

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement ("Agreement") is made this day and date written below, by and between

(Publisher) _____, hereinafter called the "Publisher", and

(Programmer) _____, hereinafter called the "Programmer".

In consideration of the mutual promises and covenants contained in this Agreement, the mutual disclosure of confidential information to each other, and as an inducement to conduct additional business, the parties hereto agree as follows:

1.0 CONFIDENTIAL INFORMATION AND MATERIALS

1.1 "Confidential Information" is defined as follows:

- Nonpublic information that the Publisher designates as being confidential or...
- Which, under the circumstances surrounding disclosure, should be treated as confidential, or...
- Which is created, produced and/or written by the Programmer on behalf of the Publisher.

"Confidential Information" shall include without limitation, all of the following:

- Digital or printed data, specifications, manuals and/or similar materials
- Computer software programs and/or software programming code
- Products and concepts for products for sale or distribution.
- Business plans, marketing plans, and/or financial information in any format
- Customer numbers, usernames, and/or contact information
- Software usernames and passwords
- **Website and/or Server usernames and passwords**
- **MySQL and other database usernames, passwords and/or contents**
- And all other information disclosed or submitted orally, by email, in writing, or by any other media, by the Publisher to the Programmer.

This Confidentially Agreement includes confidential information disclosed to the Programmer by any Publisher subsidiary and/or agent. Nothing herein shall require the Publisher to disclose any information.

1.2 "Confidential Materials" shall mean all tangible materials containing Confidential Information, including without limitation, written or printed documents and computer disks or tapes, whether machine or user readable.

1.3 Confidential Information shall not include any information that:

- Is known to the Programmer prior to the Publisher's disclosure of such information to Programmer.
- Is or subsequently becomes publicly available without the Programmer's breach of any obligation owed the Publisher.
- Became known to the Programmer prior to the Publisher's disclosure of such information to the Programmer.
- Became known to the Programmer from a source other than the Publisher other than by the breach of an obligation of confidentiality owed to the Publisher.
- Is independently developed by the Programmer.

2.0 PROGRAMMER'S OBLIGATIONS

2.1 The Programmer shall not disclose any Confidential Information to third parties for five (5) years following the date of the last disclosure by the Publisher to the Programmer, except to the Programmer's consultants and employees as provided below. However, the Programmer may disclose Confidential Information in accordance with judicial or other governmental order, provided the Programmer shall give the Publisher reasonable notice prior to such disclosure and shall comply with any applicable protective order or equivalent.

2.2 The Programmer's obligation not to disclose shall not be affected by bankruptcy, receivership, assignment, attachment or seizure procedures, whether initiated by or against the Programmer, nor by the rejection of any agreement between the Publisher and the Programmer, or by a trustee of the Programmer in bankruptcy, or by the Programmer as a debtor-in-possession, or the equivalent of any of the foregoing under local law.

2.3 The Programmer shall take reasonable security precautions, at least as great as the precautions it takes to protect its own confidential information, to keep confidential the Confidential Information. The Programmer may disclose Confidential Information or Confidential Materials only to the Programmer's employees or consultants on a need-to-know basis, and only after the Programmer will have obtained appropriate executed agreements with such employees and consultants binding such parties to the substantive provisions of this Agreement.

2.4 Confidential Information and Confidential Materials may be disclosed, reproduced, summarized or distributed only in pursuance of the Programmer's business relationship with the Publisher, and only as otherwise provided hereunder. The Programmer agrees to segregate all such Confidential Materials from the confidential materials of others in order to prevent co-mingling.

2.5 The Programmer shall notify the Publisher immediately upon discovery of any unauthorized use or disclosure of Confidential Information or Confidential Materials, or any other breach of this Agreement by the Programmer, and will cooperate with the Publisher in every reasonable way to help the Publisher regain possession of the Confidential Information and/or Confidential Materials and prevent its further unauthorized use.

2.6 The Programmer shall return all originals, copies, reproductions and summaries of Confidential Information and/or Confidential Materials at the Publisher's request, or, at the Publisher's option, certify destruction of the same.

2.7 No commercial use rights and no licenses under any copyright, trademark, know-how, trade secret, or any other proprietary rights are granted by the Publisher to the Programmer by this Confidentiality Agreement, or by any disclosure of any Confidential Information to the Programmer under this Confidentiality Agreement.

2.8 The Programmer agrees that any Confidential Information that is in digital format shall be used on computer system(s) that are owned or controlled by the Programmer.

3.0 RIGHTS AND REMEDIES

3.1 The Programmer acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information, and that the Publisher 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.

3.2 If either party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party shall be entitled to recover reasonable attorneys fees. This agreement shall be construed and controlled by the laws of the United States of America. Process may be served on either party by mail, postage prepaid, certified or registered, return receipt requested.

3.3 The Publisher may visit the Programmer's premises, with reasonable prior notice and during normal business hours, to review the Programmer's compliance with the terms of this Agreement.

4.0 NO LICENSE

4.1 All Confidential Information and Confidential Materials are and shall remain the property of the Publisher. By disclosing information to the Programmer, the Publisher does not grant any express or implied right to the Programmer to or under the Publisher patents, copyrights, trademarks, or trade secret information. The Programmer 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.

5.0 GENERAL PROVISIONS

5.1 No Publicity: The Programmer agrees not to disclose its collaboration with the Publisher, its participation in this undertaking, the existence or terms and conditions of the Agreement, or the fact that discussions are being held with the Publisher.

5.2 No Agency Agreement: The Parties do not intend that any agency or partnership relationship be created between them by this Confidentiality Agreement.

5.3 No Assignment: The Programmer may not assign this Agreement or any interest herein without the Publisher's express prior written consent.

5.4 Severability: If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

5.5 No Implied Waiver: No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion. 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.

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

5.7 Notices: Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services, to the addresses provided below.

6.0 ENTIRE AGREEMENT

6.1 This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. It shall not be modified except by a written agreement dated subsequent to the date of this Agreement and signed by both parties. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of the Publisher, its agents, or employees, but only by an instrument in writing signed by an authorized officer or agent of the Publisher.

6.2 The terms, conditions, requirements and other covenants of this Agreement are superior to any similar terms, conditions, requirements or covenants contained in any other agreement that may be executed between the parties herein. In the case of a conflict between this Agreement and any other agreement that may be executed between the parties herein, the terms, conditions, requirements and other covenants of this Agreement shall be superior.

6.3 All obligations created by this Agreement shall survive change or termination of the parties business relationship.

6.4 Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of and be binding upon the parties, their successors and assigns.

AGREED and EXECUTED this _____ day of _____, _____

AGREED by PROGRAMMER

AGREED by PUBLISHER

Printed Name

Printed Name

Identification / DNI

Identification / USA Passport

Street Address

Street Address

City, Province, Country

City, Province, Country

Telephone

Telephone

Email

Email

Signature

Date

Signature

Date