

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT IS MADE and entered into by and between XYZ Corporation, a California Corporation, having a principal place of business at \_\_\_\_\_ (hereinafter, "XYZ"), and \_\_\_\_\_ whose address is \_\_\_\_\_ (hereinafter "Receiving Party"), relating to the disclosure by XYZ to the Receiving Party of the following confidential information:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

which information is being disclosed for the purpose of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

As used herein, confidential information shall mean any information or data of a confidential nature, including, but not limited to proprietary, technical, marketing, operating, performance, cost, know-how, business and process information, programming techniques, and all record bearing media containing or disclosing such information as well as data which is disclosed by XYZ to the Receiving Party orally or in writing and which relates to the above purpose of the disclosure.

The Receiving Party expressly acknowledges, understands and agrees that the information and data which are the subject of this Agreement are confidential and proprietary and of great value to XYZ. In consideration of XYZ's undertaking to disclose the confidential information referred to herein, the Receiving Party agrees as follows:

1. To use the confidential information only for the purposes described herein, to not reproduce the confidential information, and to hold in confidence and protect the confidential information from dissemination to and use by anyone not a party to this agreement.
2. To restrict access to the confidential information to personnel of Receiving Party who (a) have a need to have such access and (b) have been advised of and have agreed in writing

to treat such information and data in accordance with the terms of this Agreement. A copy of each said written agreement shall be promptly furnished to XYZ.

The obligation with respect to the reproduction disclosure and use of confidential information, as set forth in this Agreement, is not applicable to confidential information which, according to tangible evidence:

1. Becomes available to the Receiving Party from a source other than XYZ, which source has no obligation of secrecy with respect to the confidential information,
2. Is developed independently by the Receiving Party without any portion of the development having been based on the information or data received from XYZ; or
3. Is within or later falls within, the public domain without breach of this Agreement by the Receiving Party.

The standard of care for protection of confidential information which is imposed on the Receiving Party will be that degree of care that the Receiving Party uses to prevent disclosure, publication or dissemination of its won confidential information, but in no event shall the standard of care be less than that a reasonable person would exercise to prevent the unauthorized disclosure, publication or dissemination of such information.

Either party upon thirty (30) days written notice to the other may terminate this Agreement with respect to disclosures made thereafter. The rights and obligations hereunder of both parties as to disclosures made within the terms of this Agreement shall remain as specified herein.

Neither the confidential information nor the act of disclosure hereof shall constitute a grant of any license under any trademark, patent or copyright application for same, nor shall they constitute any representation, warranty, assurance or guarantee by XYZ with respect to the infringement of any trademark, patent, copyright or any right of privacy, or any right of third persons.

This Agreement shall be governed and construed by the laws of the State of California. It constitutes and expresses the entire agreement and understanding between the parties hereto in

reference to all matters herein referred to, all previous discussions, promises, representations and understandings between the parties thereto, if any, being merged herein.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_ 1986.

Receiving Party

By: \_\_\_\_\_

Title: \_\_\_\_\_