in clause 4(b).

## 7. REMEDY FOR DISCLOSURE

The Recipient acknowledges that damages may be inadequate compensation for breach of this agreement and, subject to the court's discretion, the Discloser may restrain, by an injunction or similar remedy, any conduct or threatened conduct which is or will be a breach of this agreement.

## **8. RECIPIENT'S COVENANTS**

The Recipient must:

- (a) keep the Confidential Information secure and protect the Confidential Information from unauthorised use, disclosure, access and damage or destruction.
- (b) do anything required by the Discloser to restrain a breach of this agreement or any infringement of the Discloser's rights arising out of this agreement by any person, whether by court proceedings or otherwise
- (c) not, without the prior written consent of the Discloser, reproduce or permit the reproduction in any form of any part of a document or other record which contains, is based on or utilises the Confidential Information, other than for the Express Purpose; and
- (d) not use the Confidential Information so as to procure any commercial advantage over the Business.

## **9. OWNERSHIP OF CONFIDENTIAL INFORMATION**

The Recipient acknowledges that this agreement does not convey any interest of any nature in the Confidential Information to the Recipient or to any other person to whom the Recipient is entitled to disclose the Confidential Information under this agreement.

## **10. GOVERNING LAW AND JURISDICTION**

- (a) This agreement is governed by the laws of the United States
- (b) The Recipient irrevocably submits to the exclusive jurisdiction of the courts of the United States.

## **11. WAIVERS**

- (a) Waiver of any right arising from a breach of this agreement or of any right, power, authority, discretion or remedy arising upon default under this agreement must be in writing and signed by the party granting the waiver:
- (b) A failure or delay in exercise, or partial exercise, of:
  - (1) a right arising from a breach of this agreement; or

- (2) a right, power, authority, discretion or remedy created or arising upon default under this agreement,

does not result in a waiver of that right, power, authority, discretion or remedy.

- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this agreement or on a default under this agreement as constituting a waiver of that right, power, authority, discretion or remedy.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a right, power, authority, discretion or remedy by that other party.
- (e) This clause may not itself be waived except by writing.

**12. VARIATION**

A variation of any item of this agreement must be in writing and signed by the parties.

**13. PROHIBITION OR ENFORCEABILITY**

- (a) Any provision of, or the application of any provision of, this agreement which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of this agreement, which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions of this agreement in that or any other jurisdiction.

**EXECUTED** by the parties as an agreement this \_\_\_\_\_ date:



(Brad Muise)

\_\_\_\_\_  
(Signature)

Signed for:

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(Signature)

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(Name and Position)(please print)