

CONFIDENTIALITY AND NON-COMPETE AGREEMENT

This Confidentiality and Non-compete Agreement is made this ____ day of _____, 2008, by and between _____(employee) and _____(company).

In consideration of his/her employment with the Company, the parties agree as follows:

1. **Protection of Confidential Information.** The parties understand that the Company has developed and will continue to develop Confidential Information that is and will be vital to the success of the Company's business, and which such information must be protected for the benefit of the Company if it is to maintain its value. Employee may learn of such information and may contribute to such information by development or otherwise while employed by the company. Thus, it is necessary and appropriate that Employee agrees to protect the information, to use it only for the benefit of the Company, to acknowledge that the information belongs to the Company, and to avoid future employment where the Employee might have occasion to use or disclose the information in competition with the Company.
 - a. In return for his/her employment with the Company and for access to confidential business information given to the Employee, Employee agrees to maintain the secrecy of any business information provided by the company. This promise shall continue even after the employee is no longer working for the Company.
 - b. The term **Confidential Information** is defined as the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, improvement, sales or marketing data, accounting or financial data and product or service descriptions of information, confidential business or financial information, listing of names, addresses, or telephone numbers, contacts or leads, patents, or other information relating to the Company which is secret and of value.
 - c. **Designation of Confidential Information.** Confidential information shall be designated in the following ways: (1) a stamp on written information detailing it as CONFIDENTIAL; (2) designation by oral statement of the Company; or (3) the Company's list of such information which shall be made available to the Employee upon request and/or in the event of the termination of his employment.
 - d. **Exceptions to Confidential Information.** Information shall not be deemed proprietary and the parties shall not have any obligation with respect to any such information that (1) is generally known to the public at the time of its communication; (2) is shown to have already been known by the receiving party prior to its communication; (3) becomes a part of the public domain without violation or breach of this agreement by the receiving party; (4) is disclosed pursuant to Judicial action or Governmental regulation, providing efforts are made to ensure that further dissemination will not occur; (5) is know to Employee prior to his or her

employment by the Company, its employees, agents, affiliates, subsidiaries, assignees, or successors; or (6) is acquired by Employee from persons who are not employed by, and who are not under any duty of confidentiality for the benefit of, Company, its employees, agents, affiliates, subsidiaries, assignees, or successors.

- e. **Protection of Confidential Information.** The parties understand that confidential information is owned by the Company and is of great value. The Employee agrees that, except as authorized or directed by the Company, in writing, he or she will not, during or at any time after employment by the Company, directly or indirectly (1) disclose any confidential information to any person other than the company; or (2) utilize confidential information for Employee's personal benefit or for the benefit of any person or entity other than the Company.
2. **Conflict of Interest.** The Employee does not now, and will not during the term of this agreement have a significant financial interest in, or undertake any employment by or for, any company or individual that is developing, manufacturing, investigating or commercially marketing products competitive to the products of the Company. It is expressly understood that such ownership, interest or employment represents a conflict of interest which will result in immediate termination of the employment relationship. It is understood that the Company does not intend to interfere with Employee' investment in publicly held competitive companies as part of a reasonable investment program.
 3. **Agreement not to compete.** Employee acknowledges that the Confidential Information received as a result of his/her employment with the Company includes the existence and identity of the customers, both existing and prospective, of the Company, as well as the nature of the personal and business relationships of said customers. Employee specifically acknowledges that all customers to whom he/she sells directly and indirectly, and those prospective customers who he/she contacts on behalf of the Company, are customers of the Company and all their records, files, correspondence, and orders (collectively, "records"), are the sole and exclusive property of the Company. In the event this agreement is terminated by any party for any reason whatsoever, for a period of two years following termination of this agreement, the Employee shall not:
 - a. Engage in any activity, enterprise or business which would be competitive with the business activities and products offered for sale by the Company or which would tend to diminish the sales of the Company's products, with respect to any existing or prospective customer of the Company as of the date of termination of this agreement.
 - b. Be an employee, agent, consultant, officer, director, partner, owner, investor (except for ownership of up to one percent of publicly traded shares of any corporation) of any entity or person that is engaged, directly or indirectly, in the business or effort of developing, manufacturing, producing, marketing, or selling any product or service of any type which is the same as or similar to any product or service of the Company.

- c. Induce or attempt to induce any person not to purchase or use any product or service of the Company.
- d. Solicit any customer of the Company who was a customer or an identified prospective customer at the time of termination of Employee's employment.
- e. Induce or attempt to induce any employee of the Company, its agents, affiliates, subsidiaries, assignees, or successors to terminate his or her employment or association with the Company.

(This Non-Compete Agreement shall be limited to the geographic areas in which the Company has existing or identified prospective customers.)

- 4. **Breach/Damages.** Employee acknowledges that failure to comply with any part of this agreement will cause the Company irreparable damage for which the Company cannot be compensated in damages. The Company shall therefore be entitled, in addition to all other remedies available to it, to injunctive and/or other equitable relief to prevent a violation or breach of this agreement, or any part of it, and to secure its enforcement. In addition to any actual damages which the Company may suffer in the event the Employee fails to comply with any part of this agreement, the Employee will pay to the Company as liquidated damages, and not as a penalty, the greater of three times the gross receipts received by the Employee from any customer wrongfully diverted, or \$1,000.00. The Employee understands that the amount of damage caused by the Employee's breach will be difficult to determine and that the liquidated damage is reasonable in light of the anticipated harm.
- 5. **Waiver.** Any waiver of a particular breach of this agreement by the Employee shall not operate as a waiver by the Company to any other breach of this agreement by the Employee.
- 6. **General.** This agreement does not override any basic duties or rights of the parties, including the employee's basic duties of loyalty and confidentiality. This agreement shall be binding upon any heirs, subsidiaries, affiliates, successors, and assigns of the parties. This agreement shall not be changed unless it is written and signed by both parties. In the event any provision of this agreement is found to be unenforceable for any reason, the parties shall attempt to modify that provision in a manner that preserves the intent of the parties entering into the agreement. The laws of the state shall apply to this agreement, except where Federal law applies. This agreement constitutes the entire agreement between the parties and overrides all prior agreements, representations, and understandings whether written or oral.

By: _____

Employee