

This Mutual Non-Disclosure Agreement (the "Agreement") is made and effective by and between Arizona IdeaWorks ("AZIW"), and the individual / business that is listed at the end of this document.

1. Purpose.

The parties wish to engage in discussions relating to the development of the project cited at the end of this document (the "Authorized Purpose"). In relation with this Authorized Purpose, each party may disclose certain of its "Confidential Information" (defined below) to the other. Hereafter, with respect to any specific item of information, the party disclosing such information shall be referred to as the "Disclosing Party" and the party receiving such information shall be referred to as the "Receiving Party."

2. Confidential Information.

"Confidential Information" shall include all data, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, business plans, financial information, and other information disclosed or submitted, orally, in writing, or by any other media, by the Disclosing Party to the Receiving Party. Confidential Information disclosed orally shall be identified by the Disclosing Party as such within thirty (30) days of disclosure. Nothing herein shall require the parties to disclose any of their information.

3. Recipient's Obligations.

(a) Recipient's Treatment of Confidential Information. The Receiving Party agrees that the Confidential Information is considered confidential and proprietary to the Disclosing Party. The Receiving Party shall hold the same in confidence, shall not use the Confidential Information other than for the Authorized Purpose, and shall disclose it only to its officers, directors, or employees with a specific need to know. The Receiving Party will not disclose, publish or otherwise reveal any of the Confidential Information received from the Disclosing Party to any other party whatsoever except with the specific prior written authorization of the Disclosing Party.

(b) Tangible Confidential Information. Confidential Information furnished in tangible form shall not be duplicated by the receiving party except for purposes contemplated by this Agreement. Upon the request of the Disclosing Party, the Receiving Party shall return all Confidential Information received in written or tangible form, including copies, or reproductions or other media containing such Confidential Information, within ten (10) days of such request. At the Receiving Party's option, any documents or other media developed by the Receiving Party containing Confidential Information may be destroyed by the Receiving Party; the Receiving Party shall provide a written certificate to the Disclosing Party regarding destruction within ten (10) days thereafter.

(c) Exceptions. The foregoing obligations and restrictions do not apply to that part of the Confidential Information that the Receiving Party demonstrates:

- (i) was available or became generally available to the public other than as a result of a disclosure by the Receiving Party; or
- (ii) was available, or became available, to the Receiving Party on a non-confidential basis prior to its disclosure to the Receiving Party by the Disclosing Party or its representative, but only if such information was not made available through a breach of confidentiality owed to the Disclosing Party;
- (iii) was requested or legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, civil or criminal investigative demand or similar process) or is required by a regulatory body to make any disclosure which is prohibited or otherwise constrained by this Agreement, provided, that Receiving Party shall: (A) provide the Disclosing Party with prompt notice of any such request(s) so that the Receiving Party may seek an appropriate protective order or other appropriate remedy, and (B) provide reasonable assistance to the Disclosing Party in obtaining any such protective order. If such protective order or other remedy is not obtained or the Disclosing Party grants a waiver hereunder, then the Receiving Party may furnish that portion (and only that portion) of the Confidential Information which, in the written opinion of counsel reasonably acceptable to the Disclosing Party, the Receiving Party is legally compelled or is otherwise required to disclose; provided, that the Receiving Party shall use reasonable efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so disclosed; or
- (iv) was independently developed by the Receiving Party without breach of this Agreement.

4. Term.

The obligations herein shall be binding upon the parties for five (5) years from the date a party last discloses any Confidential Information to the other pursuant to this Agreement. Further, the obligation not to disclose shall not be affected by bankruptcy, receivership, assignment, attachment or seizure procedures, whether initiated by or against a party, nor by the rejection of any agreement between the parties, by a trustee of a party in bankruptcy, or by a party as a debtor-in-possession or the equivalent of any of the foregoing under local law.

5. No License.

Nothing contained herein shall be construed as granting or conferring any rights by license or otherwise in any Confidential Information. It is understood and agreed that neither party solicits any change in the organization, business practice, service or products of the other party, and that the disclosure of Confidential Information shall not be construed as evidencing any intent by a party to purchase any products or services of the other party nor as an encouragement to expend funds in development or research efforts. Confidential Information may pertain to prospective or unannounced products. The Receiving Party agrees not to use any Confidential Information as a basis upon which to develop or have a third party develop a competing or similar product.

6. No Publicity.

The parties agree not to disclose their participation in this undertaking, the existence or terms and conditions of the Agreement, or the fact that discussions are being held with the other party.

7. Governing Law and Equitable Relief.

This Agreement shall be governed and construed in accordance with the laws of the United States and the state of Arizona. The parties agree that in the event of any breach or threatened breach of this Agreement, either party may obtain, in addition to any other legal remedies which may be available, such equitable relief as may be necessary to protect it against any such breach or threatened breach.

8. Entire Agreement.

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

9. No Assignment.

Neither party may assign this Agreement or any interest herein without the other's express prior written consent.

10. Severability.

It is the desire and the intent of the parties that the terms and conditions of this Agreement shall be enforced to the fullest extent permitted under applicable laws. Accordingly, if any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, or becomes by operation of law invalid or unenforceable, then this Agreement shall be deemed amended to delete therefrom the portion that is adjudicated or which becomes by operation of law invalid or unenforceable, such deletion to apply only with respect to the operation of that term or condition and the remainder of this Agreement full force and effect.

11. Notices.

Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the representative noted below by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.

12. No Implied Waiver.

Either party's failure to insist in any one or more instances upon strict performance by the other party of any of the terms of this Agreement shall not be construed as a waiver of any continuing or subsequent failure to perform or delay in performance of any term hereof.

13. Headings.

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

IDEAWORKS: Bryan Falk of Arizona IdeaWorks, LLC.


Signed

Client: _____ Regarding Project: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ email: _____

Signed

Date

[Attention: Once you've signed and dated this contract, please remit a copy back to bryan.falk@arizona-ideaworks.com or fax a copy to the number listed in the footer.]

